



# General Assembly

Distr.: General  
25 July 2012  
English  
Original: English/Spanish

---

## Human Rights Council

Working Group on the Universal Periodic Review

Fourteenth session

Geneva, 22 October–5 November 2012

### **Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21**

#### **Guatemala\***

The present report is a summary of 30 stakeholders' submissions<sup>1</sup> to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in resolution 16/21 of the Human Rights Council, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

---

\* The present document was not edited before being sent to United Nations translation services.

## **I. Information provided by the accredited national human rights institution of the State under review in full compliance with the Paris Principles**

### **A. Background and framework**

1. According to the Guatemalan Human Rights Advocate, Guatemala is required, on ratifying international instruments, to take the necessary steps to align its legislation and institutions with the instruments concerned, to ensure their implementation and to allocate the requisite budgetary funds.<sup>2</sup>

### **B. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

2. According to the Advocate, the party that won the presidential elections disseminated the idea of reactivating the death penalty during the campaign, a position that is contrary to UPR recommendation No. 14.<sup>3</sup> As a result of its high homicide rates, Guatemala is ranked as one of the most violent countries in the world. Between 2007 and 2011 a total of 30,212 homicides were recorded; 83 per cent of the homicides were committed with firearms, the vast majority of which were unregistered. Deaths by lynching have also been on the increase. The Advocate considers that a fundamental restructuring of the justice system is required, since in 2008 less than 2 per cent of homicides led to a conviction. The crime networks involved in drug trafficking have a major impact on the homicide rate and thwart the State's ability to provide security.<sup>4</sup>

3. With regard to the UPR recommendations concerning the implementation of the Law against Femicide, the Advocate stated that, notwithstanding the enhanced legal protection, the phenomenon continued unabated between 2007 and 2011. The Advocate was informed of 3,272 cases of violent deaths of women; 618 of the cases had led to convictions. Lesbian, gay, bisexual, and transgender (LGBT) persons had also been victims of violence.<sup>5</sup> There had been many victims of domestic violence, mostly children; and the number of trafficking victims had increased by 44 per cent in the previous two years.<sup>6</sup>

4. The Advocate stated that the definition of the crime of torture fell short of international standards<sup>7</sup> and that the prison system was characterized by subhuman conditions of detention, overcrowding and limited access to basic services.<sup>8</sup>

5. The Advocate described the election of the first woman Vice-President as an outstanding development.<sup>9</sup> According to his figures, however, only 5 per cent of elected mayors and deputies were women, and only 2.5 per cent were indigenous women. Moreover, only 11.39 per cent of seats were held by indigenous persons.<sup>10</sup>

6. Commenting on the UPR recommendations concerning human rights defenders, the Advocate reported that they continue to be victims of attacks, which do not give rise to criminal investigations. Such impunity constitutes an impediment to his activities.<sup>11</sup>

7. With regard to security, the Advocate indicated that there was about 1 National Civil Police officer in 2011 for every 3,000 inhabitants. There were four times as many private agents as public-service officers and most of the agents operated without any State control; there was an 80.6 per cent shortage of police staff. Furthermore, more forceful joint operations by the National Civil Police and the army had been undertaken in 2012.<sup>12</sup>

8. According to the Advocate's figures, there were no improvements either in health indicators or health services. In 2010, about 50 per cent of children under 5 years of age continued to show signs of malnutrition. Notwithstanding the measures taken, the food situation in Guatemala was extremely serious.<sup>13</sup>

9. The Advocate stated that most workers lived in a state of poverty and that minimum wages were lower than the cost of basic subsistence needs. He also drew attention to non-compliance with labour laws and indicated that the Ministry of Labour was not authorized to conduct inspections and to impose administrative sanctions.<sup>14</sup>

10. With regard to UPR recommendations 10–12 and 39 concerning the rights of indigenous peoples, he indicated that they recorded the worst poverty, food, education, health and employment indices. In 2011, the Advocate received 377 complaints of possible violations of their rights, usually involving discrimination and problems associated with land tenure.<sup>15</sup>

11. The Advocate reported that the budget allocation to meet the rights of persons with disabilities had declined and that the governmental programmes had been abolished. There was no provision for an inclusive approach and for access to facilities for social participation.<sup>16</sup>

12. The Advocate also indicated that migrants in transit reported that they were subjected to extortion, discrimination and exploitation.<sup>17</sup>

## **II. Information provided by other stakeholders**

### **A. Background and framework**

#### **1. Scope of international obligations**

13. Amnesty International (AI) welcomed Guatemala's accession to the Rome Statute of the ICC in 2012 and hoped that domestic legislation would be promptly brought in line with the Statute.<sup>18</sup>

#### **2. Constitutional and legislative framework**

14. Joint Submission 6 (JS6) indicated that structural conditions precluded compliance with the obligations assumed in the Peace Agreements and in ratified international treaties.<sup>19</sup>

15. Joint Submission 16 (JS16) noted that Guatemala has not adopted the standard-setting and/or administrative measures required to meet its obligations under the International Convention on the Rights of Persons with Disabilities.<sup>20</sup>

#### **3. Institutional and human rights infrastructure and policy measures**

16. Joint Submission 6 (JS6) indicated that the National Action Plan for Human Rights has not been adopted.<sup>21</sup>

17. Colectiva de Mujeres en Resistencia (Women's Resistance Collective) observed that the failure to ensure full implementation of the Peace Agreements has contributed to ongoing insecurity, social violence and inequality.<sup>22</sup>

18. JS6 indicated that the low level of public investment is combined with corruption.<sup>23</sup> Joint Submission 14 (JS14) indicated that the recently enacted Taxation Update Act affected the middle class and workers. It recommended the adoption of progressive

integrated fiscal reform measures that would guarantee social expenditure and the redistribution of wealth.<sup>24</sup>

19. Joint Submission 17 (JS17) noted a lack of effective coordination among State institutions working on children's rights.<sup>25</sup> JS10 urged Guatemala to adopt the 12 strategies developed by the international peacebuilding alliance Inter-peace, to combat youth-related violence.<sup>26</sup>

