



General Assembly

Distr.: General
16 April 2026

Original: English

Human Rights Council

Sixty-second session

15 June–10 July 2026

Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Visit to Guatemala

Report of the Special Rapporteur on the independence of judges and lawyers*

Summary

At the invitation of the Government, the Special Rapporteur on the Independence of Judges and Lawyers, Margaret Satterthwaite, visited Guatemala in May 2025. She welcomed the commitment of the executive to an accountable justice system. However, she found a deepening convergence of political, economic and criminal interests undermining judicial appointments, concentrating disciplinary authority and instrumentalizing criminal law.

Despite a strong constitutional framework and past anti-corruption efforts, the justice system is in acute crisis. At the direction of the Prosecutor General, numerous independent justice actors face persecution; some languish in detention; and many have fled into exile. Power is concentrated in key institutions, and justice is applied selectively.

With major institutional appointments scheduled for 2026, Guatemala stands at a decisive moment. Guatemala has the constitutional framework, legal tools, institutional experience and human capital necessary to restore an independent and impartial justice system. There is broad agreement on the need for reform, particularly to depoliticize judicial appointments, re-establish a merit-based judicial career system and ensure effective oversight of prosecutorial power. Ending arbitrary transfers, abusive disciplinary practices and the misuse of criminal proceedings is essential to rebuilding trust.

Despite the magnitude of the problem of instrumentalization, the crisis disproportionately affects Indigenous Peoples, women, human rights defenders and other groups in vulnerable situations, while the forced exile of justice operators has weakened institutional capacity and denied victims effective remedies. Urgent, coordinated action by all branches of government is required to guarantee judicial independence, accountability and human rights in practice. Without prompt reform, the justice system risks continuing to function as an instrument of persecution rather than protection.

* The summary of the report is being circulated in all official languages. The report itself, which is annexed to the summary, is being circulated in the language of submission only.



Annex

Report of the Special Rapporteur on the independence of judges and lawyers on her visit to Guatemala

I. Introduction

1. The Guatemalan legal system stands at a pivotal juncture. At the time of writing, the process of selecting justices for the Constitutional Court, a new Prosecutor General and the justices of the Supreme Electoral Tribunal, scheduled for the first half of 2026, provided a critical convergence of judicial appointments that could determine whether the systematic instrumentalization of justice can start to be dismantled. Pending these appointments, transitional justice cases from the armed conflict lie in limbo, some advance, while others are mired in delay or reversed. Current and former justice operators, defence attorneys and Indigenous leaders continue to face unwarranted criminal charges, and many flee into exile.

2. At the invitation of the Government, the Special Rapporteur on the independence of judges and lawyers, Margaret Satterthwaite, visited Guatemala from 12 to 23 May 2025. The Special Rapporteur was encouraged by the commitment that many, including officials in key Government positions, expressed to an inclusive, accountable justice system. Nonetheless, she observed a mounting convergence of political, economic and criminal interests that are eroding the integrity of judicial appointments, concentrating disciplinary power and instrumentalizing criminal proceedings.

3. During her visit, the Special Rapporteur engaged with interlocutors in Guatemala City, Cobán, Tactic and Quetzaltenango. She met with the President, the Minister for Foreign Affairs, the Presidential Commission for Peace and Human Rights, the Minister of the Interior and the Solicitor General of the Republic. She also met the President and Leadership of Congress and the Prosecutor General and numerous prosecutors. She held meetings with the Supreme Court of Justice, the Constitutional Court, the Appeals Court, the Judicial Career Council, the Judicial Disciplinary Board and the Institutional Training Unit. She met with the Institute of Public Criminal Defence and several prosecutors and judges from different levels of the judiciary.

4. The Special Rapporteur visited a prosecutor, Indigenous leaders and a journalist in pretrial detention at Mariscal Zavala Detention Centre and visited another detention centre in Cobán. She met with the National Police and the Director of the Penitentiary System and the National Mechanism for the Prevention of Torture and the Human Rights Ombudsman's Office.

5. The Special Rapporteur also met with a wide range of civil society representatives, including representatives of non-governmental organizations, the Bar Association, associations of judges and Indigenous Peoples' authorities and law school deans, former members of the nominating commissions and representatives of the international community. She also met with numerous former justice operators in exile.

6. The Special Rapporteur is grateful to the authorities of Guatemala for the invitation and for their outstanding collaboration and to the Office of the United Nations High Commissioner for Human Rights in Guatemala for the support provided for the visit. She is grateful to all the judges, prosecutors, lawyers, academics, civil society representatives and Indigenous representatives who took the time to share their expertise and opinions with her.

7. With the exception of those that she met in detention, the cases of individuals are not addressed in this report. They have been, and will continue to be, addressed in communications from the Special Rapporteur.

II. Legal and institutional frameworks

A. International obligations

8. The right to a fair trial before a competent, independent and impartial tribunal established by law is set out in article 14 of the International Covenant on Civil and Political Rights and article 8 of the American Convention on Human Rights, which Guatemala has ratified.

9. The Constitution of Guatemala¹ establishes the protection of human rights in title II, including life, liberty and equality. Title I sets out the duty of the State to guarantee fundamental rights, such as justice. Section III of chapter II enshrines the protection of Indigenous Peoples. Article 46 establishes that “in matters of human rights, the treaties and conventions accepted and ratified by Guatemala take precedence over domestic law”.

10. Title II, chapter 1, of the Constitution protects individual rights, such as the right to be free from arbitrary detention and the right of defence, as well as due process guarantees, including the presumption of innocence and public hearings.

B. National framework

11. The judiciary of Guatemala operates within a legal framework established by the Constitution and in the Judiciary Act (*Ley del Organismo Judicial*).² Title IV, chapter IV, of the Constitution recognizes judicial independence. Article 203 states that magistrates and judges are independent in the exercise of their functions; article 205 guarantees the functional and financial independence of the Judicial Branch (*Organismo Judicial*) and article 210 stipulates that judges and magistrates may not be removed, suspended, transferred or retired except for the reasons specified and with the guarantees provided for by law.

12. The Judicial Branch exercises jurisdictional and administrative functions. Jurisdictional authority is vested in the Supreme Court of Justice and lower courts, and the Supreme Court exercises administrative authority. The President of the Supreme Court is also President of the Judicial Branch.³

13. The Supreme Court is responsible for a range of administrative functions, including appointing justices of the peace (*jueces de paz*) and first instance judges from a list provided by the Judicial Career Council, renewing appointments based on performance evaluations, deciding on transfers and promotions and determining disciplinary sanctions, particularly dismissals, based on the decisions of the competent disciplinary bodies.⁴

14. The Judicial Career Council (*Consejo de la Carrera Judicial*) is a technical auxiliary body to the Supreme Court, with administrative competence to manage the judicial career system, including organizing public competitions for judicial appointments and promotions, evaluating performance, proposing training policies and recommending appointments or removals of key officials to the President of the Judicial Branch.⁵

15. The Constitutional Court (*Corte de Constitucionalidad*) is independent of other State authorities, including the Judicial Branch (*Poder Judicial*), has authority over constitutional matters and adjudicates constitutional challenges. It safeguards the constitutional order and serves as a sole instance, acting as the Extraordinary Court of Amparo for certain constitutional protection appeals.

