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The role of the United Nations as a peacemaker in El Salvador between 1990-1992.

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"The reader that I expect something of must have three qualities: he must be calm and without haste, he must not always put himself and his own "education" in between, finally he must not at the end of the lecture expect tables as a result.(...) [I] admire those who are in possession of such a superhuman nature that they are capable of overseeing it all, from the depth of the observable to the real heights of the cultural problems and down again to the swamp of the driest regulations and the most refined tables. (...) This book is assigned to calm readers, people who still have not let themselves be torn away by our time's dizzly hurry... (...) [They] can, without getting a guilty conscience, allow themselves to select and collect the good moments of the day and their fertile and powerful moments to reflect on the future of our education, they can themselves believe in a useful and worthy way of spending the days, namely *in meditatio generis futuri.*"

Friedrich Nietzsche: *Om våre dannelsesinstitusjoners fremtid*, pp.29-30. (my translation)

"…We recognize the historic battle of the Salvadoran people, who, with enormous efforts, have used the different legal and pacific means within its reach to obtain justice, the inalienable right to be the master of its own destiny and to organize its society in the manner it deemed most convenient, making effective the right to self-determination. However, a privileged minority always made use of force to impede these wishes, the inevitable consequence being that the Salvadoran population resorted to military means, making use of a right universally recognized as legitimate.

The Salvadoran population's decision to raise arms permits us to affirm that it inevitably will triumph, but we understand that the triumph will be attained at elevated costs imposed by the same minority; and that the fight – next to the very grave loss of human lives – causes the national patrimony's immense destruction, which, evidently, will make the reconstruction of the country more difficult for the entire Salvadoran population.

It is evident that the political and military intervention of the government of the United States is a fundamental cause of the prolongation of the Salvadoran conflict, and that it inhibits our people from freely determining its social and political destiny; moreover, the present North-American administration has increased its involvement in the internal affairs of the Central American States and peoples, gravely injuring the sovereignty of these and impeding the exercise of the right of our self-determination. Therefore, the present conduct of the government of the United States is seriously threatening the peace of the region and the world.

We consider priceless for the peoples of the region, and particularly the Salvadoran, the possibility of finding a way by which we can achieve more rapidly the construction of peace, democracy and social justice. We have studied with attention the calls of political leaders from the region and the world, as well as from religious leaders and international bodies (United Nations, etc.), which, preoccupied by the magnitude of the suffering of our people, and aware that it jeopardizes the peace of the region and the world, have suggested to search for ways to establish peace and social justice.

(...).... despite the systematic rejections received, we maintain the disposition to effectuate a direct dialogue because we know that ample national sectors (…) are in favour of conversations to achieve peace.

In order to find the most efficient way that can lead to the solution of the conflict, through dialogue, it is necessary that this is done between the parties directly involved in the conflict; but equally, we believe it is necessary that other national sectors - political, religious, labour and academic – participate to provide their precious contribution.

According to the preceding, animated by a sincere patriotism, honouring our political responsibility and based on the will to peace expressed by different sectors of our people, and by the other Central American populations, we propose:

1. That FDR [Revolutionary Democratic Front] and the FMLN [Farabundo Martí Front for National Liberation] on one side, and, on the other, the Executive, the National Assembly and the Armed Forces of El Salvador, speedily initiate a direct dialogue without conditions, oriented to find ways that lead to the establishment of peace and social justice in El Salvador … "

(Extract from a FDR-FMLN proposal to enter a dialogue to solve the conflict, *5 October 1982* At: http://www.cepaz.org.sv/CEPAZ2000/marco_dialogo.htm. My translation from Spanish)

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Acronyms

ARENA   National Republican Alliance (Alianza Republicana Nacionalista), the conservative party under which the peace talks were negotiated.

COPAZ   National Commission for Peace and Reconciliation

ERP   People's Revolutionary Army (Ejército Revolucionario del Pueblo), part of the FMLN coalition, founded in 1971 by leftist intellectuals the university of San Salvador.

FAL   Armed Forces of Liberation (Fuerzas Armadas de Liberación), founded in 1980 as the communist party's military branch. Part of the FMLN.

FARN   Armed Forces of National Resistance (Fuerzas Armadas de Resistencia Nacional), a guerrilla groups of FMLN influenced by the teachings of the Catholic Church.

FDR   Revolutionary Democratic Front (Frente Democrático Revolucionario), FMLN's most important non-military voice during the 1980s.

FMLN   Farabundo Martí Front for National Liberation (Frente Farabundo Martí para la Liberación Nacional), a coalition of five armed guerrilla groups.

FPL   Popular Forces of Liberation (Fuerzas Populares de Liberación), one the guerrilla groups in FMLN, dominated by former members of the Communist Party (PCS)

GOES   Government of El Salvador

ONUSAL   United Nations Observer Mission in El Salvador

PDC   Christian Democratic Party (Partido Demócrata Cristiano), the main opposition party during the peace talks. They were the ruling party from 1984 to 1989.

PRTC   Central American Revolutionary Worker's Party (Partido de los Trabajadores Centroamericanos), founded in 1976 as a Salvadoran branch of a regional guerrilla movement. Part of FMLN.

CHAPTER ONE: Introduction

"My country is a small country,
tiny, so infinitesimal
that I don't know where they fit
all the dead."
- Unknown Salvadoran

1.1 The inspiration for writing this dissertation has come from several sources. First of all, knowledge gained by courses on Latin America (STV837), Local Politics and Democratization in Developing Countries (STV842), International Negotiations (STV908) and Game Theory, Debate Theory and Negotiation Theory (STV603) at the University of Oslo. Second of all I have always taken a particular interest in Latin America because I speak Spanish, and because I have had the privilege to meet and make friends with people from such diverse countries as Chile, Costa Rica, Honduras and Peru. Thirdly, as a student of political science and a member of Amnesty International, I have gained a special interest for democratization processes in general. Fourthly, it is my opinion that there has been very little interest in Latin American politics. In Norway, there are just a few social scientists dedicated to the study of Latin America, although students have been paying increasing attention in the last few years.

The main purpose of this introductory chapter is twofold: to set out the questions (problems) that are to be addressed throughout the dissertation (1.2), and describe how I shall proceed to best answer the questions raised by means of data (1.3) and methodology (1.4). I will, however, also include a few paragraphs at the end of this chapter on why I consider a study of the UN-mediated peace process in El Salvador to be highly relevant from a scholarly point of view (1.5).

      The civil war in El Salvador lasted for more than a decade (1980-1992). Most sources (UN, Amnesty, and other observers) have estimated that 75.000 persons were killed[1], but Torres-Rivas[2] believes the higher numbers indicated by the Central

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[1] Out of a total population of some 5.5 million in a country whose area is limited to 21,040 km^2 (slightly smaller than the state of Massachussetts!). By July 2000 the estimated population was 6.1 million. (http://www.cia.gov/cia/publications/factbook/geos/es.html#People) This makes El Salvador the most densely populated country in Latin America, with some 290 people per square kilometre.

[2] Torres-Rivas, E.: "Insurrection and civil war in El Salvador". Chapter 9 in Doyle/Johnstone/Orr (eds.) (1997*): Keeping the Peace – Multidimensional UN operations in Cambodia and El Salvador*. Cambridge University Press, p. 226.

American University's *El Salvador Proceso* – i.e. that at least 100.000 were killed - are more likely. Over 8.000 simply "disappeared" and at least one million Salvadorans had to seek refuge, the majority in the United States. Civil war erupted when the FMLN-guerrilla (Farabundo Martí Front for National Liberation) challenged the armed forces and the rightist government of El Salvador, headed by the ARENA party (National Republican Alliance). FMLN demanded a fair distribution of land and a reform of state organs. El Salvador's mythical "fourteen families", the coffee oligarchy, had traditionally run the country using the armed forces to stall social disorder. The majority of the elite did not see any connection between social discontent and the civil war. Rather they believed the war had been caused by a small group of terrorists because there was no reason for people "who wanted the country to move ahead" to resort to revolutionary war.[3] With such obvious diverging positions, a negotiated settlement seemed very unlikely indeed. The United States supported the government with extensive amounts of money, military equipment and training to confront "communism". The overthrow of Somoza in Nicaragua in 1979 made the US eager to stop "the rebels" in El Salvador as soon as possible.[4] The FMLN, however, was strong and well organized, highly motivated and was helped by the mountainous landscape. The way the situation was, neither side could win. They had reached a *mutually hurting stalemate* and needed help from a third party to negotiate the terms of settlement.

1.2. PROBLEMS

The focus of this study will be on **the role of the United Nations as a peacemaker in El Salvador between 1990-1992**. El Salvador (literally meaning "The Saviour") is the only country in the world named after Christ, and probably one of the Latin American countries most in need of "salvation". It is the smallest and most densely populated country in the hemisphere, and was for a long time the most centralized and repressive

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[3] Paige (1993): "Coffee and Power in El Salvador", *Latin American Research Review*, Vol. 28, No. 3, p.29.
[4] Disclosure of US government documents in 1994 confirmed the UN Truth Commission's impression that 75% of the Salvadoran Army officers directly involved in eight massacres of civilians were graduates of the School of the Americas in Fort Benning, Georgia. Nineteen of them - including Major Roberto D'Aubuisson, one of the founders both of El Salvador's death squads and of ARENA – were also involved in the killing of six Jesuit Priests in 1989. Vilas, C. (1996): "Prospects for Democratisation in a Post-revolutionary Setting: Central America", *Journal of Latin American Studies*, 28, p.479.

state in Latin America. The Salvadoran civil war had several malignant characteristics. To understand why peace nevertheless was achieved, we shall have to discuss and analyze the mediation process. More specifically, three main problems (questions) are to be addressed:

I.   *How (by what means) did the UN contribute to a peaceful settlement?*

II.   *Why was agreement between the parties in conflict achieved?*

III.   *a) How are we to measure and define the "success" of a **peacemaking phase**? An answer to this question is necessary for analyzing and evaluating the UN's behaviour in the peace process and give prescriptions for its improvement. As a natural continuation of this question, therefore, I shall finally seek to answer the following question:*

b) Was the peacemaking phase really a success?

The first two questions are of an empirical nature, whereas the latter is normative and analytical. Some readers, however, might react to the order in which these questions are put. *Logically*, the third problem has to be answered first. For it to be meaningful to analyze and evaluate something, certain normative criteria will have to be outlined so that we can discuss the "facts" against certain ideal standards. *Practically*, however, I find it useful and necessary to start with the empirical part. I believe viewing what was done to settle the war furthers our understanding and makes us more cognizant of necessary measures of "successfulness". In other words, we are probably better-equipped or more able to set up criteria after having scrutinized a particular case. Moreover, to see *first* what the UN did to resolve the conflict, and *then* discuss whether or not this particular mediation outcome actually was successful might be more enlightening than vice versa. This is so because there seems to be, among most scholars and practitioners, an already agreed upon fact that the Salvadoran peace process was very successful. It might therefore be more educational to take a closer look at what was actually done before judging whether or not a mediation outcome – and the Salvadoran in particular - should be regarded a success.

The first question (How did the UN contribute to a peaceful settlement?) can be interpreted in two ways: When referring to the UN, do we mean its *actions* or its

actors? By focusing on the former we accentuate the effects; by focusing on the latter we emphasize actor characteristics. For my purpose I shall include both meanings when talking about the UN's role since actor characteristics are likely to influence the actions taken.

The second question (why agreement between the parties was reached) will be addressed by referring to the likely conditions for an agreement to be achieved. The *variables* influencing the mediation process - and thus indirectly the outcome - and their expected effect (*how* they influence) will be discussed in chapter 3. The two empirical questions are overlapping, the first one being narrower (more specific) than the second, since – in order to answer the latter one – we shall have to refer to other factors in addition to the UN.

The third question is briefly touched upon in section 1.4, but as mentioned above the normative discussion will be put on hold until chapter 6.

1.3. DATA

There are obvious difficulties in obtaining information about a negotiation process that one has not been able to observe. To analyze the dynamic nature of a negotiation, especially when more than two parties are involved, is thus no easy task. Then one has to try to reconstruct the essentials of the process by being a kind of detective, critically assessing the validity and reliability of the information obtained and putting the pieces together in a logical and coherent manner. Being in Norway, geographical *distance* has made access to relevant empirical material more difficult and time consuming than had I chosen to study something that was both closer to me and easier to obtain information about. Even if I had been in El Salvador or New York (UN Headquarters), getting my hands on primary information would have been hard. As David Holiday, Professor of political science residing in San Salvador, told me: "I don't mean to discourage, but a lot of the primary materials are in the hands of a few."[5] Also, *Archives and Records Centre* in New York has a declassification timetable that allows automatic release of "confidential" materials only at the end of twenty years.

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[5] Holiday, David (2001, March 15). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no.

Difficulties cannot, however, make us shun the challenges of acquiring more information about an overlooked topic.

I had originally pinned my faith in *Centro de Documentación e Investigación Histórica* in San Salvador (the capital of El Salvador) which, according to their website (http://www.cepaz.org.sv), gathered some 15.000 documents in 1998 regarding the entire peace process from 1981-1992. I tried to get in touch with this centre since September 2000 - when I was still in my second term of "hovedfag" - both personally (writing in Spanish) as well as through the Nobel Institute in Oslo (twice) and through the Salvadoran consulate in Porto Alegre, Brazil (where a friend of mine lives). Unfortunately, I received no reply as to *how many - if any -* of the documents that may relate to the role of the UN in the peace process, neither *what kind* of documents these may be. I finally got in touch with Professor William Stanley and Professor David Holiday (the latter residing in San Salvador) who told me they had no knowledge of this centre. Thanks to the wonder of e-mail, however, I got in touch with Mr. Alvaro de Soto, chief UN negotiator and personal representative of the United Nations Secretary General. He was kind enough to provide me with some answers. *Washington Office on Latin America* has published some reports that are more critical to the UN's role than mainstream literature. I acquired their most relevant publications in order to get a more balanced view of the "most successfully negotiated settlement in recent history" (Juhn 1998).

Most of the literature I could get hold of was in English, although some articles and documents available on the Internet were in Spanish. My dissertation largely depends on secondary literature, already published UN documents (in United Nations (1995): *The United Nations and El Salvador 1990-1995*), the collection of peace accords as well as articles written by Salvadoran scholars available in Spanish at: www.cepaz.org.sv/CEPAZ2000/biblioteca_mar.htm.

1.4. METHODOLOGY:

What kind of methodological approach shall we, then, adopt in order to examine *how* the UN contributed to a peace settlement in El Salvador and *why* the negotiations came out the way they did? *How do we utilize our data?*

According to Yin (1994:6), "how" and "why" questions are explanatory and are likely to lead to the use of case studies, histories, and experiments as the preferred research strategies. This is because such questions deal with "operational links needing to be traced over time, rather than mere frequencies or incidence" (*ibid*.) Experiments, however, require control over behavioural events and are in practice an unrealistic research strategy for the social sciences. In turn, history does not deal much with contemporary events. Thus, we are left with the **case study** as the most suited research approach – although, in this case, history as a method certainly lies close. In contrast to an experiment it requires no control over behavioural events. Yin (p.13) defines a case study as an *empirical inquiry that investigates a contemporary phenomenon within its real-life context, especially when the boundaries between phenomenon and context are not clearly evident*. It

- "copes with the technically distinctive situation in which there will be many more variables of interest than data points, and as one result
- relies on multiple sources of evidence, with data needing to converge in a triangulating fashion, and as another result
- benefits from the prior development of theoretical propositions to guide data collection and analysis." (*ibid*.).

"In other words," Yin continues, "the case study as a research strategy comprises an all-encompassing method – with the logic of design incorporating specific approaches to data collection and to data analysis. In this sense, the case study is not either a data collection tactic or merely a design feature alone, but a comprehensive research strategy." (*ibid*.)

As the definition of a case study makes clear, a problem that has to be dealt with is that of defining what the "case" is. What is the unit of analysis? It is essential

for any study to clarify this from the outset, to analytically separate the unit (phenomenon) from its surroundings (context) in order to limit the scope of data collection. If one does not clarify precisely from the outset what it is that one wishes to study, the report risks having little or no structure, no clear guiding stars. Not only will the investigator make her task hard(er) for herself, but the readers of the final case study report will have a hard time manoeuvring through it without a clear red thread. In this *single-case study*, the unit of analysis, as stated in the beginning, is the role – direct or indirect - of UN-mediators in making peace in El Salvador between 1990 and 1992.[6] Since the peace process was dynamic, however, with the UN being only one of several actors, making proposals, interacting and responding to the conflicting parties' actions, drawing a too rigid line between the unit of analysis and its surroundings is impossible. Rather, we shall have to adopt a kind of *flexible rigidity* because we cannot close our eyes to the context within which the UN operated (cf. figure 3.2). If we are to understand and analyze the "phenomenon", we shall have to use contextual factors as auxiliary variables when trying to answer our how's and why's.

According to Yin, there are three typical purposes that may justify a single-case design (pp.38-40):

   1. "One rationale for a single case is when it represents the *critical case* in testing a well-formulated theory". This rationale shall not be a main one in this thesis. I have no well-formulated theory, only exploratory analytical *questions*. (See Hellevik, 1997:37, on the three ways - theme, question or hypothesis - of explicitly formulating the phenomenon to be addressed).

   2. The main reason for our single case, however, coincides with Yin's second rationale, i.e. that a case is ***unique***. Several observers regard the Salvadoran peace process as a remarkable success story in comparison with e.g. third party efforts to negotiate a political settlement in Cyprus or Angola (see Hampson, 1996). Internal conflicts – civil wars – are the most difficult of conflicts to negotiate. Only a quarter to a third of modern civil wars (including anticolonial wars) have found their way to negotiation, whereas more than half of modern interstate wars have done so (see Pillar,

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[6] Some might say the unit of analysis is not the role of the UN but the "events" that unfolded.

1983). Frequently, the issue is "whether or not one side or the other shall control the country (…) Each side in a civil war is a traitor in the eyes of the other and can never expect the enemy to let it live in peace." (*ibid.*:24). Pillar even concludes that if the war is a civil war, "expect it to end with the extermination or expulsion of one side" (*ibid.*:245). True, most civil wars in the twentieth century have ended in elimination or capitulation. Some examples are Spain (1936-39), Paraguay (1947), China (1927-1949), Bolivia (1946-1952), Sri Lanka (1971) and Nicaragua (1978-1979). In the period from 1900 to 1989, out of a total of sixty-five cases, only 15% were resolved through negotiation, and of these eleven cases of negotiated settlement, six were terminated through international mediation.[7] Consequently, the Salvadoran negotiations belong to a rare category and merit further examination. The uniqueness of the Salvadoran case can, perhaps, be thought of as an "outlier" in a multiple regression analysis of the correlations between several independent variables (characteristics) of civil war and a peaceful outcome as the dependent variable. Why is El Salvador seemingly such a ***deviant case***? Not only is the Salvadoran case unique because of its negotiated settlement of a bloody civil war, but because of the "unprecedented, activist role of the United Nations as mediator" (Juhn, 1998:45). In a deviant case analysis, the investigator "takes the instance or instances that are exceptions to the general trend and attempts to locate independent variables that set them off from the general trend" (Smelser, 1973:56).[8] According to Smelser, deviant case analysis is explicitly one type of comparative analysis, because it can be understood only in relation to a more general statistical or comparative analysis in which some association has been established. "The method of deviant case analysis is also a method of "reading backwards" to approximate the experimental situation. (…) [The] starting point is the different outcomes themselves (as between the deviant case and the majority of cases)." (*ibid.*)

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[7] Stephen Stedman, (1988); *Peacemaking in Civil War: International Mediation in Zimbabwe, 1974-1980*. Cited in Hampson, F.O. (1996): *Nurturing Peace: Why Peace Settlements Succeed or Fail*, p.5. (If 11 out of 65 cases were negotiated, this is 16.9% and not 15%. The six cases terminated through international mediation are then 9%.)

[8] On different types of case studies, also see Collier's synopsis of Lijphart's categorization of methods; Collier (1993): "The Comparative Method", in Finifter, A.W. (ed.), *Political Science: The State of the Discipline, II.*

Social scientists increasingly argue that one cannot understand any case without a fairly extensive comparative perspective, e.g. by means of a most similar or most dissimilar research design. I hope that the preceding paragraphs have answered to any such criticism since my case is not just any isolated single case, but a deviant one in which I – as stated – compare the idiosyncratic Salvadoran mediation outcome to the general statistical trend and aim to explain the deviancy. (Many authors seem to prefer to compare El Salvador with one of its neighbours, Guatemala, employing a most similar design. My approach is implicitly a more extensive comparison.)

3. The third rationale, according to Yin, for a single case study is the *revelatory case*. "This situation exists when an investigator has an opportunity to observe and analyze a phenomenon previously inaccessible to scientific investigation" (p.40). Since not so many social scientists have been interested in the uniqueness of the Salvadoran case, a case study has the potential of revealing "something" previously unknown about peacemaking and its conditions. For reasons already pointed out, however, I had to base my analysis on much secondary literature. Thus, the potential of "extracting" new knowledge – at least empirically – may be little. (On criteria for the "exemplary" case study, see Yin:147-152). An examination of existing literature should come to the same conclusion as that of independent observers, i.e. "a success story". If, however, when critically revisiting the literature, and by asking key persons, we can demonstrate by logic that this is hardly so, it is my opinion that the case then *may* become revelatory.

Contrary to the traditional view that case studies provide little basis for scientific generalization, I agree with Yin that they, in fact, *can* be used to generalize a finding. Of course, one cannot talk about statistical generalization (requiring a large number of units to generalize the findings of a population to the universe), but rather *analytical* generalization. In an analytical generalization, "the investigator is striving to generalize a particular set of results to some broader *theory*" (p.36, italics added). The investigator's goal is to "expand and generalize theories" (p.10). Case studies are needed in order to "generate insights and observations that can be used inductively to produce applicable concepts and theory" (Zartman, 1995:4). A case study will normally bring about hypotheses on the conditions for e.g. a peaceful settlement to

armed conflict. The hypotheses engendered by the main findings can then be tested in other studies, thus constituting a kind of data.

The case study is, according to Yin (pp.54-55), among the hardest types of research to do:[9]

> Preparing for data collection can be complex and difficult. If not done well, the entire case study investigation can be jeopardized, and all of the earlier work – in defining the problem and designing the case study – will have been for naught (…) In actuality, the demands of a case study on a person's intellect, ego, and emotions are far greater than those of any other research strategy. This is because the data collection procedures are *not* routinized.

It goes without saying that when interpreting the empirical material, one has to distinguish between the various ways that sources can be employed. Like historians (see Dahl, 1997:31-48), we may regard a source of evidence or information in terms of its *performative* aspect[10] (as if it were an action; what was X's motives?), its "*tradition*"[11] – i.e. we take for granted what is being told, provided that certain criteria for credibility are fulfilled[12], or as *effects of conditions in the past* (the source's causal connection). All kinds of information and data obtained during the investigation process have to be interpreted and used with sceptical criticism so as to obtain results as "objective", reliable and valid as possible. For case study analysis, one of the most desirable strategies, according to Yin (1994:106), is to use a *pattern-matching* logic. Such a logic "compares an empirically based pattern with a predicted one. (…) If the patterns coincide, the results can help a case study strengthen its *internal validity*". I will follow this strategy by first outlining a set of assumptions (chapter 3), and then proceed to see whether or not the empirical findings support or weaken the predictions (chapters 4 and 5).

To answer the posed questions, a *normative discussion* will follow the case study (questions 1 and 2). As set forth in section 1.3, my thesis is mainly dependent on English literature because going to El Salvador was ruled out and Spanish literature on

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[9] A basic list of essentials, however, can be given (p.56): When interviewing, a person should ask "good" questions - and *interpret* the answers, be a good "listener" (i.e. not be trapped by his or her own preconceptions), be adaptive and flexible, have a firm grasp of the issues being studied and be sensitive and responsive to contradictory evidence.

[10] Dahl calls this kind of employment "levning". Confer also Austin (1962): *How to do things with words* (on performative utterances).

[11] Dahl calls this "beretning".

[12] Credibility has to do with e.g. ability and will to tell the truth, and that "traditions" shall have to be internally consistent and not subject to reciprocal influence.

the subject is scarce in Norway. Some articles and documents, however, were available in Spanish on the Internet. Some (if not all) of the literature, of course, must be regarded as subjective. Trying to give a balanced analysis and assessment of the UN-mediated peace process is thus one methodological objective so that we can draw as reliable conclusions as possible. The information I obtained stems from "elite persons". When trying to assess and evaluate the "successfulness" of the mediation process, therefore, we must ask ourselves in whose eyes/by whose definition the outcome was successful. Among many factors, we must combine and weigh against each other people's *knowledge* about the peace process, their subjective *preferences* regarding the outcome, the time used, and – of course – the substance of the peace accords. Did they *de facto* intend to improve the conditions for all Salvadorans or just an exclusive elite? How do most Salvadorans view the peace accords? In measuring Success - with capital S – we must also consider the implementation of the peace accords, the peacekeeping and peacebuilding phases, whether or not democracy has been consolidated, etc. Several scholars have evaluated the *implementation* of the peace accords and the democratic development (e.g. Salvesen 1998; Popkin 2000).[13] As pointed out in the beginning, this thesis shall analyze and evaluate the success (with minuscule) of the mediated *peacemaking* phase only. In my opinion this is the most important phase because if this is not done properly, failure is guaranteed in consecutive phases, although Success (capital S) is not guaranteed even if peacemaking is a success. In other words, peacemaking is a necessary condition for Success, but not a sufficient one. As we are all aware of, mediation outcomes may be considered successful at one point only to be deemed unsuccessful a few years later (confer the Oslo Agreement).

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[13] In relation to the democratic development, I have, in a previous article, written about the decentralization and development of social capital in El Salvador; Baklien, 2000b.

1.5. RELEVANCE:

What reasons, from a scholarly point of view, can be given for studying the Salvadoran peace process and summing up the main findings in a report? Some points have already been mentioned, but let us do so more explicitly.

Bercovitch & Houston (1995:11) say: "Systematic analyses, let alone empirical studies, of *third-party* intervention in general and *mediation in particular* have been very rare. The phenomenon has for too long remained little studied and poorly understood. (…) What factors and conditions determine the success or failure of mediation?" (emphasis added). Furthermore they claim (p.16) that a "great many quantitative studies describe the occurrence and analyze important patterns of international disputes. (…) *None of these studies, however, addresses itself specifically to the question of how disputes are managed or terminated*" (italics added). International organizations such as the United Nations have "a poor record in the area of mediation"[14], but seemingly managed to mediate the Salvadoran conflict quite well. An empirical study of third party mediation in El Salvador thus has the potential of contributing, however marginally, to increase the amount of attention given to this subject. Moreover, such an analysis is in concordance with the criteria of investigation outlined by King, Keohane & Verba (1994:15-17), i.e., a research project should:

1) "pose a question that is important in the real world" and

2) "make a specific contribution to an identifiable scholarly literature by increasing our collective ability to construct verified scientific explanations of some aspect of the world. Our second criterion for choosing research design (…) means explicitly locating a research design within the framework of the existing social scientific literature. This ensures that the investigator understand [sic] "the state of the art" and minimizes the chance of duplicating what has already been done. It also guarantees that the work done will be important to others, thus improving the success of the community of scholars taken as a whole." Making an explicit contribution can be done in many ways, but one is arguing that an "*important topic has been overlooked* in the literature and then proceed to contribute a systematic study to the area" (emphasis added).

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[14] Analysis of international disputes from 1945-1990; in Bercovitch and Houston (1995:27).

I will argue that the case of El Salvador satisfies these criteria. When I contacted Professor William Stanley (University of New Mexico), author of books and articles on Central America, to hear if he knew anything about the alleged collection of unpublished documents at Centro de Paz, he wrote: "I'm happy to hear that someone out there is still interested in this time period."[15] Examining the Salvadoran peace process is relevant not only because there are few studies on third party mediation or because it has been given relatively little attention. (The peace negotiations took place in the shadows of the Gulf War.) The peace talks ended one of the bloodiest wars in Latin America and made the conflicting parties bury the past and move on. The negotiations culminated in a widely acclaimed peace accord. UN-mediator Alvaro de Soto has defined the peace process as a "negotiated revolution". If the outcome really merits such a term, this should be sufficient reason to study the process by itself and hence justifies this thesis. Can anything be learned from the Salvadoran peace process and used in other conflict situations?

Among the books and articles written about the UN's role in El Salvador, Tricia Juhn's work from 1998 (*Negotiating Peace in El Salvador: Civil-Military Relations and the Conspiracy to End the War*) gives, as far as I know, the most detailed account of what happened during the 22 months of UN-mediated negotiations in El Salvador to end the civil war. Juhn has described the accords as *the most successfully negotiated settlement in recent history*. In Juhn's own words (p.45), her work "introduces the unprecedented, activist role of the United Nations as mediator, a process which *must* someday be documented in its own right" (italics in original). In a footnote (p.133) she says: "Given that the UN is under constant pressure to prove its investment worthiness, a microexamination of its role in brokering peace in El Salvador (…) would go a long way to starting a record of the potential uses of the UN as a global instrument for peace-building". Her work is based on official documents, personal interviews and hundreds of personal notes, internal memos and minutes of meetings handed by key decision-makers. Like most of the literature I have read, though, her work is mainly descriptive, and the time is now ripe for a further *analysis* of the negotiations. Before we can do that, however, it is necessary to give a short historical background and synopsis of the Salvadoran civil war to better understand the challenges of mediation. What factors did the UN have to take into consideration when assessing strategies for conflict resolution?

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[15] Stanley, William (2001, March 15). Re.: The UN as peacemaker/mediator in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no.