20. The Asociación para la Eliminación de la Explotación Sexual en Guatemala (Association for the Elimination of Sexual Exploitation in Guatemala) drew attention to the failure to comply with the provision of the National Action Plan for Children and Adolescents 2004–2015 concerning an evaluation of the results of the plan of action against sexual exploitation with a view to adjusting the strategic activities to be implemented.<sup>27</sup>

## **B. Cooperation with human rights mechanisms**

### **1. Cooperation with treaty bodies**

21. AI observed that many recommendations by United Nations bodies on combating violence against women still had to be implemented, such as those related to investigations.<sup>28</sup>

### **2. Cooperation with special procedures**

22. The International Commission of Jurists (ICJ) noted that Guatemala had yet to respond to the requests for visits by the Independent Expert on foreign debt and the Special Rapporteur on the rights to freedom of peaceful assembly and of association, requested in 2008 and 2011 respectively.<sup>29</sup>

## **C. Implementation of international human rights obligations, taking into account applicable international humanitarian law**

### **1. Equality and non-discrimination**

23. According to JS13, discrimination against women remained rampant.<sup>30</sup> In particular, indigenous women continued to face discrimination because of their gender, indigenous identity, poverty and marginal social status.<sup>31</sup>

24. Joint Submission 4 (JS4) indicated that, while Guatemala had made progress towards the eradication of discrimination and racism by adopting a number of laws and incorporating a definition of the offence of discrimination in the Criminal Code, manifestations of discrimination and racism persisted.<sup>32</sup>

25. JS6 noted that appropriate legislation concerning indigenous peoples based on international standards has not yet been enacted and that they continue to be the victims of de facto discrimination.<sup>33</sup>

26. JS6 indicated that, according to the Human Rights Office of the Archbishopric, access to land in Guatemala is extremely unequal; 80 per cent of cultivable land is in the hands of 8 per cent of commercial farmers, and 92 per cent of farmers cultivate only 22 per cent of the land.<sup>34</sup>

27. LAMBDA<sup>35</sup> and the Organización de Apoyo a una Sexualidad Integral frente al SIDA (Organization to Support an Integrated Sexuality to Confront AIDS) (OASIS)<sup>36</sup> reported that, notwithstanding the UPR recommendations, Guatemala failed to take significant measures to protect LGBT persons and that this was reflected in their

vulnerability and in discrimination and exclusion. The Colectiva de Mujeres en Resistencia indicated that there was a lack of awareness of cases of femicide against lesbian women because the sexual orientation of these women remains — in general — undisclosed.<sup>37</sup> The Organización Trans-Reinas de la Noche expressed similar concerns and recommended the implementation of policies and practices to prevent impunity in cases of human rights violations committed against persons on the ground of their gender identity, proper investigations of such offences and punishment of the perpetrators.<sup>38</sup> The Colectiva de Mujeres en Resistencia recommended the application of the Yogyakarta Principles to promote the integration of the LGBT population into society.<sup>39</sup>

## 2. Right to life, liberty and security of the person

28. AI indicated that, while no executions had taken place since 2000, at the end of 2011, 13 prisoners remained on death row.<sup>40</sup> ICJ noted that the de facto moratorium continues and that Congress could be in a position to abolish the death penalty according to the Constitution.<sup>41</sup>

29. AI stressed that public security was a serious concern.<sup>42</sup> According to JS4, there have been 24,021 violent deaths during the past four years. The following figures relate to December 2011: 3,309, 86.58 per cent committed with firearms; 1,330 persons injured in violent assaults; 81 persons dismembered; 157 deaths due to torture; 116 deaths of public transport passengers; 254 deaths and 83 injured in motorcycle assaults; 85 kidnapping victims, etc.<sup>43</sup> JS6 noted an increase in lynchings during the period 2008–2011 from 131 cases to 294 cases per year.<sup>44</sup> JS4 noted the relationship between such acts and organized crime, in the face of which Guatemala has lost the ability to guarantee security and to control the territory.<sup>45</sup> ICJ stated that the response consisted in declaring states of emergency under the 1966 Public Order Act, which breaches the International Covenant on Civil and Political Rights.<sup>46</sup> JS12 reported repeated complaints of the presence of clandestine armed groups who are a constant source of insecurity and use physical and psychological violence against communities in which human rights defence movements operate. It also mentioned the inaction, or even complicity, of the Public Prosecution Service or officers of the National Civil Police.<sup>47</sup>

30. JS9 noted that agents working for private security companies were triple that of the workforce of both the NCP and the Army and, despite reforms, most companies had not been formally legalized. JS9 expressed concern that private security companies working to protect private interests in rural areas were most likely to act outside of the law, intimidating and threatening in particular the human rights defenders.<sup>48</sup>

31. JS12 recommended implementing a policy of arms control and monitoring the activities of private security companies.<sup>49</sup> JS4 recommended repealing General Order No. 11-99 of the National Civil Police which establishes local security bodies that undermine the State's duty to guarantee security and create conditions conducive to impunity.<sup>50</sup>

32. JS10 stated that violence towards children was still widespread despite the UPR recommendations,<sup>51</sup> and stressed the lack of awareness of children's rights.<sup>52</sup> According to JS17, there was under-registration of cases regarding abuse and violence against children, which was often perpetrated in schools.<sup>53</sup>

33. The Global Initiative to End All Corporal Punishment of Children indicated that corporal punishment is lawful in Guatemala, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Government's acceptance of the UPR recommendation related thereto.<sup>54</sup>

34. AI noted the persistence of extremely high levels of violence against women despite relevant legislative and other measures such as Act No. 9-2009 on Trafficking in Persons.<sup>55</sup>

35. According to JS13, despite the adoption of the Law against Femicide (LAF), the number of women murdered continued to rise and Guatemala still failed to investigate and prosecute these crimes.<sup>56</sup> It added that families and victims who reported gender-based violence were still confronted with corrupt or indifferent police, strong gender bias, and a dysfunctional judicial system.<sup>57</sup>

36. JS6 drew attention to the increase in convictions compared with the years immediately following the entry into force of the Law against Femicide, but it also noted the lack of coordination between public policies and strategic plans to prevent, punish and eradicate violence against women.<sup>58</sup> JS2 considered that the various institutions have not received sufficient resources to implement the Law against Femicide and that overlapping functions and parallel mandates between institutions have been promoted.<sup>59</sup>

