



International Covenant on Civil and Political Rights

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Human Rights Committee

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List of issues to be taken up in connection with the consideration of the third periodic report of Guatemala (CCPR/C/GTM/3)

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please indicate what steps have been taken to set up a proper statistical information system to provide reliable, disaggregated and up-to-date data that will enable the State party to adopt appropriate and effective measures to enhance the enjoyment of the rights recognized by the Covenant in its territory and to measure the progress made. Please give examples of the application of the Covenant by the Guatemalan courts. Please also indicate what urgent measures the State party has taken to find the necessary resources to guarantee enjoyment of the rights recognized by the Covenant.

2. Please also: (a) provide information on the enforced disappearances, torture and other serious human rights violations perpetrated during the armed conflict that are now being dealt with by the courts and indicate the criteria used for reopening a case; (b) indicate what steps the State party is taking to comply with all the recommendations made by the Commission for Historical Clarification on compensation for victims; (c) provide information on progress made in adopting the bill on the National Compensation Programme and the Commission on the Search for Disappeared Persons (legislative proposal No. 3590) and in ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and the Rome Statute of the International Criminal Court; (d) indicate whether the regulatory, operational and budgetary framework of the National Compensation Programme has been strengthened (if so, please provide details); and (e) indicate what measures have been taken to ensure that all jurisdictions, including the military courts, recognize the permanent nature of enforced disappearance.

Equality between men and women, violence against women and the principle of non-discrimination (arts. 3, 6, 7 and 26)

3. According to information before the Committee, of the 30,873 complaints of violence against women filed in 2009, only 0.7 per cent led to prosecution and 0.2 per cent to sentencing. Please comment on this in the light of articles 3, 6 and 7 of the Covenant.

Please also indicate if public officials receive training in women's rights and, in particular, in the laws on violence against women adopted recently by the State party.

4. Please indicate whether, in line with the Committee's recommendation, abortion legislation has been amended to provide for exceptions to the general ban on abortion. Please also indicate what effective measures have been taken to give women adequate information on contraceptive methods and the avoidance of unwanted pregnancies.

5. Please provide detailed and up-to-date information on steps taken to guarantee that women working in *maquiladoras* enjoy the rights recognized in the Covenant in conditions of equality, especially with regard to their conditions of employment and recruitment, and particularly in the case of pregnant women.

State of emergency (art. 4)

6. Please indicate what steps the State party has taken to bring the provisions of the Public Order Act into line with article 4 of the Covenant. Please also indicate what steps have been taken to ensure that the states of emergency (states of alert and states of calamity) that have been decreed in the country are in line with the provisions of the Covenant.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and combating impunity (arts. 2, 6 and 7)

7. Please indicate if the State party has plans to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, and give the timetable for completing the ratification process. Please indicate if the State party has complied fully with the judgements of the Inter-American Court of Human Rights in the cases of *Raxcacó Reyes* and *Fermín Ramírez*, with regard to amending domestic legislation to annul the broader application of the death penalty, and its retroactive application, which was declared to be in breach of the State party's international obligations.

8. Please indicate if efficient mechanisms have been developed to assess performance and hold accountable members of the security forces so as to ensure that they observe and enforce in their work the rights set out in the Covenant. Please also indicate what human rights training is provided for the security forces and the impact of such courses in practice.

9. With regard to the joint operations conducted by the National Civil Police and the Ministry of Defence known as "joint patrols" (see paragraph 109 of the State party's report), please provide information on: (a) legislative and other measures taken to ensure that the armed forces are answerable to the civilian authorities; (b) how the rights and guarantees enshrined in the Covenant are enforced in such operations; (c) whether there is a timetable for ending the work of the joint patrols; and (d) the number of complaints of human rights violations received in this connection, the penalties incurred by perpetrators and the measures taken to ensure that an effective remedy is available to victims.

10. According to information before the Committee, the Ministry of Defence has opened new military outposts and soldiers have been sent to specific areas to fight organized crime and deployed in areas where there is considerable social unrest. Please provide information on steps taken to ensure respect for the rights recognized in the Covenant in the context of the military action in such areas.