CHAPTER TWO:

The Salvadoran Civil War - Origins, Parties and Synopsis of Events

War would end if the dead could return
Stanley Baldwin

2.1. ORIGINS

In the introduction I very briefly indicated the *nucleus* of the conflict, but its origin and course of direction must be described more adequately to understand the limits and possibilities of peacemaking.

The Salvadoran history is a story of exclusion. Socio-economic polarization was extreme, based on the concentration of land in the hands of a very few, beginning in the nineteenth century with the creation of a primary-export economy. The core of the Salvadoran economy was – and is - agriculture and at the centre of the agrarian system is coffee. Since coffee overtook indigo as El Salvador's leading export in the 1880s, it has been the country's leading source of foreign exchange, government tax revenues, rural employment and economic activity. Between 1859 and 1875 coffee rose from 1% to 33% of exports. By 1978 it accounted for 53.2% of all exports (Byrne 1996:18). The state played a major role in encouraging coffee growing by reducing production taxes, exempting the coffee labour force from military service, granting land to those who agreed to grow coffee, and even finding landowners who refused to plant coffee. The country thus became a monoculture with dramatic impacts on the rural economy and social relations. Lands that had been communal property (*ejidos*, municipal commons; and *comunidades*, communal lands) were transferred to private ownership through laws of 1879, 1881 and 1882 that abolished collective property (*ibid*.). Peasants were forced to choose between working on coffee plantations for extremely low wages or migrating to neighbouring countries, such as Honduras. After the 1969 "soccer war" with Honduras, however, the already critical situation was exacerbated by the return from Honduras of approximately 300.000 Salvadoran peasants. With a rapidly increasing population and a steady concentration of land ownership for export crops, the social conditions kept worsening. By the 1970s, El Salvador had become the most efficient coffee producer in the world – at the expense of the general population - and the third or fourth leading exporter, competing with

giants like Brazil and Colombia.[16] The Salvadoran elite's success with coffee gave it the economic power to dominate the rest of the economy. While exports soared by more than 1000% in the 1960s, Salvadorans ranked among the world's five most malnourished peoples.[17] Coffee families controlled even the leading banks until they were nationalized in 1980, at the outset of the war. Some figures are illustrative of the skewed distribution of land and income: In 1961, almost 20% of families were without land; in 1970, 41.1 % were landless. In 1970 the poorest fifth of the population earned 3.7 % and the richest fifth 50.8% of national income; by 1980 the poorest fifth earned just 2% and the richest fifth 66% of national income (Byrne 1996:20). By 1980-81 just fifteen firms, twelve of them controlled by families of immigrant origin, were processing four-fifths of all Salvadoran coffee[18] – without distributing the incomes to the population. A mere 0.1% of the population controlled 26.5% of the land.[19]

The Salvadoran elite originated in capitalist export agriculture. From the beginning, the elite was both capitalist and agrarian, landholding as well as industrial. According to the well-known theories of Barrington Moore Jr., the persistence of a landed class dependent on agriculture that is labour intensive or labour-repressive is a significant barrier to democracy, and defeat of the landlords by a rising industrial bourgeoisie is essential for a successful democratic transition. The case of El Salvador, however, does not fit that nicely to his theory. The country lacks the clear division between a landed aristocracy and an industrial bourgeoisie. Thus "democratic developments have been inhibited by the persistence of landed power but also by the close economic and familial ties linking landlords and capitalists".[20] (El Salvador does, however, fall into Moore's categorization of the conditions for the route to *fascism*, as distinguished from the roads leading to communism and parliamentary democracy.) Evelyne Huber Stephens[21] shows that, in South America, "progress toward democracy

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[16] Paige 1993: "Coffee and Power in El Salvador", *Latin American Research Review*, vol.28, no.3, p.10.

[17] Coleman (1993): The *Salvadoran Peace Process: A Preliminary Inquiry*. Norwegian Institute of International Affairs, Research Report No. 173.p.9.

[18] Paige 1993: "Coffee and Power in El Salvador", *Latin American Research Review*, vol.28, no.3, p.11.

[19] Torres-Rivas, E.: "Insurrection and civil war in El Salvador". Chapter 9 in Doyle, MW/ Johnstone, I. / Orr, RC (eds.). (1997*): Keeping the Peace – Multidimensional UN operations in Cambodia and El Salvador*. p. 212.

[20] Paige 1993: "Coffee and Power in El Salvador", *Latin American Research Review*, vol.28, no.3, p. 8.

[21] Stephens (1996): "Capitalist Development and Democracy in South America", *Politics & Society* 17, no 3, pp. 286-288.

only occurred under the crucial precondition of an absence of labor-intensive agriculture. In fact, in no case where (1) labor-intensive agriculture predominated and (2) agriculture was the crucial export sector was unrestricted democracy established. Under these conditions, the landowners feared the loss of a secure supply of cheap labor in the wake of democratization, and they were powerful enough either to resist an opening of the political system altogether or at least to keep the rural sector excluded." The same goes for El Salvador. When civil war erupted, it was, then, not a war against a single, particular dictatorship, but rather a revolution against a political system. As such, it had much in common with class wars, which history indicates is the bloodiest type of conflict.

In a series of interviews with members from the Salvadoran elite, Paige makes clear the common view that, if coffee naturally leads to industrial development (as the elite believes it has in Brazil and Colombia) and if industrial development is the requisite for any improvement in the living standards of all Salvadorans, then structural reforms are "not only unnecessary but prejudicial to the future of El Salvador. (…) According to this perspective, Salvadorans of good will understand this "truth" and want the country to move ahead, hence revolutionary violence must be the work of outside agitators and foreign terrorists".[22] None of those interviewed saw any need to change the agrarian export model that has dominated El Salvador for a century and a half without leading to any significant industrial development. Rather, they argued, El Salvador had reached the point of industrial takeoff just when the civil war intervened.[23]

The coffee elite ruled the country until 1931, when General Maximiliano Hernández Martínez took power in a military coup. The military then held government until 1979, backed by, and largely to the benefit of, the landed oligarchy.

In 1932, the coffee elite formed an alliance with the military due to the threat of peasant uprisings. In what is now called *La Matanza* – the massacre – the army brutally put an end to a peasant rebellion. Nobody knows exactly how many people died, but most historians estimate the total was close to 30.000 - many times the

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[22] Paige (1993): "Coffee and Power in El Salvador", *Latin American Research Review*, Vol. 28, No. 3, p.37.
[23] *ibid.*:15

number who had actually participated in the uprising - and nearly 2% of the Salvadoran population at the time (Brauer *et.al*. 1995:14). The revolt was put down in three days, and in the weeks that followed thousands of peasants were rounded up and executed. Augustín *Farabundo Martí*, leader of the Communist Party and organizer of the urban workers and Indian peasants, was publicly executed by army troops on 1 February 1932. The massacre set in place a model for dealing with popular unrest that would be followed for decades to come.

The political disillusionment and daily strives to survive, however, continued to convince people that their only alternative was direct action. Reforms failed. The electoral fraud of 1972 demoralized some, but convinced others to begin to organize themselves in insurrectional groups. Another electoral fraud in 1977, when General Carlos Humberto Romero was appointed president, once again illustrated the impossibility of changing El Salvador by political means. By now, "any centrist, legal, reformist, or peaceful illusion of progress was crushed. The violence which accompanied and followed this last opportunity to resolve the legitimacy of political rule paved the road to war".[24] The Romero government abandoned all pretext of rule of law in favour of law and order. Under the November 1977 Law of Defense and Guarantee of Public Order, the administration was able to implement a *de facto* state of siege, and the repression increased. In 1979, two events each threatened to be the "straw to break the regime's back". In May, National Police opened fire on demonstrators in the plaza of the Metropolitan Cathedral, killing 22 civilians. In July the Sandinistas ousted the dictator Anastasio Somoza in neighbouring Nicaragua, and with him fled his personal guard (Juhn 1998:31).

At this point, the role of the U.S. must be pointed out. Their role in El Salvador had historically been limited, compared to its involvement in other Central American countries and the Caribbean. U.S. investments in the country were low and the conduct of El Salvador's rulers in running the country had not been a major concern of U.S. administrators. However, when the Carter administration took office, with human rights formally being an essential element of its foreign policy, the U.S. put pressure on El Salvador to improve the human rights condition. As late as the first days of

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[24] Torres-Rivas, p.214 in Doyle, *et.al*. (1997).

October 1979, when no real changes were forthcoming, the Carter administration was still debating whether to continue to pressure General Romero to carry out reforms or to play a more active role in supporting coup plots that had been under way for almost a year (Byrne 1996:47 – citing *U.S. Declassified Documents II, Part 2*). When the 15 October reformist coup against Romero was successful, the U.S. moved to provide its support. U.S. intelligence documents available to policymakers in the weeks leading up to the coup defined its orientations clearly:

> A coup [excised words] will take place no later than the weekend of 13-14 October 1979. [Excised words] the governments of Chile, Argentina, Brazil and Panama have already given their approval to the coup and have promised their immediate recognition of the new government which will be formed. [Excised words] the government will be leftist during its early days, and attempt to destroy the influence of the El Salvadoran oligarchy over the government and the economy. This move will be for the purpose of allowing significant social and institutional changes which would not be possible as long as the oligarchy is allowed to exist in its present form…. *The military will, however, maintain in control at all times to ensure that the government will not become extreme leftist as is expected will be the case in Nicaragua.* (*ibid.*: 53; emphasis added)

CIA cables made clear that the junta would begin by attempting to win the support of leftist elements and then move to the right:

> Initially the coup will be announced as a "people's revolution" and may appear in its first days to be a leftist takeover. The rhetoric to be used in initial press releases and speeches has been carefully prepared to reinforce this impression. (…) The political stance of the junta following the takeover will be drastically shifted to the left. A prompt and string plea will be made to both moderates and leftists (such as the Popular Revolutionary Block, BPR) to join the "revolution". It is believed it would be easier to gain the support of the left from the start, then gradually move to the right than to risk an open confrontation with the "popular groups". Significant social reforms and political accommodations will be made from the start to gain popular support (*ibid.*:54).

The new government consisted of members or supporters of reformist political parties, progressive capitalists, army officers, and people close to the Central American University. The mass organizations, however, were not included, and they "continued to press their demands (particularly regarding the repression and the freeing of political prisoners) to test the bona fides of the junta" (*ibid.*). The junta attempted some reforms, promised democratic elections and invited the emerging guerrilla movement to join in talks with the government. Few reforms were, however, initiated and as repression persisted and killings increased, the revolutionary groups moved to overthrow the government. Civil war erupted, and the U.S. instantly moved in to protect the Salvadoran state from "Communism", supporting the Right financially and

militarily.[25] In the heights of the Cold War, El Salvador became "Vietnam in Spanish". The US prolonged the war to the detriment of the suffering Salvadoran people. According to a secret 1980 U.S. military intelligence assessment, the Salvadoran military "could probably hold out for no more than six weeks without outside assistance" (Byrne 1996:56). In retrospect, others have estimated that the army would have lost the war within the first eighteen months without U.S. aid. The civil war (1980-1992), however, was to become the longest in Latin America during the twentieth century.[26]

Next follows a presentation of the parties in conflict before a summary is given of the events that, in my view, were the most significant ones in the decade before the UN was formally requested to mediate.

2.2. PARTIES

In October 1980, five guerrilla groups joined in creating the strongest and best-organized guerrilla movement in the history of Latin America: Farabundo Martí Liberation Front (**FMLN**), named after the martyr of *La Matanza*. These five armed groups had two distinct origins. It may be useful to separate the guerrilla groups from each other, although most often they are referred to as the collective FMLN and treated as a unitary actor.

Three of the groups were rooted in Marxism-Leninism: *FPL* (Fuerzas Populares de Liberación) was founded in 1970 and was dominated by former members of the Communist Party (PCS); *PRTC* (Partido de los Trabajadores Centroamericanos/ Central American Revolutionary Worker's Party) was founded in 1976 as a Salvadoran branch of a regional guerrilla movement; and *FAL* (Fuerzas Armadas de Liberación/Armed Forces of Liberation) was founded in 1980 as the communist

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[25] El Salvador is one of the countries that sent most soldiers to be "educated" at the School of Americas in USA during the 1980s. In 1994 a list of present and former students was obtained. It showed that among the officers named in the UN's Truth Commission Report, accused of violating human rights in El Salvador, 2/3 had been students of SOA. Three of the five officers who were found guilty of raping and murdering the American nuns had received their training there, ten of the twelve responsible for the massacre in El Mozote were former students, and 19 of the 26 officers responsible for the murders of six Jesuit priests, their cook and the cook's daughter, had received their training at Fort Benning, Georgia. (*AmnestyNyt*t. Special edition: The USA campaign 1998-99.)

[26] Colombia has experienced the longest periods of violence and civil strife, and Guatemala's civil war lasted for 35 years, but the Salvadoran conflict was the *longest formal, high-intensity war*.

party's military branch (Lindholm 1997:36). On the other hand, the *ERP* (Ejército Revolucionario del Pueblo/The People's Revolutionary Army), founded in 1971 by leftist intellectuals at the university of San Salvador, based in the Eastern parts of the country; and *FARN* (Fuerzas Armadas de Resistencia Nacional/Armed Forces of National Resistance), founded in 1975 by defectors from ERP, had their origins in the youth movement of the Christian Democratic Party, PDC, and were influenced mainly by the teachings of the Catholic Church. These differences apply to the leadership of the parties rather than to the base, which was mainly peasant and influenced by the religious teachings of progressive elements within the Catholic Church (Byrne 1996:34).

The FMLN's most important non-military voice during the 1980s was *FDR* (Frente Democrático Revolucionario/Revolutionary Democratic Front), composed of the Social Christian Party (MPSC – Movimiento Popular Social Cristiano), the Social Democratic MNR (Movimiento Nacional Revolucionario), and the leftist UDN (Unión Democrático Nacional).

On the opposite side of the FMLN were the military, oligarchy and the extreme right. Major D'Aubuisson, a populist, anti-communist and extremist, founded the ARENA party in 1981.[27] ARENA gained 19 out of 60 sixty seats in the assembly in the elections in 1982. It managed to form a working coalition with other right-wing groups and take control of the assembly. ARENA had paid a US advertising firm $200.000 to run its campaign and the investment paid off,[28] although the left as a whole boycotted the elections – which were pressed for by Washington. A further mentioning of persons will be made as the analysis of the UN-mediated peace process proceeds (final chapters).

Before continuing, I find it useful to illustrate the warring parties' number of forces: By the end of 1980, the armed forces numbered 9.850 men, including 750 air force personnel, as well as 7.000 paramilitary and intelligence agents. At the beginning of 1985, the total was 39.000, and at the end of the war, there were 62.000 men. On the

[27] Former U.S. Ambassador Robert White once called D'Aubuisson a "pathological killer". Known as "Major Bob" by his admirers, D'Aubuisson summarized his platform with a campaign slogan: "Another '32", meaning that it was time for El Salvador to repeat the slaughter of 1932 (Skidmore & Smith, 1992:336). Also see footnote 4.

[28] Brauer, et.al. (1995): *On your own in El Salvador*. OYO Publications, USA, p.25.

other hand, the FMLN began the general offensive with around 2.000 men with no combat experience whatsoever. By 1984 it had 12.000 men in its ranks, a number which approximated 15.000 near the end of the conflict.[29]

The war itself constitutes the context within which mediation was to take place. It is thus crucial to have knowledge of the "basic game" (see chapter 3), although a summary – especially within the limits set for this dissertation – is destined to be short. Next follows a synopsis of the conflict before UN mediation began.

2.3. SYNOPSIS OF THE WAR FROM 1980-1990 (before UN mediation)

On 24 March 1980, Archbishop Oscar Arnulfo Romero (no relation to General Romero), who days earlier had called on soldiers to disobey their officers when ordered to kill, was shot to death while holding mass. A lone gunman shot him, under orders by Major D'Aubuisson. Leftist supporters felt that if even the archbishop was not safe, all hope for a negotiated peace was lost. His burial attracted over 100.000 people, who were fired upon, leaving 600 wounded and 50 dead.

On 5 December 1980, the bodies of four U.S. churchwomen who had come to El Salvador to work with victims of the war were discovered in a shallow grave – raped and shot to death. As a consequence, the U.S. suspended $25 million in military and economic aid pending an official investigation. The aid, though, was resumed just two months later when the FMLN launched a series of major attacks, and Ronald Reagan had been elected U.S. President.

The FMLN's "final offensive" on 10 January 1981 helped the guerrilla movement gain credibility as a fighting force. Nevertheless, the offensive was forced back by government troops. The battle continued in the countryside. Backed by U.S. military "trainers" (not called "advisers," to prevent association with Vietnam; Skidmore & Smith, 1992:337), the armed forces carried out sweeping search-and-destroy missions.[30] In 1981 alone, 9.825 civilians were assassinated,[31] illustrating the

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[29] Torres-Rivas, p.222 in Doyle, et.al. (1997).
[30] The "Woerner Report," a secret Pentagon document produced in 1981 by Brig. Gen. Fred Woerner, provides an early, critical blueprint for U.S. assistance to the Salvadoran armed forces, recommending support for a "strategic victory" against the guerrillas. The report was declassified after an eight-year effort, including litigation, by the NSA. (www.hfni.gsehd.gwu.edu/%7Ensarchiv/nsa/publications/elsalvador2/esdoc1.html)
[31] Torres-Rivas, p.220 in Doyle, et.al. (1997).

magnitude of the war. The UNHCR reported that the total number of refugees had passed 1 million. On 17 December, the *Atlacátl Brigade*, the Salvadoran army's best-trained and most well-equipped elite soldiers, massacred more than 1.000 persons in El Mozote, Morazán.

[32]In February 1982, president Duarte (Christian Democrat; center-right) said he would not negotiate with armed groups. The statement came as a result of pressure for negotiations from various sectors of society. The FDR-FMLN proposed a dialogue with the government and army, but this was rejected. In May 1983, FDR repeated its willingness to negotiate without conditions with the Salvadoran and U.S. government, but in June the army initiated a military operation, deploying 6.000 soldiers. For the following years, FDR-FMLN presented various proposals for a negotiated peace, but the government still thought it could win the war without negotiations. Not until 8 October 1984, in front of the UN's General Assembly, did president Duarte invite the FMNL to peace talks. The next month, however, the government rejected the peace proposal presented by FDR-FMLN, claming it to be unconstitutional. The government's willingness to negotiate seemed to be more for looks than for real. The following years were characterized by a series of offensives by both sides, with the left presenting numerous peace proposals and the right rejecting them. The war was a kind of "cat and mouse" game that clarified the parties' capacities and demonstrated their strength. On 21 January 1987, FMLN initiated a national transport strike with almost full support all over the country. The FMLN's support, however, was weakened by the fact that it continuously attacked strategic targets such as bridges and power stations. On 29 January, the FDR-FMLN and the government reached an agreement in which colonel Napoleon Avalos was released by FMLN in exchange for 57 political prisoners and a promise that 42 wounded guerrilla soldiers could leave the country.

On 7 August 1987, the five Central American presidents signed the Esquipulas II Accords (or Arias Plan) in Guatemala. In it, they committed themselves to promote peace in the region. A major limitation, however, was that only the governments participated, all of whom had a stake in maintaining the political status in their states. Therefore, the Guatemala accord "very much reinforced the presumed dominance of

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[32] The following paragraphs are based on Lindholm, 1997:46-62.

existing governments, by allowing opposition groups to participate only after giving up their struggle and their arms. Needless to say, these provisions did not generally incorporate the interests of insurgents, especially the contras in Nicaragua and the Farabundo Martí National Liberation front in El Salvador".[33]

The change came in 1989 when FMLN proposed to postpone the presidential elections for 6 months to make possible its participation. FMLN was to cooperate with Convergéncia Democrática (founded in November 1987) and make way for the parliamentary left. At the same time FMLN for the first time mentioned the possibility of laying down arms. The junta did not concede. FMLN then initiated a series of attacks against the transport system in front of the elections. There was still no negotiation at sight, but then several events – both internal and external - combined to change the bleak picture and pave the way for UN mediation:

(1) The victory of ARENA's presidential candidate, Alfredo Cristiani, meant and important shift in politics. He was a member of the coffee oligarchy, educated in the United States. Many believed that Cristiani, "an athletic playboy without political experience" (Skidmore and Smith, 1992:337), would be a puppet for D'Aubuisson and right-wing forces. He was, however, "sufficiently insensitive to risk and uniquely poised" to break the long deadlock between the military and the oligarchy in El Salvador (Juhn, 1998:45). He was, in contrast to Duarte and the Christian Democrats, trusted to protect the elites' interests (which were his own as well). "If ever a Salvadoran President and party could deliver the large landholders and the FAES [The Salvadoran Armed Forces], Cristiani and ARENA were the ones." (Coleman, 1993:14). Cristiani was helped by the fact that the traditional elites were becoming increasingly discontent with the war, for at least two reasons: First, the war had weakened the economy. Second, the large landholders had come to see the military's power and position grow close to its own. In his inaugural speech, Cristiani invited the FMLN to pursue talks without calling for their capitulation, to the surprise of many. Cristiani was probably the only one who could aspire to isolate and control the extremists, and one of the first among the elites to admit that the war was, at least partly, due to past injustice and oppression. This announcement caused Bernard

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[33] Hopmann (1988): "Case Analysis. Negotiating Peace in Central America." *Negotiation Journal* 4, no. 4:373.

Aronson to point out that "Salvadoran leftists had disappeared for making similar statements; for an ARENA president to utter such thoughts was unthinkable" (Juhn, 1998:48).

(2) On 31 October 1989, the headquarters of the workers' union, FENASTRAS, were blown up, killing 10 persons and leaving 35 wounded. Two days later, FMLN informed they would redraw from negotiations in protest against the bombing, for which they hold the government responsible. The FMLN's November 11 military offensive, El Salvador's "Tet", was the turning point on the road to negotiations. It launched what press reports described as the *largest offensive* of the civil war. For the first time, the fighting engulfed parts of the capital. Despite the violence, the FMLN had now *increased its bargaining power* vis-à-vis the government in the mediated negotiation to come. (At the outset, two of the five guerrilla groups that were part of the FMLN, FPL and FAL, maintained that it was possible to take absolute control of the country.[34])

(3) When the situation seemed as bad is it could get, six Jesuit priests were killed on the campus of the University of Central America on 16 November. Their bodies, along with those of their cook and her daughter, were found perforated by bullets. Cristiani publicly acknowledged that members of the army were responsible. Many consider these murders the most brutal episode of the war. It was to give the peace process an impetus (although I strongly disagree with it being the *most* brutal episode). Even parts of the Salvadoran army and oligarchy thought it too much. It also undermined the U.S. alliance with the Salvadoran army. "What died with the Jesuit priests was a foreign policy consensus based on the twin premises that the army had successfully contained the FMLN and that democracy was being constructed. Believing that the armed forces had become an open liability on both counts, Congress changed the terms of the debate."[35]

With (4) the replacement of the ideological Reagan team with a more pragmatic and result-oriented government in USA under the Bush administration, and (5) the electoral defeat of the Sandinistas in Nicaragua, El Salvador's external "structure" had

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[34] Gibb, T. and Smyth, F. (1990): *¿Es posible la paz en El Salvador? Un informe sobre las perspectivas para las negociaciones y la política de Estados Unidos*. Washington Office on Latin America, p.255.
[35] Karl, T.L. (1992); "El Salvador's Negotiated Revolution". *Foreign Affairs*, vol. 71, nr. 2, p.153.

changed. With the December 1989 U.S. invasion of Panama and the victory of Violetta Barrios de Chamorro in Nicaragua, the U.S. administration lost what rationale remained for its El Salvador policy. "Anxious to maintain congressional relations and to diminish the salience of Central America on the foreign policy agenda – given the momentous changes in Europe – the administration worked with President Cristiani and his allies to isolate military hard-liners and strengthen support for negotiations: "We believe this is the year to end the war through a negotiated settlement which guarantees safe political space for all Salvadorans", Secretary of State James A. Baker testified before Congress on February 1, 1990".[36]

After the November offensive and Jesuit killings, the parties (the FPL and FAL included) realized they had reached a *mutually hurting stalemate*, i.e. they had reached the point where they no longer could escalate their way to victory. There was no hope that unilateral measures could lead to a satisfactory outcome. The conflict was thus *ripe* for a negotiated solution. This was the *only way out*. They needed help, however, to resolve the conflict by people who could commit both sides to a negotiated agreement (*valid spokesmen*) since they did not trust each other to commit to any agreements achieved on their own.

Since the conflict had its roots in a domestic insurgency unprovoked from the outside, changes in US and Soviet policies toward the conflict were not enough to bring peace. Internal conditions had to change as well. In order to achieve a peaceful settlement, agreement needed to be reached on a vast complex of topics. On 5 December 1989, FMLN's Salvador Samayoa and Ana Guadalupe Martínez met with Alvaro de Soto in Montreal and formally requested UN participation in the peace process. On 31 January, 1990, president Cristiani also requested that the UN's Secretary General, Pérez de Cuéllar, personally mediate to resolve the conflict.

We have now reached the point where this case study begins. In order to answer the questions posed in the introduction, however, we first have to develop an analytical framework, to which we now turn.

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[36] *ibid*.

CHAPTER THREE: Analytical Framework

*A compromise is the art of dividing a cake in such
a way that everyone believes he has the biggest piece.*
Ludwig Erhard

3.0. The purpose of this chapter is threefold. First (3.1), I will present the most essential *terminology and analytical concepts* to be used throughout the thesis. Conceptual clarification is important since what we do not have words for, we cannot easily think, much less discuss. Second (3.2), I will see what the scholarly literature has to offer in terms of *models* containing *assumptions, propositions* and *conditions* for reaching a successful outcome. Third (3.3), based on this literature I will – at a general level – summarize the expected findings and relate them to the case of El Salvador.

3.1.1. We have to make sure that people think of (largely) the same thing when discussing a phenomenon. Ambiguity or imprecision makes it harder to communicate. The concepts to be defined in this section are chosen for a specific purpose. If asked the following questions: "What are you going to use these concepts for? Why should we read about this and not something else?", the answer will be that they may help us when predicting possible outcomes. The first concepts to be defined are mediation and peacemaking:

Mediation is a requested attempt by an acceptable third party to non-coercively create agreement, or minimize conflict, between two or more parties. It is, in principle, voluntary and differs from e.g. arbitration in that the third party has no authoritative decision-making power. It should be pointed out that a mediator does not always have to be impartial, as long as the parties in conflict trust the mediator.[37] Bercovitch and Schneider (2000) emphasize that the adversaries accept mediators "not because they exemplify an antidote to bias, but because of their perceived ability to influence, protect, or extend the interests of each party in conflict. (…) [They] are seen as being

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[37] E.g., Kissinger was accepted as a mediator between Israel and both Egypt and Syria after the 1973 war in the Middle East, even though he was perceived to be pro-Israeli. This made it possible for him to extract concessions from Israel that no one else could have obtained, without Israel believing that he would sell out their most fundamental interests (Hopmann, 1998:226).

capable of promoting an agreement through the use of leverage, power potential, and influence, and not because their protestations of neutrality."[38]

The UN has defined **peacemaking** as the action of bringing hostile parties to agreement, essentially through such peaceful means as those foreseen in Chapter VI of the Charter of the United Nations.[39] I will use this definition, even though it may be natural to view peacemaking in the same way as mediation, i.e., as an action that may fail *or* succeed in bringing the parties to agreement. The fact that peacemaking seems to require an agreement as a result is, of course, not to say that the agreement has to be "successful". The concept of "success", as will be discussed in chapter 6, entails much more than the mere end of *armed* conflict. Peacemaking can be singled out as one of three dimensions of the peaceful settlement of disputes. The other two dimensions are:

> *Peacekeeping*: the deployment of a United Nations presence in the field, hitherto with the consent of all the parties concerned, normally involving United Nations military and/or police personnel and frequently civilians as well. Peacekeeping is a technique that expands the possibilities for both the prevention of conflict and the making of peace.[40]

> *Peacebuilding*: a set of physical, social and structural initiatives which can help to prevent and resolve the consequences of conflict, and provide post-hostility structural reconstruction and rehabilitation.[41]

Of the three, peacebuilding has to be dominant. Peacemaking and peacekeeping can only be transitory measures. "They have no long-term or lasting effect as long as the peacebuilding factor is missing. Peacebuilding is the healing agent which ensures that the structural roots to a conflict are removed".[42] All dimensions, or phases, of a peaceful settlement are, of course, linked. UN peacemakers must always bear in mind that, despite "the many pressures of the initial peacemaking phases, issues left unresolved at the outset may later require aggressive, high-profile actions by UN peace-builders".[43] Thus – as written in the introduction – I shall take one step back and focus on the *peacemaking* role of the UN between 1990-92 in El Salvador. What issues were resolved (reached agreement) during the negotiation process? Even though building (consolidating) peace is paramount, it is doomed to be extremely difficult if

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[38] Bercovitch, J. and Schneider, G. (2000): "Who Mediates? The Political Economy of International Conflict Management." *Journal of Peace Research*, vol. 37, no. 2, p. 149.
[39] *An Agenda for Peace*. At: http://www.un.org/Docs/SG/agpeace.html
[40] *ibid*.
[41] Harbottle, Michael & Harbottle, Eirwen (1997): "The Two Faces of Peace Building." *Peace and Conflict Studies*, vol. 4, no. 1, July. At http://www.tcnj.edu/~psm/pcs/manuscripts/harbottl.pdf
[42] *ibid*.
[43] Holiday, D. and Stanley, W. (1993): "Building the Peace: Preliminary Lessons From El Salvador." *Journal of International Affairs* 46, no. 2, p. 438.

the negotiation process leading to the final peace accord (peacemaking) is not "successful". In short, if peacemaking fails, it may not be so relevant to talk about peacebuilding. The peacemaking role overlaps with the peacekeeping role,[44] but I shall try to separate these phases from each other.