37. JS6 recognized as a step forward the enactment of the Law against Sexual Violence, Exploitation and Trafficking in Persons.<sup>60</sup> JS2, however, considers that the Law lacks a human rights perspective, inasmuch as it fails to recognize women victims as a specific category.<sup>61</sup> ECPAT drew attention to the need to interpret the Law in the light of international standards.<sup>62</sup>

38. JS2 added that Guatemala has not enacted a law that defines sexual harassment despite many recommendations.<sup>63</sup>

39. JS6 noted the persistence of prison overcrowding and of cases of torture and ill-treatment in detention centres. While commending the enactment of the National Mechanism for the Prevention of Torture Act in 2010, it regretted the delay in its implementation.<sup>64</sup>

40. JS13 noted that women were at risk of police violence during transit between detention facilities and searches conducted by male guards,<sup>65</sup> and recommended that only female police officers conduct the transportations.<sup>66</sup>

41. JS4 recommended the adoption of rules regulating the prison system that comply with international standards.<sup>67</sup>

### **3. Administration of justice, including impunity, and the rule of law**

42. ICJ stated that the procedures for the appointment and retention of judges and magistrates did not adequately ensure the independence of the judiciary. According to ICJ, judges were not well protected and the security of tenure for magistrates depended on political will and authority. Lack of independence of the judiciary entrenched the general situation of impunity.<sup>68</sup> JS4 recommended that Guatemala adopt the requisite amendments to the Judiciary Act and the Judicial Service Act.<sup>69</sup>

43. According to JS6, the total budget allocated to the security and justice sectors between 2008 and 2010 amounted to less than 2 per cent of GDP.<sup>70</sup>

44. Fundación Myrna Mack noted that the steps taken to protect judges, prosecutors and lawyers were not based on a global well-planned policy. There were many defects in the criminal justice system, especially when it came to prosecuting serious human rights violations. Judicial action was impeded by amnesty decrees.<sup>71</sup>

45. JS14 stated that the justice system is not tailored to the multicultural circumstances of Guatemala.<sup>72</sup> JS6 noted that the scarcity of legal interpreters continues to contribute to inequality.<sup>73</sup>

46. JS13 noted that indigenous women were disproportionately harmed by the State's failure to provide them with free legal counsel and interpretation.<sup>74</sup>

47. According to ICJ, the context in Guatemala was one of generalized violence and impunity. It noted that Government policies in place since the peace agreements were signed had brought institutions to a state of weakness and, in some instances, total incapacity, and prevented adequate responses to address human rights violations. It further noted that organized crime had infiltrated State institutions.<sup>75</sup>

48. JS6 reported that in 2009, according to the International Commission against Impunity in Guatemala (CICIG), no judicial determination had been made in respect of 88 per cent of reported offences committed against minors under 18 years of age.<sup>76</sup>

49. The Center for Justice and International Law (CEJIL) drew attention to abusive recourse to *amparo* constitutional appeals to obstruct criminal proceedings as a source of impunity.<sup>77</sup>

50. AI indicated that, although there had been some progress in bringing to trial those suspected of responsibility for human rights violations committed during the internal armed conflict, this was hampered by the military's lack of will to cooperate with investigations. For instance, the army had refused to release documents relating to military operations conducted during the armed conflict.<sup>78</sup> AI highlighted that the bill creating the National Commission to Search for Victims of Enforced and Other Forms of Disappearance, introduced in Congress in 2007, had not yet been approved.<sup>79</sup>

51. JS9 and other stakeholders<sup>80</sup> noted some progress with the convictions of those involved in the Dos Erres massacre and the prosecution initiated against former dictator Efraín Ríos Mont and former chief of police Pedro García Arredondo.<sup>81</sup>

52. According to JS4, the technical support provided by CICIG has yielded positive results in the investigations conducted by the Public Prosecution Service.<sup>82</sup>

53. CEJIL reported that Guatemala has ranked second in terms of the number of sentences handed down by the Inter-American Court of Human Rights. Most of the 14 sentences concern violations committed during the internal armed conflict. They have not, however, been fully complied with.<sup>83</sup>

54. CEJIL indicated that the National Compensation Programme granted monetary compensation but did not fully address the consequences of the serious violations committed.<sup>84</sup> JS5 added that the measures implemented under the Programme fall far short of the recommendations of the Commission for Historical Clarifications and fail to comply with international standards.<sup>85</sup> According to JS5, members of communities that submitted grievance memorials have endured permanent harassment.<sup>86</sup> Moreover, the Programme suffers from a lack of transparency in the identification of beneficiaries<sup>87</sup> and victims are subjected to bureaucratic procedures.<sup>88</sup>

55. JS5 recommended an exhaustive review of the State Reparation Policy in order to align it with international standards. OHCHR technical assistance should be sought in that regard.<sup>89</sup>

56. JS6 noted that the Executive Branch submitted an initiative aimed at amending the 2010 Access to Public Information Act and classifying military and diplomatic information as "confidential"; this constitutes a retrograde step in terms of transparency and accountability.<sup>90</sup>

#### **4. Right to privacy, marriage and family life**

57. JS6 indicated that the shortfall in birth registration is as high as 10 per cent and, according to the Human Rights Office of the Archbishopric, there could be as many as 600,000 children whose identity has not been recognized. This problem has been exacerbated by the legal and economic barriers to late registration.<sup>91</sup>

58. According to JS17, the files of at least 60 per cent of children declared eligible for adoption were marred by irregularities<sup>92</sup> and the adoption procedure in place had not provided sufficient protection to the children concerned.<sup>93</sup>

**5. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life**

59. Peace Brigades International (PBI) noted that, while important institutional steps have been taken in response to the UPR recommendations, no fundamental changes have been made in support of the security of human rights defenders.<sup>94</sup> JS6 indicated that 2011 was the most violent year they had experienced.<sup>95</sup>

60. JS9 stated that HRDs continued to face death threats, physical attacks, killings and other forms of violence, mostly carried out by clandestine security organizations and illegal groups.<sup>96</sup> JS9 remarked that women HRDs were particularly vulnerable.<sup>97</sup> Few attacks against HRDs were investigated and even fewer resulted in convictions.<sup>98</sup> JS9 noted that the national programme of protection of HRDs at risk was not implemented.<sup>99</sup> According to JS6, the worsening situation of human rights defenders was directly related to the failure to address land conflicts and the repressive policy pursued against indigenous communities who object to the use of their natural resources without prior consultation.<sup>100</sup>