¹ See <https://www.cijc.org/pt/NuestrasConstituciones/GUATEMALA-Constitucion.pdf>.

² See <https://mingob.gob.gt/wp-content/uploads/2020/10/ley-del-organismo-judicial.pdf>.

³ *Ley del Organismo Judicial*, Decree No. 2-89, art. 53; and *Constitución Política de la República de Guatemala*, art. 214.

⁴ *Ley del Organismo Judicial*, Decree No. 2-89, art. 54.; and *Ley de la Carrera Judicial*, Decree No. 32-2016, arts. 15, 21, 22, 25 and 26.

⁵ *Ley de la Carrera Judicial*, art. 6.

16. The Prosecutor General’s Office (Ministerio Público) is an autonomous institution responsible for investigating and prosecuting crime. Its functions and structure are regulated by the Organic Law of the Prosecutor General’s Office (Ley Orgánica del Ministerio Público) (Decree 40-94), which establishes its independence, hierarchy and responsibilities.

17. The Institute of Public Criminal Defence (Instituto de la Defensa Pública Penal) is the autonomous institution responsible for providing free legal defence in criminal proceedings to individuals of limited economic means. It is regulated by the Law on the Public Criminal Defence Service (Ley del Servicio Público de Defensa Penal) (Decree 129-97), which establishes its structure, functions and procedures, including the appointment of its Director General by Congress from a shortlist proposed by the Institute’s Council (Consejo del Instituto de la Defensa Pública Penal).

18. The Office of the Solicitor General of the Nation (Procuraduría General de la Nación) is the institution that defends the interests of the State, advises State entities on legal matters and seeks financial reparations in criminal cases where the State’s interests have been harmed.

19. Indigenous justice systems have yet to be formally recognized by the State.

III. Challenges to an independent and impartial justice system

20. The Guatemalan justice system is experiencing a deep crisis resulting from unfinished structural reforms, the complex legacy left after the abrupt departure of the International Commission against Impunity in Guatemala in 2019 and the scandal known as “parallel commissions” that led to a long delay in appointments to the apex courts, with key positions in the judiciary being placed in a temporary status for almost five years.

21. Established in 2007, the International Commission against Impunity in Guatemala was an internationally supported mechanism to combat corruption and organized crime. Together with the Special Prosecutor’s Office against Impunity and Corruption (Fiscalía Especial contra la Impunidad), the Commission made some headway in prosecuting these important criminal phenomena. However, the pendulum has swung the other way, with judicial institutions being more vulnerable than ever to instrumentalization despite the effort to strengthen them.

22. The justice system is too easily manipulated by those with political and economic power, and those within the system who respond to external forces also benefit from this weaponization. Guatemalan society calls this the “pact of the corrupt” (*pacto de los corruptos*) – an alliance of powerful elites, some judicial operators and many legislators.

23. The Special Rapporteur heard that the justice system was perceived as a battleground, that the Prosecutor General’s Office and some judges misuse the concepts of independence and impartiality to pursue illegitimate ends and that the executive has to spend a considerable amount of time and resources defending itself against unfounded attacks. The Special Rapporteur regrets that this situation undermines trust in the judiciary and means that people have limited avenues to effectively seek justice and human rights protection.

A. Judiciary

Appointments to high-level courts and justice authorities

Appointment mechanisms

24. The Guatemalan appointment system for high-level justice operators requires urgent reform. The mechanism for nominating these authorities, the nominating commissions (*comisiones de postulación*), has diverged decisively from its objective of ensuring the appointment of suitable public authorities through public, competitive and objective processes marked by efficiency, efficacy, integrity and representativeness. Instead, the process has become a conduit through which partisan actors and private interests exert significant – often opaque – influence over appointments to high-profile judicial positions.

Congress failed to act when it had a critical opportunity to strengthen the process through institutional reforms.

25. During her visit, the Special Rapporteur identified six main problems with Guatemalan appointment mechanisms (see paras. 26–32). In addition to these challenges, commission members faced threats and political pressure to vote in favour of certain interests. They also deal with an overwhelming workload, putting in long hours to meet short deadlines.

(i) *Lack of a fixed number of commissioners*

26. Because the legal framework does not specify a specific number of commission members, the composition of the commissions for the appointments to high-level justice positions has been gravely distorted. The proliferation of low-quality universities apparently created to claim the right to place officials on these commissions has subverted the purpose behind academic participation.

(ii) *Lack of adequate methodology for grading*

27. The commission evaluation grading tables have failed to effectively and objectively measure the requirements of the Constitution, as interpreted by the Constitutional Court and relevant laws. Each commission must agree anew on a methodology to assess the capacity, suitability, integrity and honourability of candidates. This has allowed for the creation of scoring methods that match pre-selected profiles or even candidates. At times, the scoring methods have assigned disproportionate weight to academic credentials without assessing the quality of candidates' performance. The scoring approach sometimes favoured candidates from outside the judicial service, by granting more weight to administration experience than judicial performance. Ethical vetting has been reduced to a pass-fail assessment, and the recognized honourability (*reconocida honorabilidad*) criterion – erroneously viewed as too difficult to grade objectively – has been left out of candidates' scores. Lastly, evaluation has largely been based on certificates and paperwork, rather than substantive assessment. Written justification is not required, leaving the process cloaked in opacity.

(iii) *Permeability to external interests*

28. These deficiencies have allowed the process to be marred by political and private interests. In-depth investigations and criminal cases have revealed systematic manipulation through vote-buying, parallel negotiations and appointments driven by private negotiations rather than the public interest. Concerns about possible conflicts of interest have arisen from the participation of sitting judges on the commissions, reciprocal voting dynamics and participants linked to corruption.

(iv) *Lack of staggered renewals*

29. There is an emerging consensus that renewal of the entire bench of high-level courts at the same time is unadvisable. Staggered renewal would better ensure that experienced judges remain in place to guide incoming members and allow better oversight by the public. Such an arrangement also reduces the power of any one commission, lowering the stakes for each round of selection.

(v) *Limited inclusion of women, Indigenous Peoples and marginalized groups*

30. The participation of women, Indigenous Peoples and marginalized groups in the commissions and as candidates has not been the subject of sustained effort. No mechanisms have been adopted to advance their equitable inclusion. In a country in which half the population are Indigenous, and where stark inequalities remain, active efforts to ensure more representative inclusion are essential.

(vi) *Criminal targeting and its chilling effects*

31. Alarming, members of the Commissions have been targeted for criminal prosecution as a consequence of their work, producing a profound chilling effect. Some of these cases remain pending.

32. These significant problems contribute to broader public distrust of the justice system. In 2020, the process of renewing the apex courts was frozen by investigations into influence peddling allegations in the *Comisiones Paralelas* case. This history, combined with ongoing concerns about criminalization, continues to have a negative impact on the impartiality and independence of the judiciary.