A *negotiation* is a decision-making process that normally seeks to achieve consensus between parties having diverging preferences as to what constitutes a good agreement on one or several issues. (Serious) negotiations - with or without a mediator - presuppose that there exists a *bargaining space*[45], i.e., overlapping interests making agreement possible. In order to determine whether or not there exists a bargaining space (whether or not there is anything to negotiate at all), a party has to ask itself: What is my *Best Alternative To a Negotiated Agreement* (**BATNA**)?[46] This is the best one can hope to achieve on one's own or with other parties, without an agreement with the party in question. After all, people negotiate because they expect to achieve a settlement that is better than other available alternatives. BATNA is often equated with an actor's status quo, but one's BATNA is rather a more or less qualified assumption regarding the future, and can be changed as the negotiation proceeds. Fisher and Ury (1991:183) also talk about a party's *micro-BATNA*: If no agreement is reached *at this meeting*, what is the best outcome? Naturally, to decide one's own BATNA is easier than assessing the BATNA of one's opponent. This uncertainty makes room for strategic action and manipulation.

One's BATNA is not necessarily the same as one's *reservation point/resistance level,* i.e. the point below which an actor cannot/will not go for there to be an acceptable agreement. As can be seen from figure 1, it may very well be that a party's *satisfaction level* lies above its BATNA, because a party may *aspire* or expect to achieve more than a minimum agreement. Perceptions and cognitive mechanisms are, under all conditions, important factors to be taken into consideration when negotiating or mediating. Bargaining is, as Bacharach and Lawler point out, *impression*

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[44] As an example, *Agenda for Peace*, produced by the UN Secretary General in 1992, refers to the military performing a peacemaking role. As Harbottle correctly points out, the military cannot *make* peace; that is the role of the diplomat or politician.

[45] Putnam (1988) calls this "win-set". See: "Diplomacy and Domestic Politics: The Logic of Two-Level Games", *International Organization.* Vol. 42, No. 3:427-460.

[46] Fisher & Ury (1991): *Getting To Yes*.

management. "[The] skillful presentation of power, whether real or cognitive, has important consequences for the bargaining relationship and process." (Bacharach and Lawler, 1981:51).

Figure 3.1: Illustration of bargaining space, BATNA and satisfaction level.
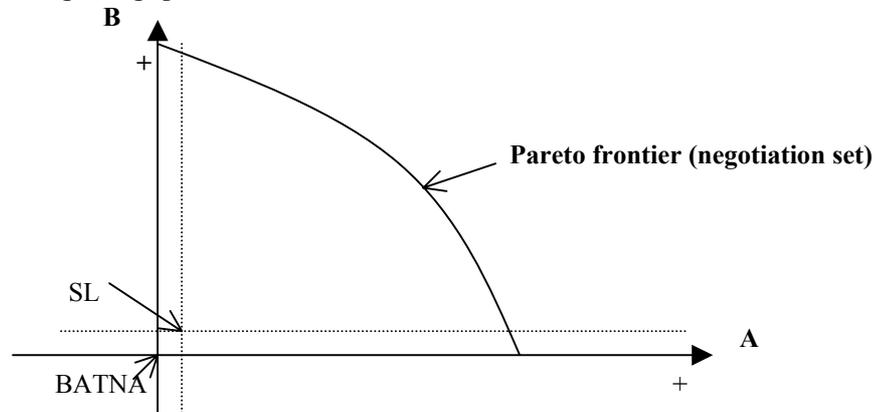
The figure shows the bargaining space of an issue as situated between the parties' BATNA (origo) and the ***Pareto frontier***, also called negotiation set or contract curve. This line marks where there are no other solutions better to one party without simultaneously being worse for the other. An agreement *may* be reached somewhere between the parties' satisfaction level (SL, stippled line) and BATNA, but – as pointed out above – agreement is most likely to be reached anywhere northeast of the satisfaction level. Ideally, the parties should move as far as possible along the integration line (in the northeastern direction), i.e. to create a solution as good as possible (through both cooperation and conflict) – tapping as much as possible of the integrative potential. Along the Pareto frontier, however, there will be pure conflict and the parties will try to get as big a share as possible for himself/herself.

In the negotiation literature, there are two different ideal types of negotiation: ***distributive*** (conflictual) and ***integrative*** (cooperative). In a distributive negotiation, the other side is viewed as an opponent with largely conflicting interests, inclined to use any tactical ploy (manipulation, coercion or persuasion) to maximize own gains. Typical "moves" are the use of rhetoric, selective (dis)information, commitment to own positions, warnings/threats or even outbursts of verbal abuse.[47] In this type of

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[47] These concepts are normally associated with Walton & McKersie.

negotiation, the negotiator will try to have the opponent moderate its position.[48] The Salvadoran negotiations display several of these characteristics. Quantitative (tangible) issues, such as the size of the armed forces, often make for distributive negotiations. (This, however, is *not* to say that qualitative issues are more easily negotiated). In a cooperative negotiation, the other side is viewed as a partner cooperating to solve a mutual problem. This type of negotiation is characterized by a tentative and searching approach marked by openness. The only appropriate strategy of influence is persuasion, and typical "moves" are to ask questions to make sure one has understood the other's (underlying) interests, inform the other of one's own preferences, necessities and interests, and be open to propositions from the other side. Both types are illustrated in the figure above. "Any movement in a northeasterly direction improves efficiency – that is, at least one side is better off without hurting the other; the bargain, therefore, is termed "integrative". Any movement along or parallel to the curve distributes the gains of the northeasterly moves. Consequently, even in an integrative bargain, there is always a distributive question." (Princen, 1992:35). If the gain for one equals the loss for the other (along the Pareto frontier), the sum is zero and the term "zero-sum" is used.

In this section we should briefly mention five more concepts which will be used when analyzing the UN-mediated peace process in El Salvador, namely concessions, commitments, process-generated stakes, basic game and negotiation game:

A *concession* is an accommodating move an actor can make to the other party during the negotiation. How the other party reacts to a concession, depends on how it *interprets* the concession. A concession can be interpreted in number of ways. For example, a concession may make a party seem weak, in which case the other party's negotiation position is likely to toughen.[49] It can also be seen as a cause of change in a party's incentives. Zeuthen postulates that the "bargainer with the smaller critical risk (see 3.1.2.) always makes the next concession. He will concede enough, but only enough, to reverse the inequality of critical risks, thus inducing a concession from the opponent while giving up as little as possible".[50]

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[48] Underdal (1973): "Holdningspåvirkning og interne forhandlinger." Oslo. Institutt for Statsvitenskap, p. 23.
[49] Pillar, 1983:95. Pillar gives a total of seven possible interpretations of a concession.
[50] *ibid.*:94

A ***commitment*** is "a firm statement or action intended to signal one's minimum position beyond which one may not concede. (…) Commitments work best when the other party is convinced that one is physically or in some other way clearly prevented from making further concessions. Often a negotiator will reinforce commitments with the threat to walk out of a negotiation rather than to concede." (Hopmann, 1996:63). Thus, a commitment can be seen as the degree of dedication to a cause and its importance to an actor. Its general function is that of "adding credibility to a certain message concerning one's preferences and positions".[51]

The concept of ***process-generated stakes*** is particularly relevant when talking about the "success" or "failure" of a negotiation. In short, the concept implies that the negotiation (or mediation process) itself "tends to create certain stakes – a pot of potential gains and losses – extraneous to those constituted by the explicit negotiation issues".[52] In other words, the process itself may generate positive and negative effects, irrespective of the nature of the issues. For example, any threats and attempts at manipulation provoke the other party and are likely to deteriorate the negotiation climate.

Finally, we can draw a line between the ***basic game*** and the ***negotiation game***. These concepts largely correspond to "context" and "process" in the contingency model (3.2). I shall define basic game in concordance with the way Midgaard (1971:12) uses the term, namely as the game (or situation) comprising the basis of the negotiations, and which the negotiations aim to resolve. The character of the basic game is likely to influence the course of the negotiation game (negotiations). A change or development in the basic game may affect the players' expectations and attitudes in the negotiation game, not to mention how they *perceive* the nature of the dispute and each other. One party may be able to compensate its weak power in the basic game by manipulating the relative power of *positions* in the negotiation game or by appealing to internationally recognized norms and objective criteria. Normally, a party's reduction in commitments will lead to increased toughness in the negotiation game, since a low interest in the outcome makes it easier to withdraw. If B is dependent on reaching an

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[51] Underdal (1983): "Causes of Negotiation "Failure"". *European Journal of Political Research*, 11:190.
[52] *ibid*.

agreement with A on some issue – other things being equal – A has the strongest bargaining position. The opposite, however, can also occur, i.e. that a great interest in the outcome can lead to increased (toughened) negotiation power. If the issues concern honour, values or something as essential as continued existence or autonomy, a (desperate) party has strong incentives to lead tough negotiations. Also, fractionation may increase a position's relative strength in the negotiations, because a party can say: "I would like to comply with your demands, but group X will never accept that" (cf. Putnam's two-level game (1988)).

3.1.2. Narrowing the settlement range

Whereas the concepts in the previous section may help us in determining possible outcomes, others may be useful in predicting *which alternative* (out of several possible) that is most likely to be chosen, and thus which outcome is most plausible. ***Critical risk***, i.e., the highest risk for negotiation breakdown a party is willing to accept in an attempt to reach its goal(s), is such a concept. It is frequently applied in both negotiation literature and game theory. This term is reserved for pure *distributive* negotiations only, and has to do with the relative strength of bargaining positions.

When an actor has the *last move* in a negotiation game, the choice is binary: Either one accepts the opponent's offer or one stands put, risking negotiation breakdown. How big a risk, then, is an actor likely to accept and still not yield in a negotiation?[53] Of course, if one does not acquiesce, the solution will either be according to one's own proposal (U_A - the utility of actor A) or a breakdown (W_A) - regarded as worst by both/all parties. Likewise, the outcome if one gives in will be the opponent's offer (V_A). The condition for standing put can be illustrated as follows:

$$[U_A * P] + [W_A * (1-P)] \geq V_A \qquad (1)$$

This equation is simply a parsimonious way of indicating mathematically that the expected value of standing put has to be greater or equal to the acceptance of the opponent's offer (P standing for probability) if one decides to stand put. The value of (1-P) - whatever this is - is referred to as the critical risk.

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[53] In game theory, critical risk is normally related to a Chicken game, that is, a contest of nerves.

Another way of reasoning which yields the same result is to ask the question: What can I <u>win</u> by standing put? Obviously, it will be the value attached to my own solution or proposal minus that of the opponent: $(U_A - V_A)$. The bigger the difference, the larger the payoff will be. Similarly, I can ask myself: What can I <u>lose</u> by standing put? Generally, this is the value of my opponent's offer minus my BATNA $(V_A - W_A)$. I will then try to assess the relationship between possible gains and losses. The more I have to win compared to what I might lose, the larger a risk for breakdown I am willing to accept, and the stronger my position will be in the negotiation. In short:

$$\frac{Ua - Va}{Va - Wa} \qquad (2)$$

The actor for whom the proportion or fraction is largest, will – everything else being equal – have the strongest negotiation power. (The weaker party should then make a unilateral concession.) Both ways of reasoning leads to the **Nash-solution**: the alternative that maximizes the *product* of what both parties can win (above their respective BATNAs).

When discussing *which alternative* that is most likely to be chosen, **focal point** is a concept which may also be useful. Schelling (1960) argued that actors "tend to converge on focal points, i.e. solutions that stand out from others as in some unambiguous way unique – e.g. a round number, a prominent geographical feature, a firmly established convention or practice, etc."[54]

To analyze the Salvadoran negotiations and the peace process, we will – in addition to concepts from negotiation theory – need to find or develop a *model* that can help us structure the analysis of the mediation process. Where should we look for useful guidelines?

3.2. A Contingency Model of Mediation

The study of the relationship between mediation and its outcome traditionally seems to have two diverging "branches": the anecdotal, *descriptive* single case and the *normative* approach (Bercovitch and Houston, 1995:14f). Those belonging to the former emphasize the unique aspects of mediation and the hopelessness of generating

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[54] In Underdal (1997): *Modelling the International Climate Change Negotiations: A Non-Technical Outline of Model Architecture*. Institutt for statsvitenskap, Universitetet i Oslo, p. 7.

any valuable conclusions about mediation outcomes across a large number of cases. To Meyer, for instance, the "task of the mediator is not an easy one. The sea that he sails is only roughly charted and its changing contours are not clearly discernible. He has no science of navigation, no fund inherited from the experience of others. He is a solitary artist recognising at most a few guiding stars and depending on his personal powers of divination" (1960:161; cited in Bercovitch and Houston 1995:14).

The representatives of the normative approach, on the other hand, "offer in a fairly generic fashion a set of recommendations that, if pursued, could lead to successful outcomes in all types of disputes from the interpersonal to the international" (*ibid*.). Roger Fisher seems to be one of the most-cited representatives of this approach (see e.g. Fisher & Ury: *Getting To Yes*). Intuitively, both approaches seem too categorical. For instance, one of the larger problems that many UN officials have acknowledged regarding the UN operations, is that there is "no *institutional learning curve*. There is no way for the lessons drawn from each mission to be absorbed, disseminated, and incorporated into future [peace] missions".[55] As a result, "missions have a tendency to repeat many of the mistakes of their predecessors. The United Nations, as an organization, must find a way to address this problem because *reinventing the wheel costs time, money and productivity and, too often, produces unnecessary frustration* among officials who are working 10-16 hour days".[56] Thus, a large problem is that of, in practice, having "no science of navigation, no fund inherited from the experience of others", but – evidently - it does not have to be this way. Without being blue-eyed, giving generic, all-encompassing recommendations for conflict resolution irrespective of the conflict's complexity, I believe some general recommendations can always be given. The UN can, by actively using its historical baggage, extract lessons that may (after careful considerations – being conscious of the idiosyncrasies of a new situation) be used in other missions. As Bercovitch and Houston (1995:14ff) convincingly argue, we should, then, discard both traditions because they do not offer a reliable explanation of when mediation succeeds and why. The first tradition is erroneously saying that there is nothing to study at all, and thus

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[55] Montgomery, TS. (1995): "Getting to peace in El Salvador: The roles of the United Nations secretariat and ONUSAL." *Journal of Interamerican Studies and World Affairs*. Vol. 37, nr. 4, p.164.
[56] *ibid*. (my emphasis)

nothing to learn from. The second tradition is erroneously assuming that no problem is too difficult for an experienced third party to solve.[57]

Without referring to these traditions, Zartman[58] distinguishes between 5 different "families" in the analysis of the negotiation process: *structural* analysis (focusing on power relations), *strategic* analysis (as portrayed in game theoretic matrices), *process* analysis (explaining outcomes through a series of concessions determined by some element inherent in each party's position), *behavioural* analysis (focusing on the negotiators and mediators themselves), and *integrative* analysis (emphasizing "the imprecision of parties' interests in their own minds"). A more detailed account of these approaches cannot be given within the boundaries of this dissertation. The interested reader is thus recommended to consult Zartman's article. Suffice it to say that these approaches display different ways of talking about the same phenomenon, and should be regarded as complementary - reinforcing and building on each other. Consequently, the analysis of a negotiation or mediation process and its outcome should not be an either/or-choice. Rather, an analysis ought to be dependent or *contingent* on all of them, without – of course – becoming eclectic. For that reason, I find the ***contingency model of mediation*** of Bercovitch and Houston (1995) to be a useful guiding star for my study. It incorporates all the necessary elements just mentioned that must be considered to understand a mediation outcome. I agree that this model (see figure 3.2) "offers a useful framework by which to organize and integrate much of the literature on mediation" (p.15). This is so because:

> To identify all the factors that may influence mediation outcomes and mediator behavior, to analyze and assess their relative importance, we need to develop a broad conceptual framework that can subsume the versatility of mediators' behaviors, guide our research, and allow us to integrate our findings. The approach that allows us best to develop theoretical insights and engage in empirical analysis is the contingency approach.[59]

The contingency approach has its roots in the social-psychological theories of negotiation as developed by Sawyer and Guetzkow (1965) and modified by Druckman

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[57] The disagreement between these competing traditions resembles that of the original disagreement between agitators of qualitative vs. quantitative methods. Today, most scientists acknowledge that there is no either/or-choice, and argue that – in order to obtain as valid and reliable results as possible, both should be combined. In tradition with Aristoteles, we should always try to find the Golden Middle Way, or (in Hegelian terms) look to reconcile in a *synthesis* the disparity between *thesis/anti-thesis*.

[58] Zartman, I. William (1988): "Common Elements in the Analysis of the Negotiation Process." *Negotiation Journal*, vol.4, no. 1, pp.31-43.

[59] Bercovitch and Houston (2000): "Why Do They Do It Like This?" *Journal of Conflict Resolution*, vol. 44, no.2, p.172.

(1977).[60] In the (somewhat repetitive) words of Bercovitch and Houston, their combined approach

> provides a framework that permits a systematic analysis of the underlying structures and conditions that shape conflict events and the complex relationship of the conflict management process. The framework developed takes account of the individual influences of personal, role, situational, goal, interactional, and outcome variables and their interactive effects within the context, process, and outcome of conflict management. The contingency framework is particularly useful in the study of mediation. It offers a dynamic framework of interactive and reciprocal behaviors. It provides a reproducible model of mediation that permits operationalization and analysis of individual contextual clusters, their interaction, and relative importance within conflict management. This approach also provides a useful tool for scholars by offering a framework within which they can diagnose and analyze mediators' behavior and decisions and determine the appropriateness of various strategies in their interventions.[61]

Figure 3.2:   A Contingency Model of Mediation (Based on Bercovitch & Houston 1995:15; 2000:173)
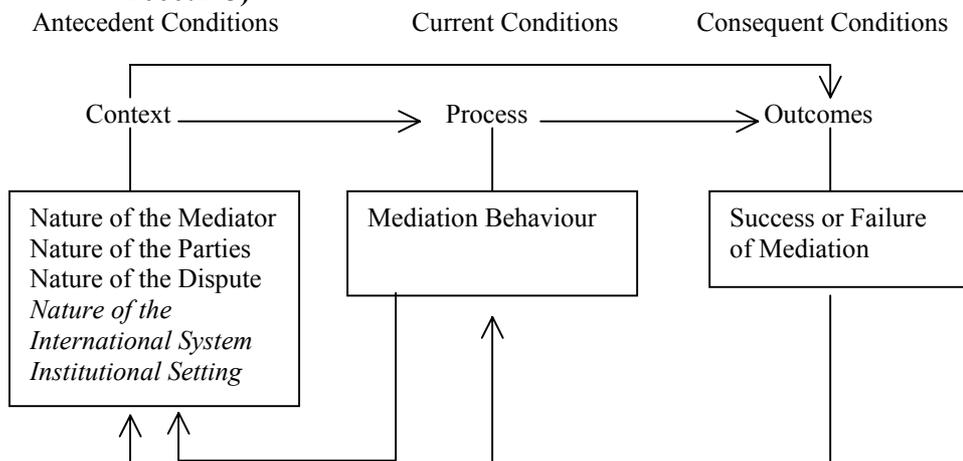
Their basic model has been the same over the years with three principal stages: the *antecedent*, *current*, and *consequent* stages. I have, however, added two context (antecedent) variables to the original model, namely the nature of the international system and the institutional setting. The role of the US as the main actor in the international system during and after the Cold War - in its "Own Backyard" - must in our case not be forgotten. Likewise, the institutional setting (i.e. who negotiates what, when, where and how) may influence the mediation process. This non-recursive model illustrates the dynamic nature of negotiation and mediation. It shows, as was pointed out in the introduction (on methodology), that mediation is not a linear cause-and-effect sequence. It is a reciprocal process. Mediation outcomes (consequent conditions), whether successful or not, are logically seen as the result of the interaction

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[60] *ibid.*
[61] *ibid.*

of context and process variables. In an article[62] from 2000, Bercovitch and Houston add an arrow from the outcome back to both process and context variables. It seems only natural that the outcome (especially if no final agreement is achieved) may, in turn, change or influence the context (such as parties' perceptions) and mediator strategies in *following* rounds of mediation. In their latest article, however, the reciprocal relationship between context and process seems to have been graphically lost (with an arrow going only from context to process, thus making the model recursive). Consequently, the model displayed here is a slightly modified combination of the models used by Bercovitch and Houston in 1995 and 2000 respectively.

Let us, then, take a closer look at the various stages. The model shows 5 context variables (not in any hierarchical order). I shall begin with ***the nature of the mediator,*** since the mediator (together with its actions) is the focus of this dissertation. It can easily be thought of as a variable affecting the mediation process, and thereby the outcome. Several mediator attributes or *values* can be of importance, such as mediator rank and authority, identity, previous relationship with the parties, knowledge and a whole array of other personal characteristics. Mediators have "different ranks and possess different resources, both of which they use in different ways in different disputes" (Bercovitch and Houston, 1995:27). Mediators can be ranked from government leaders and representatives of regional and international organizations to private individuals. It is worth to notice that regional organizations have the best success rate when it comes to mediation outcome, while the UN has a very poor record in the area of mediation. Therefore, taking a closer look at why the UN evidently succeeded in El Salvador should be very interesting.[63] Furthermore, *high-ranking mediators often have more **legitimacy**, and can more easily create an environment of credibility and trust*. In short, a high-ranking mediator can carry more weight. Moreover, "ideological position and cultural similarity"[64] can influence both the choice of a mediator, mediator strategies and the mediation outcome. *Cultural likeness*

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[62] Bercovitch and Houston (2000): "Why Do They Do It Like This?" *Journal of Conflict Resolution*, vol. 44, no.2, p.173.

[63] One could argue that regional organizations always mediate within the same cultural system, and that this facilitates agreement, whereas the UN normally deals with more intractable conflicts that are not easily mediated. The nature of the dispute thus has to be taken into consideration.

[64] Bercovitch and Schneider (2000): "Who Mediates? The Political Economy of International Conflict Management". *Journal of Peace Research*, vol. 37, no. 2, p. 150.

between mediator and adversaries provides a kind of safety net for all participants in conflict, and thereby they may be more likely to engage in meaningful negotiations. Common bonds, history, values and interest all create a notion of familiarity, trust and understanding which is important for the effectiveness of mediation. Bercovitch and Houston found that those mediators who came from the same bloc as both parties had a significantly higher chance of being successful than mediators from the same bloc as one of the parties only (Bercovitch and Houston, 1995:28).

To bring to bear any degree of influence, mediators need leverage or resources to "search for information and move the parties away from rigid positions. Leverage or resources buttress the mediator's ability to facilitate a successful outcome through the balancing of power discrepancies and enhancing of cooperative behavior. (…) These strategies are most successful, as Touval and Zartman (1985) observe, not when a mediator is unbiased or impartial but when he/she possesses resources that either disputant values." (*ibid.*:26). A list of desired personal characteristics would be very long, but let us nevertheless mention some: intelligence, stamina, energy, patience, active listening, a sense of humour, creativity, sense of timing, communications skills, etc.

The next context variable in the model is ***the nature of the parties***. The parties' power relative to each other is normally cited as having a profound effect on the effectiveness of the mediation process. The most general conviction (which is also supported empirically) is that *the more symmetrical power relations are, the more effective mediation is*. Negotiations under conditions of asymmetry are, according to Zartman, a paradox, because "one of the basic findings about the negotiation process is that it functions best under conditions of equality, and indeed only takes place when the parties have some form of mutual veto over outcomes. That alone explains why so few internal wars are settled by negotiation." (Zartman, 1995:8). Previous relations between the parties also have to be taken into consideration. Bercovitch and Houston (1995:22) distinguish between five categories: friendly, antagonistic (unfriendly but without previous conflict), conflictual (previous low-level conflict), one previous dispute between the parties, and more than one previous dispute. Not astonishingly, they find that *where the parties' previous relationship is friendly, the probability of*

successful mediation is much higher than if the previous relationship is more constrained.

When speaking of party characteristics, it seems pertinent to briefly point out the four ideal negotiating types or styles identified by Hopmann (1998:136-138), when discussing the negotiators' personality. They have been organized in table 1.

Table 3.1: Negotiating styles (from Hopmann, 1998:136-138)

Negotiators employing the *factual style* are

"likely to be historically or past-oriented, claiming that facts speak for themselves. During the course of negotiations, this kind of person is likely to point to past statements of the other side, perhaps calling attention to inconsistencies between present statements and prior ones. (…) They are likely to be perceived by others as lacking imagination, being unable to see the big picture, relying too heavily on past experiences, and having difficulty comprehending conceptual arguments and possible solutions to problems".

The second negotiation style involves *intuitive individuals* that

"tend to believe that "imagination can solve any problem". These individuals generally focus on the broad issues and seek creative and imaginative solutions to problems. They tend to be future-oriented, often believing that the historical roots of problems are irrelevant or even a hindrance to problem solving. (…) They may be perceived by others as imprecise and unrealistic, not very practical, and willing to proceed on the basis of incomplete or inaccurate information."

Normative individuals, the third style,

"tend to view negotiations as bargaining. These individuals have a clear sense of personal values – right and wrong, good and bad, likes and dislikes – through which issues may be evaluated. They may view negotiations as a contest between these values and are likely to try to steer the outcome toward normative correct solutions. (…) These kinds of individuals are likely to be most effective in negotiations that entail concession-convergence; power-oriented bargaining rather than problem solving. On the other hand, they are likely to be perceived by other negotiators as highly subjective, as lacking a logical or empirical basis for their proposed solutions, and as being overly critical of others."

Analytical individuals, the final style,

"tend to believe fundamentally that "logic leads to the right conclusions". These kinds of individuals tend to break issues down into their parts and then search for ways to recombine them that will produce breakthroughs in negotiations. They tend to use an instrumental, linear reasoning process that emphasizes the analysis of cause and effect, and the relationships between parts and wholes. They like to dissect the positions of the participants in negotiations to identify underlying interests and the logical structure of their argument, while criticizing logical error on the part of other participants. These individuals tend to be especially effective in several roles."

Whether or not the parties in dispute have a different culture or religion, and whether or not they are internally disunited, are also factors that influence the mediation process and its outcome. Bercovitch and Houston (1995:21) find that where one or both parties have no significant cultural minority, the chances of successful

mediation are as high as 64.4 percent. Where one or both parties have a significant cultural minority, the chances of mediation success are "only" 38.4 percent. Moreover, we can assume that *the more hostile and numerous the factions, the more difficult the peace process will be, and the more international assistance is needed to establish and secure peace*. (In El Salvador, culture and religion were not of any importance, since the parties shared the same customs and beliefs. Internal fractionation may, however, have mattered.) Naturally, parties from different political, economic, cultural and religious systems may be more likely to distrust each other, which brings us to the next "antecedent" variable:

The **nature of the dispute** is probably the most essential factor influencing the mediation process and the chances of reaching a peaceful agreement. The duration of a conflict and its intensity, as well as the number and complexity of the issues at stake largely condition mediation efforts, but do not necessarily predetermine the outcome. The intensity of a conflict can be explained by a number of factors, such as

> … the severity of prior conflict, the level of hostilities, the number of fatalities, the level of anger and intensity of feeling, the types of issues at stake, and the strength of the parties' negative perceptions (Kressel and Pruitt 1989). Many of these dimensions involve subjective interpretations of emotions, anger, hatred, revenge, and moral justifications of behavior and influence the parties' negotiating behavior and level of urgency and commitment to settling their conflict. As the intensity of a conflict increases, so does the influence of these subjective factors on disputant behavior. As a result, many elements in a conflict are open to misinterpretations and miscommunication by the parties involved (Fisher and Keashly 1991).[65]

To begin with, we can make at least two assumptions: *The probability of peacemaking is lower the greater the number of deaths* because the intensity is likely to increase hostility and further polarize the parties. Partly in contrast to this, I posit – ceteris paribus - that *the likelihood of peacemaking is higher the longer the war* lasts because at some point the adversaries are likely to get tired, experience fatigue and yearn for peace. As Doyle and Sambanis[66] state: "Longer wars offer a chance for the parties to learn by reflecting on the benefits of peace and by controlling war-related hostility."

When discussing the issues in dispute, we can separate between tangible and intangible issues. The tangible ones can be measured in some way (e.g. money, territory, size of the armed forces, etc.), while the intangible ones reflect questions of

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[65] Bercovitch and Houston (2000): "Why Do They Do It Like This?" *Journal of Conflict Resolution*, vol. 44, no.2, p.177.

[66] Doyle and Sambanis (2000): "International Peacebuilding: A Theoretical and Quantitative Analysis." *American Political Science Review*, Vol.94, No.4, p.785.

beliefs, values and principles. Their number and complexity affect the mediation process and mediation outcome. It seems obvious that *the greater the complexity of the issues in dispute, the less likely that mediation will be successful.* As Sebenius[67] shows, though, finding ways of adding (or subtracting) issues (current stage) can be desirable, necessary and possible. Sebenius illustrates how, theoretically, issues and parties can be added or subtracted at the negotiation table. The experienced mediator will see common ground and possible linkages where less experienced mediators cannot. To link issues together and thus work with a "package" may be advantageous if separate interests can be united – either because one has not previously thought of possibilities for trade off, or because one can use power to force an issue onto the negotiation table by changing/manipulating a party's alternatives,[68] or possibly compensate a loss. If party A has a strong preference for issue 1 while B has not, and if B has a strong preference for issue 2 while A has not, the two issues may be combined – B letting A "win" on issue 1 and A letting B "win" on issue 2. Where an agreement seems impossible in isolation, *linkage* of issues may make an agreement attainable. Also, by focusing on interests instead of positions in the mediation process (current stage)[69], a seemingly intractable conflict might be solved. The most-cited example of this is the Egyptian-Israeli peace treaty signed at Camp David in 1978. Israel insisted on keeping some of the Sinai, while Egypt insisted that Sinai be returned to them. Looking to their interests instead of their positions (which focused on territorial boundaries) revealed that Israel's interest lay in security while Egypt's interest lay in sovereignty. Thus the parties agreed to demilitarize Sinai. That way Israel did not feel its security so threatened and Egypt could put its flag there.