61. JS9 indicated that the illegitimate use of criminal proceedings against HRDs prevented them from carrying out their legitimate activities. As part of the criminalization process of HRDs, campaigns of defamation and stigmatization of HRDs had been carried out by the State, transnational companies and right wing media publications.<sup>101</sup>

62. PBI noted that defenders of economic, social and cultural rights were particularly vulnerable and that there had been an increase in negative publicity against them.<sup>102</sup>

63. AI considered that the framework for the protection of HRDs was not adequate, with no structured process for the identification and protection of HRDs at risk.<sup>103</sup> According to Article 19, criminal defamation was used by officials to hinder journalistic dissent.<sup>104</sup>

64. JS2 indicated that the women's movement and feminists had not been convened by the Government to review the UPR report.<sup>105</sup>

65. Article 19 noted that regulation of broadcasting was not in conformity with international standards. Although the Constitution prohibited monopolies, the legal framework and the lack of an independent regulatory body had not favoured fair competition among media. According to Article 19, Guatemala failed to promote community broadcasting.<sup>106</sup>

66. While Article 19 welcomed the Access to Public Information Law, it noted the failure of the law to establish an independent administrative oversight body.<sup>107</sup>

67. Article 19 stated that the Radio Communication Law prescribed compulsory membership in an association for the practice of journalism, and all media workers had to join the Humanities Association.<sup>108</sup>

68. JS6 said that the amendment to the Broadcasting Act, which had been a UPR recommendation, had not been enacted and that indigenous peoples were still denied access to the media.<sup>109</sup>

69. JS13 stated that many indigenous women also feel detached from the political process, and they lack birth certificates or other forms of identification which would facilitate political participation.<sup>110</sup>

70. JS6 noted that 14 out of 158 deputies are indigenous and that only 2 are indigenous women; 1 out of 14 ministers is indigenous and there are no indigenous judges.<sup>111</sup>



## 6. Right to work and to just and favourable conditions of work

71. JS14 noted that there are no policies to ensure that the population has access to decent employment.<sup>112</sup>

72. JS14 indicated that women working in the maquilas are employed in conditions approaching slavery.<sup>113</sup> JS13 noted that the labour code contained no provisions that protect the rights of maquila workers,<sup>114</sup> whose employers continued to dismiss those who attempt to unionize.<sup>115</sup> JS13 recommended conducting timely and unannounced visit to maquilas.<sup>116</sup>

73. JS14 indicated that most domestic workers are indigenous women and that only 7.5 per cent have received any primary schooling. Their working days are long, they are not paid the minimum wage and their working conditions are inadequate. They are subjected to abuse and to physical and psychological violence.<sup>117</sup>

74. JS18 noted that Guatemala has not prohibited compulsory tests to detect HIV and that this restricts the right to work of persons living with HIV.<sup>118</sup>

## 7. Right to social security and to an adequate standard of living

75. JS6 noted that, according to the International Centre for Human Rights, 17 per cent of the population have access to social security and the rate of coverage is declining.<sup>119</sup>

76. CEJIL reported that, although Guatemala is a middle-income country, the rates of malnutrition, poverty, and lack of access to health and education are extremely high. Roughly 40 per cent of the indigenous population live in extreme poverty and 75 per cent are poor.<sup>120</sup>

77. JS6 indicated that the index of chronic malnutrition in Guatemala is extremely high.<sup>121</sup> JS10 indicated that, according to the World Food Programme, about 50 per cent of Guatemalan children under 5 suffer from chronic malnutrition,<sup>122</sup> and the rate is 72 per cent amongst indigenous peoples according to UNICEF.<sup>123</sup>

78. JS14 indicated that the “Plan Hambre Cero” (Zero Hunger Plan) focuses on 166 municipalities. There is a risk, however, that the right to food is not guaranteed for the remaining 167 municipalities. Moreover, there is no provision for children over 2 years of age.<sup>124</sup> According to JS3, efforts to alleviate malnutrition have not been accompanied by structural policies to address the causes of poverty and famine.<sup>125</sup>

79. JS6 commended the enactment of the new Housing Act but regretted the lack of funding, which undermines its effectiveness.<sup>126</sup>

80. AI informed that hundreds of indigenous families were forcibly evicted every year, leaving thousands of people homeless. It noted that the destruction of the homes and property of evicted communities was commonplace.<sup>127</sup>

81. According to JS12, the Government has not demonstrated the political will to take the precautionary measures ordered by the IACHR in 2011 on behalf of the persons evicted from their homes in Polochic Valley, a case that affected 14 Q’eqchi’ communities, or to press forward with the investigation of the facts.<sup>128</sup>

82. JS5 noted that the housing provided under the PNR is inadequate in both cultural and climatic terms.<sup>129</sup> JS12 commented that mining activities have caused damage to the closest housing structures.<sup>130</sup>

83. Willamette University College of Law (WUCL) noted that less than half of the population had access to piped water, that many people drank water that was contaminated by industrial waste, and that private land rights impeded the right to drinking water.<sup>131</sup>

84. SJ12 noted that the water contamination was noted by the IACHR in its 2010 ruling on the Marlin mine.<sup>132</sup> JS3 recommended that the use of water should be regulated.<sup>133</sup>

85. WUCL noted that approximately 80 per cent of people in rural areas did not have access to basic sanitation facilities.<sup>134</sup>

## **8. Rights to health**

86. According to JS14, the public health system has not provided for an integrated care model or focused adequately on prevention. Its coverage has been limited and almost non-existent in the most remote communities. The budget for the sector has been declining each year. There has also been corruption in the purchase of medicinal products.<sup>135</sup>

87. Joint Submission 10 (JS10) recommended increasing total GDP expenditure on health to 9 per cent.<sup>136</sup>

88. JS14 noted that the child and maternal mortality indices for indigenous peoples are very high: 134 per 100,000 live births.<sup>137</sup>