B. Crucial nature of the 2026 election cycle for the Supreme Electoral Court and for the Constitutional Court magistrates

33. The appointment of members of the Supreme Electoral Court and the Constitutional Court in 2026 will be decisive for safeguarding democratic governance, human rights, the constitutional order, judicial independence and the rule of law. Repetition of past wrongdoing must be avoided, where individuals associated with abuse of power or serious human rights violations were successful in securing appointments to key positions.

34. The applicable framework for appointment to the Constitutional Court does not establish minimum procedural guarantees for how each appointing authority should identify, assess and select candidates. In the absence of a harmonized framework, these bodies may use ad hoc methodologies that they deem most appropriate to make appointments. The lack of specific selection procedures has allowed discretion and arbitrariness, which has created space for political bargaining, despite binding international standards requiring judicial selection processes to be objective, public, transparent and open to citizen participation.

35. Although reforms were not made in time for the selection process in 2026, there will be ample time to adopt comprehensive changes before the next round of selections. Reforms should include enhanced transparency and public hearings, early publication of objective evaluation criteria and scoring matrices, strengthened integrity verification and effective consideration of objections, as well as protection and independent monitoring arrangements to mitigate undue influence and intimidation of candidates and commission members.

1. Judicial career and working conditions

36. Judges expressed their commitment to an independent judiciary, while describing limited institutional support. Working conditions vary appreciably across the country: while some facilities appear comparatively well equipped, other court premises remain inadequate.

37. Judicial personnel raised concerns regarding basic infrastructure and safety conditions in court premises, including deficiencies that affect accessibility and the ability to conduct hearings in a safe and dignified environment. The Special Rapporteur observed, for example, that elevators were not functioning in a major judicial complex in Guatemala City, creating barriers to reaching hearings, particularly for persons with disabilities. Judicial personnel also noted that limited investment in equipment and technology contributes to inefficiency and delays.

38. The Judicial Career Law (*Ley de la Carrera Judicial*) sought to transform the judiciary into a professional institution governed by transparent, merit-based standards and overseen by a Judicial Career Council enjoying functional independence.

39. However, Decree 7-2022 reversed many of the gains introduced by the 2016 reform. The Judicial Career Council, now presided over by the President of the Supreme Court, who holds the casting vote in the event of a tie, became an auxiliary body tasked with supporting the Supreme Court in judicial career administration. The Judicial Career Council can confirm and remove a host of pivotal officials: the members of the Judicial Disciplinary Board (*Junta de la Disciplina Judicial*) and its appeals chamber, the Director of the School of Judicial Studies, the Executive Secretary of the Judicial Career Council, the Supervisor-General of Courts and the Coordinator of the Professional Performance Evaluation Unit.

40. The Special Rapporteur finds that concentration of administrative authority in the Supreme Court is problematic, as it distracts magistrates from their core jurisdictional duties and creates a conflict of interest: the same body that reviews lower courts judge's rulings also controls their careers. This is troubling in any system, but especially so when the appointment procedure to the Supreme Court is open to political compromise, and judges generally serve

renewable five-year terms. The Special Rapporteur was told that arbitrary, and sometimes punitive, transfers were ordered across jurisdictions and subject areas,⁶ diluting expertise and undermining guarantees of service and tenure. Judges described a co-opted system in which political backing is decisive, including for promotions. She was told that alternate judges had been hand-picked by the Supreme Court without public competition, allowing the Supreme Court broad discretion to place some judges in prized positions.

41. The consequence of this new structure is now visible across the system. Disciplinary bodies do not function well, complaints against justice operators are often not investigated, and a pervasive pressure to conform to the highest court, itself subject to undue interference, has led to the feeling that “no one is independent”.

42. The Judicial Career Council must be restored as a truly autonomous, adequately resourced oversight institution, operating with merit-based and transparent standards by repealing Decree 7-2022. Any transfer or reassignment of a judge without their consent and without justification must cease, to ensure that transfer or reassignment do not function as disguised sanctions. Without these reforms, the judiciary will remain exposed to political and economic pressures, and the State will continue to fall short of its duty to guarantee every person the right to be heard by a competent, independent and impartial tribunal.

2. Judicial training

43. The Special Rapporteur was encouraged by the work of the School of Judicial Studies (Escuela de Estudios Judiciales) in building capacity within the Guatemalan judiciary. Its training programmes, including modules on ethics, human rights and judicial independence, and its efforts to integrate jurisprudence from regional courts, are particularly welcomed. Recent cooperation with the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Programme in conjunction with judges to design a new module on judicial independence shows promise.

44. The Special Rapporteur received information about privately organized judicial seminars abroad, including in resort settings such as Isla Mujeres, Mexico. She warns that such practices can heighten risks of improper influence and dependency on the private sector and should be subject to strict transparency and integrity safeguards.

45. However, the School’s administrative dependence on the Supreme Court may affect its autonomy and ability to set its own priorities, allocate resources and ensure continuity. Curricular gaps remain in key areas, including due process, Indigenous Peoples’ rights and constitutional and conventionality control. The Special Rapporteur was told that these topics are often inconsistently addressed, optional or treated superficially.

46. Strengthening the School’s autonomy, expanding access to training across the country, including for women and members of Indigenous Peoples, and implementing tools to evaluate impact, are crucial next steps. Building a truly independent and competent judiciary requires accessible high-quality training that reflects both national and international standards.

C. Prosecutors

1. Hierarchical disciplinary system, arbitrary dismissals and unjustified transfers

47. The Special Rapporteur is alarmed by the instrumentalization of the criminal justice system and the reshaping of the Prosecutor General’s Office, which allows for this problem to fester. Since her first appointment in 2018, the Prosecutor General (Fiscal General), María Consuelo Porras, has overseen a sustained and gradual reconfiguration of the Prosecutor General’s Office, transforming what the Constitution defines as an autonomous guardian of the public interest into an agency where job security is low, hierarchical control is overwhelming and statistical performance is prized.

⁶ AL GTM 9/2025.

48. Prosecutors require guarantees of job stability, which are a fundamental condition of the autonomy required for the proper fulfilment of their essential duties. Prosecutors should therefore be protected by guarantees of proper appointment, reasonable conditions of work, job security and protection from external pressures.⁷ Disciplinary proceedings should be based on an objective evaluation and decision, entail a right to a fair hearing and be subject to independent review.⁸

49. In contrast, the Special Rapporteur learned that every stage of the disciplinary process at the Prosecutor General's Office is structurally subordinated to the Prosecutor General. The Oversight Unit, which opens and investigates misconduct, is organically housed within and takes instructions from her office. Once an investigation is concluded, charges are laid before a three-member Disciplinary Board whose members she appoints and may remove. The Prosecutor General hears appeals against the very sanctions that her subordinates impose. In sum, every path leads back to the same official, rendering guarantees of due process largely illusory. The numbers are telling. Since 2018, at least 619 prosecutors, including heads of sections, district prosecutors, *fiscales* and *fiscales auxiliares* have been subjected to disciplinary proceedings, and more than 600 have been sanctioned.

