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Guatemala

The present report is a compilation of the information contained in the reports of treaty bodies and special procedures, including observations and comments by the State concerned, and of the Office of the High Commissioner for Human Rights (OHCHR), and in other relevant official United Nations documents. It is presented in a summarized manner due to word-limit constraints. For the full text, please refer to the document referenced. This report does not contain any opinions, views or suggestions on the part of OHCHR other than those contained in public reports and statements issued by the Office. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

I. Background and framework

A. Scope of international obligations¹

International human rights treaties²

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified/not accepted</i>
<i>Ratification, accession or succession</i>	ICERD (1983) ICESCR (1988) ICCPR (1992) CEDAW (1982) CAT (1990) CRC (1990) OP-CRC-AC (2002) OP-CRC-SC (2002) ICRMW (2003)	CRPD (2009) OP-CAT (June 2008)	ICCPR-OP 2 CPED (signature only, 2007)
<i>Reservations, declarations and/or understandings</i>	ICCPR-OP-1 Declaration CRC Declaration – art.1		
<i>Complaint procedures, inquiry and urgent action³</i>	ICCPR-OP 1 art. 1 (2000) CAT arts. 20, 21 and 22 (2003) OP-CEDAW arts. 1 and 8 (2002) ICRMW arts. 76 and 77 (2007)	OP-CRPD arts. 1 and 6 (2009) OP-ICESCR arts. 1, 10 and 11 (signature only, 2009)	ICERD art. 14 CPED arts. 30, 31, 32 and 33 OP-CRC-IC arts. 5, 12 and 13

Other main relevant international instruments

	<i>Status during previous cycle</i>	<i>Action after review</i>	<i>Not ratified</i>
<i>Ratification, accession or succession</i>	Convention on the Prevention and Punishment of the Crime of Genocide Palermo Protocol ⁴ Conventions on refugees and stateless persons ⁵ Geneva Conventions of 12 August 1949 and Additional Protocols thereto, ⁶ except Protocol III ILO fundamental conventions ⁷ ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries ⁸ UNESCO Convention against Discrimination in Education	Rome Statute of the International Criminal Court	ILO Convention No. 189 concerning decent Work for Domestic Workers ⁹

1. In 2010, the Committee on the Elimination of Racial Discrimination (CERD) recommended that Guatemala recognize its competence under article 14 of the Convention.¹⁰

2. In 2009, the Committee on the Rights of the Child (CRC) recommended that Guatemala ratify CPED, ICCPR-OP2 and OP-ICESCR.¹¹ The Committee on the Elimination of All Forms of Discrimination against Women (CEDAW) encouraged Guatemala to ratify CPED.¹²

3. In 2009, the Special Rapporteur on the independence of judges and lawyers reported that Guatemala had agreed to step up its efforts to comply with the UPR recommendation that it should accede to the international human rights instruments to which it was not yet a party.¹³

B. Constitutional and legislative framework

4. In 2009, the Special Representative of the Secretary-General on human rights defenders noted the little progress in the implementation of the Peace Accords.¹⁴

5. In 2011, the Working Group on Enforced or Involuntary Disappearances expressed concern at the lack of progress towards the adoption of a bill on declarations of presumed death in cases of enforced disappearance.¹⁵

C. Institutional and human rights infrastructure and policy measures

6. CRC recommended that the Procuraduría de los Derechos Humanos, a national human rights institution (NHRI), increase its accessibility, strengthen its local services and create culturally adapted services in the indigenous communities.¹⁶

7. CRC was concerned at the low social spending and low tax collection in the country.¹⁷ In 2012, the High Commissioner urged Guatemala to implement a comprehensive and progressive tax reform to enable an expansion of fiscal resources, social expenditure and redistribution, ensuring transparency and accountability.¹⁸ Similar recommendations were made by CRC.¹⁹

8. In 2012, the High Commissioner reiterated the importance of establishing a priority agenda for human rights action that should constitute a road map for the newly elected authorities.²⁰

Status of national human rights institutions

<i>National human rights institution</i> ^{21, 22}	<i>Status during previous cycle</i>	<i>Status during present cycle</i>
Procuraduría de los Derechos Humanos	A (2002)	A