89. JS17 mentioned that early pregnancy was a major issue of concern.<sup>138</sup>

90. JS8 indicated that unsafe abortions were one of the principal causes of maternal mortality.<sup>139</sup>

91. JS8 considered that it was important for Guatemala to assume specific commitments to achieve the targets of the Ministerial Declaration on “Prevention through Education” by 2015.<sup>140</sup>

92. JS17 noted that a high number of people living with HIV/AIDs did not have access to medicines and medical supplies.<sup>141</sup>

93. According to JS18, the funds allocated by Guatemala for AIDS prevention were on a very small scale and there were shortages of HIV detection kits, so that the level of registration was low.<sup>142</sup>

94. JS1 recommended that drug regulations be reformed in accordance with WHO recommendations.<sup>143</sup>

## **9. Right to education**

95. JS17 stated that the abolition of school fees had led to an increase in school enrolment rates at all levels of education.<sup>144</sup>

96. JS14 noted the persistence of illiteracy. According to Ministry of Education data, only 35 per cent of the adolescent population completed basic education; 20 per cent enrolled for diversified secondary education and 0.27 per cent attended university.<sup>145</sup>

97. JS17 stated that enrolment in primary school was 95.06 per cent. Girls’ enrolment was 4 per cent lower than for boys, and the repetition rate was 12.5 per cent.<sup>146</sup>

98. JS14 indicated that bilingual education was not universal and that children found it difficult to adjust to the monolingual system.<sup>147</sup>

99. JS17 recommended increasing the budget allocation devoted to education to a minimum of 4 per cent of GDP.<sup>148</sup>

## **10. Cultural rights**

100. JS14 noted that there is no protection in Guatemala for the intellectual property of indigenous woven fabrics. Industries market them, thereby depriving women of their main

source of income. No provision has been made either for protection of the cultural identity and wisdom of individual indigenous peoples.<sup>149</sup>

101. SJ13 noted that only one Guatemalan television station broadcasts political information in indigenous languages and that the State provides no direct funding for its operations.<sup>150</sup>

## **11. Persons with disabilities**

102. JS16 recognized the ratification of the Convention on the Rights of Persons with Disabilities as a step forward.<sup>151</sup> It drew attention, however, to the lack of funds for the implementation of the Convention as well as the lack of appropriate action.<sup>152</sup>

## **12. Minorities and indigenous peoples**

103. According to AI, indigenous peoples in rural areas were particularly vulnerable in the context of land disputes and forced evictions. The policy and legal framework prioritized the interests of large landowners over the rights of rural workers. AI stated that the 2011 Attorney General's guidelines on eviction procedures provided a useful structure towards safeguarding human rights in the context of land disputes if they were properly implemented and accompanied by other legal and policy reforms.<sup>153</sup>

104. According to JS4, the mechanisms in place to promote access to land and to support the production plans of indigenous peoples are inadequate<sup>154</sup> and the budget allocated to FONTIERRAS has failed to meet the demands of the poorest families.<sup>155</sup> JS12 added that there are no legal procedures for imposing restrictions on the accumulation of land and ensuring its redistribution.<sup>156</sup>

105. AI stated that indigenous peoples' rights were also violated in the context of extractive industries and large infrastructure projects, and that the process to obtain the free, prior and informed consent of affected communities rarely resulted in a genuine process.<sup>157</sup> ICJ noted that the State had failed to develop procedures for the implementation of agreements reached with affected communities. It added that in the case of "megaprojects", Guatemala usually responded to indigenous peoples' objections with repression.<sup>158</sup>

106. JS6 stated that Guatemala ignored the 57 community consultations that had been conducted and that the State, through the Constitutional Court, had violated the right to consultation, declaring consultations valid but "*non-binding*", and that it continued issuing licences in respect of indigenous territories.<sup>159</sup>

107. JS12 recommended that a consultation procedure consistent with international standards should be guaranteed.<sup>160</sup> JS14 recommended that the integrated rural development law should be enacted and the respective policy implemented.<sup>161</sup> JS12 also recommended that further steps should be taken to implement the Peace Agreements relating to the agrarian question.<sup>162</sup>

## **13. Migrants, refugees and asylum seekers**

108. JS11 commended the establishment of the National Migrant Support Board, but drew attention to a delay in the formulation of an integrated public policy on migrants. The adoption of the proposed new Migration Act had been delayed and it was not fully consistent with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.<sup>163</sup>

109. JS11 considered that Guatemala faced challenges in attending to the needs of deported Guatemalan migrants, since the relevant institutional capacities were inadequate,<sup>164</sup> and in protecting those in transit.<sup>165</sup> Monitoring conducted by civil society indicated that the persons concerned had been victims of abuse and violations of their rights

by officials of the Directorate-General of Migration (DGM) and the National Civil Police. JS11 recommended that conditions in the DGM shelter should be improved so that they comply with international standards.<sup>166</sup>

#### 14. Right to development and environmental issues

110. JS12 indicated that mega-projects, such as those in the mining industry, had major socio-environmental impacts, such as water contamination.<sup>167</sup>

111. JS14 noted that Guatemala authorized 428 prospecting projects for mining; the projects required 250,000 litres of water per hour and the use of cyanide to extract gold, thereby exposing the communities to risk.<sup>168</sup>

112. WUCL noted that the decentralized regulatory scheme for corporations did not allow the broad application of environmental protection. Many municipalities lacked the resources and ability to oblige companies to comply with environmental regulations. No specific regulations were promulgated and fines for violations were unreasonably low. The laws only hold individuals, and not corporations, responsible for actions. Companies continued to operate even with the revocation of the environmental permit.<sup>169</sup>

#### Notes

<sup>1</sup> The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: [www.ohchr.org](http://www.ohchr.org). (One asterisk denotes a national human rights institution with “A” status):