50. The restructuring of the Prosecutor General's Office did not stop at disciplinary sanctions. Since the appointment of the current leadership, more than 100 prosecutors have been dismissed, with only 20 of those removals preceded by a disciplinary proceeding as required by article 63 of the Organic Law of the Prosecutor General's Office. The Special Rapporteur was made aware that the Prosecutor General considers prosecutors to be "employees of confidence" and thus subject to at-will appointment and removal. Nevertheless, labour courts have reportedly ordered more than 50 reinstatements following dismissals by the Prosecutor General's Office, a significant number given the length of these cases and a frequently reported fear of reprisals.

51. The Special Rapporteur was concerned that all heads of major section offices have been dismissed, including those of the Special Prosecutor's Office against Impunity and Corruption, the Internal Affairs Office (Fiscalía de Asuntos Internos), the Administrative Crimes Office (Fiscalía de Delitos Administrativos), the Anti-Corruption Office (Fiscalía contra la Corrupción) and the Human Trafficking Office (Fiscalía contra la Trata de Personas). Some of these dismissals were carried out at pivotal moments of ongoing proceedings, for instance the dismissal of the head of the unit of the Office of the Prosecutor for Human Rights responsible for special cases related to the internal armed conflict (Unidad de Casos Especiales del Conflicto Armado Interno) on the eve of the conclusion phase of the 2024 Ixil Genocide trial.

52. Transfers appear to have become a disguised sanction. The Special Rapporteur was told that hundreds of prosecutors have been reassigned overnight to distant jurisdictions or units, often unrelated to their expertise. In their place, individuals with limited experience have come to occupy positions of high responsibility.⁹

53. Many of these transfers reportedly involve prosecutors who have handled politically sensitive cases or those who are perceived as too independent. In November 2024, the mass transfer of 14 prosecutors from the Unidad de Casos Especiales del Conflicto Armado Interno and the dismissal of their head, while the Genocide trial was ongoing, partially dismantled the unit and seriously affected its operational capacity.

54. These cases suggest an institutional policy aimed at obstructing accountability. Career prosecutors have been unjustifiably removed and criminalized, including while protected by provisional measures granted by the Inter-American Court of Human Rights.

⁷ United Nations, Guidelines on the Role of Prosecutors, 1990.

⁸ Ibid.

⁹ AL GTM 5/2024, and AL GTM 8/2025.

2. Budget redistribution and efficiency

55. Equally worrying is the strategic redistribution of resources. The budget of the Prosecutor General's Office doubled between 2016 (Q1,490 million) and 2022, reaching Q3,420 million. By 2025, the budget had increased to Q4,828 million.

56. Despite this expanded budget, funds once assigned to the Special Prosecutor's Office against Impunity and Corruption, the Electoral Crimes Unit, the Transitional Justice Section and other divisions working on grave human rights violations have been cut, while funds have flowed into newly created units such as the Office of the Special Prosecutor for Crimes of Usurpation (*Fiscalía Especializada contra los Delitos de Usurpación*). The latter works closely with the Property Rights Observatory (*Observatorio de Derechos de Propiedad*), a group widely seen as promoting private economic interests, including in cases related to evictions and to disputes over Indigenous Peoples' lands.

57. The impressive expansion in territorial coverage of the Prosecutor General's Office must be noted: prosecutorial services are now available in each of the municipalities of Guatemala. In addition, the Office reported that it had "resolved" 3.8 million case files since 2018. However, a closer look at the statistics and trends suggests that the breadth of the effort was not matched by depth.

58. Fewer than 9 per cent of the cases have led to an indictment, alternative resolution or conviction. Most cases are dismissed before reaching a court. Complaints filed for aggravated robbery have been dismissed within a few hours of being reported. This situation is worse for targeted groups: Indigenous Peoples' and peasant communities' complaints are frequently dismissed at the earliest stages and sometimes not registered at all. Lawyers reported startlingly high rates of impunity for cases of violence against women.

59. The narrative of superior efficacy and efficiency advanced by the Prosecutor General's Office does not withstand scrutiny. When assessed on the traditional indicators, such as the rate of cases that lead to substantive outcomes, the story is different. Combined with the strategic use of dismissals, transfers and budget cuts, the criminal policy of the current institution seems swayed by incentives to dispense with cases in their very earliest stages regardless of the nature of the crime.

3. Policy of criminalization

60. Although the Special Rapporteur had addressed criminalization before her country visit,¹⁰ she was concerned by the alarming starkness of the practices that she witnessed.¹¹ In Guatemala, criminalization entails the instrumentalization of criminal law by the Prosecutor General's Office in a systematic pattern of intentional and severe deprivation of fundamental rights, targeted at specific groups.¹²

61. The Prosecutor General's Office emphatically denied that it is engaged in criminalization, stating that the Office and its civil servants were themselves the real victims of harassment and online abuse. The facts point to a very different reality.

62. Criminalization operates through a set of identifiable actions, involving collusion between the Prosecutor General's Office, some members of the judiciary and often some private actors. The Special Rapporteur identified the following indicative characteristics of criminalization in Guatemala. Even if not all elements are present in every case, the cases received by the Special Rapporteur consistently involve several of these indicators.

¹⁰ GTM 7/2013, GTM 9/2013, GTM 4/2014, GTM 7/2018, GTM 13/2018, GTM 1/2019, GTM 6/2019, GTM 10/2020, GTM 3/2021, and GTM 6/2022, GTM 4/2023, GTM 5/2023, and GTM 6/2024. After visit: AL GTM 5/2025, GTM 6/2025, and GTM 8/2025.

¹¹ The Special Rapporteur met with some of the victims at Mariscal Zavala.

¹² Office of the United Nations High Commissioner for Human Rights in Guatemala, *Guatemala: desafíos en la defensa de los derechos humanos 2020 – 2025*, (Guatemala, 2025), para. 28 (in Spanish).

Common characteristics of criminalization

(i) *Criminal charges are used against specific targeted groups*

63. Targets of criminalization include independent judges, prosecutors, lawyers, journalists, Indigenous authorities, peasant leaders, student leaders and members of the nominating commissions. Criminal charges have been directed at more than 66 legal actors and human rights defenders.

64. Numerous individuals linked to the fight against corruption and impunity have been charged with crimes at key moments. Those defending criminalized justice operators have themselves been subject to criminalization. There is growing concern about the intensifying criminalization of individuals involved in transitional justice cases, including, shockingly, the victims themselves.

65. Indigenous authorities and student leaders have also been criminalized, apparently in retaliation for their defence of democracy following the 2023 elections.¹³ The Special Rapporteur is especially concerned about the detention of former Vice Minister of Sustainable Development, Luis Pacheco Gutiérrez, and Héctor Chaclán Batz,¹⁴ Indigenous leaders from Totonicapán, whom she met in detention.

66. She was concerned to hear of the criminalization of cultural practices: the use of Mayan ceremonial sticks was likened to violence, and meetings with the business sector later became “kidnappings”. Indigenous lawyers reported being prosecuted as well.