The nature of the dispute, the nature of the parties and the political context all have to be analyzed in order to assess whether or not aggregation - or disaggregation – of issues is the best way to find a solution. In the next chapter we shall see whether or not trade-offs were made in the Salvadoran negotiations; and if so, what the effects were.

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[67] Sebenius, James K. (1983): "Negotiation Arithmetic: Adding and subtracting issues and parties". *International Organization*, 37: 281-316
[68] Cf. what was said in section 3.1.1 on the relationship between the *basic game* and the *negotiation game*.
[69] see Fisher & Ury (1991): *Getting To Yes*, chapter 3.

As we saw in the preceding chapter, the nature of El Salvador's civil war was internally one-dimensional, caused by systematic socio-economic polarization. Externally, however, the war was propagandized as a war between capitalism and communism. Unfortunately, since the latter largely reinforced the former cleavage, the ripe moment[70] for mediation was postponed for several years. ***The nature of the international system*** can consequently have an influential effect on the mediation situation. The actions of the US formed (and still form) a structure that limits the actions of many countries in the world.

Let us finally mention ***the institutional setting***. As briefly mentioned under figure 1, this involves factors such as *who* negotiates *what*, *when*, *where* and *how*. Diverging preferences regarding each of these questions is likely to affect the mediation process as a whole. For one thing, the *mandate* of the negotiators and the mediator influences behaviour and thus potentially the outcome. When one negotiates on behalf of others, one is an agent in relation to a principal and can therefore seldom do just as one pleases. The mandate needs to be sufficiently embracing to enable the parties and the mediator to actively pursue a peaceful settlement. Negotiators and mediators have to be empowered to actively solve a conflict, not for the sake of agreement *per se*, but to increase the possibility of inventing options and generating creative solutions that a restricted/tied mandate might inhibit. Certainly, a restricted mandate may be of strategic value (increasing one's negotiation power) in a distributive negotiation, but a "free" mandate provides flexibility. Flexibility, of course, is important in complex peace negotiations.

Who are valid representatives of the parties? How many should be allowed to participate in the negotiations? How should the negotiations be organized? Should they be open (in public) or secret? Closed-doors diplomacy is often cited as the key to successful peace talks because then the parties do not have the same incentives to make propagandistic statements in public, and can talk more freely. Where should the negotiations take place (a neutral meeting ground is preferable) and when should one

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[70] Hampson (1996:210ff; 229) argues that "ripeness" should be more accurately viewed as a *cultivated* condition that has to be sustained to prevent the peace process from sliding back into violence. The actors may in fact regard a stalemate as a strong reason to keep on fighting because neither side is in imminent danger of defeat. In an article, Pruitt (1997) also criticizes the use of "ripeness" saying that it should be viewed as a *variable* rather than a state.

enter into negotiations? The latter question leads us to the second stage of the contingency model of mediation – the current condition or ***mediation process*** itself. Initiation of mediation depends on the expectations of future gains and losses. If a warring party expects to strengthen its position on the battlefield, *serious* negotiations will have to wait.[71] Likewise, expectations of a weakened position may precipitate a party to initiate negotiations right away. In the case of El Salvador, the fact that the war resisted more than a decade of negotiations shows that, during this time, at least one of the parties thought war was the best option. In the final pages of chapter 2, we saw why and when, in the final months of 1989, serious negotiations became possible.

In the model we have put emphasis on mediation *behaviour*. Since our focus is on the UN as peacemaker, it is natural to elaborate on some of the ways the UN can influence the process within the negotiation game. Behaviour obviously matters. In distributive negotiations, the "iron law of bargaining" (i.e., the inherent danger in the process of blocking or spoiling the integrative potential) is likely to obstruct the realization of joint gains (e.g. due to mistrust), making discourse and communicative action (cf. Habermas) improbable. Rather than trying to persuade through arguments, the parties are inclined to make threats and/or promises. The way these are interpreted in the negotiation process largely determines the climate of the negotiations. If, for instance, a promise is interpreted as a bribe, the atmosphere will most likely deteriorate. The previously mentioned concepts of concessions, commitments and process generated incentives, are especially relevant when referring to the negotiation game. The mediator has an important task in reducing suspicion. Peace gestures (concession) under conditions of great uncertainty and suspicion, for example, will probably be rejected as a trick.

Hopmann (1998:231-242) distinguishes between 5 different roles a mediator can play to help the parties reach agreement. These are the roles of (1) process facilitator, (2) facilitator of communication, compromise and convergence, (3) facilitator of cognitive change, (4) formulator, and (5) manipulator. I believe it is valuable to be cognizant of these roles when analyzing the role of the UN in El

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[71] Negotiations may, of course, be used only as a tactical means of building up one's forces and prepare for further offensives.

Salvador in the following chapters. Hopmann spends 12 pages giving quite a detailed account of them, so I will have to extract the essentials:

(1) The *process facilitator* offers his/her services to the disputants and attempts to create an atmosphere conducive to reaching an agreement. This procedure is often called the provision of good offices. Providing a place for the parties to meet and the logistical support for their negotiations may be an important element in the work of the facilitator. If bargaining space does not exist, the facilitator may "suggest ways of creating bargaining space, such as possible linkages and tradeoffs between nonnegotiable issues that, when combined, may produce negotiable packages of issues." If this fails, the facilitator can at least try to find face saving ways of ending the negotiation with "as little residual hard feeling as possible". In short, the role of the process facilitator is limited to improving the process so that the parties can reach agreement and deal with disagreement in as friendly and business-like of an atmosphere as possible.

(2) The *facilitator of communication, compromise and convergence* is most often used in distributive negotiations. In order to avoid seeming weak so as not to be a victim of exploitation, each party will normally try to appear firm and unbending, often making too rigid commitments to unreasonable positions The role of the mediator, then, is to facilitate "mutual and simultaneous flexibility". As in the Egyptian-Israeli conflict leading to the Camp David agreement in 1978, the mediator may start out with clarifying the basic interests of the parties as well as their BATNAs. In other words, the mediator may have to provide the channels to "help the parties to communicate basic information that normally needs to be shared for negotiations to be successful, but where full and open sharing of information may otherwise produce fears of possible exploitation. Once mutual concessions have begun, the mediator tries to facilitate a process of reciprocal (or tit-for-tat) changes in positions, leading toward convergence." As one strategy, this mediator type can try to pass on concessions by one party as if they were the mediator's own proposals. It may be emotionally easier for a party to judge a proposal when made by the mediator rather than by that party's enemy.

(3) The third mediator role is that of *facilitator of cognitive change*. Rather than trying to persuade the parties to change their positions on an issue, in this case the mediator can try to have the parties change their preferences themselves through seeing the problem in a new light. According to Hopmann, this kind of mediation is likely to be most important in those negotiations where stalemate seems to be caused "more by different perceptions of the same issues, misunderstandings, or other psychological or personality factors, rather than by conflicts of interest." Often, this type of mediation is referred to as conciliation. The mediator attempts to modify the actors' perceptions of each other and to "influence them to make concessions by clarifying to each his opponent's views and the bargaining situation that both face". Of course, when the parties are imbued with mistrust, scepticism and anger, this may require a substantial cognitive change, something which cannot be achieved in short time, but which nevertheless will be necessary to break a vicious cycle.

(4) A fourth mediating role is the *formulator*. This is a person who helps the parties to invent new solutions to their problems. Redefining the issues in conflict and finding a formula for its resolution may be the key to solving the problems.

"The mediator as a formulator helps the two parties help themselves, by tactful, sympathetic, accurate, straightforward prodding and suggestion." Arthur Lall, an experienced Indian diplomat, has suggested that third-party intervention is most likely to take the form of proposing solutions to the dispute when the parties find that their dispute has become so emotionally charged that face-to-face negotiations are not only doomed to fail, but may even enhance mutual hatred. (…) In those circumstances a mediator, conciliator or good officer becomes more than an intermediary. He takes on the substantive function of a maker of proposals or suggestions." (Hopmann, 1998:237-238).

In this thesis, it will be relevant to *discuss and analyze* the ways the UN, as a third party mediator, tried to influence and actually influenced the parties' values attached to their respective conditions for peace. Consequently, c*ommunication* must be a key word. Subsumed under the formulator role we can consider the *single negotiating text* as a particular means of communication. In the words of the experienced Peruvian UN-negotiator, Alvaro de Soto, this technique "consists of consulting with the parties on each issue and subsequently submitting a text to them, as far as possible simultaneously, and then discussing it with each of them separately and revising it in light of their reactions so as to narrow down differences, repeating the exercise as

many times as necessary."[72] This method has several advantages: It avoids that the parties lock themselves into positions because it is easier to make a concession in private to the mediator than it is to concede openly to the other side, it focuses on solutions, and it reduces the number of decisions the parties have to make during the mediation process (Rognes, 1999:88).

(5) The fifth and final role for the mediator is that of *manipulator*. This type of mediator uses his/her leverage and introduces "resources of power, influence, and persuasion that can be brought to bear on the parties to move them to agreement". Of course, this is a role that can only be played by a powerful mediator. The manipulating mediator may be especially able to "(1) control the timing and sequencing of concessions and other negotiating moves; (2) control information available to the parties; (3) exert influence to move the negotiations forward in directions favored by the mediator; and (4) manipulate the international environment in ways that may affect the outcome of the negotiations" (Hopmann, 1998:240). In the empirical case study we shall se how *target dates* (not deadlines!) were used to put pressure on the parties.

There are, consequently, a number of roles a mediator can play, and often he/she will have to play several roles during the mediation process. Bercovitch and Houston emphasize the use of matching mediator behaviour to the right type of conflict. In his model of a mediator's strategic choices, Carnevale[73] makes the *assumption* (one out of five) that the choice of a strategy is dependent on the relative strength of two variables: the mediator's perception of common ground, and the value that mediators place on the disputants achieving their aspirations (i.e., achieving some benefit at least as high as their reservation value). By dichotomising each variable, Carnevale's model predicts four main strategies:

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[72] de Soto (1999): "Ending Violent Conflict in El Salvador". Chapter 14 in *Herding Cats*, p.359.
[73] Carnevale, Peter J.D. (1986): "Strategic Choice in Mediation." *Negotiation Journal*, 2: p.53.

Figure 3.3: Strategic Choice Model of Mediator Action (Carnevale, 1986:53)