##### *Civil society*

AI	Amnesty International;
Article 19	Article19;
CEJIL	Centro por la Justicia y el Derecho Internacional (CEJIL);
ECPAT	Asociación para la Eliminación de la Explotación Sexual, Pornografía, Turismo y Tráfico Sexual de Niñas, Niños y Adolescentes en Guatemala (ECPAT/Guatemala);
FMM	Foundation Myrna Mack;
ECPC	Global Initiative to End All Corporal Punishment of Children;
IHRCWUCLS	International Human Rights Clinic Willamette University College of Law Salem, Oregon U.S.A;
ICJ	International Commission of Jurists;
WPCA	International Association for Hospice and Palliative Care;
CMR	La Colectiva de Mujeres en Resistencia;
LAMDA	Asociación por la Igualdad, la dignidad y los Derechos Humanos de las Personas de la Diversidad Sexual (LAMDA);
OASIS	Organización de Apoyo a una Sexualidad Integral frente al Sida (OASIS);
PBI	Brigadas Internacionales de Paz (PBI);
JS2	Red de la No Violencia contra las Mujeres (REDNOVI); Asociación de Mujeres en Solidaridad (AMES); Asociación Generando Equidad y Oportunidades (ASOGEN); Asociación de Salud Integral (ASI), Asociación Femenina para el Desarrollo de Sacatepéquez (AFEDES); Asociación de Mujeres, Empleadas y Desempleadas Unidas contra la Violencia (AMUCV); Asociación Nuevos Horizontes (ANH); Consejo de Mujeres Cristianas (CMC); Grupo Guatemalteco de Mujeres (GGM); Mujeres por la Justicia, Educación y Reconocimiento (MUJER);

- JS3 Asociación de Agencias de Desarrollo ligadas al Consejo Mundial de Iglesias (APRODEV); Coalición de Agencias Católicas de Desarrollo (CIDSE); Iniciativa de Copenhague para América Central y México (CIFCA); Organización Internacional por el Derecho a la Alimentación (FIAN); Movimiento Internacional La Vía Campesina;
- JS4 Asociación de Investigación y Estudios Sociales (ASIES); Grupo de Apoyo Mútuo (GAM); Jóvenes por Guatemala, Universidad Rafael Landívar (URL);
- JS5 Comunidades de Población en Resistencia (APCD Sierra); Asociación para el Desarrollo Integral El Quiché (ADIQ-KUMOOL); Asociación para el Desarrollo Integral y Multiservicios, Chajul, El Quiché (ADIM); Asociación Campesina para el Desarrollo Nabajense, Nebaj, El Quiché (ASOCDENEB); Asociación de Estudiantes y Profesionales de Santa María Tzejá, Ixcán, El Quiché (AESMAC); Coordinadora de Víctimas, de EL Ixcán, El Quiché, CORVIMI; Coordinadora de Víctimas de El Petén, COVIP; Coordinadora de Víctimas de Alta Verapaz (CODEVI); Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA); Equipo Técnico de Salud Comunitaria, Santa Ana Huista, Huehuetenango (ETESC), OxlajuApop, Huehuetenango; Asociación OxlajuKej, El Petén; Asociación Q'anil Maya Kaqchikel, Víctimas de Chimaltenango, ASOQ'ANIL; Familiares de Detenidos Desaparecidos de Guatemala FAMDEGUA; Consejo Nacional de las Comunidades para el Desarrollo Integral de Guatemala (CONCODIG); Consejo Nacional de Desplazados de Guatemala (CONDEG); Comunidades de Población en Resistencia, Ixcán (CPR IXCAN); Centro de Análisis Forense y Ciencia Aplicada (CAFCA);
- JS6 Centro para la Acción Legal en Derechos Humanos (CALDH); Centro Internacional para Investigaciones en Derechos Humanos (CIDH), Fundación Sobrevivientes; Instituto de Estudios Comparados en Ciencias Penales en Guatemala; Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG); Unidad de Protección a Defensores y Defensoras de Derechos Humanos (UDEFEFEGUA); Seguridad en Democracia (SEDEM); Asociación de Familiares Desaparecidos en Guatemala (FAMDEGUA); Coordinadora Nacional de Viudas de Guatemala (CONAVIGUA);
- JS8 Grupo Multidisciplinario para la Defensa de los Derechos Sexuales y Reproductivos en Guatemala;
- JS9 Frontline Defenders, UDEFEGUA Guatemala;
- JS10 Marist International Solidarity Foundation (FMSI) and Marist Foundation (FUNDAMAR);
- JS11 Alianza de Comunidades Caribeñas y Latinoamericanas (NALACC); Asociación la Alianza; Asociación de Salud Integra (ASI); Asociación Refugio de la Niñez; Asociación Mujer; Centro de Estudios y Apoyo al Desarrollo Local (CEADEL); Casa del Migrante Guatemala; Coalición Nacional de Migrantes Guatemaltecos en Estados Unidos (CONGUATE); Defensoría de la Población Desarraigada y Migrante de la Procuraduría de los Derechos Humanos (PDH); Comisión de Derechos Humanos de Guatemala (CDHG); Instituto Centroamericano de Estudios Sociales y Desarrollo (INCEDES); Instituto de Investigación de la Escuela de Historia y Antropología (USAC); Instituto de Protección Social (IPS); Instituto de Investigaciones y Gerencia Política de la Universidad Rafael Landívar (INGEP); Facultad Latinoamericana de Ciencias Sociales Sede Guatemala (FLACSO); Federación Guatemalteca de Escuelas Radiofónicas (FGER); Grupo Guatemala-México; Migración y Desarrollo; Mesa Nacional para las Migraciones en Guatemala (MENAMIG); Movimiento de Guatemaltecos en Estados Unidos (MIGUA); Movimiento Social por los Derechos de la Niñez y la Adolescencia; Pastoral de Movilidad Humana de la Conferencia Episcopal de Guatemala; Red Internacional