67. Reflecting entrenched patterns of institutionalized racism and discrimination, Indigenous Peoples also face criminal charges for defending their ancestral lands from eviction. There has been collusion between the private sector and the Prosecutor General’s Office to criminalize land and territory defenders, misusing the crimes of terrorism and illicit association, as well as trespassing charges.¹⁵

68. The Special Rapporteur underlines the double impact that this pattern of persecution has on women, subjected to specific gender-related harm, including threats of sexual violence even during hearings.

(ii) *Filing of multiple proceedings and the misuse of the joint plaintiff (querellante adhesivo)*

69. Targets of criminalization often face multiple legal proceedings based on the same facts, including parallel charges filed by different entities or through misuse of the powers conferred through the procedural status of the joint plaintiff (*querellante adhesivo*) as joint plaintiff – originally intended to enhance access to justice. Exploited by groups such as the Fundación contra el Terrorismo and individuals under corruption probes, this tool is used in cases where numerous repetitive, inflammatory complaints have been pursued with minimal judicial oversight. The Special Rapporteur learned that a reported 80% of the victims of criminalization are facing proceedings owing to filings connected to the Fundación.

70. Worryingly, certain parties acting as *querellantes adhesivos* have allegedly committed further procedural abuses with the acquiescence of the presiding Court. In some proceedings, judges have allowed the civil parties to present disparaging arguments, sexist value judgments and stigmatizing evidence, while permitting interruptions of the defence and tolerating dismissive remarks directed at both the client and the lawyer.

71. This pattern reflects a troubling reversal where justice operators involved in prior investigations against certain individuals now face proceedings redirected against them, with the original defendants assuming the role of *querellantes adhesivos*.¹⁶

¹³ AL GTM 8/2023.

¹⁴ AL GTM 5/2025.

¹⁵ The Special Rapporteur agrees with the findings of the Special Rapporteur on the right to adequate housing. Available at <https://www.ohchr.org/sites/default/files/documents/issues/housing/2025-07-25-com-guatemala-sr-housing-en.pdf>.

¹⁶ AL GTM 8/2025.

72. Equally worrying, actions brought on behalf of the criminalized individuals rarely receive favourable rulings. Once referred to the Appellate Chambers, cases frequently remain pending beyond a reasonable period. This starkly contrasts with motions filed by the *querellantes adhesivos*, which are addressed expeditiously, even when submitted at a later stage of proceedings.

73. Additional pressure is applied through administrative and disciplinary actions; for example, one former judge faced over 100 criminal cases, 75 disciplinary complaints and 30 motions to lift immunity.

(iii) *Vague and overly broad charges, inadequately related to the facts*

74. According to a wide range of interlocutors, the Prosecutor General's Office has initiated proceedings based on charges that appear to criminalize activities protected under the Constitution and human rights law, including the rights to freedom of association and assembly, freedom of expression and the right of Indigenous Peoples to occupy their ancestral territories.

75. Vaguely defined offences, such as "abuse of authority," "obstruction of justice" and "illicit association" have also been instrumentalized. The Special Rapporteur was told that a lawyer was charged with "obstructing justice" after reporting misconduct by a justice official, and that journalists have been charged with the same crime when reporting on cases of criminalization.

76. In meetings with Indigenous leaders, the Special Rapporteur was told that community members have been charged with usurpation (*usurpación*) and jailed for their continuing presence on their ancestral territories.¹⁷ Without a way to obtain legal certainty, community members were made vulnerable to the abuse of the criminal law.

(iv) *Arbitrary detention*

77. Cases of criminalization often involve prolonged or abusive use of pretrial detention. Conditional release pending trial appears to be the exception rather than the rule. Moreover, the burden of proof is frequently improperly reversed, with defendants required by some judges to produce evidence of employment, residence or other indicators of social stability for pretrial release to be considered. Even the presence of international trial monitors has been understood as increasing the risk of flight.

78. Significant delays in judicial proceedings were also reported. Individuals sometimes wait for months before their first judicial hearing. Those accused of non-violent or petty offences, eligible for substitute measures, are kept in custody for periods ranging from months to years. The Special Rapporteur expresses her concern about the cases of several justice operators who have been subject to arbitrary detention, including Stuardo Campo, whom the Special Rapporteur was able to meet in detention.¹⁸

79. These prolonged detentions have become the norm in cases of criminalization, and some judges justify this by invoking a jurisprudential mechanism called "provisional detention", a practice with no foundation in Guatemalan law. The Constitutional Court, when asked, stated that it cannot strike down this practice because it does not formally exist in law – an apparent abdication of its duty to safeguard constitutional rights.

80. In this context, many report that the acceptance of charges, an optional alternative procedure to criminal proceedings, introduced under Congressional Decree 10-2019, has become a powerful instrument of coercion. The offer of a reduced sentence in exchange for a guilty plea functions as a pressure tool in the context of criminalization, where individuals and their co-accused often face numerous serious charges. Faced with the prospect of spending years in pretrial detention, many choose to plead guilty regardless of the merits of

¹⁷ AL GTM 8/2023 addressed the criminalization of Indigenous resistance, including through the *Law against Organized Crime*, which allows for increased criminalization of communities and human rights defenders.

¹⁸ GTM 9/2013, GTM 4/2014, GTM 7/2018, GTM 13/2018, GTM 1/2019, GTM 6/2019, GTM 10/2020, GTM 3/2021, GTM 6/2022, and AL GTM 5/2024.

the case against them. Charges are often accepted without proper judicial scrutiny of the evidence. The implications are grave: coerced confessions, wrongful convictions and the erosion of guarantees of due process.

81. The Special Rapporteur draws attention to the possibility that prolonged pretrial detention and conditions of confinement may, together or separately, violate¹⁹ the strict prohibition on obtaining confessions through coercion.²⁰

(v) *Online harassment and threats*

82. Online harassment is a deeply concerning dimension of the broader pattern of intimidation. Before, during and after formal proceedings, coordinated online campaigns, often organized through anonymous accounts and “net centres”, circulate threats of arrest, physical harm or even death. Targets are frequently labelled “terrorists,” “traitors to the nation” or “guerrillas,” and posts often contain misogynistic, homophobic, xenophobic and other discriminatory language. In some instances, highly sensitive or “reserved” procedural information, including advance notice of arrests, is leaked through these social media channels. Despite reports and complaints to the authorities, meaningful investigations have not been undertaken to trace or halt these attacks.

(vi) *Misuse of the case allocation system*

83. The current Systematic Allocation Procedure, administered by the Auxiliary Services Centre for the Administration of Criminal Justice (Centro de Servicios Auxiliares de la Administración de Justicia Penal), is intended to ensure the random electronic assignment of criminal cases. In practice, this system appears to be subject to manipulation. Cases involving former justice operators, defence lawyers and others involved in anti-corruption or transitional justice efforts are systematically assigned to a handful of specific judges – including those who have been internationally identified as associated with corrupt or anti-democratic practices. Data analysis suggests that this pattern is exceedingly unlikely to be coincidental. While the Special Rapporteur was assured that the system could not be manipulated, confidential statements by justice operators familiar with the workings of the system testified to the contrary.

84. The Special Rapporteur was told that requests for technical information about the randomization algorithm have been denied by the Supreme Court on grounds of confidentiality. This is disturbing not only because it deprives the public of key information relevant to a fair trial, but also because randomization processes should be easy to explain without recourse to confidential information.