II. Cooperation with human rights mechanisms

A. Cooperation with treaty bodies²³

1. Reporting status

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
CERD	February 2006		February 2010	Fourth to fifth reports due in 2013
CESCR	November 2003	2011		Third report: pending consideration

<i>Treaty body</i>	<i>Concluding observations included in previous review</i>	<i>Latest report submitted since previous review</i>	<i>Latest concluding observations</i>	<i>Reporting status</i>
HR Committee	July 2001		March 2012	Fourth report due in 2016
CEDAW	May 2006		February 2009	Eight and ninth reports due in 2015
CAT	May 2006	2012		Sixth report: pending consideration
CRC	May 2001		October 2010	Fifth and sixth reports due in 2015 Initial OPSC and OPAC reports reviewed in 2007
CMW		2010	October 2011	Second report due in 2016
CRPD				Initial report due in 2011

2. Responses to specific follow-up requests by treaty bodies

Concluding observations

<i>Treaty body</i>	<i>Due in</i>	<i>Subject matter</i>	<i>Submitted in</i>
HR Committee	April 2013	Reparations under the National Compensation Programme ²⁴ - Establishment of the National Commission of Inquiry (Enforced Disappearances) ²⁵ Protection for human rights defenders ²⁶	
CEDAW	March 2010	Implementation of the law against femicide ²⁷	2010 ²⁸
CERD	June 2011	Adoption of a law criminalizing racial discrimination ²⁹ Protection of human rights defenders ³⁰ Access to drinking water ³¹	2011 ³²

B. Cooperation with special procedures³³

	<i>Status during previous cycle</i>	<i>Current status</i>
<i>Standing invitation</i>	Yes	Yes
<i>Visits undertaken</i>	Special Representative of the Secretary-General on the situation of human rights defenders (Follow-up visit to 2002 visit, 18–19 February 2008) Working Group on Enforced or Involuntary Disappearances (WGEID) (19–21 Sept. 2006) Special Rapporteur on extrajudicial, summary or arbitrary executions (21–25 Aug. 2006) Special Rapporteur on the right to food (26 Jan.–4 Feb. 2005) Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (28 June–12 July 2004) Special Rapporteur on violence against women (9–14 Feb. 2004) Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (1–11 Sept. 2002) Special Representative of the Secretary-General on the situation of human rights defenders (26 May–1 June 2002) Special Rapporteur on the independence of judges and	Special Rapporteur on the human rights of migrants (24–28 March 2008) Special Rapporteur on education (21–28 July 2008) Special Rapporteur on the independence of judges and lawyer (26–30 January 2009) Special Rapporteur on independence of judges and lawyers (8–13 May 2009) Follow up. Special Rapporteur on the right to food (3–5 September 2009) Special Rapporteur on the right to health (12–17 May 2010) Special Rapporteur on indigenous people (14–18 June 2010)

	<i>Status during previous cycle</i>	<i>Current status</i>
	lawyers (10–12 May 2001)	
	Special Rapporteur on the independence of judges and lawyers (16–26 August 1999)	
	SR Special Rapporteur on the sale of children, child prostitution and child pornography (19–30 July 1999)	
<i>Visits agreed to in principle</i>	Special Rapporteur on the human rights of migrants	Special Rapporteur on freedom of peaceful assembly and of association
	Special Rapporteur on the independence of judges and lawyers	Special Rapporteur on the question of torture mandate
	SR Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Special Rapporteur on the sale of children, child prostitution and child pornography (Visit to be carried out from 20 to 29 August 2012)
	SR Special Rapporteur on the right to education	
<i>Visits requested</i>	None	Independent Expert on foreign debt (Requested 2008)
<i>Responses to letters of allegations and urgent appeals</i>	During the period under review, 62 communications were sent. The Government replied to 32 of these communications	

9. In 2012, WGEID indicated that 2,899 cases remained outstanding.³⁴ Guatemala transmitted five communications including information on the follow-up activities to the WG's recommendations following its visit in 2006.³⁵

C. Cooperation with the Office of the High Commissioner for Human Rights

10. In September 2011, the 2005 agreement which established an OHCHR office in Guatemala was extended for three years.³⁶

11. In March 2012, the High Commissioner undertook an official visit to Guatemala.³⁷

12. Guatemala made contributions to OHCHR in 2008, 2009 and 2012, including to the Voluntary Fund for Indigenous Populations.