- contra la Explotación Sexual (ECPAT); Red por la Paz y el Desarrollo de Guatemala (RPDG);
- JS12 Cátedra UNESCO de Sostenibilidad – Universidad Politécnica de Cataluña; Grupo de Investigación en Derechos Humanos y Sostenibilidad (GIDHS); Educación para la Acción Crítica (EDPAC);
- JS13 MADRE, The International Women’s Human Rights (IWHR) Clinic at the City University of New York (CUNY) School of Law; Muixil; Bárcenas Women Workers Committee; Colectivo Artesana, Women’s Link Worldwide; Guatemala Human Rights Commission;
- JS14 Movimiento de Mujeres Indígenas Tz’ununija’: Cooperativa Ixoqi Ajkem, Grupo de Mujeres “Las Rositas”; Asociación Luna; Organización de Mujeres Tierra Nueva; ADIMMSACHI, Grupo de Mujeres Agricultores; Grupo de Mujeres “Las Margaritas”; Asociación Buenas Sembradoras; Asociación Manos de Mujer; Asociación de Mujeres Chinimaya’; Grupo de Mujeres Luna Kaqchikel; ALANEL; Asociación de Mujeres Telar de Cintura; Organización de Jóvenes para el Desarrollo (OJDES); Asociación Comunitaria Cruz Verde (CRUVE); Movimiento Maya Palatza; Grupo de Mujeres Nuevo Amanecer; Grupo de Mujeres Nueva Esperanza; La Asunción; KANAQUES; Rede de Mujeres; Asociación de Comadronas; Nuevo Milenium; Comité Saqbé; Red de Mujeres; Grupo de Mujeres Sembradoras de Girasoles; Asociación de Mujeres “AWEX”; Comité Promejoramiento de viudas nuevo amanecer; Grupo de mujeres “Nuevo Amanecer”; Comité de Mujeres Prodesarrollo; Tutakalchí Batz; APEDIGUA; CODEMAV; Consejo Maya Mam, Xequikel; ASIDH; Grupo de Jóvenes; Comité de Desarrollo integral; Proyecto Sangre de Cristo; Asociación Integral para el Desarrollo; Grupo de Mujeres Montufar; Asociación Ixoqib’;
- JS16 Asociación de Personas con Discapacidad y Vida Independiente (PAVIDI) and others;
- JS17 Coalición Guatemalteca a favor del Cumplimiento de los Derechos de la Niñez y Adolescencia de Guatemala: Mesa de Municipalización (MM); Movimiento Social por los Derechos de la Niñez, Adolescencia y Juventud en Guatemala (MOSDENAJ); Coordinadora Institucional de Promoción por los Derechos de la Niñez (CIPRODENI);
- JS18 Red Legal y su Observatorio de Derechos Humanos y VIH; Fundación Preventiva del Sida Fernando Iturbide; ITPC LATCA.

*National human rights institution*

Procuraduría de los Derechos Humanos.

*Regional intergovernmental organization*

Inter-American Commission on Human Rights.

- <sup>2</sup> Submission of the Ombudsman, para. 14.
- <sup>3</sup> Submission of the Ombudsman, para. 5.
- <sup>4</sup> Submission of the Ombudsman, para. 4.
- <sup>5</sup> Submission of the Ombudsman, para. 5.
- <sup>6</sup> Submission of the Ombudsman, para. 11.
- <sup>7</sup> Submission of the Ombudsman, para. 4.
- <sup>8</sup> Submission of the Ombudsman, para. 7.
- <sup>9</sup> Submission of the Ombudsman, para. 2.
- <sup>10</sup> Submission of the Ombudsman, para. 3.
- <sup>11</sup> Submission of the Ombudsman, para. 21.
- <sup>12</sup> Submission of the Ombudsman, para. 15.
- <sup>13</sup> Submission of the Ombudsman, para. 9.
- <sup>14</sup> Submission of the Ombudsman, para. 18.
- <sup>15</sup> Submission of the Ombudsman, para. 20.
- <sup>16</sup> Submission of the Ombudsman, para. 22.

- 17 Submission of the Ombudsman, para. 13.
- 18 Amnesty International, p. 1.
- 19 Joint Submission 6, para. 1.
- 20 Joint Submission 16, para. 13.
- 21 Joint Submission 6, para. 33.
- 22 Colectiva Mujeres en Resistencia, para. 3.
- 23 Joint Submission 6, para. 2.
- 24 Joint Submission 14, 3.1 and 5.1.
- 25 Joint Submission 17, para. 49.
- 26 Joint Submission 10, para. 8.
- 27 Asociación para la Eliminación de la Explotación Sexual, Pornografía, Turismo y Tráfico Sexual de Niñas, Niños y Adolescentes en Guatemala (ECPAT), p. 4.
- 28 Amnesty International, p. 4.
- 29 International Commission of Jurist, para. 13.
- 30 Joint Submission 13, para. 3.
- 31 Joint Submission 13, para. 1.
- 32 Joint Submission 4, p. 3.
- 33 Joint Submission 6, para. 34.
- 34 Joint Submission 6, para. 6.
- 35 Asociación LAMBDA, para. 6.
- 36 Organización de Apoyo a una Sexualidad Integral frente al Sida (OASIS), para. 4.
- 37 Colectiva Mujeres en Resistencia, para. 6.
- 38 Organización Trans-Reinas de la Noche, p. 5.
- 39 Colectiva Mujeres en Resistencia, para. 10.
- 40 Amnesty International, p. 2.
- 41 International Commission of Jurist, para. 11.
- 42 Amnesty International, p. 3.
- 43 Joint Submission 4, p. 5.
- 44 Joint Submission 6, para. 43.
- 45 Joint Submission 4, p. 6.
- 46 International Commission of Jurist, para. 11.
- 47 Joint Submission 12, para. 6.
- 48 Joint Submission 9, para. 13.
- 49 Joint Submission 12, para. 10.
- 50 Joint Submission 4, p. 7.
- 51 Joint Submission 10, para. 5.
- 52 Joint Submission 10, para. 7.
- 53 Joint Submission 17, para. 16.
- 54 Global Initiative to End All Corporal Punishment of Children, p. 1.
- 55 Amnesty International, p. 3.
- 56 Joint Submission 13, para. 6.
- 57 Joint Submission 13, para. 10.
- 58 Joint Submission 6, para. 7.
- 59 Joint Submission 2, para. 17 (Check).
- 60 Joint Submission 6, para. 6.
- 61 Joint Submission 2, para. 37.
- 62 ECPAT p. 3.
- 63 Joint Submission 2, para. 39.
- 64 Joint Submission 6, para. 12.
- 65 Joint Submission 13, para. 13.
- 66 Joint Submission 13, para. 29.
- 67 Joint Submission 4, p. 7.
- 68 International Commission of Jurists, para. 3.
- 69 Joint Submission 4, p. 5.
- 70 Joint Submission 6, para. 46.
- 71 Fundación Myrna Mack, p. 4.