(vii) *Erosion of due process guarantees*

85. Judicial secrecy measures, governed by article 314 of the Guatemalan Code of Criminal Procedure and commonly referred to as *reserva*, are routinely requested by the Prosecutor General’s Office in politically sensitive cases. When granted, the *reserva* results in limited access by the defendant to the evidence and defence counsel and provides a basis for excluding the press, human rights personnel and family members or even defence counsel, from hearings or crucial information.

86. The constitutional framework establishes publicity as the rule, as judicial secrecy is applied only when publicity could harm the interests of justice. The Human Rights Committee has clarified that all trials must, in principle, be conducted orally and publicly, as this ensures transparency and accountability in the justice system.²¹ However, the Prosecutor General’s Office abuses the legal exception, turning the exception into the rule in apparent

¹⁹ AL GTM 6/2025.

²⁰ International Covenant on Civil and Political Rights; Human Rights Committee, general comment No. 32 (2007); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 1; and AL GTM 6/2025.

²¹ Human Rights Committee, general comment No. 32, para. 28.

collusion with a certain number of judges to whom criminalization cases are routinely allocated.²²

87. Cases of criminalization are characterized by repeated suspensions of court hearings, sometimes without justification. These suspensions can result in significant delays to proceedings and are sometimes announced at the last moment. Criminalization cases often face prolonged delay at the appellate stage as well.

88. Criminalization violates key human rights, including the right to a fair and public trial, due process, adequate defence preparation and private communication with counsel under article 14 of the International Covenant on Civil and Political Rights. Crucially, criminalization violates the right to be presumed innocent until proved guilty according to law. In brief, the coordinated and systematic deployment of specific tactics converts prosecution into persecution.

D. Lawyers

1. Legal profession

89. Independent, impartial and professional justice depends, to a large extent, on a solid legal community, governed by high standards of academic training, professional ethics and institutional autonomy. These are essential not only for the performance of judges, prosecutors and public defenders, but also for those who practise law in the private sector.

90. The Special Rapporteur notes that the environment in which many lawyers operate is increasingly chilled by intimidation, threats and the risk of criminalization, especially in connection with cases related to human rights, transitional justice, Indigenous Peoples' rights or justice operators. Lawyers who are members of Indigenous communities are especially vulnerable. This climate discourages legal representation and weakens the equality of arms and the effective enjoyment of fair trial guarantees.

91. The Special Rapporteur notes that the Institute of Public Criminal Defence provides free legal representation to persons who cannot afford private counsel, including through direct requests from individuals and referrals by judicial authorities. While this public defence service constitutes a critical safeguard for the right to a fair trial, its effectiveness is constrained by limited territorial coverage, insufficient staffing and significant budgetary disparities as compared with prosecutorial authorities. These constraints reportedly impede the ability of defence lawyers to conduct independent investigations or obtain expert evidence, limiting options for the most effective representation. The Special Rapporteur also received information indicating that additional community-based legal aid is provided through community legal aid offices (*bufetes populares*).

2. Role of universities

92. The role of Guatemalan public and private universities in legal education warrants special attention. Numerous sources voiced alarm at the proliferation of private universities with law schools with low academic standards, whose main objective seems to be to obtain representation in the nominating commissions.

93. In this context, the Special Rapporteur received allegations of reprisals and institutional retaliation against professors and academic staff who challenged the legitimacy of the current rector of the Universidad de San Carlos de Guatemala or pursued legal action against university authorities.²³ These acts reportedly included disciplinary proceedings, the filing of criminal complaints, the withholding of salaries or pensions and online harassment. Such practices raise serious concerns regarding academic freedom, professional ethics, respect for the autonomy of public universities and criminalization.

94. Some law schools give little weight to cultural competency, legal pluralism or the rights of Indigenous Peoples guaranteed by international law. This educational gap is

²² AL GTM 6/2025.

²³ Ibid.

reflected in prosecutorial practice and in court rulings that overlook international standards, especially those recognizing Indigenous ownership of ancestral lands, territories and natural resources. When a legal community lacks rigorous training grounded in international standards, it becomes more vulnerable to bias and capture by interests opposed to human rights, ultimately undermining the independence and legitimacy of the justice system in the diverse and multi-ethnic Guatemalan society. This also harms Indigenous lawyers; as one such lawyer told the Special Rapporteur, “we are trained to deny our very being when the rights of communities are not recognized.”

3. Bar Association

95. The Bar Association (Colegio de Abogados y Notarios de Guatemala) plays a crucial role in safeguarding ethical and competent legal practice. For a long time, reports highlighted attempts to co-opt the institution, particularly through contested elections of its Governing Board and Honour Tribunal, including pressure tactics and criminalization targeting certain candidates. Testimonies revealed that the Association had inadequately fulfilled its role, with its Honour Tribunal imposing minimal sanctions despite numerous complaints of serious misconduct, resulting in an ineffective, discredited disciplinary process that fostered impunity.

96. In March 2025, a newly elected leadership took over the institution, despite challenges in their swearing-in. Their role is decisive to restore the Bar Association’s integrity and credibility by prioritizing ethical enforcement, ensuring transparent disciplinary proceedings and re-establishing public and professional confidence.

4. Impact of criminalization of lawyers on the justice system

97. The climate of terror arising from criminalization has created a chilling effect within the legal profession, which observes that those who face criminalization also experience attacks and blacklisting. Self-censorship, a reduced willingness to take on cases and adjustments in litigation strategies have been documented.

5. Justice operators and lawyers in exile

98. Criminalization has forced more than 100 justice operators into exile, where they often face legal uncertainty, problems with migration status, hardships related to employment and the loss of a profession, with the profound isolation that comes with involuntary relocation. These impacts are compounded when harassment and threats continue abroad.

99. The Special Rapporteur was deeply disturbed to find that those exiled are still subject to active arrest warrants and possibly International Criminal Police Organization (INTERPOL) red notices, while threats against them and their families persist.²⁴ In view of the fact that these cases are the result of the pattern of instrumentalization, certain conditions have to be met for the safe return of the individuals concerned to the country to face proceedings.

100. These circumstances place them at risk of violation of their fundamental right to life and physical integrity, as protected under article 6 of the International Covenant on Civil and Political Rights and clarified in general comment No. 36 (2018) of the Human Rights Committee. Victims of criminalization indicate feeling abandoned by State authorities, including by the Human Rights Ombudsman’s Office (Procuraduría de los Derechos Humanos), which has failed to take part in their defence.

101. Beyond the individual impact, the forced exile of justice operators has profound societal effects, including the loss of valuable professionals, weakened institutional capacity, diminished leadership and visibility in the pursuit of truth and justice and the dismissal of cases involving serious human rights violations. Exile can have specific gendered effects, when the exile of women, who tend to remain primary caregivers, disrupts family structure as a whole.²⁵

²⁴ AL GTM 8/2025.

²⁵ AL GTM 6/2022.