11. Please indicate what steps the State party has taken to develop an adequate legal framework to effectively register and monitor private security companies and to regulate their operations and ensure they are subordinate to civilian public security forces. Please

also indicate whether Congress has adopted the proposed legislation on security and justice, including the bills on private security companies and on preliminary proceedings for judicial misconduct, amendments to the law on weapons and munitions and amendments to the law on *amparo*, habeas corpus and constitutionality.

12. What measures have been taken to amend General Order No. 11-99, which established local security committees, to make it fully compatible with the Covenant? What steps have been taken to prevent and punish the acts of neighbourhood groups or groups of armed individuals who appear to carry out patrols, controls, illegal detentions and other violations of Covenant rights?

13. According to information before the Committee, the National Commission in Support of the Educational Subprogramme for the Prevention of Lynchings is not functioning properly and has not produced the desired results. Please comment on this information in the light of articles 2, 6 and 7 of the Covenant.

14. Please indicate: (a) if torture and cruel, inhuman or degrading treatment have been classed as an offence by the State party, in accordance with the Covenant; (b) the measures taken to ensure that people have access to quick, confidential and safe complaints mechanisms and to guarantee an effective remedy to victims; and (c) the number of complaints, investigations and punishments for the offence of torture, and the compensation granted to victims.

Right to humane treatment of persons deprived of their liberty (art. 10)

15. Please indicate what steps have been taken to improve detention conditions, in accordance with article 10 of the Covenant, particularly with regard to overcrowding and access to health care and access to education and work programmes in places of deprivation of liberty, for both adults and children in conflict with the law, as well as in maximum security detention centres.

Due process and indigenous peoples (arts. 14 and 27)

16. Please indicate how the plan for crime policy is progressing and what steps have been taken to strengthen criminal investigation capacity and improve coordination between the Public Prosecutor's Office, the security forces and the judiciary.

17. Please indicate what steps the State party has taken: (a) to adopt a legal and regulatory framework for the judicial profession; and (b) to introduce a proper career structure for justice system officials. Please also indicate what progress has been made in amending the Judiciary Act to bring it into line with the Judicial Profession Act. Please describe the measures taken to guarantee the separation of administrative and judicial functions within the judiciary.

18. Please indicate: (a) what action has been taken to protect judges, prosecutors and witnesses who are subjected to threats and intimidation; and (b) what progress has been made in implementing the Act for the Protection of Persons Involved in the Conduct of Judicial Proceedings and Persons Linked to the Administration of Justice.

19. Please indicate what steps have been taken by the State party to increase the geographical coverage of the justice system and to improve access to justice, bearing in mind the cultural and linguistic characteristics of the population.

20. Please provide up-to-date information on: (a) progress made by the State party in incorporating indigenous law into the national legal system; (b) training courses for judicial

officials on the cultural significance of indigenous peoples; and (c) interpreters working in indigenous languages for the courts and prosecution services.

21. Please indicate what progress has been made towards electing the Attorney General. Has the State party considered establishing an appointments mechanism that takes independence, professional experience, merits and integrity into account for the election of the Attorney General, by, for example, introducing incentives, performance evaluations and a disciplinary system? Please provide information on this subject.

Prohibition of incitement to hatred and indigenous peoples (art. 27)

22. Please indicate what steps have been taken to class xenophobia and violent acts targeting indigenous peoples as an offence.

Human rights defenders (arts. 9, 21 and 22)

23. Please describe the legal framework for the protection of human rights defenders and the practical measures taken to ensure their safety and physical integrity and allow them to carry out their work. Please supply information on recorded cases of attacks on human rights defenders and threats against them, and say if anyone has been tried and convicted of such acts. Please indicate what steps have been taken to strengthen the Unit for the Analysis of Attacks against Human Rights Defenders.

Rights of indigenous peoples (art. 27)

24. Please indicate what steps the State party has taken to ensure the full observance in Guatemala of the right of indigenous peoples to be consulted on legislative and administrative measures likely to affect them. Please also indicate what steps have been taken to make the prior informed consent of indigenous peoples a prerequisite for the issuance of exploration and extraction permits in indigenous territories.

Dissemination of the Covenant and the Optional Protocols

25. Please provide information on: (a) the extent to which the Committee's concluding observations on the State party's second periodic report were publicized; (b) the measures that were taken to involve civil society in the preparation of the present report; and (c) the measures taken to create awareness of the remedies available under the first Optional Protocol among government officials and the general public.