- <sup>72</sup> Joint Submission 14, 4.2.
- <sup>73</sup> Joint Submission 6, para. 7.
- <sup>74</sup> Joint Submission 13, para. 22.
- <sup>75</sup> International Commission of Jurists, para. 2.
- <sup>76</sup> Joint Submission 6, para. 13.
- <sup>77</sup> CEJIL, para. 7.
- <sup>78</sup> Amnesty International, p. 3.
- <sup>79</sup> Amnesty International, p. 1.
- <sup>80</sup> Amnesty International, p. 3; Centro de Justicia y Derecho Internacional, para. 6; Fundación Myrna Mack, p. 6; Joint Submission 6, para. 25; and Joint Submission 9, para. 6.
- <sup>81</sup> Joint Submission 9, para. 6. See also the submission of the Inter-American Commission on Human Rights, p. 5.
- <sup>82</sup> Joint Submission 4, p. 4.
- <sup>83</sup> CEJIL, para. 5.
- <sup>84</sup> CEJIL, para. 28.
- <sup>85</sup> Joint Submission 5, para. 6.
- <sup>86</sup> Joint Submission 5, para. 19.
- <sup>87</sup> Joint Submission 5, para. 40.
- <sup>88</sup> Joint Submission 5, para. 44.
- <sup>89</sup> Joint Submission 5, p. 10.
- <sup>90</sup> Joint Submission 6, para. 11.
- <sup>91</sup> Joint Submission 6, para. 5.
- <sup>92</sup> Joint Submission 17, para. 31.
- <sup>93</sup> Joint Submission 17, para. 32.
- <sup>94</sup> Peace Brigades International (PBI), para. 4.
- <sup>95</sup> Joint Submission 6, para. 45.
- <sup>96</sup> Joint Submission 9, para. 4.
- <sup>97</sup> Joint Submission 9, para. 7.
- <sup>98</sup> Joint Submission 9, para. 18.
- <sup>99</sup> Joint Submission 9, para. 20.
- <sup>100</sup> Joint Submission 6, para. 45.
- <sup>101</sup> Joint Submission 9, para. 17.
- <sup>102</sup> PBI, para. 15.
- <sup>103</sup> Amnesty International, p. 2.
- <sup>104</sup> Article 19, para. 4.
- <sup>105</sup> Joint Submission 2, para. 52.
- <sup>106</sup> Article 19, para. 6.
- <sup>107</sup> Article 19, para. 5.
- <sup>108</sup> Article 19, para. 17.
- <sup>109</sup> Joint Submission 6, para. 52.
- <sup>110</sup> Joint Submission 13, para. 21.
- <sup>111</sup> Joint Submission 6, para. 51.
- <sup>112</sup> Joint Submission 14, p. 2.
- <sup>113</sup> Joint Submission 14, p. 2.
- <sup>114</sup> Joint Submission 13, para. 26.
- <sup>115</sup> Joint Submission 13, para. 28.
- <sup>116</sup> Joint Submission 13, para. 29.
- <sup>117</sup> Joint Submission 14, 3.1.
- <sup>118</sup> Joint Submission 18, para. 23.
- <sup>119</sup> Joint Submission 6, para. 6.
- <sup>120</sup> CEJIL, para. 1.
- <sup>121</sup> Joint Submission 6, para. 6.
- <sup>122</sup> Joint Submission 10, para. 11.
- <sup>123</sup> Joint Submission 10, para. 14.
- <sup>124</sup> Joint Submission 14, p. 5.
- <sup>125</sup> Joint Submission 3, p. 2.



- 
- <sup>126</sup> Joint Submission 6, para. 6.  
<sup>127</sup> Amnesty International, p. 3.  
<sup>128</sup> Joint Submission 12, para. 8. See also the submission of the Inter-American Commission on Human Rights, p. 6.  
<sup>129</sup> Joint Submission 5, para. 28.  
<sup>130</sup> Joint Submission 12, para. 19.  
<sup>131</sup> International Human Rights Clinic Willamette University College of Law, para. 5.  
<sup>132</sup> Joint Submission 12, para. 18.  
<sup>133</sup> Joint Submission 3, p. 3 (13).  
<sup>134</sup> International Human Rights Clinic Willamette University College of Law, para. 8.  
<sup>135</sup> Joint Submission 14, 3.2.3.  
<sup>136</sup> Joint Submission 10, para. 18 (d).  
<sup>137</sup> Joint Submission 14, p. 4.  
<sup>138</sup> Joint Submission 17, para. 44.  
<sup>139</sup> Joint Submission 8, p. 3.  
<sup>140</sup> Joint Submission 8, p. 4.  
<sup>141</sup> Joint Submission 17, para. 45.  
<sup>142</sup> Joint Submission 18, para. 22.  
<sup>143</sup> Joint Submission 1, p. 4.  
<sup>144</sup> Joint Submission 17, para. 35.  
<sup>145</sup> Joint Submission 14, p. 4.  
<sup>146</sup> Joint Submission 17, para. 37.  
<sup>147</sup> Joint Submission 14, p. 4.  
<sup>148</sup> Joint Submission 17, para. 41.  
<sup>149</sup> Joint Submission 14, p. 7.  
<sup>150</sup> Joint Submission 13, para. 24.  
<sup>151</sup> Joint Submission 16, para. 1.  
<sup>152</sup> Joint Submission 16, para. 6.  
<sup>153</sup> Amnesty International, p. 1.  
<sup>154</sup> Joint Submission, p. 2.  
<sup>155</sup> Joint Submission 4, p. 8.  
<sup>156</sup> Joint Submission 12, para. 2.  
<sup>157</sup> Amnesty International, p. 2.  
<sup>158</sup> International Commission of Jurists, para. 7.  
<sup>159</sup> Joint Submission 6, para. 39.  
<sup>160</sup> Joint Submission 12, p. 4 (2).  
<sup>161</sup> Joint Submission 14, p. 9.  
<sup>162</sup> Joint Submission 12, p. 5 (4).  
<sup>163</sup> Joint Submission 11, para. 1.  
<sup>164</sup> Joint Submission 11, para. 4.  
<sup>165</sup> Joint Submission 11, para. 5.  
<sup>166</sup> Joint Submission 11, para. 9.  
<sup>167</sup> Joint Submission 12, p. 1.  
<sup>168</sup> Joint Submission 14, p. 7.  
<sup>169</sup> International Human Rights Clinic Willamette University College of Law, para. 10.
-