E. Role of other branches of government

102. The Special Rapporteur welcomes the strong stated commitment by the President, Bernardo Arévalo, to end criminalization. She is dismayed, however, that some executive actors may not be taking all steps possible to halt this pattern and to ensure those in exile have the support that they need. The Special Rapporteur learned that the Office of the Solicitor General of the Nation had taken positions against justice operators in criminalization cases. In at least one case, the Office requested financial reparations for so-called damages to the State. The Special Rapporteur was disappointed to learn that, even as at the date of writing, the State has not withdrawn this request, instead continuing to seek the imposition of exorbitant reparations against a criminalized justice operator in exile.

103. Concerning the Ministry of the Interior, the Special Rapporteur was concerned to learn that the institutional relationship between the Ministry and the Prosecutor General's Office is not clearly defined in law and practice. The Special Rapporteur was told that the Prosecutor General's Office relied on its own internal investigative units, instead of the national police, despite being the Ministry's operational arm. In corruption cases, the police are rarely invited to be part of investigative measures. They are only presented with the results, without insights into investigative decision-making, thereby limiting the response of the Ministry of the Interior to allegations of criminalization. This lack of legal clarity enables the misuse of the investigation powers within the criminal justice system under the guise of legality.

104. The Special Rapporteur is concerned that the legislature, as a branch of government responsible for providing checks and balances on the Prosecutor General's Office, has failed to act decisively, particularly following the Prosecutor General's reappointment for a second term. Accountability mechanisms remain weak: the law governing the removal of the Prosecutor General requires "established just cause," interpreted as a criminal conviction for acts committed in office, a standard that is unlikely to be met in practice and must be reformed. While Congress has oversight powers under article 165 (j) of the Constitution, including the interpellation (*interpelación*) procedure (parliamentary questioning of a minister on a specific issue), which may lead to a vote of no confidence, since her appointment in 2018, the Prosecutor General has rarely been summoned to Congress, despite 1,538 summonses issued to senior executive officials in 2024, none of which involved the Prosecutor General.

F. Access to justice

1. Accessibility of courts and tribunals

105. The Guatemalan justice system continues to mirror the country's deep social and territorial inequalities. More than half the population lives in poverty, reaching 90 per cent in rural departments. While the Special Rapporteur heard that much of the system has been digitalized, Internet connection or literacy is still not available for many, and a single trip to court can amount to a day's wage.

2. Access to justice for groups in vulnerable situations

106. Another issue that emerged is the significant language barrier experienced by Indigenous Peoples. Spanish is often the only language spoken by the authorities, including justice operators and officials carrying out evictions. Interpreters are rare and demand is high, given that 25 different languages are used in Guatemala.

107. Language barriers continue to restrict access to courts, especially when public defenders do not speak the predominant Mayan languages of the local population. This persists despite an expansion in the territorial coverage of the Prosecutor General's Office to each of the municipalities in Guatemala.

108. Women's groups and LGBTQ+ advocates described the justice system as unresponsive at best, hostile at worst. Femicide remains rampant and convictions still rare. Survivors of gender-based violence, some as young as 14, often face decades-long delays, if their cases are heard at all. Trans women face significant challenges, lacking protection and

legal recognition. The Special Rapporteur heard that judges who support LGBTQ+ rights have faced retaliation.

109. The Special Rapporteur has concerns about institutional challenges that hinder the Institute of Public Criminal Defence (Instituto de Defensa Pública Penal) from operating independently and effectively. Key issues include insufficient staffing, a lack of public defenders and Indigenous language interpreters and logistical barriers such as limited transportation to remote areas. These shortcomings compromise the right to legal assistance, subject defenders to undue pressure and overwork and threaten their professional independence. In departments such as Alta Verapaz, a stark imbalance exists: while the Prosecutor General's Office has a strong municipal presence with over 50 prosecutors, the Institute operates from a single office in Cobán with fewer than 20 defenders, undermining access to justice and the principle of equality of arms.

G. Transitional justice

110. Despite the tireless efforts of civil society and survivors, systematic denial of the past and the crimes – including genocide – committed during the internal armed conflict remains. There is still no real justice for most victims, and reparations have not been fulfilled.

111. The Special Rapporteur was concerned to learn that, between 2020 and 2024, the so-called “Pact of the Corrupt” alliance promoted legal reforms that run counter to international standards, including amnesty bills for serious human rights violations committed during the internal armed conflict.²⁶

112. Those who preside over transitional justice cases have been targeted for criminalization. For example, at least one judge in exile faces criminal proceedings as a result of his work in cases related to serious human rights violations committed during the internal armed conflict.²⁷

H. Accountability

113. The justice crisis has placed Guatemala among the most sanctioned countries in the Inter-American system. The Inter-American Court of Human Rights currently has three dozen open cases against Guatemala; about half concern failures within the justice system. Human rights defenders are among the most affected. Around 250 cases have been brought before the Inter-American System by victims unable to access justice domestically.

IV. Conclusions

114. In specific cases in the past, Guatemala has demonstrated its capacity to confront corruption and address serious human rights violations. However, the system is in deep crisis. The instrumentalization of criminal law, the concentration of power within key institutions and the persecution of independent justice operators have gravely undermined judicial independence and public trust. Guatemala has a system in which justice is applied selectively, influenced by political interests, economic power and personal connections.

115. Guatemala stands at a critical juncture. The dismantling of anti-impunity efforts and the systematic criminalization of judges, prosecutors, lawyers, journalists, Indigenous authorities and human rights defenders have exposed long-standing structural weaknesses. The 2026 appointments to the Constitutional Court, the Supreme Electoral Tribunal and the Prosecutor General's Office will be decisive in determining whether the current patterns of capture and impunity are consolidated or reversed.

²⁶ OL GTM 7/2022.

²⁷ AL GTM 6/2022.

116. Guatemala has the tools, institutional experience and human capital necessary to restore an independent and impartial justice system. There is broad agreement on the need for reform, particularly to depoliticize judicial appointments, re-establish a merit-based judicial career and ensure effective oversight of prosecutorial power. Ending arbitrary transfers, abusive disciplinary practices and the misuse of criminal proceedings is essential to rebuilding trust.

117. These dynamics disproportionately affect Indigenous Peoples, women and other marginalized groups, who face entrenched barriers to accessing justice. The forced exile of justice operators has weakened institutional capacity, deepened impunity and left victims of serious human rights violations without effective remedies.

118. Urgent and coordinated action by all branches of government is required. Judicial independence, accountability and respect for human rights must be actively guaranteed in practice. Without prompt reforms, there is a serious risk that the justice system will continue to be used as a tool of persecution rather than protection.

V. Recommendations

A. Protection of justice operators and an end to criminalization

119. The Special Rapporteur urges all relevant actors to take the measures under their purview to end the well-established and brazen pattern of criminalization. All those in positions of authority, especially the Prosecutor General and her staff, must take actions within their power to halt persecution.