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                          |
Mediator's      high      | COMPENSATE              INTEGRATE
Value of                  |
Parties'                  |
Aspirations               |
or Benefit.               |
                low       | PRESS                   INACTION
                          |_ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ _ .
                            low                              high
                          Mediator's Perception of Common Ground
```
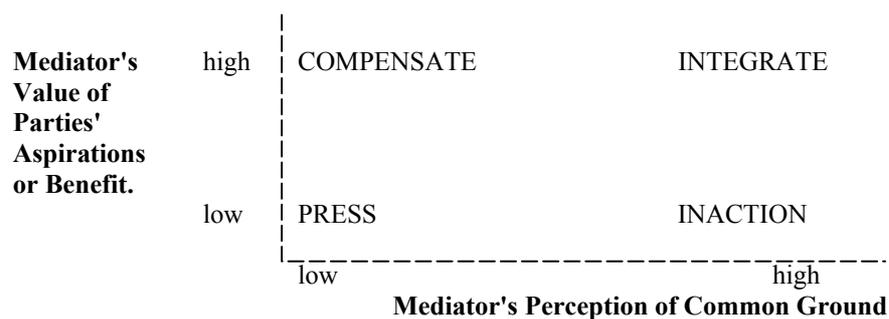
Carnevale further assumes that (1) mediators want to see the disputants come to agreement, (2) that they have all four strategies available to them, (3) that there is economy of action in mediator behaviour, (4) and that the selection of a strategy generally rules out selection of another at the same point in time. This model is highly related to our general contingency model of mediation (figure 3.2). If we picture looking at the mediation process (second stage in the general model) through a magnifier, we get, as one possibility, Carnevale's model.

Finally, in relation to process variables – and as a natural extension of the previous paragraphs - we should mention *leadership* and coordination. Leadership can be defined as an "asymmetrical relationship of influence in which one actor guides or directs the behavior of others toward a certain goal over a certain period of time".[74] The UN being the leader and coordinator of the Salvadoran peace process carried out an *instrumental* type of leadership, i.e. finding means to achieve common ends. Leadership (viewed as a function of available resources/capabilities and structural positions[75]) and the way it is exercised, affects how the negotiation game develops. We can assume that *"clever" leadership reduces the negative effects of e.g. internal fractionation and issue complexity.*

Bercovitch and Schneider[76] suggest that "quasi-multilateral" attempts to mediate tend to be more effective than "single-actor interventions", and argue that a *multi-actor mediation team* has more credibility. This contrasts the opinion of UN-

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[74] Underdal (1994): "Leadership Theory: Rediscovering the Arts of Management". Chapter 8 in Zartman (ed.): *International Multilateral Negotiation*, p.178.
[75] *ibid.*
[76] Bercovitch and Schneider (2000): "Who Mediates? The Political Economy of International Conflict Management". *Journal of Peace Research*, vol. 37, no. 2, pp. 157-158.

mediator Alvaro de Soto, who argues that collective mediation usually does not work. He actually regards it as a contradiction in terms, "like one hand clapping".[77] The reason for this is that mediators can easily be played off one against the other:

> "Negotiations of a multidisciplinary character – a common feature in complex internal conflict – stand the best chance of success if they are unequivocally controlled by a single, clearly identified mediator. Second-guessing a mediator is a dangerous game for it can undermine the mediation itself."[78]

The contradiction can probably be moderated by Bercovitch and Schneider's somewhat dubious measure of "effectiveness", and the percentage basis for the most effective mediation team size. The effectiveness of a team of 4 mediators (80%) supersedes all others, but actual cases only make up 1.38% (10 of 723) of all mediations, so the results can hardly be generalized. *If, however, one or several states join forces with an IGO, then the expected success rate exceeds the average* – a finding that de Soto, as is seen in the next chapter, surely would agree with.

3.3. Expected findings

Many scientific works start out with a set of hypotheses, succinctly stating expected findings, which the study aims to test. As we have just seen, there are plentiful factors (external and internal) influencing the mediation process and its outcome. Several of these factors may in turn be influenced by the process itself and by any (partial) settlements – thus the non-recursive contingency model of mediation was chosen as this study's general model. It is difficult to generalize about the conditions under which mediation will succeed and about the extent to which resources spent result in desired outcomes. On a general basis, we can only say that the interplay of factors mentioned in the preceding section will matter. *How* the various variables interact is thus an empirical question, and a fairly complex one too. As Underdal[79] points out, the "impact of factors like tactical skill, process-generated stakes, and path-dependency are notoriously hard to determine empirically, even though most inside observers would agree that they can play a significant role in shaping outcomes." Nonetheless, a

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[77] de Soto (1999): "Ending Violent Conflict in El Salvador" Chapter 14 in *Herding Cats. Multiparty Mediation in a Complex World*, p.382.
[78] *ibid.*:381.
[79] Underdal (1997): *Modelling the International Climate Change Negotiations: A Non-Technical Outline of Model Architecture*. Institutt for statsvitenskap, Universitetet i Oslo, p. 21.

number of propositions (regarding isolated or "ceteris paribus", direct effects) between context variables and the probability for peacemaking (through mediation) were specified, and are summarized in figure 3.4 (p.50).

In section 1.4 (methodology), I justified the use of an empirical case study with *how* and *why* questions. Questions are more open in nature than hypotheses. Logically, this makes it – per se - more difficult to generate expected findings. Our purpose is to *understand and explain* the seemingly deviant Salvadoran case (in terms of the civil war's "successful" outcome), as well as to take a closer look at the mediation process. The assumptions (or hypotheses – if we consider them well founded) regarding the influence of the context variables, however, should be kept in mind when studying the peacemaking phase. Of course, we should remain open to findings that may seem to contradict these assumptions. A case study may bring about hypotheses on the conditions for e.g. a peaceful settlement to a conflict, and make us refine our auxiliary hypotheses, so that – in turn – we may aspire to develop a coherent theory. Any hypothesis generated by the main findings can then be tested in other studies, thus constituting a kind of data.

We have already pointed out the fortunate combination of factors that made negotiations between FMLN and ARENA – with the UN playing a mediating role – possible. This critical moment was referred to as a mutually hurting stalemate. To infer from this "lucky" combination of factors to a "successful" outcome, however, would be a short circuit. Any process is, inherently, *dynamic*. Nevertheless, a mutually hurting stalemate could be regarded a *necessary* condition for entering into serious negotiations. This stalemate *per se* seems to make El Salvador a deviant case. In Colombia or Sri Lanka, e.g., the warring parties have not yet perceived any deadlock, and thus keep on fighting. If there is no stalemate, the war is likely to go on until one of the parties surrender or is eliminated (cf. Pillar 1983). Surely, whether we pose a question or formulate a hypothesis, we have to examine empirically what went on in El Salvador during the 22 months of mediation before we can reach any conclusion.

There are no guarantees that an experienced mediator with ample resources will succeed in conciliating the parties in conflict. Internal conflict cannot be resolved by

Figure 3.4: *A specified model positing the relationship between, on the one side, mediator, party and dispute characteristics, institutional variables and the international system and, on the other, the probability for peacemaking.*

Legitimacy of mediator (high rank, common cultural bonds with parties, personal characteristics)	+
Relative power relations, or mutually hurting stalemate (symmetry)	+
Previous negative relations	-
Cultural and religious similarity between parties	+
Internal fractionation	- (+)
Many Issues	- (+)
Complex issues	-
"Long" Duration	+
"High" Intensity (as explained by a number of factors)	-
Illegitimate/ Nonauthoritative Representatives	-
Neutral meeting place	+
International pressure (if aimed at resolving the conflict and not just	+

UN MEDIATION/ PEACEMAKING PROCESS

OUTCOME: Success or failure

Note: I have only illustrated the bivariate associations. Of course, there may also be *interaction*. E.g. the complexity of issues is likely to reduce the positive effect of relative power symmetry on the mediation process. Since this model is specified, it is shown as recursive due to the difficulties of assigning non-recursive effects as positive or negative. Moreover, not all of these effects are non-recursive. E.g., no matter what happens during the mediation process, the parties' religion will remain the same. Either they are religiously similar, or they are not. (Complexity is put as one variable, but could be subsumed under intensity; see Bercovitch & Houston, 2000:177.)

"some wise judgement on an outstanding issue, such as the location of a boundary, the exchange of disarmament quotas, or the terms of a peace treaty. Rather, the outcome must provide for the integration of the insurgency into a new body politic [sic] and for mechanisms that allow the conflict to shift from violence back to politics. Generally this involves creating a new political system in which the parties to the conflict feel they have a stake, thus in a very positive sense coopting all parties – government and rebels – in a new creation." (Zartman, 1995:21-22). Nevertheless, the mediator can and should still follow certain recommendations for behaviour *depending* on her/his perception of common ground, etc. (cf. figure 3.3*: Strategic Choice Model of Mediator Action*).

Clearly, there is a need for more empirical studies of mediation. We have touched upon a series of variables which the mediator has to take into consideration when mediating. It is now time to use the concepts defined and the models outlined in an analysis of the UN's role as a peacemaker in El Salvador. Our findings may then be used as a basis for analytical generalizations.

CHAPTER FOUR: Case study.

The Role of the UN as a Peacemaker in El Salvador between 1990-1992

The elimination of war should be the major task of social education.
Konrad Lorenz

4.0. Structure of chapter

This chapter focuses on how the UN contributed to a positive change in El Salvador. First – drawing on chapter 2 and 3 – table 4.1 illustrates the "malignant" character of the Salvadoran conflict (variables whose effects are assumed to reduce the chances of peaceful resolution) together with more "benign" variables assumed to work in favour of a peace agreement. Although the civil war was ripe for resolution, there were several hindrances to be overcome. Second, I study the role of the UN (its actors and actions) in the peace process. In this chapter I try to isolate the "causal effects" of the UN-mediation, controlling for other relevant actors. By singling out the role of the main mediator I hope to lay the basis for determining the extent to which the "peacemaking success" can be attributed to the UN, or whether the UN takes/is given too much credit. In an empirical case study, a number of pages are necessarily required for the description of facts. However, I will of course try to link the empirical findings to the theoretical assumptions outlined.

4.1. The chances of peaceful resolution: "malignant" and "benign" features

The stronger one feels that great injustice has been done, the more difficult it is to negotiate a compromise. The FMLN and the government of El Salvador (GOES) had obvious diverging positions. The majority of the elite was blind as to the connection between social discontent and the civil war. Rather they believed the war had been caused by a small group of terrorists because there was no reason for people "who wanted the country to move ahead" to resort to revolutionary war (see Introduction and chapter 2). Needless to say, horrifying human rights abuses made the civilian

population and the FMLN even more entrenched.[80] If a peace settlement were to be signed, the GOES had to concede to several reforms, and a means of reconciling society had to be found. Empirical studies show that an "injured sense of justice clouds judgement, reduces risk-aversion and fear of loss. It also "closes" the mind – "don't bother me with the facts" – and renders policy makers less open to persuasion through argument, offers of rewards, or threats" (Holsti 1995:337). Table 4.1 shows important variables affecting the Salvadoran peace process grouped according to their assumed effects:

Table 4.1: Variables affecting the chances of peaceful resolution in El Salvador, grouped according to their assumed effects

+	-
Mediator: high rank, leadership based on shared values	High intensity
Relative power symmetry /mutually hurting stalemate	Previous (continuous) negative relations / 60 years of military domination
Long duration (fatigue)	Class war – the bloodiest type of conflict
International pressure	Complex issues (political agreements regarding the armed forces, judicial system, electoral system, constitutional reform, economic and social issues, reintegration of FMLN members)
Many issues (+/-)	
Internal fractionation (+/-)	
No cultural or religious cleavages	
Election of Cristiani as president, a "moderate" business man (war bad for business)	
"Group of Friends" mechanism	
(Closed door-negotiations)	

It should be clear that a peaceful outcome by no means was guaranteed even though - after 1989 – several important changes took place (such as the election of a "moderate" president from the business elite, the support of the international community after the Cold War, and the November offensive). We have pointed out repeatedly that the mutually hurting stalemate *per se* makes El Salvador an "outlier" (deviating from the

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[80] According to Rev. Santiago, macabre scenes were common: "People are not just killed by death squads – they are decapitated and then their heads are placed on pikes and used to dot the landscape. Men are not just disemboweled by the Salvadoran Treasury Police; their severed genitalia are stuffed into their mouths. Salvadoran women are not just raped by the National Guard; their wombs are cut from their bodies and used to cover their faces. It is not enough to kill children; they are dragged over barbed wire until the flesh falls from their bones, while parents are forced to watch." (In Chomsky (1997): *What Uncle Sam Really Wants*, p.39-40.)

general trend), making serious negotiations possible. The type of conflict, its intensity, the complexity of issues as well as intra-party differences, however, still made El Salvador's situation quite malignant, requiring skilful diplomacy to be solved. The legacy of 60 years of military domination was a serious impediment to transforming civil-military relations.

4.2.0. The UN as peacemaker – managing the parties and other players. The contingency model in practice

Both the Catholic Church as well as the Organization of American States (OAS) had tried to mediate prior to the active role of the UN, but did not accomplish much. The mediatory efforts of the Church, which was perceived as a Salvadoran actor divided into right and left wings, were mostly of a humanitarian character. The OAS, a US-dominated body, showed more ambition than success.[81] In chapter 3 (p. 37) we pointed out that regional organizations have the best success rate when it comes to mediation outcome. In this case, however, OAS failed because it did not bring the insurgents into the peace process - probably due to concerns about insurgencies in their own territories. Even if they had tried to include the left, the left would probably not have trusted the US-dominated body to mediate.

The FMLN was initially concerned that even the Secretary General's office was too much under Security Council (meaning US) control. Therefore, the *Group of Friends mechanism* was set up to provide the Secretary General, Javier Pérez de Cuéllar, with a political base independent of the Security Council. The Group of Friends – a key innovation - was composed of delegates from Venezuela, Colombia, Mexico and Spain. The friends mechanism served at least two purposes: Firstly, it was a precautionary measure. Alvaro de Soto insisted that the Secretary General and he have the right to consult with governments that in their view could assist in their mediatory efforts. He did not want to expose the UN to criticism by one or the other party for consulting with the US, the Soviet Union, or Cuba – as he was convinced would be necessary in order to "obtain and retain their support or, at least, to contain

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[81] de Soto (1999): "Ending Violent Conflict in El Salvador" Chapter 14 in Crocker, *et al*. (eds.): *Herding Cats. Multiparty Mediation in a Complex World*, p.352-253.

any failure on their part to cooperate" with them. Secondly, the Group of Friends had the purpose of preventing "rival initiatives that might confuse the negotiation".[82]

Fig. 3.4 and Table 4.1 assume that mediator rank and leadership based on shared values have a positive effect on mediation. The arguments were laid out on p. 38. It was regarded as fortunate that the Secretary General and his personal top envoy, Alvaro de Soto, were Latin Americans. Sharing the same culture and religion as the parties, and with extensive knowledge and understanding of the conflict, the Secretary General and de Soto had a personal interest in ending the war (at least more interest than the Secretary General's successor in 1992, the Egyptian Boutros-Ghali, was thought to have by the parties themselves). It should therefore be safe to conclude that, at least in this case, successful leadership "builds on and cultivates [a] platform … of shared values, interests and beliefs".[83]

4.2.1. Reaching the first of six agreements

On 4 April 1990, the GOES and the FMLN met in *Geneva* (Switzerland) and agreed to open formal negotiations with the UN serving as a mediator. This first agreement set out the fourfold purpose of the negotiations: "***The purpose of the process shall be to end the armed conflict through political means as speedily as possible, promote the democratization of the country, guarantee unrestricted respect for human rights and reunify Salvadorian society.***"[84] Having laid out the goals, the accord stipulated that they would be achieved in a *two-part process*. First would come "political agreements for arranging a halt to the armed confrontation and any acts that infringe the rights of the civilian population, which will have to be verified by the United Nations, subject to the approval of the Security Council". Next, the process would "lead to the establishment of the necessary guarantees and conditions for reintegrating the members of FMLN, within a framework of full legality, into the civil, institutional and political life of the country". The Geneva Agreement also specified that negotiations would be carried out by means of "two types of complementary activities: direct

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[82] *ibid*.:365-366.
[83] Underdal (1994): "Leadership Theory: Rediscovering the Arts of Management". Chapter 8 in Zartman (ed.): *International Multilateral Negotiation*, p.179.
[84] *Geneva Agreement*, 4 April 1990 (UN doc. A/45/706 – S/21931, annex I).

dialogue between the negotiation commissions with the active participation of the Secretary General or his Representative, and an intermediary role by the Secretary General or his Representative"; that the process should be conducted in the strictest confidence; that the Secretary General could maintain confidential contacts with governments or groups which might contribute to the success of the process through their advice and support; and that the political parties and other representative organizations in El Salvador would have an important role to play in achieving peace. It was, thus, agreed that the UN would play a central role during the entire process, and that the peace process would deal with problems that previously would have been considered as internal affairs of El Salvador. Upon signing the accord, de Soto told the press that there would be no cease-fire until some specific guarantees demanded by the FMLN were fulfilled. This statement provoked *Santamaría*, minister and part of the government negotiating team, who told the Spanish news agency EFE that the immediate results of the process should be to establish a cease-fire. *Then*, everything else could be discussed (Juhn 1998:58). de Soto had, however, only conveyed the stance of the FMLN, so that Santamaría in reality "shot the messenger". Nevertheless, preparations continued for the next round of talks.

Throughout the entire peace process, FMLN was represented by its leaders, but the government was not. Cristiani maintained strict control over the process through a delegation without actually ever being present. This was probably a wise move if one considers that Cristiani had to be careful not to provoke the hawks back home, although the FMLN was not happy because they took this as a sign that the GOES was not serious. However, according to de Soto, Cristiani's refusal to speak directly to anyone from the FMLN had its drawbacks: "His representatives, in my experience, could not always be relied on to convey or explain faithfully the FMLN's views".[85]

At Geneva, the government delegation consisted of one minister and three ambassadors accredited to Europe (Juhn 1998:58). According to the FMLN, the latter ones were not familiar with the negotiation process. In chapter 3 we posited that illegitimate/non-authoritative representatives on either side have a negative effect on the mediation process. We see that this assumption is confirmed in the Salvadoran

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[85] de Soto (1999): Chapter 14 in Crocker, *et. al.*: *Herding Cats,* p. 376.

case. Officially, Cristiani stressed that the FMLN was a group of insurgents in conflict with a legitimate government, and that it was not appropriate for a head of state to sit down with rebels. As a result, the FMLN became – together with the UN – the initiator of all proposals.

4.2.2. Agenda and Timetable

Immediately after Geneva, UN Secretary General Pérez de Cuéllar sought and elicited the support for the peace process from the USA, the Soviet Union, and Cuba. At the next face-to-face meeting in **Caracas** (Venezuela) on **21 May**, the GOES and the FMLN, with the assistance of Secretary General and his personal representative, Alvaro de Soto, drew up a general *agenda and timetable* for the comprehensive negotiation process. The general agenda repeated the words of the Geneva Agreement in terms of the peace process' objective, and specified that political agreements were to be reached on:

1. Armed Forces
2. Human rights
3. Judicial system
4. Electoral system
5. Constitutional reform
6. Economic and social issues
7. Reintegration of FMLN members
8. Verification by the United Nations

The GOES surprised the UN by agreeing to the FMLN's proposal that the initial objective would be to reach political agreements on the agenda items *before* a cease-fire would be negotiated.[86] Only once a cease-fire was in place would the negotiation move to the second stage ("establishment of the necessary guarantees and conditions for reintegrating the members of FMLN, within a framework of full legality, into the civil, institutional and political life of the country").

In the *timetable*, the parties agreed that the first objective of the Geneva Agreement (i.e. "political agreements which lay the basis for a cessation of the armed conflict and of any acts that infringe the rights of the civilian population") should be

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[86] de Soto (1999): Chapter 14 in Crocker, *et.al.*: *Herding Cats,* p. 363.

achieved by the middle of September 1990, "provided that agreements are reached which are synchronized, have implementation timetables and can be verified where appropriate, so as to ensure that all the components of the initial objective are duly coordinated". Agreeing in Geneva and Caracas on the procedures, agenda and timetable of the subsequent negotiations represented a big step forward. Parties often argue for months and even years over the institutional setting. Reaching *substantive agreements*, however, was to be much more difficult than agreeing on the agenda and timetable.

At Caracas, Cristiani made an important addition to his negotiating team when he included, among others, Colonel Mauricio Vargas (and removed the three ambassadors accredited to Europe). Vargas was a member of the *Tandona*, the military academy's class of 1966.[87] The choice of Vargas to negotiate the future of the armed forces was an interesting move because it was reported that de did not enjoy the full confidence of the Tandona. For one thing, one of his brothers was aligned with the FMLN.

> But he [Vargas] had political stance, more than Ponce. He said the right things, he had a budget, and he had ties to the PDC [Christian Democratic Party]. Things got better once he was on the team. He arrived prepared, unlike the others. He had a staff and resources, not like Galindo [see 4.2.4] or Santamaría. He would arrive with stacks of paper. The FMLN thought he was bright and capable. He had a real constituency – the armed forces – behind him – a real player with real specific weight. The Army gave him instructions and expected one hundred per cent. He would return with less. As time went on, his position in the armed forces diminished as other civilians thought more of him. The armed forces took a lot of hits.
> (Walker interview, 5 November 1994 – cited in Juhn 1998:66)

At this point we should point out a translation error in the English version of the Caracas Agreement that was to cause the Secretary General's representative, Alvaro de Soto, some trouble with the USA. In the paragraph following the one stating that the initial objective should be achieved by the middle of September 1990, this date is referred to as a *deadline*. In the original Spanish version[88], however, the word is "fecha" - simply meaning "date". Nevertheless, the true intention should be clear since the next paragraph explicitly says: "It is difficult to set a fixed date for the conclusion

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[87] "Loyalty to one's *tanda* [graduating class] often takes priority over one's loyalty to the institution. Not surprisingly, throughout the 1980s there were numerous examples of officers protecting fellow tanda members implicated in human rights abuses or other crimes despite the potential damage to the credibility of the institution as a whole." (Walter and Williams (1993): "The Military and Democratization in El Salvador." *Journal of Interamerican Studies and World Affairs*. Vol.35, no. 1, p 63.

[88] see www.cepaz.org.sv/cepaz98/caracas.htm

of the comprehensive process. This will depend on factors such as the extent and scope of the political agreements reached (…), which are a matter of negotiation." As de Soto himself makes clear in his article from 1999[89], the *target date* was not meant to be more than a psychological device to push the negotiations forward: "It would have defied common sense to set a date certain for the conclusion of negotiations, which depended on two sides agreeing on mutually acceptable terms." (*ibid*.). The obligation to make decisions in a negotiation may help to structure the debate and discipline the participants. It may contribute to increase rationality because attention is sharpened.[90] Nevertheless, Bernard Aronson, assistant secretary of state for Inter-American Affairs, criticized de Soto and the UN – rather than the FMLN, with which the US would have no direct contact at the time – about the FMLN's failure to come to a cease-fire. The critics did not understand that, as Pedro Nikken, the drafter of the agreement, put it: "Fruit does not ripen by being thrown against the wall."[91]

The army was the first topic to be discussed under the Caracas Agreement. It soon became apparent, however, that military reform was going to be the most difficult topic of the negotiations – the Gordian knot. The FMLN initially took a hard line and demanded the army's abolishment, as became the case in Costa Rica in 1948. The army, of course, resisted this. Both sides showed a strong *commitment* to their respective causes. The negotiation was purely *distributive*. Consequently, the UN needed to play the role of the process facilitator as well as that of facilitator of communication, compromise and convergence and facilitator of cognitive change.

Uncertainty is one reason why the parties begin the negotiation with such extreme demands. The opening phase of a peace conference is a period of "probing, of exploring the disputed territory, of finding the outer limits of the opponent's tolerance" (Pillar 1983:102). The first phase of a peace negotiation "serves to weed out bogus or unrealistic demands, to educate the parties about each other's intentions and objectives, and hence to clarify and define the outstanding issues" (*ibid*.:112).

Fortunately, an important note was added in the Caracas Agreement:

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[89] de Soto (1999): Chapter 14 in Crocker, *et.al*.: *Herding Cats,* p. 363-364.
[90] Eriksen, Erik Oddvar (1994): "Kap. 4: Den politiske diskurs – fra konsensus til modus vivendi?", in (eds.) Eriksen, Erik Oddvar and Grimen, Harald: *Den Politiske orden*, p.112.
[91] in de Soto (1999): Chapter 14 in Crocker, *et.al*.: *Herding Cats,* p.375.

> The sequence of the items listed for each phase does not imply a strict order of consideration and may be changed by mutual consent. Agreements must be tailored to the nature of the phase involved. Political issues have been placed in their respective phases but, given the complexity of some of them, aspects thereof may be addressed in other phases. All this depends on the dynamic of the negotiations.[92]

Accordingly, de Soto and his UN team discussed the possibility of moving to the second item on the Agenda, human rights, and leave the issue of the armed forces for the time being.

4.2.3 Agreement on Human Rights

After a two-day brainstorming session in Geneva with twenty or so human rights and El Salvador experts (but without the parties), the UN decided to introduce the topic, and put the draft (single negotiating text) of a human rights agreement on the table when the two sides met in San José (Costa Rica) on 26 July 1990. After eleven hours of negotiations the parties signed the agreement without any serious changes.[93] The ***San José Agreement on Human Rights*** was the first substantive agreement of the peace process. The Agreement, drafted by Pedro Nikken – a Venezuelan jurist, was also the first in UN history to give detailed directions the parties would follow to ensure respect for human rights. Secretary General Pérez de Cuéllar convinced President Cristiani to accept human rights monitors by offering to create a mission that would verify the Agreement (ONUSAL), train a police force, and take other steps to demonstrate both his and the UN's long-term commitment to the peace process.[94] Cristiani even conceded that the GOES was responsible for most of the human rights violations – a fact that provoked the hardliners on the government side (cf. Przeworski's model of "extrication"[95]). Yet, Cristiani knew that he (or rather his

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[92] *Caracas Agreement*, 21 May 1990 (UN doc. A/45/706 – S/21931, annex II).

[93] LeVine (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, p.234. For those interested in details, it can be noted that Rafael Moreno says the negotiation lasted for 14 hours, not 11. See his article (1995): "Peculiaridades del proceso de negociación salvadoreño y requisitos para resolver políticamente un conflicto armado". At: www.cepaz.org.sv/cepaz98/rafael.htm.

[94] in LeVine (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, p.235.

[95] Adam Przeworski (1991; 1996) has developed a model, called "extrication" of the negotiation process by which authoritarian rulers may decide to end their regime and initiate a transition to democracy. He posited that in an authoritarian situation there are four relevant categories of actors. Within the regime are (1) hard-liners and (2) reformers. The former prefer maintenance of the regime to any change; the latter prefer change to the status quo but do not wish to go all the way to democracy. Outside the regime, in the opposition, are (3) moderates and (4) radicals. The moderates prefer full democracy but are willing to negotiate with regime reformers to secure extrication, even if some guarantees must be given that restrict democracy. The radicals prefer full democracy and oppose any negotiation with the regime. (In Peeler 1998:79-80.)

delegation) had to a sign a human rights agreement in order to show good faith. He also realized that in accepting most of the blame on the human rights issue he would gain "considerable negotiating power, taking pressure off the government for the near future while forcing the FMLN to make the next major concession".[96]

According to a UN official[97], the San José Agreement was also a confidence-building measure, a tangible success early on in the negotiations which helped solidify the peace process. I do not believe, however, that the Agreement *per se* was *that* important. After all, the government did not agree to anything but parts of the treaties to which El Salvador already was a signatory, such as the International Bill of Human Rights. The gap between rhetoric and reality in Latin America has always been wide. Ever since independence, the contents of the countries' constitutions and laws have been regarded more as *ideals* to be reached in the future than as binding laws to be complied with right away – thus largely being ignored. At the moment of independence, having a constitution was regarded as essential for international recognition and respect – a symbol of legitimacy. All states seek to have a good reputation. Therefore, *appearances* matter. In Latin America there has traditionally been a gap between *de facto* and *de jure* rule. Ever since colonial times, the formula *obedezco pero no cumplo* (I obey but do not fulfil) has from time to time been used to indicate that "local conditions would not permit implementation of the order, notwithstanding officials' disposition to obey" (Peeler 1998:27). Due to this strong tradition, I do not regard the San José Agreement as a milestone or anything of that kind. On the rebel side, moreover, many argued that without real reforms to the army and judicial system a human rights agreement would be worthless. Most important, in my opinion, was article 14, where the parties agreed to a UN human rights verification mission (ONUSAL) with a fairly wide mandate:

> 14. The Mission's mandate shall include the following powers:
> (a) to verify the observance of human rights in El Salvador;
> (b) to receive communications from any individual, group of individuals or body in El Salvador, containing reports of human rights violations;
> (c) to visit any place or establishment freely and without prior notice;
> (d) to hold its meetings freely and anywhere in the national territory;
> (e) to interview freely and privately any individual, group of individuals or members of bodies or institutions;

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[96] in LeVine (1997): "Peacemaking". Ch. 10 in Doyle *et. al.*: *Keeping the peace*, p.235.
[97] cited in *ibid.*:234.

(f) to collect by any means it deems appropriate such information as it considers relevant;
(g) to make recommendations to the Parties on the basis of any conclusions it has reached with respect to cases or situations it may have been called upon to consider;
(h) to offer its support to the judicial authorities of El Salvador in order to help improve the judicial procedures for the protection of human rights and increase respect for the rules of due process of law;
(i) to consult the Attorney-General of the Republic;
(j) to plan and carry out an educational and informational campaign on human rights and on the functions of the Mission itself;
(k) to use the media to the extent useful for the fulfilment of its mandate;
(l) to report regularly to the Secretary General of the United Nations and through him to the General Assembly.[98]

The San José Agreement was criticized by several human rights organizations for being inadequate as long as there was no cease-fire. Nevertheless, the three initial agreements created optimism regarding the possibilities of a peaceful resolution to the conflict. It was hoped that agreement on an "easy issue" would have spillover effects on the more complex issues. But from mid-1990 to April 1991 (when agreements were reached on changes to the Salvadoran constitution covering judicial and electoral reform and the role of the armed forces), the two sides got nowhere on the central issue of the whole process: the future role of the military.

4.2.4. Deadlock

The FMLN presented a number of proposals to the UN. De Soto met separately with each side before every session and, on one occasion, even asked David Escobar Galindo - the country's poet laureate and President Cristiani's personal representative on the government team since the second agreement (Caracas) - to "show me something", at which Escobar responded that "there were no instructions" from his government,[99] a situation much to the dislike of de Soto. In June 1990, the FMLN presented a draft that called for reducing, purifying, and dissolving the paramilitary forces; for ending forced recruitment; for ending impunity; and for punishing the perpetrators of the most hideous human rights violations, including those of the murders of Archbishop Romero (1980) and the Jesuits (1989). The negotiations

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[98] *San José Agreement*, 26 July 1990, article 14 (UN doc. A/44/971 – S/21541).
[99] Montgomery (1995): "Getting to Peace in El Salvador: The Roles of the United Nations Secretariat and ONUSAL". *Journal of Interamerican Studies and World Affairs*, vol. 37, nr. 4, p.143.

remained at a deadlock.[100] In October, the US Congress reduced military aid by 50% (the Dodd-Leahy Bill) and threatened to cut the rest unless the Jesuit's murderers were brought to justice. For the first time Salvadoran officers realized they could no longer rely on the USA.[101] Consequently, they began to negotiate more seriously. We see, as assumed in figure 3.4 and table 4.1, that international pressure – when aimed at resolving the conflict and not just "putting a lid" over it – had a positive, catalytic effect on the peacemaking process.

On 28 October 1990, the parties agreed to let the UN play a more active role, changing de Soto from merely a *facilitator of communication* to a *formulator* (cf. p.44-46). Three days later he presented a working paper on reforms to the military structure (Lindholm 1997:66-67), calling for the abolishment of 2 of the 3 state security forces[102] and the military intelligence apparatus. Distinguishing between public *security* functions and national *defense* was (and is) problematic. Treatments of the police (security function) and the army (defense function) in El Salvador seldom differentiated between the two, but they were – and are - separate entities. Control over the police was the key to impunity. In the minds of some Salvadorans, the army was significantly less corrupt than the police. In fact, de Soto admitted that he did not realize right away how critical this point was to the transformation of the armed forces and, as a result, the settlement of peace (Juhn 1998:61).

While the parties were discussing his drafts, the FMLN initiated a new military offensive in November – about a year after the great offensive of 1989. The purpose was to pressure the government since the disagreement concerning the military's role and structure had cornered the negotiations. At the same time, the 5 guerrilla armies were organized under the same command in order to better match the government army regarding discussions on demobilization. Internal fractionation was thus not allowed to spoil the FMLN's negotiating power in the negotiation game. Although internal fractionation is likely to have a negative effect on the mediation process

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[100] Over a year later, in August 1991, the FMLN once again asked for the abolition of the armed forces. This proposal did not receive any support from anybody, but the effect was to produce final accords that included all of the FMLN's proposals of June 1990! (*ibid*.:143-144).

[101] Karl (1992): "El Salvador's Negotiated Revolution". *Foreign Affairs*, vol. 71, no. 2, p.156; and Burgerman (2000): "Building Peace by Mandating Reform." *Latin American Perspectives*. Issue 112, Vol. 27, No. 3, p.67.

[102] The 3 "security forces" were the National Guard, Treasury Police and National Police, all of which were under the Ministry of Defense.

(making mediation more difficult), it can very well be an advantage vis-à-vis the other party in the negotiation game (cf. p. 32 and figure 3.4 and table 4.1). In the Salvadoran case, however, I believe it is safe to suggest that the FMLN had more to gain by presenting itself as a united block. Otherwise, the GOES might have tried to play the factions against each other. Also, since the FMLN wanted to be included in the political system, the five guerrilla groups had to show they could agree amongst themselves. This is not to say, though, that internal fractionation did not have negative effects on the process and outcome. It is possible and probable that intra-party differences contributed to a weak agreement on social and economic reform (to which I shall return in due time).

On 23 November the FMLN shot down one of the air forces' planes. Shortly thereafter, both parties requested – irrespective of each other – that the UN implement the verification mission on human rights without awaiting a cease-fire. On 2 January 1991, the FMLN shot down a US helicopter and killed the survivors. This incident came as a shock to everyone engaged in the peace talks and threatened the entire process. We see, as assumed, that increasing intensity reduces the (short-term) likelihood of achieving peace, making the parties more entrenched, focusing on positions rather than interests. As a result of the down shooting, President Bush restored aid in early 1991, making the Salvadoran military believe once again that it could escape reform. In addition to this, in February 1991, there was an apparently planned leak in the *New York Times*. An unnamed source charged that de Soto was "less than energetic pursuing the peace process" and that he "accedes to the guerillas' delaying tactics".[103] The article was publicized the very same day the parties initiated new negotiations in Mexico. This seriously undermined the efforts of the UN at a crucial point in the negotiations. Alvaro de Soto sometimes felt that Cristiani was dealing with him as if he were one of the "Comanches" – Salvadoran elite jargon for the FMLN. de Soto writes, however: "Little did he [Cristiani] know that one powerful FMLN leader, an intelligent man, was convinced that I was in the employ of the CIA".[104] If we trust this information, de Soto obviously remained impartial in his

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[103] in Whitfield (1999): "The Role of the United Nations in El Salvador and Guatemala: A Preliminary Comparison", chapter 9, p. 286 in Arnson (ed.): *Comparative peace processed in Latin America*.
[104] de Soto (1999): Chapter 14 in Crocker, *et.al*.: *Herding Cats,* p. 376.

actions. In chapter 3 we said that impartiality does not have to be a prerequisite for the chose of a mediator, but in El Salvador this was a necessary condition for obvious reasons.

4.2.5 Deadline for constitutional reform

Substantive negotiations were put on hold until the results of the March 1991 legislative and municipal elections in El Salvador. Even though de Soto was given a more active role, the major factor that made serious negotiations urgent was the terms of the 1983 Salvadoran constitution, which contained a provision (article 248) requiring any changes to the constitution to be ratified by two successive legislative assemblies. The term of the outgoing assembly was to expire on 30 April 1991. This date was an objective deadline. If the parties did not reach any agreements on constitutional reform by that date, agreements reached later on would have to wait until 1994 to be ratified. The two sides met for more than three weeks in Mexico in April "against a backdrop of intensive organized pressure within El Salvador" (Byrne 1996:186). Grassroots pressure from the left and the centre advocated a change in article 248 to "prevent the negotiations from being held hostage by the constitution" (*ibid.*). Rightist groups protested against any changes and threatened legislators who might consider constitutional reforms. In the end, however, the negotiators reached agreement on key changes to the constitution regarding judicial and electoral reform, limitations on the function and role of the armed forces and their subordination to civilian leadership, and on the formation of a Truth Commission to investigate major human rights violations. (As to why agreement was reached, see chapter 5.)

The GOES, as pointed out, merely responded to the proposals of the FMLN and the UN. Their choice was thus binary: Either to accept the opponent's offer or stand put, in which case the negotiations would break down. By returning to our analytical framework for a moment, we can conceive of the distributive negotiation game as a Chicken game. The FMLN obviously had more to win compared to what it might lose than had the GOES, and would then be willing to accept a larger risk for breakdown. Recalling equation 2 (p.33), the actor for whom this proportion or fraction is largest has - ceteris paribus – the strongest negotiation power. The weaker party, in this case

the GOES, should then make a unilateral concession. By agreeing to reforms, the GOES obviously conceded a great deal. But *the Salvadoran government did not accept the reform of article 248*. Consequently, the changes made to the constitution would have to be ratified by the new legislative assembly that resulted from the March elections. (ARENA winning 39 of 83 seats; PDC 26[105]). This still left the ARENA government with a significant bargaining instrument, being able to hold back ratification of the agreements to pressure the FMLN to compromise in the talks. The FMLN had, at the outset, only *two concessions* to make: to stop fighting and to disarm. The deadline putting a considerable time pressure on the FMLN might, however, have given them incentives to renounce some of their demands for there to be improvement at all. On 29 April 1991, the ARENA-dominated National Assembly voted to modify 35 of 274 articles of the constitution – the first time a Salvadoran constitution had ever been amended.[106]

Let us stop for a while to reflect on the FMLN's choice of strategy. Even though our focus is on the UN, we cannot ignore the triangular relationship. According to Rubinstein,[107] the parties to a negotiation are typically impatient to reach agreement, i.e. they will prefer to reach an agreement sooner than later. With the ARENA party being able to hold back ratification, the *discount factor* (partly an expression of the probability that the negotiation game will continue for at least another period, and partly an expression of the parties' relative evaluation of future vs. present gains) was probably greater for them than for the FMLN. Rubinstein's main conclusion is that if one of the parties' discount factor [0,1] increases, that is, if a party becomes more patient, this party's negotiation power will be strengthened. This can be explained by the fact that the most patient party can easier make a credible threat to wait until a later moment in time, unless the opponent shows a will to compromise immediately.[108] The more patient a party is, the less it costs to postpone agreements. If the issues at stake are really important to the party with the smallest discount factor, however, it is probably an open question what will happen. The FMLN at this point was confronted

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[105] For complete election results, see: www.georgetown.edu/pdba/Elecdata/ElSal/saleg85-91.html
[106] Karl, TL. (1992): "El Salvador's Negotiated Revolution." *Foreign Affairs*. vol. 71, nr. 2,p. 157.
[107] see Hovi's article (1992): "Rubinsteins forhandlingsteori – en innføring". *Norsk statsvitenskapelig Tidsskrift*, pp.47-57.
[108] *ibid*.:55.

with the choice of a partial agreement or none at all. The question then arises: What did the FMLN prefer? Most people will probably say that it is "rational" and better to accept a partial agreement than risking negotiation breakdown. As Tsebelis (1990:154-155) concludes, though, it can be rational – in the long run – to play tough. A partial agreement is probably better than none, however, as long as the party's aspiration level does not lie above its BATNA, and as long as making compromises on certain issues does not lead to (foreseeable) negative *process-generated stakes*.

With the signing of the **Mexico Agreement on 27 April 1991** the parties reached partial agreements on the armed forces, the judicial system, the electoral system, and agreed on the establishment of a Truth Commission – which was to be composed of three individuals appointed by the Secretary General after consultation with the parties.[109] The FMLN, however, stated for the record that the wording of article 211, where the armed forces are described as a "permanent" institution was incompatible with its position on the matter. It made it clear that it considered there to be "certain constitutional reforms still awaiting negotiation, including demilitarization, article 105 on the limit on rural land ownership and the need to open up the mechanism for reform of the Constitution, either by amending article 248 or by other procedures such as popular referendum."[110]

Let us now briefly take a closer look at the Mexico Agreement and the establishment of ONUSAL, as agreed to in San José. Firstly, what were the major points of concurrence in the Mexico Agreement, besides that of forming a Truth Commission?[111] Regarding agreements on constitutional reforms, the parties agreed on the creation of a *National Civil Police* for the

> "maintenance of peace, tranquillity, order and public safety in both urban and rural areas, under the control of civilian authorities. It is expressly understood that the National Civil Police and the armed forces shall be independent and shall be placed under the authority of different ministries."

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[109] In December, after some difficulty getting the parties to agree on three persons who had "sufficient international stature, were knowledgeable about the region, and had the acumen to pull off such a sensitive assignment" (Johnstone 1995:34), the following were appointed: Belisario Betancur, former president of Colombia, Reinaldo Figueredo, former foreign minister of Venezuela, and Thomas Buergenthal, U.S. law professor and former president of the Inter-Amerian Court of Human Rights. A staff of 36 - 22 advisers and researchers plus 14 forensic and other experts (all foreign) – was recruited to assist the Commission.

[110] *Mexico Agreement*, 27 April 1991 (UN doc. A/46/553 – S/23130).

[111] The Truth Commission was not formally instated until 13 July 1992. I shall take a brief look at the Truth Commission's work after reviewing all settlements in the process that lead to the final peace accords of 16 January 1992. (See chapter 6.)

In terms of the judicial system, the parties agreed to reorganize the Supreme Court of Justice (one of the most criticized organs, to which I shall return in chapter 6) and to establish a new procedure for the election of Supreme Court judges. The amended article 186 specified that the Legislative Assembly should elect judges of the Supreme Court of Justice (by two-thirds majority) for a term of nine years, with one third of the judges coming up for renewal every three years.[112] The judiciary would also receive no less than 6 per cent from the State budget. A National Counsel for the Defence of Human Rights, whose primary function would be to promote and ensure respect for human rights was also to be created by 2/3 majority in the Legislative Assembly. Other issues raised in the negotiations were referred to secondary legislation and to other political agreements. Although the set of political agreements on the judicial system envisaged by the parties in the Caracas Agreement was still to be negotiated, the parties agreed to restructure the National Council of the Judiciary so that its composition guaranteed its independence from state organs and from political parties, and to establish a Judicial Training School (Escuela de Capacitación Judicial). Finally, a new electoral tribunal was established to replace the Central Board of Elections. The members, elected by a qualified majority of the Legislative Assembly, would be nonpartisan (without any party affiliation) and would not be vulnerable to political manipulation by the executive.

4.2.6. ONUSAL

The request to deploy ONUSAL (United Nations Observer Mission in El Salvador) came independently from both sides. The FMLN did so largely in response to pressure from local NGOs. The GOES was "less enthusiastic but probably felt that opposition to early deployment would unnecessarily damage its credibility" (Johnstone 1995:19). For the UN, the decision to deploy was not easy. It was worried about the safety of the observers and about whether they could fulfil their mission while fighting was still going on. More fundamentally, the UN was concerned about the effect the deployment of human rights monitors would have on the negotiations. Could the UN function as an

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[112] According to the 1983 Constitution, Supreme Court Judges would be elected for 5 years. There was no provision for how the judges should be elected. See the Spanish version of the 1983 Constitution at: www.georgetown.edu/pdba/Constitutions/ElSal/elsalvador.html

impartial mediator while at the same time investigating and publicizing human rights violations? Despite these concerns, a mission of 101 international civil servants from 27 countries, including human rights observers and advisers, legal advisers, educators, political affairs officers, military advisers, police advisers and administrative support and communications personnel was deployed in July 1991 (UN Blue Book 1995:18). Later, ONUSAL was to be composed of more than 1.000 men and women. It was, in short, a multi-disciplinary mission. Its success, however, was anything but assured when it began, six months before there was a cease-fire. According to Ian Johnstone (1995:20), an official in the Executive Office of the Secretary General, the decision to deploy proved wise for at least five reasons: First, the level of human rights abuses decreased, primarily because the UN's presence and authority to "visit any place freely and without prior notice" had a dissuasive effect. Second, the level of violence decreased because the parties did not want to risk UN casualties and bring upon themselves the wrath of the international community. Third, the presence of police and military advisers had a "calming effect". Fourth, the willingness of both sides to accept international human rights monitors demonstrated that they had given up on seeking a military victory. Also, the early deployment of ONUSAL contributed to the broader peace process by raising the political costs to either party of breaking the talks, and facilitating negotiations by expanding personal contacts between the UN and the parties. Thus, although the San José Agreement cannot be regarded a landmark per se (cf. p.60f), the subsequent deployment of ONUSAL was a milestone. ONUSAL represented a number of "firsts" for the UN: (1) it was the result of the first UN effort to resolve an internal war; (2) it was a "pilot mission", with the goal not just of disarmament and military demobilization, but of national reconciliation as well; and (3) – as pointed out – it was the first UN mission to be established before a cease-fire had taken place.[113]

ONUSAL was not, however, the only UN body present in El Salvador. UNDP [United Nations Development Programme] had been in the country for 30 years, and it was the UNDP that was expected to help implement certain aspects of the accords, the

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[113] Montgomery (1995): "Getting to Peace in El Salvador: The Roles of the United Nations Secretariat and ONUSAL". *Journal of Interamerican Studies and World Affairs*, vol. 37, nr. 4, p.146.

National Civil Police (PNC) in particular. Unfortunately, it turned out that the UNDP was either not willing or able to participate as expected. As an example, the leadership of the UNDP in El Salvador was not favourably disposed (in 1992) to cooperate with ONUSAL.[114] Consequently, ONUSAL had to assume responsibility for most of the monitoring of the political reforms and verification of compliance.

On 1 October 1991, the Mission began to investigate alleged violations of human rights and international humanitarian law. By the end of the month, ONUSAL had received more than 1.000 complaints of alleged human rights violations (UN Blue Book 1995:19). Some extremist groups questioned the Mission's impartiality. Another problem was quite different: "the high, in some cases inordinate, expectations awaiting the Mission" (*ibid*.). To many Salvadorans across the political spectrum, ONUSAL's mandate was not clear. People expected the Mission to prevent, or at least punish, human rights violations. ONUSAL had not, however, come to substitute El Salvador's institutions. Their mandate was to observe and verify compliance with all agreements reached between the parties. To try to explain the role of ONUSAL to the Salvadoran population, ONUSAL published information in the country's major newspapers, went on radio and visited communities. The government, however, could have and should have helped ONUSAL by informing the population of the mission's task and welcoming it. This would have prevented much misunderstanding.

ONUSAL officials visited every military barracks in the country and established regular contacts with their commanders. Most importantly, a program of human rights education was initiated among the armed forces, the security forces, the FMLN and, ultimately, sectors of the civilian population, including teachers.[115]

Montgomery[116] notes, however, that during ONUSAL's first period (from July 1991 to January 1992 - all missions of the UN are given life by a Security Council resolution for a renewable period of 6 months), some organizational difficulties developed because there was a Chief of Mission who was also the Special Representative of the UN Secretary General, Pakistani *Iqbal Riza*, in addition to a head

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[114] Montgomery (1995): "Getting to Peace in El Salvador: The Roles of the United Nations Secretariat and ONUSAL". *Journal of Interamerican Studies and World Affairs*, vol. 37, nr. 4, p. 147.
[115] *ibid*.:148-149.
[116] *ibid*.

of the Human Rights Division, *Philippe Texier* of France. A political officer noted that "Riza was respectful of the autonomy of the Human Rights Division because he was not familiar with human rights and therefore deferred to Texier". Riza focused on political issues and the networking among Salvadorans that was crucial to the mission's success.[117] According to Montgomery, these circumstances created two sets of problems. One was that the regional coordinators reported to Riza, not Texier, and there were some coordinators who ignored Texier's directives and, instead, waited for instructions from Riza. The other problem was that Texier failed either to establish a consistent set of criteria for following up on complaints or to develop standardized forms for use by officials in the regional offices. In the latter case, the result was that each regional office developed its own criteria and forms, which, in turn, contributed to difficulties in writing the human rights reports back at headquarters. With the danger of being judicious a posteriori, it seems to me that these dysfunctional consequences should have and could have been foreseen and thus avoided. Montgomery also mentions that – in the opinion of a Chilean human rights officer – Riza "left [Texier] like an abandoned ship", while Texier "didn't give help but also didn't ask for help".[118] For obvious reasons, a mission should have a clear organizational structure and management. Johnstone (1995:28-29) also makes remarks on ONUSAL's organizational defects. The police and human rights divisions of ONUSAL had overlapping mandates, causing some confusion, and making it more difficult to coordinate.

Even though ONUSAL's second period exceeds that of this case study's (1990-1992), it is worth mentioning that shortly after the signing of the final peace accords, over 300 police observers from 8 countries arrived in El Salvador. Many of them arrived without having read, or even hearing a lecture on, the peace accords and ONUSAL's mandate, or the situation in El Salvador(!). The Italian contingent arrived without being able to speak a word of Spanish, and many members of the Mexican

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[117] *ibid*.

[118] *ibid*. It is interesting to note that Riza also receives strong criticism by – among others - Philip Gourevitch**,** a U.S. Institute of Peace grantee, on the UN's role in Rwanda in 1993-1994, when Riza, at the time of the genocide, was deputy to Kofi Annan, the current UN Secretary General. For detailed information, see: http://www.usip.org/pubs/pw/1298/profile.html, or read *We Wish to Inform You That Tomorrow We Will Be Killed with Our Families* (Gourevitch 1999).

contingent had been "arbitrarily promoted to officers so that they could be sent to El Salvador, a situation that provoked contempt and derision among the well-trained and well-educated officers from both Europe and South America".[119]

4.2.7. Resolving the Gordian Knot

After the Mexico Agreements of April 1991, the GOES and the FMLN held numerous meetings without making any significant progress. The army refused to continue discussing political issues until a cease-fire had been signed, and the FMLN refused to agree to a cease-fire until they had reached final agreement on military reform and guarantees on their reintegration into society.[120] (After all, the possession and use of arms were the FMLN's only leverage.) The stalemate on *when* to implement a cease-fire was the *Gordian knot*. I believe the words of Defense Minister General Humberto Larios epitomizes the army's mentality:

> "…We will consider demobilizing the armed forces, as long as the FMLN is finished. What is demobilizing the armed forces? What will it be to demobilize or demilitarize society? Salvadoran society is not militarized as such. Talking this way only de-stabilizes the armed forces." (in Juhn 1998:63)

The two sides also fought over the implementation of the Mexico Agreement as well as some important issues it did not deal with, such as the purging of the army, land reform, and the logistics of a cease-fire.[121] To break this impasse, Pérez de Cuéllar began to explore the feasibility of *compressing the talks into a single phase* in order to establish, prior to a cease-fire, the necessary conditions and guarantees for the integration of FMLN members. (According to Juhn (1998:101) he did so on the behest of Baker and Bessmertnykh, the Soviet Foreign Minister. The Four Friends were also becoming increasingly impatient.) Under the Geneva and Caracas agreements, this issue would have been taken up only during the second, post-cease-fire stage of the negotiations. The Secretary General invited President Cristiani and FMLN Commanders to meet with him at UN Headquarters in New York on 16 and 17 September 1991 to resolve the four major areas which still needed to be partially or

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[119] Montgomery (1995): "Getting to Peace in El Salvador: The Roles of the United Nations Secretariat and ONUSAL". *Journal of Interamerican Studies and World Affairs*, vol. 37, nr. 4, p.150-151.
[120] In off-the-record conversations, however, both US and Salvadoran government officials said military reform was the FMLN's strongest and most legitimate point(!) (Byrne 1996:182).
[121] LeVine (1997): "Peacemaking". Ch. 10 in Doyle *et. al.*: *Keeping the peace*, p.239.

completely negotiated: The National Civil Police, the specifics of the reduction of the army and land redistribution[122], and the guarantees for the FMLN to enter civilian life as a political force. The US government, the Four Friends and the UN wanted a final agreement *before the UN Secretary General's term expired on 31 December 1991.*

During the entire peace process, Cristiani had persistently refused to meet with the FMLN. In this round, the UN and the FMLN felt that no agreement could be reached without the personal presence of the Salvadoran president. (President Salinas of Mexico – one of the "Four Friends" – lent him his official jet to go to New York, presumably as an extra safety measure (Juhn 1998:120). There were spoilers[123] in the army whom Cristiani had to be careful not to provoke too much.)

On *25 September* the two sides signed the *New York Agreement*, which was praised as a definitive moment in the peace process and a "new victory for democracy in El Salvador".[124] The agreement's goal was to "give final impetus to the process of negotiations".[125] The parties agreed to create a "mechanism for the monitoring of and participation of civilian society in the process of the changes resulting from the negotiation, in relation both to the armed forces, in particular, and to the other items on the agenda".[126] This mechanism, the National Commission for Peace and Reconciliation (*COPAZ*) was to be composed of two representatives of the government, including a member of the armed forces, two representatives of FMLN and one representative of each of the parties or coalitions represented in the legislative assembly. COPAZ was the first link for the FMLN to the legislative and political processes in the country – to the great satisfaction of FMLN leaders. COPAZ was not to be dissolved until the implementation of the peace agreements had been completed. Both land and police issues were deferred to COPAZ to be taken up after the signing

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[122] Land as a good has been described as an excludable good (Ondetti (1998): *The Exceptionalism of Land: Explaining Brazil's Surprising Sem Terra Movement*. Paper presented at 1998 meeting of the Latin American Studies Association, Chicago Sept. 24-26). Ondetti argues that this is one reason why the Sem Terra movement in Brazil has been so successful: it does not suffer from a free-rider problem to the extent that other movements do, since land feasibly can by supplied only to those who contribute to the provision of the good. This, then, makes collective organization easier.

[123] Spoilers are "leaders and parties who believe that peace emerging from negotiation threatens their power, worldview, and interests, and use violence to undermine attempts to achieve it". Stedman, Stephen J. (1997): "Spoiler Problems in Peace Processes." *International Security*, Vo. 22, No. 2, p.5.

[124] *New York Times*, 26 September 1991. Cited in LeVine (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, p.241.

[125] *New York Agreement*, 25 September 1991 (UN doc. A/46/502 – S/23802)

[126] *ibid.*

of a final peace agreement. Moreover, a process of purification of the armed forces was agreed upon, "on the basis of a vetting of all personnel serving in them by an *ad hoc Commission*" (my emphasis).[127] The New York agreement also called for the disbandment of the National Guard and the Treasury Police as security forces, and the process of organizing the new National Civil Police was to begin immediately, i.e. without awaiting other political agreements or the cessation of the armed conflict. Further, for the first time, economic and social questions were directly addressed. As a case in point,

> lands in excess of the constitutional limit of 245 hectares, as well as lands owned by the State which are not currently legally designated forest reserves, shall be used to meet the needs of peasants and small farmers who are without land. To this end, the Government shall also make arrangements to purchase lands offered for sale to the State.[128]

The New York accords thus became the second breakthrough of the negotiations, representing major compromises on both sides. The concessions on the government side were obvious: to purge the officer corps and implement a more reformist agrarian policy. The FMLN, on the other hand, agreed to drop its demands for broader socio-economic reforms and participation in the army, and instead accepted COPAZ and the UN as guarantors of its security.[129] Whether or not agreement was indeed facilitated by President Cristiani's personal presence is not easy to say. It is tempting to conclude this in order to support our assumption that high-ranking mediators and negotiators more easily create an environment of credibility, legitimacy and trust – and because, according to de Soto, Cristiani's representatives could not always be relied on to convey or explain faithfully the views of FMLN. To draw such a conclusion on the basis of the information presented here, however, would be wrong. It is conceivable that such a positive bivariate association (between a high-ranking negotiator and the conclusion of an agreement) could be partly spurious. First of all, there was a chance that agreement could have been reached anyway, although probably at higher (transaction) costs than necessary. Second, de Soto maintained close contact with Cristiani throughout the process to ensure that the FMLN's views were indeed conveyed as faithfully as possible. Even though it probably was time-saving that he

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[127] *ibid.*
[128] New York Agreement, VII: Economic and social questions – article 1.
[129] Karl (1992): "El Salvador's Negotiated Revolution". *Foreign Affairs*, vol. 71, no. 2, p.160.

participated directly in New York (him making the final decisions on the government side), he never signed any of the agreements reached. This was delegated to his government team. For there to be a partly spurious association between negotiator rank and agreement, both variables must have a common cause, i.e we must identify another independent variable prior to them both which has a direct causal effect on both of them - making us exaggerate the total causal effect. Such a variable may be *pressure* – from the FMLN, the UN, the "Four Friends" as well as the USA. Also, the expiration date of the Secretary Generals's tenure put pressure on both sides.

Pérez de Cuéllar's tenure as the Secretary General of the UN was to end at midnight, 31 December. He and his wife were to fly out on a specially chartered private flight to the Caribbean (Juhn 1998:120). In the last 30 minutes of his tenure – perceived as a *deadline* by all actors (it was unknown when the conflict would reach final resolution under Boutros-Ghali) - the parties settled on all substantive issues in the ***New York Act*** relating to the separation of the warring parties and the cessation of the armed conflict, which included the end of the military structure of the FMLN and the "reintegration of its members, within a framework of full legality, into the civil, political and institutional life of the country".[130] The cessation of the armed conflict took effect formally on 1 February 1992. There was *not a single violation of the cease-fire*, a situation contributing to the Salvadoran case being called a success.

A further meeting between the parties was scheduled for 5 January 1992 to negotiate the timetable for implementing the agreements and the procedure for ending the military structure of the FMLN and reintegrating its members, within a framework of full legality, into the civil, political and institutional life of the country. If differences on these points were not bridged by 10 January, the parties would accept formulas proposed by the Secretary General. According to the timetable, the armed conflict was to end formally on 31 October 1992. The process through which this goal would be attained consisted of four elements: the cease-fire, the separation of forces, the dismantling of the military structure of the FMLN and reintegration of its members into civilian life, and UN verification of these activities.

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[130] *New York Act*, 31 December 1991 (UN doc. A/46/863 – S/23504)

Reaffirming the Geneva Agreement, bearing in mind the San José, Mexico and New York Agreements and having concluded negotiations on all the substantive items of the Caracas Agenda and of the New York compressed negotiations, the parties signed the ***final peace agreements at Chapultepec Castle, Mexico City, on 16 January 1992.*** The peace settlement was close to what is called an *elite settlement*, that is, a pact including all or almost all significant elites and addressing all major issues among the elites, either by resolving them or by agreeing to suspend conflict over them (Peeler 1998:83).

The Chapultepec Agreement was divided into 9 "chapters": the armed forces, the National Civil Police, the judicial system, the electoral system, economic and social questions, political participation by FMLN, the cessation of the armed conflict, UN verification and the implementation timetable. (The separate San José Agreement dealt with human rights, with the exception of the creation of a National Counsel for the Defence of Human Rights called for in the Mexico Agreement.)

The section of the Chapultepec Agreement relating to the *reduction* of the armed forces only stated that they should be reduced to a "size appropriate to their doctrine and to the functions assigned to them by the Constitution within the framework of the constitutional reform resulting from the Mexico Agreements". The word "appropriate" is used repeatedly without any concrete measures. However, the government had already submitted a plan for the reduction of the armed forces to the UN, a plan which was approved and initiated shortly after. This plan provided for a 50,2% reduction of the armed forces, including demobilization of the five rapid reaction battalions (known as BIRIs). The reduction began on 1 February 1992 and was scheduled to end in January 1994.[131] A 50% reduction meant cutting the size from 62.000 men to some 31.000. As seen in section 2.2, the armed forces numbered 9.850 men by the end of 1980. Consequently, the military was still to be three times as big as when civil war broke out. Whether or not this is an "appropriate" size I am not qualified to judge. Further mention of the accords shall be made in chapter 6, when evaluating the overall peace agreement.

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[131] Report of the Secretary-General on all aspects of ONUSAL's operations. (UN doc. S/25812)

T.A. Wilkins[132] argues that having the "Friends" sign the Accords would have created two benefits. First, it would have raised the Friends' commitments to further the peace process, in terms of technical training and development assistance, to the level of legally binding obligations. Second, the agreements would then fall under the definition of a treaty – an agreement between states governed by international law. I asked Alvaro de Soto if this at any time was discussed within the UN. His answer was:

> The idea never came up. It would have been unthinkable. The government would not have countenanced anything that brought the peace accords to a treaty level. They were always meant to be political agreements. Furthermore, it would have been very difficult to persuade the 'friends' to co-sign a treaty between a government and a guerrilla coalition which would have been tantamount to granting the guerrillas recognition of belligerence. Even the Mexicans, who had in the Franco-Mexican declaration of 1981 labelled the FMLN as a valid political interlocutor, would have balked at that. Imagine what Subcomandante Marcos [in Chiapas] would have made of it -- not to mention the FARC [Revolutionary Armed Forces of Colombia] and the ELN [National Liberation Army; Marxist insurgent group].[133]

I believe this fully explains why the "Friends" did not and could not sign the agreement.

According to UN expert Pedro Nikken, in the negotiations, the United Nations working document dealing with the judiciary was subject to the greatest change of all:

> To obtain more provisions and stronger language in the constitutional reform related to the military, the FMLN made greater concessions with respect to the judiciary. Therefore, judicial reform was left relatively weak; even if all of the reforms had been implemented they would not be sufficient. (in Bland, G. (1993):*Conference Report: El Salvador: Sustaining Peace, Nourishing Democracy*, p.33)

During the mediation process the UN prepared working documents suggesting a wide range of measures to transform the judiciary, but they can hardly be criticized for not imposing their will on the parties. According to Carnevale's model of mediator action (fig. 3.3), when the mediator's perception of common ground is low, the mediator can press or compensate depending on whether his/her value of the parties' aspirations is low or high respectively. The parties obviously had high aspirations and would – according to the model - need some kind of compensation to lower their demands. (Also see 6.2.4.) In the theoretical framework (p.41) I mentioned the possibility of issue linkage and trade-offs. As we have seen, the UN decided to compress the talks into a single phase after "banging their heads" on the issue of the armed forces. Issue

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[132] Wilkins, Timothy A. (1997): "The El Salvador Peace Accords: using international and domestic law norms to build peace." Ch. 11 in Doyle *et. al.*: *Keeping the peace*, p.278.

[133] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. (See Annex II, question 6.)

aggregation proved wise in terms of moving the process ahead. To the FMLN, reforming the military was so crucial that they made greater concessions with respect not only to the judiciary but also relating to economic and social questions. This is noteworthy inasmuch as the root cause of the civil war was poverty and marginalization. I asked de Soto[134] if the UN at any point tried to incorporate provisions for addressing the root causes of the socio-economic polarization in general, but that were subsequently refused by the GOES. He answered:

> No. At a point in mid-1991, months before the question was even addressed in the negotiation, the *FMLN conceded that economic policy should be set by whoever was legitimately elected*. Perhaps because they couldn't agree amongst themselves, they never put forward any proposals for systemic change or to address root causes. Their claims boiled down to two areas: minimal conjunctural steps to address social unrest, and steps for reintegration into society of former combatants and their supporters (my emphasis).[135]

In relation to the judiciary, Pedro Nikken also suggested that it

> …would have made more sense if the judicial reforms were part of a separate agreement, as in the case of human rights. This was even a goal of the negotiations, but *as to why this was done I will not comment further because I do not believe it should be publicly discussed*. (in Bland, G. (1993):*Conference Report: El Salvador: Sustaining Peace, Nourishing Democracy*, p.33 – my emphasis.)

This last remark raised my curiosity, so I asked Alvaro de Soto[136] if he agreed that a separate agreement would have been better, and if so, why. And if so, why this was not done or possible to do. He answered:

> In preparation for our (the UN's) substantive contribution to the negotiation concerning the judiciary, we had a brainstorming session in 1990 (similar to the one on human rights in the first half of the year) where we concluded that the work to be done was monumental, and that it would take perhaps decades to fix the judiciary. *When the constitutional reforms were being negotiated in April 1991, the government persuasively argued that if the judiciary were tampered with excessively, there was a serious risk that the Supreme Court would have declared the whole package unconstitutional, thus endangering the peace accords as a whole. The FMLN agreed, hence the somewhat modest results*. However, the Commission on the Truth [see 4.2.8] did its homework and, with its power to lay down binding recommendations, filled many of the lacunae left in the negotiation (my emphasis).[137]
> (Also see chapter 6)

Although the FMLN presented itself as a united block, Salvador Samayoa, one of the FMLN's main negotiators, reported that debate within the FMLN and its constituent parties was far more difficult than negotiating with the government (Byrne

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[134] See Annex I, question 2.

[135] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. (See Annex II, answer no. 2)

[136] See Annex I, question 5.

[137] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. (See Annex II, answer no. 5)

1996:189). The government side faced the same problem in selling the proposed agreements to its constituency (cf. Putnam's two-level game).

In chapter 6 I will evaluate the final peace agreements according to a set of normative criteria for a comprehensive peacemaking success. I also defer to chapter 6 to take a closer look at the most important agreements – besides the ones already reached during the mediation process and mentioned in the course of this chapter.

4.3 Preliminary summary

How much closer are we to answering the first question raised in chapter 1: How (by what means) the UN contributed to a peaceful settlement? So far in this chapter, I have extracted the main actions of the UN vis-à-vis the FMLN and the GOES during the process that led to the final peace agreement. Where it seemed most relevant I have discussed actions and choices in light of theoretical assumptions, employing a pattern-matching logic. Several of the variables affecting the chances of peaceful resolution (table 4.1) have been referred to – explicitly and implicitly – and their assumed effects seem to have been supported by the empirical findings, thus strengthening the case study's internal validity (cf. Yin 1994:106).

UN Secretary General Pérez de Cuéllar elicited support from the two superpowers prior to the initiation of formal negotiations. Assuring the support of the two most powerful countries in the Security Council was *vital*. The establishment of the Friends mechanism (Spain, Venezuela, Mexico and Colombia) provided further support. *When one or several states join forces with an IGO, then the expected success rate exceeds the average.*[138]

According to Byrne (1996:188-189), the US accusations that the mediator was being partial (see pp. 59; 64) reflected more than anything a frustration on the part of the US government that a speedy cease-fire was not being reached; the ultimate assessment of the conflicting parties was that the UN mediator and his team played an indispensable and impartial role in the peace process. By flexibly performing the

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[138] Bercovitch and Schneider (2000): "Who Mediates? The Political Economy of International Conflict Management" *Journal of Peace Research*, vol. 37, no. 2, p. 157.

various facilitator roles according to the changing circumstances, the UN displayed "clever" leadership – reducing the assumed negative effects of e.g. issue complexity.

The use of single negotiating texts allowed the parties to make concessions without appearing to surrender directly to the demands of the opponent. As pointed out in chapter 3 (p. 45-46), this means of communication also has other advantages. Prior to the talks, the UN organized brainstorming sessions with El Salvador experts on each of the agenda items. Also, as seen, the early deployment of ONUSAL gave an initial impetus to the peace process. However, ONUSAL evidently should have and could have been better organized.

The most criticized parts of the peace agreement related to judicial and socio-economic reforms (see chapter 6). Before assessing the degree of success of the peacemaking phase, however, let us now expand our attention by moving on to the next problem raised in the Introduction and briefly look at the role played by other actors. Attempting to understand and thereby explain why the parties were able to shake hands after 12 years of bloody war, we need to examine other context variables as well.

CHAPTER FIVE: Case study continued
Why was agreement between the parties in conflict achieved?

It is well that war is so terrible, or we should get too fond of it.
Robert E. Lee

5.0 Purpose of chapter

Guided by the modified contingency model of mediation (fig. 3.2), this chapter searches for other variables (not previously mentioned or accounted for) affecting the peace process and thereby the outcome. Combined with chapter 4, this chapter therefore sets out to reach a conclusion on why agreement between the parties in conflict was achieved. Methodologically, we then need to look at other internal conflicts around the world as well since we cannot explain the deviant outcome merely by studying El Salvador. This, however, will be done in a general fashion only. I identify two factors not previously mentioned that relate to a dispute's nature. I also critically examine the end of the Cold War as a causal variable. Did the fall of the Soviet Union really help ending the Salvadoran civil war, as the literature frequently argues? Finally, I take a brief look at the role played by the Bush Administration and integrate the findings with the role performed by the UN.

5.1. Towards a "full" understanding of the peace achievement

When attempting to understand why peace was achieved in El Salvador, we must study a number of different variables, from system (macro) variables to individual (micro) variables and their interaction. We have accounted for many of them already (the nature of the parties, the mediator, the dispute, the international system and the institutional setting) and what the UN did in trying to counter "malignant" features. However, there are surely other important variables (or "hidden" values of the variables already dealt with) whose effects we have not studied. In the quest for a "complete" understanding, therefore, I decided to contact Alvaro de Soto to see if he could shed more light on the deviant case of El Salvador. I asked him if he could identify any independent variables that set El Salvador off from the general trend (i.e. civil wars most often ending in capitulation or extermination) – *besides* the "mutually hurting stalemate", which – as we know - made the conflict "ripe" for resolution. He