- (a) The Prosecutor General's Office must:
 - (i) Halt criminalization processes and immediately dismiss abusive cases against those targeted through, for example:
 - a. Establishing clear legal guidelines concerning when and how crimes should be investigated and prosecuted, to ensure compliance with the principles of legality, impartiality and respect for human rights;
 - b. Engaging with the Ministry of the Interior in setting out objective standards and protocols that allow for arrest warrants to be issued in a manner that is legal and compliant with human rights;
 - c. Establishing a unit within the Prosecutor General's Office where those who have been the targets of criminalization can seek urgent review and dismissal of their cases;
 - (ii) Investigate and prosecute online harassment and leaks of confidential information against judicial operators, including its specific gender impact. Investigate allegations against the Fundación contra el Terrorismo and the Observatorio de Derechos de Propiedad;
 - (iii) Set up a special unit to swiftly register, review, close and provide reparations for criminalization cases through, inter alia:
 - a. Archiving cases where possible;
 - b. Pursuing recusal of judges presiding over criminalization cases, followed by requests for complete dismissal of the cases;
 - c. Pursuing remedies for all victims of criminalization;
- (b) To end criminalization, the executive should:
 - (i) Establish protection and support mechanisms for victims of criminalization in exile, including assistance with documentation, the creation of accessible pathways for emergency assistance, legal and

psychosocial support, professional reintegration services for displaced justice operators and lawyers, measures that mitigate the isolation and long-term harm associated with forced exile, and safe return guarantees where possible, and culturally appropriate legal support for Indigenous leaders in exile;

(ii) Provide integral reparations for criminalized persons. Where existing law is inadequate, work with the legislature to pursue necessary legal reform;

(iii) Ensure that criminalized justice operators do not face orders for reparations from the State, and withdraw current requests for such reparations;

(iv) Review requests for red notices before they are sent to INTERPOL, ensuring that the executive does not, by passing on such requests, internationalize the persecution of criminalized persons;

(c) To end criminalization, the legislature should:

(i) Implement the recommendation of the Inter-American Commission on Human Rights to conduct an independent review of the functioning of the Prosecutor General's Office

(ii) Ensure effective oversight of the Prosecutor General, reforming the law governing the removal of the Prosecutor General to allow for removal in cases where the Prosecutor General is found to be abusing criminal law or violating human rights;

(d) To end criminalization, the judiciary should:

Urgently scrutinize cases that may constitute criminalization and dismiss cases lacking legal basis, including ending improper or prolonged pretrial detention, while ensuring public hearings.

B. Judicial reform

120. Guatemala must recognize the urgent need to reform the structure of the judiciary, given the excessive politicization that has allowed undue influence to permeate the judicial system. The Special Rapporteur recommends that the Government of Guatemala:

(a) Repeal Decree 7-2022 and re-establish the Judicial Career Council as a truly autonomous, adequately resourced oversight institution operating with merit-based and transparent standards;

(b) Take urgent steps to separate the administrative and supervisory responsibilities of the Supreme Court of Justice from its adjudicatory functions;

(c) Restore a truly independent Judicial Career Council that would ensure selection and appointment of independent and impartial judges of the highest integrity, training and capacity;

(d) Amend the law to depoliticize the comisiones de postulación in line with the findings in the present report. Since constitutional amendments take time, the Special Rapporteur recommends the adoption of transitional measures, including:

(i) The early publication of unequivocal evaluation criteria and assessment methods;

(ii) The use of public interviews;

(iii) The use of written justifications for appointment decisions;

(iv) The adoption of a clear mechanism by which candidates about whom there are credible allegations of conduct incompatible with human rights

standards are excluded pending independent and thorough investigation of those allegations;

- (v) The creation of mechanisms to enable civil society to help evaluate candidates and audit the process;
- (e) Introduce staggered renewal mechanisms for apex courts to prevent complete institutional turnover at any given time;
- (f) Review and strengthen the system for appointment of judges to ensure that judicial candidates are selected based on their integrity, ability, training and qualifications;
- (g) Cease all transfers or reassignments of judges without their consent;
- (h) Ensure a truly random, verifiable case allocation system;
- (i) Strengthen the autonomy of the Escuela de Estudios Judiciales, expand access to training across the country, and evaluate the School's impact;
- (j) The Supreme Court should take actions within its jurisdiction to:
 - (i) Issue guidelines on the use of pretrial detention and the figure of provisional detention to bring it into line with international standards;
 - (ii) Issue guidelines on the use of reserva in article 341 of the Code of Criminal Procedure;
 - (iii) Strengthen recusal rules.

C. Prosecutor General's Office

121. Urgent action is needed to restore the Prosecutor General's Office to its rightful role. To this end, the Prosecutor General's Office must:

- (a) Recalibrate criminal justice policy to refocus on the most impactful crimes, including organized crime, grand corruption and violence against women and children;
- (b) Ensure adequate prosecution of grave human rights violations and transitional justice cases;
- (c) Ensure that line prosecutors have the autonomy necessary for their position and that they cannot be instructed to act in contravention of their ethical duties and professional role;
- (d) Ensure that arbitrary hiring, removals, sanctions and transfers of prosecutors are halted, by, for example:
 - (i) Reviewing and reforming criteria and procedures for hiring to ensure that prosecutors are hired on the basis of integrity, ability, training and qualifications;
 - (ii) Reviewing and reforming criteria for the removal of, sanctions on and transfers of prosecutors to ensure impartiality, legality and absence of undue interference;
 - (iii) Publishing up-to-date figures on dismissals and transfers;
 - (iv) Fairly resolving all pending labour claims;
 - (v) Reinstating those arbitrarily dismissed;
 - (vi) Ensuring that prosecutors facing removal have a fair hearing subject to independent review.

D. Legal profession

122. The Bar Association and its Honour Tribunal must enforce rigorous professional ethics and anti-corruption standards, conduct transparent and effective disciplinary proceedings and protect lawyers targeted for defending criminalized individuals.

123. Guatemala must strengthen the quality of legal education and safeguard the autonomy of universities, including through rigorous accreditation and periodic evaluation processes for law faculties, carried out by independent technical bodies and based on clear, objective and publicly available indicators.

E. Access to justice

124. Guatemala should strengthen the institutional, financial and human resources of the Instituto de la Defensa Pública Penal to ensure the effective realization of the right to defence and equality of arms. This should include expanding territorial coverage, increasing the number of qualified public defenders and providing adequate funding to enable independent defence investigations, including access to expert evidence. The State should also ensure that public defence services operate free from undue interference and are accessible to all persons who lack sufficient means, including in rural and marginalized communities. In addition, the Special Rapporteur encourages the development and support of complementary legal aid mechanisms, such as community-based clinics and *bufetes populares*, as part of a comprehensive, coordinated legal aid system capable of guaranteeing effective access to justice for vulnerable populations.

125. Guatemala should guarantee certified interpretation in all proceedings involving non-Spanish speakers, work on including rural and impoverished communities in accessing the digitalized judicial system, and ensure adequate infrastructure for court users with disabilities.

126. Guatemala should ensure that the judicial system effectively guarantees and protects the rights of all individuals, including women and LGBTQ+ people, by ensuring equal access to justice, timely and impartial proceedings and protection from discrimination, harassment and violence at every stage of the justice process.

127. Guatemala should ensure the operational efficiency of the newly created human rights cabinet.