pointed to a contributing factor: "As opposed to e.g. Colombia or Angola, there was ***no profitable commodity that lent itself to becoming a factor in prolonging the war*** – i.e. the drug trade and diamonds" (emphasis added).[139] In El Salvador, this fact, combined with the absence of ethnic and religious tensions, could not aggravate the peace process since these factors were not present. If we look at *Guatemala* - in the words of Vegard Bye, the most racist country in the world - ethnic cleavages cause severe problems despite the peace agreement of 1996.[140] In *Angola*, moreover, the conflict obviously has not been perceived as mutually hurting by all parties. Several peace accords have been signed since civil war broke out in 1975 (over who to govern when Portugal granted the country independence). The latest was signed in 1994, containing explicit power-sharing provisions as well as an enlarged role for UN peacekeeping forces (Hampson 1996:126). However, fighting resumed in late 1998.

Another case in point is *Sierra Leone*, where diamonds also play an important role, next to ethnic and religious cleavages. Here, a peace agreement was also signed in mid-1999, but has not proved sustainable. *Sudan* has suffered from the longest civil war in Africa's history. From being a classic ethno-religious conflict, it has become one mainly over resources. The Southern Blue Nile, a region with immensely fertile land containing gold and mineral deposits has been intensely disputed by the government of Sudan and African rebels fighting alongside the Sudan People's Liberation Army (SPLA) of southern Sudan.[141] In *Sri Lanka*, ethnic tensions between the Sinhalese majority and the Tamils converge with ***secessionist claims***, threatening state sovereignty. Here, the *legitimacy of the mediator* has also been disputed. (To my knowledge, the parties have never had a neutral meeting place either, not to say that this is a necessary condition for conflict resolution.) In short, when so many cleavages are reinforcing rather than cross-cutting, peacemaking obviously becomes increasingly

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[139] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. See Annex II, answer no. 1 and Annex 1 – question 1.

[140] "The only solution for Guatemala is to improve the race, import Aryan studs to improve it. For years I had a German manager on my estate, and for every Indian Woman he impregnated, I paid him an extra 50 dollars." Statement by a member of Guatemala's traditional families. In Vilas (1996): "Prospects for Democratisation in a Post-revolutionary Setting: Central America", *Journal of Latin American Studies*, 28, pp. 476.

[141] see: http://africancultures.about.com/library/weekly/aa032700a.htm?terms=africa%27s+longest+civil+war

difficult. Even though El Salvador's conflict was extremely grave, it did not display any of these (presumably) exacerbating circumstances.

Writing in 1990, Tom Gibb and Frank Smith[142] claimed that El Salvador, together with Lebanon [where Christians, Druse, Shiite Muslims and Sunni Muslims all fought each other], frequently was presented as one of the worst conflicts in the world, expected to last indefinitely. Even though there were no divisions along nationalist or religious lines, the Salvadoran conflict was very deeply rooted - with even family members often finding themselves on different sides. According to Gibb and Smith, however, peace seemed more attainable in El Salvador because both parties accepted democracy and the electoral process as the only means – at the end of the day – of competing over power. Secondly, both parties accepted the institutional legitimacy of the armed forces. Thirdly, both sides accepted the legitimacy of the 1983 Constitution. As we have seen, though, there were many extremists who did not regard FMLN as a legitimate actor, and FMLN initially wanted the abolishment of the armed forces. It is true, however, that FMLN accepted the legitimacy of the Constitution although they wanted constitutional reforms.

5.1.1. The End of the Cold War as a causal variable

According to LeVine,[143] the UN's role in the peace process was pivotal, but in his opinion the real key to the "success of the negotiations" was the "will" of both parties to finally end the war. He argues that the conflict was mainly ideological, and that this

> made it *the kind of conflict whose resolution was made easier with the end of the Cold War*, as the combination of "sheer exhaustion" among the belligerents ant the end of superpower sponsorship left the warring parties with little option other than a negotiated settlement.[144] (emphasis added)

Basically, a case study involves an inference every time an event cannot be directly observed. Therefore, a researcher will "infer" that a particular event resulted from some earlier occurrence, based on interview and documentary evidence collected as part of the case study (Yin 1994:35). The question, in this case, then arises: Is the inference correct? Was the end of the Cold War really an important, contributing cause

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[142] Gibb, T. and Smyth, F. (1990): *¿Es posible la paz en El Salvador? Un informe sobre las perspectivas para las negociaciones y la política de Estados Unidos*. Washington Office on Latin America, p.272.
[143] LeVine, M. (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, p.245.
[144] *ibid*.

of the Salvadoran conflict's resolution? Noam Chomsky does not believe so. He finds the "End of the Cold War"-rhetoric irrelevant (even ridiculous), candidly saying:

> I doubt that the end of the Cold War was more than a minor factor, probably none at all. It's worth remembering that the Soviet issue was extremely marginal throughout, as has typically been the case in Central America and the Caribbean; perhaps the sole exception is the missile crisis, which had exceptional features, including (but not limited to) the escalating US terror campaign against Cuba and the very credible invasion threat. Of course, *the Cold War was always invoked as a pretext* (as long as that was possible). [emphasis added] But the internal record makes it quite plain that it was little more than that. Recall that it was also invoked from 1918; was there even an imaginable threat to US security from Russia? In fact, the whole idea of a Soviet threat to the US in the Western hemisphere is ludicrous. Suppose the USSR had invaded Denmark (far more of a security threat to them than any place in the Western Hemisphere to the US), or carried out a coup there to overthrow the government, or imposed an embargo (if it were conceivable). Would anyone have taken the claims seriously? The fact that the rhetorical posture is taken seriously in this case is merely another sign of the subordination of the intellectual classes to state power (in this case, US state power) -- something true of European intellectuals too, far more than their self-image indicates. (…) *The major factor, I think, was that the two sides had plainly reached a stalemate, and the US wars had already succeeded in demolishing most of the region. Nicaragua had capitulated (and since then, has declined rapidly, now the second poorest country in the hemisphere, after Haiti, the leading beneficiary of US intervention through the 20th century). Guatemala was devastated. Honduras was a wreck. El Salvador had been largely demolished. The main US enemies, like the Church, were pretty well crushed. The final US paroxysm of terror in November 1989 had killed plenty of people, including six leading Latin American intellectuals whose brains were blown out by elite US-run forces, fresh from another session of US training. (...) In any event, it was clear by then that the real threat had been destroyed: there would be no popular movements of social reform in Central America; the countries would be lucky to survive. So there was little point in pursuing the slaughter any further. Under those conditions, the US was happy to allow the UN to intervene to reach a settlement that would ensure that the US remained in control* (emphasis added).[145]

I tend to agree with Chomsky on this point. With the exception of the Cuban missile crisis involving the Soviet Union, communism in Latin America was not a real threat to US "national security" (although it certainly was perceived as such by some prominent US figures). As Schafik Handal, one of the five FMLN commanders and the leader of the Communist Party told Alvaro de Soto, the Soviets had no leverage to exert over the guerrillas, to whom they provided no direct assistance.[146] Iqbal Riza, former chief of ONUSAL, stated: "There are very few who have, shall we say, seen the light, or the truth. Many of them [the police and military] feel, perhaps because their perspectives were developed such that they felt that they were fighting communism, that their actions were justified. And very few have given up on that idea."[147] The US - and they were well aware of it - was not helping the government to

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[145] Chomsky, Noam (8 February 2001). Re: Questions [E-mail to Vegard Higraff] [Online] – Available by e-mail at: vegard.higraff@hfstud.uio.no

[146] de Soto (1999): "Ending Violent Conflict in El Salvador". Chapter 14 in Crocker, *et.al.* (eds.): *Herding Cats*, pp.370-371.

[147] Bland, Gary (1993): *Conference Report: El Salvador: Sustaining Peace, Nourishing Democracy*. Washington, D.C.: Woodrow Wilson Center. Latin American Program, WOLA, p.43..

fight Soviets, but poor people who simply wanted a just society - to be recognized as citizens with the entailing social, political and civil rights. The connection between the end of the Cold War and the end of the Salvadoran war is thus (mainly) spurious.[148] As explained at the end of chapter 2 and by Chomsky above, by 1990 the United States had no further incentives to obstruct a Salvadoran peace settlement. The Sandinistas had lost the elections in Nicaragua, the US had invaded Panama and the Bush administration had replaced the ideological Reagan team – all irrespective of Gorbatchev's actions in Soviet. Moreover, the FMLN had presented peace proposals ever since civil war broke out,[149] in which they made it clear that they did *not* intend to take absolute control of the country; they only demanded to be accepted as a legitimate actor and integrated into ordinary, democratic politics. In short, even though the end of the Cold War is frequently cited as a cause of change in politics all over the world (even a source of *revival* of internal conflicts!), the effects need not be all-encompassing or universal. *Drawing a conclusion from (a change at) the macro level to the meso and micro level is a false ecological/aggregative deduction.* Generally speaking, of course, such a conclusion need not be erroneous – the mistake lies in the deduction itself, ignoring regional and national variations and dynamics. In this case, invoking the end of the Cold War as a cause of change in Salvadoran politics is probably more due to *habitual association* (cf. Hume) than anything else. There is no necessary connection between the two. The end of the Cold War is such a striking event that it easily distorts and clouds the mind of observers.

The analysis has thus shown that a more or less established "truth" adduced when explaining the end of the Salvadoran conflict is irrelevant, or – at best – has only a weak indirect effect through a change of the international atmosphere. Ruling out one of the most conventional independent variables - while not identifying any other to replace it (rival explication) - could mean that some or all of the other factors listed

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[148] Blum (1995:12) states: "To the mind carefully brought to adulthood in the US, the truths of anti-communism are self-evident; as self evident as the flatness of the world once was to an earlier mind; as the Russian people believed that the victims of Stalin's purges were truly guilty of treason. (…) And lest we think that such beliefs belong to an earlier, less enlightened period, it should be noted that in the fall of 1987, two years after Gorbatchev, when a Gallup poll asked Americans whether they agreed that "There is an international Communist conspiracy to rule the world", 60 percent replied in the affirmative; only 28 percent disagreed."

[149] See e.g. page *ii*.

gain explanation power if we consider the causal connections between them and the outcome sustained.

5.1.2. The role of the US

The change in US policy was clearly essential. During Reagan's term, standing policy was simply to keep the UN out of the region as a political actor. If the new Bush administration had not changed their position from opposition to support of a negotiated settlement and pressured the Salvadoran military to accept the reforms called for in the agreements, Cristiani would never have had the political space to negotiate seriously with the rebels. (The Bush administration did so primarily to make peace with Congress[150] and because their economic interests in Central America had been assured.) The US government made its position on one point clear: that "Cristiani cannot be removed neither by decree nor by coup" (Juhn 1998:60). Cristiani would finish his term as president with the protection of the US government. Spoilers on any side would have to take that into consideration in any plans they might have or make. In a visit to Central America in April 1991, General Colin Powell had made it clear that US military intervention would not be ruled out if the parties did not reach an agreement within the end of the month, a statement much to the dislike of the parties and the UN. Also, Bush sent Powell to San Salvador to pressure the armed forces and to get the government to sign an agreement on constitutional reform prior to 31 April 1991, when elections to the legislative assembly were held. On page 65 we saw that rightist groups threatened those who "trampled on the constitution", but that the negotiators nevertheless reached agreement on key changes to the constitution regarding judicial and electoral reform, limitations on the function and role of the armed forces and their subordination to civilian leadership, and on the formation of a Truth Commission to investigate major human rights violations. This was not so much due to the efforts of the UN as to the combined influence of the European Community, the Group of Friends, the five Central American presidents, the US Congress, the Bush

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[150] This has been confirmed by James A. Baker III in his book *The Politics of Diplomacy: Revolution, War, and Peaace, 1989-1992*. In de Soto (1999): "Ending Violent Conflict in El Salvador" Chapter 14 in Crocker, *et al.* (eds.): *Herding Cats,* p.372/384.

administration and last-minute phone calls by the US ambassador.[151] (Powell also pressured the armed forces to accept the removal of several senior officers tied to human rights abuses as a result of the Ad Hoc Commission's investigation.[152])

Since purging and reducing the armed forces actually strengthened the power of the president vis-à-vis the military, Cristiani was more willing to negotiate the issue of the armed forces than risk having to make concessions on economic issues which "ran counter to the emerging neo-liberal consensus among the country's business elite".[153]

It is also interesting to note a controversial and surprising meeting which took place in the Salvadoran countryside in an attempt to move the peace process ahead: One of the representatives of FMLN (FARN) in Mexico, via Dick McCall (member of the Senate's Foreign Committee), had invited Ambassador William Walker to Santa Marta in Cabañas, where a large group of returning refugees had settled down. This is McCall's story (in Lindholm 1997:18-19; my translation from Swedish):

> When I came to San Salvador I had coffee with Walker and the highest American military supervisor, March Hamilton, and I was a bit surprised to see that the invitation was accepted with such enthusiasm. We went to Santa Marta on 31 August and were initially met with great scepticism. We kept a low profile out of consideration for the population – after all, here was the highest American representative in the country, a man who symbolized the American support to the government, so it wasn't easy to break the ice. But after a while, a relaxed atmosphere was created and we had a meeting with the leader group and its spokesman Carlos Bonilla, in which we discussed the financing of different projects – electricity, water and other things. We brought sewing machines and other equipment that Walker had promised a group of women who had visited San Salvador on a previous occasion. In the evening, there was a party with dancing, and the guerrilla soldiers came down from the mountains with their weapons and didn't quite understand what was going on in the beginning. The military commanders of the guerrilla were there, and I had to take them aside to explain what was going on. They thought it OK that we were seeing each other now that the cold war was over. I went back to the plaza where the highest military leader of FARN, Raúl Hércules, had joined group with Marc Hamilton - a bottle of Johnnie Walker had been opened, the atmosphere was very good. A relationship was created between Hamilton and the highest military command of the FMLN which was to be important. Santa Marta got to play the role of "bridge builder".

The meeting was disliked by the FPL faction, but supported by ERP (see. 2.2). Cristiani had said "fine with me" as long as there was no publicity around it – the

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[151] Karl, TL. (1992): "El Salvador's Negotiated Revolution." *Foreign Affairs*. vol. 71, nr. 2, p.157.

[152] O'Shaughnessy and Dodson (1999): "Political Bargaining and Democratic Transitions: A Comparison of Nicaragua and El Salvador." *Journal of Latin American Studies*, 31, p.103. Upon reading the report, issued on 22 September 1992, President Cristiani felt, and the Secretary General agreed, that confidentiality was necessary. Although it was known that many senior members of the military establishment were named, including the minister of defense and his deputy, the full list was never made public (Johnstone 1995:45). The Truth Commission's report, however, released on 15 March 1993, named some of the same officers, including Minister of Defense René Emilio Ponce, who resigned three days prior to publication.

[153] LeVine, M. (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, p.247.

reason being that he would face strong criticism by the right wing of the ARENA party and the army.

5.2 Peace

The UN obviously deserves much acclaim for their role in El Salvador. The fact that both parties invited the UN and that the United States (according to de Soto, "the most difficult non-Salvadoran player"[154]) allowed the UN to mediate, meant the creation of a resourceful mediator. The conflicting parties assisted the UN in many ways, such as helping ONUSAL in a UNICEF-led Mine Awareness Project to warn the populations in mine-ridden zones of the dangers they faced. By the end of 1992, the project had detected and demarcated well over 25.000 land-mines – believed to represent almost every one of those still in existence. The Government was seeking international assistance for the next phase – deactivating the mines. By the end of 1992, moreover, 60% of FMLN ex-combatants had been demobilized and handed over their weapons to ONUSAL. Reduction of the armed forces was being carried out in accordance with the plan submitted to the Secretary General (UN Blue Book 1995:31).

ONUSAL's presence reduced the parties' mutual distrust. None of the parties violated the cease-fire. Combined with the active role of the UN, the Group of Friends, and the more direct pressure from the United States, the government and the armed forces felt obligated to comply with many – but not all - of the agreements reached.

This chapter has identified two more "benign" variables (or rather absence of two "malignant" ones) which we can add to table 4.1: ***No secessionist claims*** *and* ***no commodity that lent itself to becoming a factor in prolonging the war***. No enumerating table of the combination of present/absent "benign" and "malignant" variables alone, of course, can give us an accurate understanding of why peace was achieved, since a table is static and does not show the various ways in which the variables act and interact. The relative weight of their importance would not be easily illustrated either. In sum, peace was achieved due to a combination of both context (antecedent) and process (current) variables. In ONUSAL's Human Rights Division

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[154] de Soto (1999): "Ending Violent Conflict in El Salvador". Chapter 14 in Crocker, *et.al.* (eds.): *Herding Cats*, p.371.

report for the period from 1 July 1992 to 31 January 1993, what distinguishes peacemaking and peace-keeping in El Salvador from other countries, is "the fact that the peace agreements provide for an interrelated series of tasks to be carried out by internal actors, and verified by the United Nations, with a view to generating within the State and society the necessary institutional and political conditions for the effective functioning of democracy in accordance with the rule of law while, at the same time, promoting changes in the relationship between the State and society with the ultimate goal of achieving national reconciliation and reunification".[155] As LeVine[156] argues, "the continuing inability of the international community to contribute to the process of reconciliation in such disparate crises as Bosnia, Haiti, and Rwanda attests (…) to the *uniqueness of opportune factors* in El Salvador." (emphasis added) The fact that the "peculiar spirit of cooperation and international optimism which characterized the immediate post-Cold War period recedes further from view",[157] however, could just as well attest to the exaggerated role ascribed to the end of the Cold War in the first place.

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[155] Report of the ONUSAL Human Rights Division for the period from 1 July 1992 to 31 January 1993 (extract), art. 14. (Un doc. A/47/912-S/25521, 5 April 1993), pp.417-18 in UN Blue Book.
[156] LeVine, M. (1997): "Peacemaking". Ch. 10 in Doyle et. al.: *Keeping the peace*, pp.253-254.
[157] *ibid*.

CHAPTER SIX: The concept of "success" – discussion and evaluation

I am the inferior of any man whose rights I trample underfoot.
Horace Greeley

6.0 Structure of chapter

An analysis of the negotiation process would not be complete without an evaluation of the resulting peace agreement. Having scrutinized a particular case, we should now be better equipped to discuss the concept of "success" (what it should include) and, thus, assess the degree to which the Salvadoran *peacemaking phase* really merits such a term.[158] I will begin with a normative discussion before evaluating the outcome according to the criteria outlined.

6.1. How are we to measure and define the "success" of a *peacemaking phase*?

6.1.1. Introduction

Defining success and failure in complex peace operations is far from an exact science. First of all, we must make sure that the *theoretical definition* arrived at can be made *operational* in order to determine empirically whether or not the outcome can be regarded a success, thereby assuring *definitional validity* (cf. Hellevik 1991:43). It seems natural to view "success" as an index composed of several dimensions and aspects. If only some of the (necessary) dimensions are covered by the negotiation outcome, success is not fully achieved. Naturally, we prefer a continuous measure of success - i.e. to speak of *degrees* of success - rather than a crude binary measure of success/failure.[159] To do this we need to avoid a too general definition. Often we see the concept "democracy" being minimally operationalized as "free elections" with the reason that it is parsimonious. Most people would probably agree that this is not a sufficient criterion. We cannot manipulate reality to achieve parsimony (even though - on the other hand - too specific a definition might exclude functional equivalents, i.e. states that are "equally democratic" in practice but organized in different

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[158] I wish to remind the reader of what was said at the end of section 1.4 in the Introduction: that the discussion will not include the implementation of the accords/peace*building* phase. The Success (capital S) of the combined peace phases, however, largely depends on the success (with minuscule) of the first phase – the peacemaking and the resulting peace accords. Any flaws at the first stage are likely to jeopardize the chances of Success.

[159] cf. Underdal (1983): "Causes of Negotiation "Failure"". *European Journal of Political Research*, 11:184.

ways[160]). Minimal definitions of complex concepts hollow out their "true" significance. After all, one of the purposes of science is to say something about the objective world in a valid and reliable a way as possible. Consequently, substantiality must be prioritized if definitions are not to be empty words. The way we operationalize X in an analysis determines the results we get. Methodology, then, must be the basis of all science. As social scientists, we should at least try to give precise and meaningful definitions in order not to deceive other people and ourselves (as did the literary figure Don Quijote, who could no longer see what was evident to most others).

6.1.2. Normative discussion

Bercovitch and Houston (1995:19) define mediation as successful when it has made a "considerable and positive difference to the management of a conflict and the subsequent interaction between the parties". This definition is somewhat vague and hard to operationalize. How are we to determine which outcomes are included in this definition? In their view this is, moreover, a *strict* definition. In my opinion, though, it includes necessities that cannot be relaxed. A success has to be "considerable". Surely their definition is stricter than that of Frei (1976), according to which mediation is successful when it is offered only (in Bercovitch and Houston 1995:20). Such definitions, of course, cannot be taken seriously.

Success is a multifaceted concept. For one thing it has to be viewed in light of the mediation's *purpose*. Even if agreement is reached on all issues on the agenda, however, a mediation outcome should not be regarded a complete success if important issues (for whatever reason) have been kept off the agenda.[161] If we are to label a peace settlement a comprehensive success, all issues and problems relating to the conflict need to be addressed, and directions for their resolution have to be given. The general purpose of the Salvadoran peace process (agreed upon at Geneva and made

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[160] In Albert Hirschman's view, laying down strict preconditions for democracy, such as "income distribution must be improved, … political parties must show a co-operative spirit…" may actually encourage the deconsolidation of existing democracies. (In Karl and Schmitter (1991): "Modes of transition in Latin America, Southern and Eastern Europe." *International Social Science Journal*, No. 128, p. 283.)

[161] cf. Schattschneider's much cited phrase: "…organisation is the mobilisation of bias. Some issues are organised into politics while others are organized out." In Østerud 1996:40.

more specific/itemized in the Caracas Agreement) was to "*end the armed conflict by political means as speedily as possible, promote the democratization of the country, guarantee unrestricted respect for human rights and reunify Salvadorian society*".[162] The first objective was obviously accomplished. I will evaluate the fulfillment of the other three in the next section.

Rognes (1999:24) gives 7 criteria for a "good" negotiation outcome (my translation):

1. Are your interests well taken care of?
2. Are the interests of the other party (parties) being protected in an acceptable way?
3. Will third parties suffer?
4. Is the agreement better than your alternatives to a negotiated agreement (BATNA)?
5. Is this the best possible solution that is attainable with the other party?
6. Did you have an efficient communication process?
7. Do the parties want to negotiate with each other in the future?

As criteria for the success of a peacemaking phase these may not be automatically applicable. This is so for at least two reasons: First, negotiation is only a part of peacemaking and, consequently, does not adequately cover our concept. Second, the criteria are for a "good" outcome and do not fulfil the requirements for a "success". Nevertheless, I believe we can use these criteria as a starting point for outlining a set of criteria for a comprehensive peacemaking success. Some of Rognes' criteria can be hard to pin down and the answer may also depend on who one asks. As regards e.g. the second criterion, what is meant by "an acceptable way", and is A to judge what is acceptable to B? It might be just as well to combine the two first criteria into one, stating that the parties must have reason to be content or feel content. If they are not, any agreement is likely to be subverted sooner or later (cf. the harsh punitive terms of the Versailles treaty which was more or less imposed). At the same time, however, negotiation is not – or should not be - a process of winning and losing (cf. Fisher and Ury's *principled negotiation*), so that *success must be evaluated against the problem*,

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[162] Geneva Agreement, 4 April 1990.

not against the adversary.[163] This moves some of the attention away from the parties and their subjective preferences, so we need to find a "proper" balance between objective needs (real requirements to solve a problem) and individual feelings of (dis)content. As a case in point, the Salvadoran army was not very pleased with the reduction of its forces, but they had to learn to change their anachronistic cognitive maps because their mentality was not compatible with the spirit of democracy. The GOES had to make most concessions (or rather satisfy objective needs) for there to be any sustainable peace.

The third criterion is especially interesting and important, and must not be forgotten when evaluating whether or not the agreement was successful. The Salvadoran peace agreement was an *elite pact*. Of course, the participants claimed they represented the people's interests, but in the end we saw that the FMLN renounced some of their socio-economic claims at the people's expense to get land for themselves. Compromises, however, are only legitimate when it comes to special interests, i.e. when they are not in conflict with an interest that can be made universal. Also, all *relevant actors* whose lives are likely to be affected by the mediation outcome must have had the chance to convey their interests to valid spokesmen who actively work to satisfy needs and demands. If we combine the first three criteria, the agreement should be legitimate and fair.

The fourth criterion seems redundant as a criterion for peacemaking success because signature of an agreement implies *per se* that the parties expect to be better off with the agreement than without it. We are only interested in whether or not the actual agreement can be regarded *successful*. People negotiate because they expect to achieve a settlement that *is* better than other available alternatives, but this does not mean that the resulting settlement is "as happy as can be".

Criterion 5 can be viewed as the equivalent to a ***Pareto-optimal*** solution. This is, as we remember, a solution where none of the parties can improve their outcome without simultaneously making the other party worse off. I believe this is a necessary condition for one to talk about success. That the GOES accepted some of the FMLN's

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[163] Zartman (1988): "Common Elements in the Analysis of the Negotiation Process", *Negotiation Journal*, vol. 4:38-39.

demands was obviously much better than to keep on fighting. It was probably optimal too in terms of the future for all parties, not to mention the population at large.[164] The criterion – as spelled out by Rognes – can, however, also be interpreted as a "maximal" solution, in which the criterion does not necessarily live up to a "success". It may very well be that an agreement is the "best possible" (at a particular time), but if it does not make peace sustainable, it cannot be a satisfactory condition for success.

As regards criterion 6, it is conceivable that an outcome be termed successful even though the process has been somewhat ineffective. What matters, at the end of the day, is the quality of the outcome. The negotiations have to be thorough. Of course, we would prefer them to be effective as well, but in my opinion this could be a too strict requirement because effectiveness does not necessarily imply attention to details. What they say in some Arab countries may, perhaps, illustrate this point: The horse is fast, but the camel always reaches the destination no matter how stormy it is.

Finally, I regard criterion 7 a necessary condition – not just for a "good" negotiation outcome – but for the success of a peacemaking phase if we interpret "want" in the sense that the parties are *prepared* and *able* to negotiate with each other in the future. (I do not require that the parties *wish* to do so.)

Holsti argues that the success or failure of peacemaking efforts in international politics is determined by whether or not a peace settlement fulfils a number of separate but interrelated functions (in Hampson 1996:19). To apply the general principles for success outlined above we must, then, *relate them to the prerequisites for peace*. According to Holsti (*ibid*.:20), these are:

1. the provision of a system of governance that embodies certain norms of what constitutes acceptable behavior;

2. legitimacy, based on shared principles of justice that are incorporated into the peace settlement;

3. assimilation, which demonstrates "that the gains of living within the system … outweigh the potential advantages of seeking to destroy or dominate it";

4. a deterrent system powerful enough to prevent defections;

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[164] In El Salvador one could argue that the ARENA party and the military were "worse off" than when the mediation process started – having had to renounce privileges. We have just emphasized, however, that success must be evaluated against the problem, not against the adversary.

5. conflict-resolving procedures and institutions that "include procedures and institutions for identifying, monitoring, managing, and resolving major conflicts between members of the system," including the capacity "to impose settlement terms where continuation of a conflict poses a threat to the system as a whole";

6. consensus on war, that is, the recognition that war is a fundamental problem so that the design of new orders develops and fosters explicit norms against the use of force;

7. procedures for peaceful change, including "methods and procedures for reviewing settlement terms, for raising grievances, in general for adjusting commitments and responsibilities to new social, economic, demographic, and diplomatic conditions"; and

8. anticipation of future issues, that is, a system for anticipating issues that are potential sources of new conflict and for monitoring and handling them before they erupt into violence.

Peace settlements, then, should be judged according to whether or not they meet these prerequisites. As Underdal[165] notes, a major obstacle to negotiation (mediation) success is a politically inadequate solution design model. Was the Chapultepec agreement sufficiently comprehensive and durable? To answer the question, we must also add - as does Hampson (1996:21) - the inclusion of *power-sharing provisions* in the settlement[166] as well as the presence (or absence) of *ambiguities* in the agreement that subsequently become (1) major points of contention or (2) a pretext for the parties, including third parties, to shirk their responsibilities and obligations (*ibid.*:238). "If specificity is avoided in order to reduce conflict, the interlocution may become so disconnected that it can serve no variant of the official purpose in an efficient way."[167] Moreover, peace agreements should not build up expectations about what peace will

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[165] Underdal (1983): "Causes of Negotiation "Failure"". *European Journal of Political Research*, 11, p.191.
[166] Arend Lijphart defines power sharing as the "participation of the representatives of all significant groups in the government of the country and a high degree of autonomy for these groups". (In Hampson 1996:21.)
[167] Midgaard, Stenstadvold and Underdal (1973): "An Approach to Political Interlocutions", p. 85 in Midgaard: *STV603 – Strategi, politisk kommunikasjon og forhandlinger*. Compendium published at Unipub kompendier, Spring 2001.

bring which are unrealistic and difficult to satisfy[168] (cf. Davies' J-curve). Consequently, we should emphasize that – in order for a peace settlement to be regarded successful – it needs to be *stable*. An agreement may be considered stable if no party has an incentive to defect or to undermine the agreement (Hopmann 1998:29). Underdal (in *ibid*.) abstracts four states of stability in negotiation outcomes: "(1) stable, which does not provide incentives to expand cooperation or to defect; (2) unstable, which does not provide incentives to expand cooperation but does provide incentives to defect; (3) stable and dynamic, which provides incentives to expand cooperation but does not provide incentives to defect; (4) empty[169], which provides incentives to expand cooperation and incentives to defect." If we use his classification, we would prefer a peace settlement to fall into the category of *stable and dynamic* (3), or at least *stable* (1). (Holsti's fourth prerequisite above is equivalent to the latter type of stability.) If we conclude that the Chapultepec Accords were none of these, they cannot be considered (fully) successful.

6.1.3. Normative conclusion. Definition of a "fully successful peacemaking phase"

Having briefly discussed some criteria for peacemaking success, let us summarize them as follows:

A peacemaking phase is considered a ***complete success*** to the extent that

a. the resulting peace agreement fulfils the official purpose of the negotiations; and

b. addresses and resolves other issues or problems that are not part of the *official* agenda, but which are evidently *critical* to a long-term solution (otherwise peace will not be *stable*); and

c. the peace agreement is crafted by all relevant parties (to provide *legitimacy*); and

d. third parties do not suffer (if b-d are fulfilled, one can expect the agreement to be *fair*); and

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[168] del Castillo, G. (1997): "The arms-for-land deal in El Salvador." Ch. 14 in Doyle et. al.: *Keeping the peace,* p.359.

[169] "Empty" is not the way Underdal intended this category to be interpreted. Rather, this is a residual category for cases that are empirically difficult to find.

e. the final agreement contains provisions for future conflict management - because "peace settlements, no matter how precisely worded, are not comprehensive instruction manuals providing specific (let alone wise) answers to hundreds of questions that arise each week" (Hampson 1996:24-25).

I define these criteria as necessary conditions for the complete success of peacemaking, and sufficient when combined. As to their relative weight, I find it safe to assume that this depends on the type of conflict, but c) is perhaps less important than the others. It might not matter that much if not all relevant parties *actually* have participated in crafting the agreement, as long as - to paraphrase Kant – it is conceivable that all relevant actors can and will give their *possible* consent. On a basic level, naturally, success can be seen as a product of *consent,[170]* but approval does not "[demarcate] the safe and acceptable from the dangerous and illegitimate. Peace treaties may themselves depend on prior sanctions, threats of sanctions, or loss of aid, all imposed by the international community".[171] We must, once again, balance the need of insistence on *objective* criteria (of e.g. fairness) with the parties' *subjective* preferences regarding the outcome. This said, the details of the Chapultepec Accords can now be critically judged according to our 5 conditions for a *complete* success.

6.2.0 Evaluation of the Chapultepec Accords

6.2.1 Armed Forces and National Civil Police

On the positive side, we must of course mention that the Chapultepec Accords brought the armed conflict itself to an end (the first purpose of the talks), and civil war does not seem likely to recur. The military was reduced in size and its role redefined:

> As a State institution, the armed forces play an instrumental, non-decision-making role in the political field. Consequently, only the President of the Republic and the basic organs of government may use the armed forces to implement the provisions they have adopted. (…) The maintenance of internal peace, tranquillity, order and public security lies outside the normal functions of the armed forces as an institution responsible for national defence. The armed forces play a role in this sphere only in very exceptional circumstances, where the normal means have been exhausted, on the terms established in the constitutional reform approved in April 1991. (Chapultepec Accords, Chapter I, art.1D and 1F)

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[170] Doyle, Johnstone and Orr (1997): "Strategies for peace: conclusions and lessons." Ch. 15 in Doyle *et. al.*: *Keeping the peace*, p.375.
[171] *ibid.*

The amended constitution forbids military courts from trying civilians accused of political crimes and having jurisdiction when the victim of a crime is a civilian. However, the accords do not mention, for instance, the question of "active-duty military officers' heading state enterprises or agencies".[172] Therefore, services such as telecommunications, water, ports, customs, and the post office continued to operate as they had under military leadership.

Article 9 of chapter 1 (Chapultepec Accords) is titled *Subordination to civilian authority*, and reads: "The President of the Republic, in exercise of the power of discretion conferred on him by the Constitution, may appoint civilians to head the Ministry of Defence. In any case, appointees must be persons fully committed to observing the peace agreements." The Accords do not explicitly call for the appointment of a civilian as Minister of Defence, a "key element in insuring civilian supremacy".[173] Confronted with this criticism, Alvaro de Soto told me that the FMLN originally demanded a civilian as Minister of Defence, but that they

> agreed not to press it when a member of the government delegation (David Escobar Galindo, the intellectual leader) argued that they wouldn't be gaining much from it -- he pointedly observed that there were civilians who would be candidates for the job who would be far worse than some of the military. The issue became moot with the constitutional and other reforms, including the rewriting of the armed forces doctrine, which effectively transformed the military. It's fair to say that the military are in some ways the institution that changed the most and that has best implemented the peace accords.[174]

Furthermore, the abhorred security forces were dissolved and a civilian police deployed throughout El Salvador, making human rights abuses decline. Chapter 2 of the Accords provide fairly extensive guidelines for the National Civil Police – both in terms of its doctrine, functional and territorial structure and personnel (their profile, education and general requirements for admission). It is an unquestionable positive consequence of the accords. The country's police were once so poorly trained, corrupt and violent that most Salvadorans routinely avoided them, even when they had nowhere else to turn. The new National Civil Police ("The New Good Guys"[175]) are not under army command, and their composition – 20% former guerrillas, 20% former

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[172] Kincaid, A. Douglas (2000): "Demilitarization and security in El Salvador and Guatemala: Convergences of success and crisis." *Journal of Interamerican Studies and World Affairs*. Vol.42, no. 4, p.44.

[173] Walter, K. and Williams, P.J. (1993): "The Military and Democratization in El Salvador." *Journal of Interamerican Studies and World Affairs*. Vol.35, no. 1, p. 67.

[174] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. (See Annex II, answer no.4; as well as Annex I, question 4)

[175] Brauer, J. *et.al*. (1995): *On your own in El Salvador*. OYO Publications, USA, p.70.

police members and 60% civilians – helps ensure that they are not partial to any special political wing. Members also have to undergo a psychological exam intended to weed out those unsuited.

> Personnel of the National Civil Police must have a vocation of service to the community, a capacity for human relations and emotional maturity, and the conduct and physical condition required to serve as a police officer. They must also be suited to serving in a police force which is designed, structured and operated as a civilian institution with the purpose of protecting and guaranteeing the free exercise and combating all types of crimes; and maintaining internal peace, tranquillity, order and public security They must also be able to adjust their conduct satisfactorily to the doctrine and legal regime of the National Civil Police. Both admission to the National Public Security Academy and final admission to the police force shall require checking the profile of candidates. Specific evaluation criteria shall be established for this purpose, with rigorous standards set for each level of responsibility. (Chapter 2, art. 4A, a.)

On the positive side, we must also mention that the FMLN was legalized as a (socialist) political party. It quickly became the second political force in the country, and in the legislative elections of March 2000,[176] FMLN won the *plurality of seats* (31), while ARENA got 29 and Party of National Conciliation (conservative) won 13. The accords also established a human rights ombudsman (widely respected by the population), the formation of a truth commission and introduced judicial and agrarian reforms. The third purpose of the talks (guaranteeing unrestricted respect for human rights) is closely related to the second purpose (democratization). The separate San José Agreement on human rights, combined with the training and work of the new National Civil Police and the human rights ombudsman specifically aim at fulfilling this purpose. Before critically evaluating the agrarian and judicial reforms as well as the truth commission, and whether or not the fourth purpose was sufficiently addressed, however, it is necessary to point to a feature of the institutional setting which calls for criticism:

6.2.2 Institutional Setting

The Geneva Accord stated:

> The Government of El Salvador and FMLN agree that *the political parties and other existing representative social organizations in El Salvador have an important role to play in achieving peace.* In the same way, they recognize the need for both the Government and FMLN to maintain adequate and standing information and consultation mechanisms with these parties and social organizations in the country and that the latter must undertake to ensure the necessary confidentiality for the success of the dialogue process (my emphasis).

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[176] The Legislative Assembly has 84 members, elected for a three-year term, 64 members in multi-seat constituencies and 20 by proportional representation.

The negotiations, in spite of this, took place in isolation from other actors within the country, almost exclusively between the two parties. The lack of participation from civil society in the Salvadoran peace process is considered both by analysts and by members of Salvadoran society to have been a significant weakness – a weakness largely due to the closed nature of the negotiations. In order to assure the implementation of the accords, it is necessary to include the majority of the population and key governments interested in obtaining a durable peace.[177] As such, the process does not fulfil criterion **c)**, i.e., all relevant parties should craft the peace agreement (to provide *legitimacy*). According to Susan D. Burgerman,[178] the FMLN initially tried to install a parallel-negotiating-table system, but the government rejected this. Instead, the FMLN took advantage of the "framework accord's provision to create permanent mechanisms for indirect participation of political parties and other civil sectors". Members of the FMLN delegation held official meetings preceding every round with labour leaders, political parties, church representatives, and human rights organizations in order both to get their recommendations and to inform them of the results of each round. Alvaro de Soto attempted to balance the need to "build constituency" for the negotiation process – to give members of society the sense of being involved – with the need for confidentiality, by meeting with sectoral representatives. As already pointed out, however, issues vital to popular sectors, especially labour rights and land reform, were sacrificed to the strategic interests of the parties themselves.

> It is ultimately the interests of civil society that are at stake in settling an internal conflict whose origin lies in the perception of social injustice. Popular involvement in peace talks ensures that relevant sector's substantive proposals are seriously considered, but it is of equal importance that, if ignored during negotiations, organized members of civil society can be either apathetic or downright obstructionist during the implementation process.[179]

The UN learned from the Salvadoran experience, and cooperated more directly with civil actors in Guatemala.

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[177] Moreno, Rafael (1994): "El Proceso de Negociación Salvadoreño desde la Perspectiva del FMLN." Paper presented at "*Seminario Internacional sobre Negociación de Conflictos Armados"*, 27-29 October. At: www.cepaz.org.sv/cepaz98/rafael1.htm

[178] Burgerman (2000): "Building the peace by mandating reform – United Nations-mediated human rights agreements in El Salvador and Guatemala." *Latin American Perspectives*. Vol. 27, no. 3, p.79.

[179] *ibid*.:80

6.2.3 Land reform

During the talks that led to the Peace Agreement, negotiators had reached only broad understandings on land issues, leaving details to be worked out during the implementation process. Thus, in mid-1992, the parties were forced to deal with the subject again, in an increasingly charged environment (UN Blue Book 1995:27). After all, the land issue was one of the main causes of the armed conflict. As such, the Chapultepec Agreement does not entirely fulfil criteria **a)**. One purpose of the negotiations was to *promote the democratization of the country*. In terms of democratization, not providing for a fair distribution seems like a serious flaw. The Accords stated that the land-tenure situation in the "conflict zones" would be respected "until a satisfactory legal solution for the definitive land-tenure system" was reached. It also said that landholders would not be evicted. The government should seek to "acquire and transfer through the Land Bank lands *voluntarily* offered for sale by their owners" to the State. The lands should be "transferred at *market prices*" (emphasis added). From a normative viewpoint, this is clearly inadequate. Even though "a system of payments may be established on the basis of a fixed price and long-term financing at low, fixed interest rates not subject to interest capitalization", the agreement does not aim at effectively removing the main cause of conflict. Of course, forcing landowners to hand over lands would not have worked smoothly. In either case, not laying a solid foundation for removing the main cause of conflict makes the accords unstable *per se* – thus also violating criteria **b)** as well as **d)** (fairness). A U.S. official stated in an interview with J.K. Boyce[180] that the government made land transfers complicated because they did not want to give the opposition a gift. And the U.S. was not "in any mood to force the government into a land give-away program" because that would "smack of subsidies. And to a lot of people on Capitol Hill, land reform is a dirty word." The result was a land transfer program "doomed to failure because, quite simply, it is designed to fail".

As seen in chapter 4, the FMLN agreed that economic policy should be set by whoever was legitimately elected. In this case, the best could perhaps be regarded the

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[180] Boyce, James K. (1995): "External assistance and the peace process in El Salvador." *World Development*, vol. 23, no. 12, pp. 2112-2113.

enemy of the good. It could be that the FMLN did not want to spend time arguing over the issue with the government team if they counted on winning the next elections. Irrespective of this, when it is clear that socio-economic issues are going to be part of the peace agreement, it is – as various observers and scholars have argued – essential to bring into the process the international agencies and organizations that will have responsibility for funding reconstruction and reforming or creating new institutions. Who will pay should be addressed in the negotiations, and not be left to the implementation phase. When the UN got engaged in the peace negotiations, it did not think to consult the IMF or the World Bank.[181]

Coleman (1993:28), Hampson (1996:155) and Wilkins[182] claim that verifying implementation of the provisions (stating that the current land-tenure situation would be respected in former conflict zones) faced difficulties because the peace agreement fails to define "conflict zones". In February and March 1992, tensions rose in the countryside after various peasant groups seized properties, only to be evicted by security forces. I do not, however, understand this criticism. Should it not be intuitively evident to all Salvadorans – after 12 years of war – what "conflict zones" meant? Is it not more likely that peasants seized properties because they simply thought it fair, because they had expected more, and that they would have done so no matter what the accords specified since the poor peasants themselves did not sign the agreement? Surely, the design of an agreement is crucial to its implementation. The question here is if defining conflict zones really would have made an important difference. I asked Alvaro de Soto if he thought this criticism was fair. He answered:

> I don't recall the absence of definition of what constituted the conflict zones having constituted an issue either in the negotiations or in the subsequent implementation of the agreements.[183]

Alvaro de Soto has personally been in El Salvador several times to oversee implementation of the agreements (peacebuilding phase), so he ought to know if this was/is a real problem. Of course, there is a slight possibility that he does not want to accept any blame, or – perhaps more likely - that he finds the criticism of minor

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[181] de Soto, Alvaro and del Castillo, G (1994): "Obstacles to Peacebuilding." *Foreign Policy* 94, p.76.
[182] Wilkins, Timothy A. (1997): "The El Salvador Peace Accords: using international and domestic law norms to build peace." Ch. 11 in Doyle et. al.: *Keeping the peace,* p.275.
[183] de Soto, Alvaro (2001, July 30). Re.: The UN as peacemaker in El Salvador [E-mail to Rune Baklien] [Online] – Available by e-mail at: runeba@student.sv.uio.no. (See Annex II, answer no. 3)

importance and therefore does not want to spend time on it. In any case, no matter who we believe, this particular criticism does not seem as powerful as that of the peace agreement's chapter on judicial reform, to which we now turn.

6.2.4. Judicial reform

The weakest and most criticized part of the Chapultepec Accords relates to the judiciary. Although the Mexico Agreements noted that "the set of political agreements on the judicial system envisaged by the Parties in the Caracas Agenda has still to be negotiated", further agreements were never discussed. The final peace agreement only includes a one-page chapter on the judicial system reaffirming that, as agreed in the Mexico Agreements, the composition of the National Council of the Judiciary "shall be such as to guarantee its independence from the organs of the State and from political parties and its membership shall, as far as possible, include not only judges but also sectors of society not directly connected with the administration of justice". No specific procedures are established for the democratization of the judiciary. Far more was done to limit the role of the armed forces. As Holiday and Stanley[184] correctly point out, the reforms leave untouched the extremely hierarchical structure of the courts that enables the Supreme Court to control the jurisdiction, legal decisions and administration of all lower courts. The creation of the National Council of the Judiciary was one of the few items agreed upon, but the National Assembly approved a council that is elected by the assembly, which thus risks politicizing it.[185] In chapter 4 we saw that when the constitutional reforms were being negotiated in April 1991, the FMLN did not want to risk the Supreme Court declaring the package unconstitutional, thus lowering their demands. To obtain more provisions and stronger language in the constitutional reform related to the military, the FMLN made greater concessions with respect to the judiciary. Alvaro de Soto has attributed this to the parties' mutual fear of Supreme Court president Gutiérrez Castro, who rejected the possibility of further reforms and maintained that the negotiators were trampling on the constitution (Popkin

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[184] Holiday, D. and Stanley, W. (1993): "Building the Peace: Preliminary Lessons From El Salvador." *Journal of International Affairs* 46, no. 2 (winter 1993), p. 424.

[185] Bland, Gary (1993): *Conference Report: El Salvador: Sustaining Peace, Nourishing Democracy.* Washington, D.C.: Woodrow Wilson Center. Latin American Program, WOLA, p.33.

2000:103). Gutiérrez Castro, who has been linked to individuals active in death squads, was named president of the Supreme Court in June 1989. He expressed that the peace accords did not apply to the judiciary, since only the executive branch of government and the FMLN signed them. In his words, only God could remove him from his position. The modest results, then, probably reflect the political realities at the time. Bargaining essentially entails compromises. As time passed by, the FMLN had realized that they could not fulfil all their aspirations. Wanting to reach a final agreement before Pérez de Cuéllar's tenure as Secretary General ended, the FMLN's satisfaction level (cf. figure 3.1) had probably moved closer to its BATNA. Needless to say, the Chapultepec Agreement does not completely fulfil criterion **a)**. The Truth Commission, though, picked up where the negotiations had stopped.

6.2.5 Truth Commission

The objective of the Truth Commission, as set out in the Mexico Agreements, was to investigate "serious acts of violence that ha[d] occurred since 1980 and whose impact on society urgently require[d] that the public should know the truth". As such it was supposed to assist the transition to national reconciliation, the fourth purpose of the peace process. Composed of three foreign individuals (Belisario Betancur, former president of Colombia, Reinaldo Figueredo, former foreign minister of Venezuela, and Thomas Buergenthal, U.S. law professor and former president of the Inter-Amerian Court of Human Rights), the commission could gather information by any means deemed appropriate, interview anybody, and visit any place freely. It was authorized to recommend "binding" (in the sense that both parties had agreed that they would carry them out) legal, political, or administrative measures following its investigations, but it was expressly forbidden from functioning as a judicial body. *Article 5* (chapter 1) of the Chapultepec Agreements also stated that impunity (freedom from punishment) needed to be ended, and to that end, the parties referred this issue to the Truth Commission for "consideration and resolution".

When the Truth Commission began its work in July 1992, it first had to establish a methodology. "To alleviate the fears of potential witnesses and consistent with its nonjudicial character, the commission decided it was neither necessary nor

appropriate to grant full due process rights to each accused wrongdoer." (Johnstone 1995:35). Nevertheless, the commission felt it had no alternative but to name individuals in its report (a document of over 200 pages plus annexes of several hundred pages). As such, the Truth Commission went further than the Sábato report on disappearances in Argentina and the Rettig report of the Truth Commission in Chile, which did not include names. In the words of Carlos Chipoco, who served as director of research for the Truth Commission in El Salvador and investigated the Jesuit case:

> Why then reveal the names of people who committed crimes in the case of El Salvador? We discovered that some of these people still held important political and institutional positions and could exercise or were exercising power. Therefore, it was necessary to show this to the Salvadoran society. If this situation was to continue, it had to be sanctioned by Salvadoran society. Salvadorans needed information on which to base such a decision, and one of the pieces of information was the names of the people who had made mistakes. (in Bland, Gary (1993): *Conference Report: El Salvador: Sustaining Peace, Nourishing Democracy*, p.36)

The Truth Commission's report stated: "*Not to name names would be to reinforce the very impunity to which the Parties instructed the Commission to put an end.*"[186] The commission argued that this approach protected institutions and punished criminals. Most of the information the commission obtained was handled confidentially, without revealing the source. The commission took this approach in order to reduce the likelihood that those responsible for the acts of violence, or their defenders, would be able to identify the sources of information.

The main limitation the commission faced was *time*. Under the peace accord, the commission was to work for only six months on a report covering a period of more than a decade. The commission registered over 22.000 complaints of serious acts of violence that occurred between January 1980 and July 1991. Over 60% of the complaints concerned extra-judicial executions, over 25% concerned forced disappearances, and over 20% concerned complaints of torture. Armed forces personnel were accused in almost 60% of the complaints, members of the security forces in approximately 25%, members of military escorts and civil defence units in nearly 20%, and members of the death squads in more than 10% of the cases. The complaints registered accused FMLN in approximately 5% of the cases.[187] The Truth

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[186] *From Madness to Hope* – Report of the Commission on the Truth for El Salvador. 15 March 1993. (UN doc. S/25500.), p.300 in United Nations (1995): *The United Nations and El Salvador 1990-1995*.
[187] *ibid.,* p.311.

Commission's report described in detail 30 cases, chosen to illustrate the pattern of violence on both sides. Given the short period of time for its investigations, the commission focused on (1) individual cases that "outraged Salvadoran society and/or international opinion" and (2) series of cases revealing a "systematic pattern of violence or ill-treatment".

Although the report did not shed much new light on the cases (such as the murder of Archbishop Romero in 1980, the massacre of 500-1000 people at El Mozote in 1981, the murder of the Jesuit priests, their cook, and her daughter in 1989), debate on their veracity and who was responsible finally ended, by giving them "the stamp of official acknowledgement" (Johnstone 1995:36). More important were the many recommendations that the Truth Commission made (chapter V of the report). These included:

- Dismissal from the armed forces or civil service of all persons named in the report
- Disqualification from holding public office for at least 10 years of all those named in the report
- *Resignation of all members of the Supreme Court*[188]
- Deconcentration of the power of the Supreme Court by removing from it responsibility for appointing and removing judges, licensing and disciplining lawyers, and dismissing members of the National Council of the Judiciary (the body responsible for nominating judges)
- An investigation of "private armed groups" (a euphemism for death squads)
- Institutional reforms to prevent the repetition of such acts the commission had investigated
- Material and moral compensation to all victims of human rights abuses
- A Forum for Truth and Reconciliation (entrusted primarily to COPAZ)
- International follow-up

It was not within the commission's power to impose penalties on those responsible because it did not have judicial functions. As stated in the report, released on March 15 1993:

> [T]he judiciary is still run by people whose omissions were part of the situation which must now be overcome, and there is nothing to indicate that their customary practices will change in the near future.

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[188] The Supreme Court was described as a "contributing factor to the tragedy that the country has suffered". As a case in point, one judge permitted Lt. Lopez Sibrian – involved in the 1981 killing of Rodolfo Viera, head of the Salvadoran agrarian reform agency – to change his appearance to prevent witnesses from identifying him in a line-up. Popkin, M. (1993): *Justice Impugned: The Salvadoran Peace Accords and the Problem of Impunity*, p.3.

These considerations confront the Commission with a serious dilemma. The question is not whether the guilty should be punished, but whether justice can be done. Public morality demands that those responsible for the crimes described here be punished. However, El Salvador has no system for the administration of justice which meets the minimum requirements of objectivity and impartiality so that justice can be rendered reliably (in UN Blue Book, 1995:381).

The government's reaction to the report was generally negative. Two of the principal negotiators of the accords called it biased and in excess of the commission's mandate (Johnstone 1995:37). Santamaría, who headed the government's negotiating team, even termed the report "an insult to Salvadoran society … and very explosive" (Popkin 2000:121). The members of the Supreme Court said that they did not intend to resign.[189] President Cristiani also accused the commission of exceeding its authority and claimed that the report "[did] not respond to the wishes of the majority of Salvadorans who [sought] to forgive and forget everything having to do with that very sorrowful past" (*ibid.*). Five days after the commission's report was issued, the government promulgated a *general amnesty law* calling for the "extinction of both criminal and civil liability" (Popkin and Bhuta 1999:105).[190] Nor was the FMLN entirely satisfied with the report. In a letter to the Secretary General, the coordinator-general of the FMLN stated that, notwithstanding a number of reservations, the FMLN accepted responsibility for the events reported and promised to fulfil the recommendations in the report. However, the FMLN conditioned its compliance on compliance by the government, and the leader of the one FMLN faction specifically named in the report, Joaquín Villalobos of the ERP (see 2.2), called the 10-year ban on

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[189] In 1994, a new Supreme Court was in deed selected, but as of March 1995 it had only removed or suspended 11 of the country's 600 judges. The justices themselves defended the slow pace, arguing that in a democracy it is important to proceed with due process. They also maintained that the very process of evaluation had led most judges to improve their performance out of professional pride. (O'Shaughnessy and Dodson (1999): "Political Bargaining and Democratic Transitions: A Comparison of Nicaragua and El Salvador." *Journal of Latin American Studies*, 31, p.108.

[190] "In some circumstances, it may be necessary to sacrifice justice for social peace, but the trade-off must be implemented in a way that is acceptable to society as a whole, including the victims of injustice" (Johnstone 1995:43). For survivors of severe human rights abuses there is an intimate correlation between rehabilitation and moral compensation, a central recognition reiterated, among many, by the Chilean human rights organization CODEPU and Paz Rojas Baeza, who was granted The University of Oslo's Price for Human Rights in March 1999. On 18 March 2000, I had the chance to talk to the present Costa Rican ambassador to Norway, H.E. Dr. Manuel A. Constenla. Being a diplomat with considerable knowledge on Latin America, I asked him of his opinion regarding the existence of amnesty laws. In general, he meant they were *decisive* for democratic transitions, and that people had to understand - no matter how much it hurt their feelings – that they were the only realistic means of achieving a "peaceful" transition. In his view, democracy had to be promoted by other means, though he did not state which ones. (see Baklien, R. (2000a): "What is the impact of impunity on democracy in Latin America, and how has the problem of impunity been addressed?" University of Oslo. Paper, p. 4f).

holding public office "absurd and ridiculous" (Johnstone 1995:37). Dealing with impunity, and thereby attempting to reunify society, has consequently been very difficult. Without in any way negating the effects that some of the Truth Commission's recommendations may have had, Popkin (2000:162) argues that their report did not – and probably could not – fulfil the ambitious agenda established in the peace accords. In this respect, she says, El Salvador offers an example to be avoided: "The refusal to come to terms with the past, even in an exemplary fashion, or to provide any redress for victims and their families has not helped to end impunity, establish the rule of law, or promote reconciliation. Instead it has left victims and their relatives without recourse."[191] (Also, to the disappointment of many observers, the commissioners determined that their mandate did not include addressing US responsibility for training and supporting the abusive Salvadoran military.)

6.3. Overall assessment of the Chapultepec Agreement

The final peace agreement only partially fulfils the **first** criterion for a peacemaking phase. The process ended the civil war. The agreement does not, however, establish sufficient mechanisms for democratizing the country and reunifying Salvadoran society, a problem that necessarily has repercussions for the peacebuilding phase. On the other hand, the accords *do* guarantee unrestricted respect for human rights. The Chapultepec Agreement addresses or mentions all problems, but does not resolve them all. Consequently, criterion **(b)** is not fulfilled entirely either. All relevant parties did not craft the agreement (not fulfilling **(c)),** and since socio-economic and judicial reforms are negligible, the agreement cannot be regarded completely fair **(d)** either. As regards the fifth **(e)** and final criterion, i.e., that the agreement should contain provisions for future conflict management, I believe this one is fulfilled. The FMLN is incorporated into ordinary politics and disputes are, of course, to be resolved by political negotiations. Civil and political rights are granted everyone, thus people are

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[191] The South African Truth and Reconciliation Commission, established in 1995, managed to go further than any other in its work to establish the complete truth. Well funded and initially authorized to operate for two years, is held public hearings throughout the country. The provision for amnesty, which required full disclosure by those requesting its protection, encouraged many of those involved in violent acts to come forward. In South Africa, in contrast to most of Latin America, the carrot of amnesty accompanied the stick of a real possibility of prosecution. Those who did not seek amnesty during the relevant period, as well as those who were denied amnesty by the Commission, could – at least in theory – face prosecution. (Popkin 2000:116)

allowed to state their opinions freely – written as well as orally - without having to suffer any consequences. Since the final peace agreement, strictly speaking, does not fulfil 4 out of the 5 criteria we are forced to conclude that the peacemaking phase is not a complete success. Despite that, I still regard the process more of a success than a failure. The criteria are intertwined, and we could ask "how much" of them that are fulfilled. Ending the war and completely restructuring the armed forces could be regarded a bigger achievement than not adequately laying the foundation for national reconciliation. If so, criterion (a) is still "more" fulfilled than not. Nothing said herein contradicts Juhn's (1998) wording of "the most successfully negotiated settlement in recent history". Compared to the general trend, the Salvadoran peace process is clearly more successful. It is a "negotiated revolution" since it ended the war and legitimized the FMLN as a political actor – thus opening the system for political opposition. But it is a partial success since the process does not change the disproportionate distribution of wealth and income – one of the principal causes of the conflict. And, as pointed out, the agreement on judicial reforms is almost not any agreement at all.

CHAPTER SEVEN: CONCLUDING REMARKS

Peace is not an absence of war, it is a virtue, a state of mind,
a disposition for benevolence, confidence, justice.
- Baruch Spinoza

In this dissertation I have attempted, by means of available data, to (1) answer *how* the UN contributed to a peaceful settlement in El Salvador and, as an extension of this question, (2) *why* agreement between the parties in conflict was achieved. A case study of the role of the UN in El Salvador seemed relevant because empirical studies of third-party mediation have been very rare, and because the UN helped ending a civil war – an outcome too seldom experienced by suffering populations.

Guided by Bercovitch and Houston's non-recursive contingency model of mediation (1995/2000), I explored the interaction between context and process: how qualities of the mediator, the parties, the dispute, the international system and the institutional setting affected the mediation process, as well as how variables inherent to the mediation process affected the context and outcome. For each variable I related the empirical findings to theoretical assumptions by means of a pattern-matching logic. Peace was achieved in El Salvador due to a combination of opportune factors (hard to replicate), "clever" mediation leadership, and external pressure and support. The Salvadoran civil war was largely one-dimensional, with few reinforcing cleavages. The parties had reached a mutually hurting stalemate that had made them welcome an active role by the UN. There were, moreover, no cultural, ethnic or religious cleavages to exacerbate the socio-economic dispute. There were no profitable commodities that lent themselves to becoming a factor in prolonging the war, such as diamonds have in Angola. There were no secessionist claims threatening the state. The rebels, on the contrary, only demanded to be accepted as a legitimate actor within the political system. Top UN-envoy, Alvaro de Soto, profited from his long experience as a mediator. Sharing the same culture and religion as the parties, and with extensive knowledge and understanding of the conflict, he also gained high legitimacy. By 1990, the United States changed its position from opposing any mediation efforts to supporting a negotiated settlement. This happened *not* as a direct result of the end of the Cold War, but because they had no further incentives to obstruct a peace settlement. The Sandinistas had lost the elections in Nicaragua, The US had invaded

Panama and the Bush administration had replaced the ideological Reagan team – all irrespective of Gorbatchev's "glasnost" and "perestroika". Perhaps there was also an increasing understanding that, as David Borenstein has expressed: "One cannot subdue a man by holding back his hands. Lasting peace comes not from force."

Having scrutinized a particular case, I then (3) outlined five normative criteria for the complete success of a peacemaking phase and evaluated the peace agreement according to these. I concluded that the peace agreement could not be regarded a complete success. The resulting peace agreement did not fulfil all of the official purposes of the negotiations, such as laying a solid foundation for democratizing the country (the socio-economic structure remained intact and the lack of judicial reform perpetuated impunity). Neither did all relevant parties participate in crafting the peace agreement. Nevertheless, the mediation process and its resulting agreements evidently display more "successful" characteristics than many other attempts to resolve internal conflicts.

ANNEX I: E-MAIL TO UN-MEDIATOR ALVARO DE SOTO (Sent 29 July 2001)

Dear Mr. Alvaro de Soto,

Tricia Juhn was kind enough to forward me your e-mail address, fax and phone number some time ago.

I am writing to you from the University of Oslo (Norway), where I am currently working on my dissertation in political science – to be kept at the university's library. My working title is: "The role of the United Nations as a peacemaker in El Salvador between 1990-1992." I speak Spanish and have, as part of my studies, taken courses on Latin America, democratization in developing countries, international negotiations as well as debate theory and negotiation theory.

Empirical case studies of third-party mediation have been very rare, although increasing. The fact that the Chapultepec Accords were called a "negotiated revolution" (Karl) and "the most successfully negotiated settlement in recent history" (Tricia Juhn), made me interested in the Salvadoran case. Last year I wrote an article (not published) on decentralization and the development of "social capital" in El Salvador, which furthered my interest for this tiny country. According to Stephen Stedman, out of a total of sixty-five cases of civil war in the period from 1900 to 1989, only six were terminated through international mediation. El Salvador thus seemingly belongs to a rare category, deviating from the general trend (civil wars ending with extermination or capitulation of one side).

I am addressing this letter to you because I would like to ask you, Sir, a few questions relating to the negotiation process – if possible. I am aware that you have written articles on the UN's role in El Salvador (such as "Ending Violent Conflict in El Salvador" (1999), published in *Herding Cats*, and "Obstacles to Peacebuilding." (1994) in *Foreign Policy*), and that you have given several interviews. Of course, your articles were most informative, together with several other publications and reports on the role of the UN in El Salvador. Nevertheless, I have taken the liberty to ask the following questions: (If you do not have time to write back, then perhaps I could call you at a time convenient for you?)

1. ***Besides* the fact that the conflict reached a "mutually hurting stalemate", "ripe" for resolution - do you locate any other independent variables that set El Salvador off from the general trend (i.e. civil wars most often ending in capitulation or extermination)?**

2. Relating to the FMLN's handling of economic and social questions, you write in your article "Ending Violent Conflict…" (p.362): "The FMLN, whether because of factional divergences, lack of expertise, or a sober appraisal of political realities, left the examination of these root causes for a late stage; (…) Instead, it substantially lowered its sights, and the economic and social question metamorphosed at the eleventh hour into a hastily crafted arrangement on reintegration of combatants and their supporters."
Notwithstanding the political difficulties, could you tell me if the UN in any of its single negotiating texts tried to incorporate provisions for addressing/combating the root causes of the socio-economic polarization in general, but that were subsequently refused by the GOES?

3. The peace accords stipulated that, pending agreements on various issues, the current land-tenure situation would be respected in former conflict zones and that current landholding occupants would not be evicted. The final peace agreement has been criticized for not defining "conflict zones". **Do you think this criticism is fair, when – after all – this should be intuitively evident after 12 years of war?**

4. Also, the accords have been criticized for not calling for the appointment of a civilian as Minister of Defense. **Do you think this criticism is fair, when the accords stipulate that the President *may* (podrá) appoint civilians, and that, in any case, appointees must be persons fully committed to observing the peace agreements?**

5. Some say that it would have made more sense if the judicial reforms were part of a *separate* agreement, as in the case of human rights. **Do you agree that this would have been better? If so, why? And if so, why was this not done or possible to do?**

6. T.A. Wilkins (p.278 in Doyle, *et.al.*: *Keeping the Peace*) argues that having the "Friends" sign the Accords would have created two benefits. First, it would have raised the Friends' commitments to further the peace process, in terms of technical training and development assistance, to the level of legally binding obligations. Second, the agreements would then fall under the definition of a treaty – an agreement between states governed by international law. **Was this at any time discussed within the UN?**

7. And just out of curiosity: **Approximately how many single negotiating texts were needed before the parties signed the Chapultepec Agreement?**

Thank you very much for your time, Mr. de Soto, and good luck in Cyprus!

Yours sincerely,

Rune Baklien
Department of Political Science
University of Oslo, Norway.

Annex II: Answer from Mr. Alvaro de Soto (30 July 2001)

Here goes, right off the top of my head:

1. If I understand your question correctly, I suppose the key answer is that the FMLN's insurgency was by and large genuinely politically motivated. i.e., they rose up in arms because there was no other way to get a hearing for their grievances. Another point is that -- as opposed to e.g. Colombia or Angola, there was no profitable commodity that lent itself to becoming a factor in prolonging the war -- i.e. the drug trade and diamonds. Also, while the guerrillas were motivated, the lives they led were tough, and hardly enjoyable over time.

2. (bis). No. At a point in mid-1991, months before the question was even addressed in the negotiation, the FMLN conceded that economic policy should be set by whoever was legitimately elected. Perhaps because they couldn't agree amongst themselves, they never put forward any proposals for systemic change or to address root causes. Their claims boiled down to two areas: minimal conjunctural steps to address social unrest, and steps for reintegration into society of former combatants and their supporters.

3. I don't recall the absence of definition of what constituted the conflict zones having constituted an issue either in the negotiations or in the subsequent implementation of the agreements.

4. The FMLN originally demanded this, but they agreed not to press it when a member of the government delegation (David Escobar Galindo, the intellectual leader) argued that they wouldn't be gaining much from it -- he pointedly observed that there were civilians who would be candidates for the job who would be far worse than some of the military. The issue became moot with the constitutional and other reforms, including the rewriting of the armed forces doctrine, which effectively transformed the military. It's fair to say that the military are in some ways the institution that changed the most and that has best implemented the peace accords.

5. In preparation for our (the UN's) substantive contribution to the negotiation concerning the judiciary, we had a brainstorming session in 1990 (similar to the one on human rights in the first half of the year) where we concluded that the work to be done was monumental, and that it would take perhaps decades to fix the judiciary. When the constitutional reforms were being negotiated in April 1991, the government persuasively argued that if the judiciary were tampered with excessively, there was a serious risk that the Supreme Court would have declared the whole package unconstitutional, thus endangering the peace accords as a whole. The FMLN agreed, hence the somewhat modest results. However, the Commission on the Truth did its homework and, with its power to lay down binding recommendations, filled many of the lacunae left in the negotiation.

6. The idea never came up. It would have been unthinkable. The government would not have countenanced anything that brought the peace accords to a treaty level. They were always meant to be political agreements. Furthermore, it would have been very difficult to persuade the 'friends' to co-sign a treaty between a government and a guerrilla coalition which would have been tantamount to granting the guerrillas recognition of belligerence. Even the Mexicans, who had in the Franco-Mexican declaration of 1981 labelled the FMLN as a valid political interlocutor, would have balked at that. Imagine what Subcomandante Marcos would have made of it -- not to mention the FARC and the ELN.

7. It wasn't quite as methodical as that. The issues were discussed in sequence, and the armed forces took up most of the time. There were a good dozen readings -- oral -- of the armed forces question before we produced the first working paper in late October 1990. The first attempt at sewing several issues together was in the April 1990 constitutional reform negotiation, where we submitted a comprehensive working paper before recessing around the middle of the month.

Terry Karl and I spoke at great length when she was writing her foreign affairs article. Actually, I was quoted in print using the expression "negotiated revolution" in the New York Times, the day after the accords were initialed, and subsequently in James LeMoyne's cover story in the New York Times Magazine about the FMLN, both of which preceded Terry's article.

Best of luck

Alvaro de Soto

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