III. Implementation of international human rights obligations

A. Equality and non-discrimination

13. CEDAW was concerned that certain groups of women face multiple forms of discrimination³⁸ and urged Guatemala to adopt an overall strategy to eliminate gender stereotypes.³⁹ It also recommended repealing all discriminatory legislation against women, including in the Labour, Civil and Criminal Codes,⁴⁰ and further encouraged the introduction of specific legislation to adopt temporary special measures in areas where women are underrepresented or in disadvantaged situations.⁴¹ The Human Rights Committee made similar recommendations.⁴²

14. The High Commissioner noted the structural patterns of racism and discrimination against indigenous peoples, to a degree that could amount to segregation.⁴³ The Human Rights Committee expressed similar concerns and recommended carrying out more education campaigns to promote tolerance and respect for diversity.⁴⁴

15. The High Commissioner was also concerned that indigenous peoples remained de facto excluded from access to the social, political and cultural spheres,⁴⁵ and at the

enormous disparity in social indicators between indigenous and non-indigenous populations. The United Nations Country Team (UNCT) expressed similar concerns.⁴⁶ CERD noted Guatemala's commitment under the UPR to promote the equality of rights of indigenous peoples, and encouraged the State to honour that pledge.⁴⁷

16. CRC reiterated its concern at the alarming level of discrimination suffered by Maya, Garifuna and Xinca children, and at discriminatory attitudes particularly affecting adolescents, girls, as well as children with disabilities, girls, living in rural areas, and from marginalized families.⁴⁸ According to UNCT, UNICEF also noted this situation.⁴⁹ CRC recommended addressing such discrimination, ensuring the sustainability and cultural suitability of programmes.⁵⁰

17. CERD reiterated its concern about the absence of domestic legislation classifying as punishable acts the dissemination of ideas based on notions of superiority or racial hatred, incitement to racial discrimination and violence against indigenous peoples or Afro-descendants. It recommended adopting a law specifically classifying the various manifestations of racial discrimination as punishable acts in accordance with the Convention.⁵¹ CERD also recommended implementing information programmes about available legal remedies in cases of discrimination.⁵²

18. CERD recommended taking appropriate steps to combat racial prejudice in the media, including through the adoption of a media code of ethics.⁵³

19. In 2012, the Human Rights Committee expressed concern about discrimination and violence against lesbians, gays, bisexuals and transsexuals (LGBT). The United Nations Population Fund (UNFPA) noted that transsexuals were the victims of hate crimes.⁵⁴ The Committee recommended that any act of discrimination or violence motivated by the victim's sexual orientation should be investigated, prosecuted and punished.⁵⁵ UNFPA made similar recommendations.⁵⁶

B. Right to life, liberty and security of the person

20. The Human Rights Committee expressed concern at efforts to resume executions, and recommended that Guatemala consider officially abolishing the death penalty and acceding to ICCPR-OP 2.⁵⁷

21. In 2009, the Special Rapporteurs on extrajudicial executions,⁵⁸ on the independence of judges and lawyers⁵⁹ and the Special Representative of the Secretary-General on human rights defenders,⁶⁰ noted the extremely high levels of violence in the country, including the increase in violent deaths. The Special Rapporteur on extrajudicial executions was particularly concerned with continued attacks on human rights defenders, increased killings of women, and the emergence of new targets (public transit operators) of unlawful killings.⁶¹ CRC was also concerned at the extremely high number of killings of children.⁶²

22. UNCT noted that, although the level of violence was still alarming, there had been a slight fall in the number of violent deaths between 2010 and 2011.⁶³ Greater inter-institutional coordination and the support of the International Commission against Impunity in Guatemala (CICIG) had helped reverse the trend and should be pursued and consolidated.⁶⁴

23. The High Commissioner noted that the legal framework on arms and ammunitions and its interpretation by the Constitutional Court allowed for unlimited numbers of arms per person and inadequate controls over their possession; that 82 per cent of violent deaths were committed with firearms and that private security companies had substituted the State in providing security, without adequate registration or control.⁶⁵ The Human Rights Committee recommended that the State party amend its legal framework and urgently

implement a public policy that would establish stricter limits on the acquisition and bearing of arms and ammunition by individuals.⁶⁶ It also recommended that the State party implement Legislative Decree 52-2010 to ensure the subordination of private to public security.⁶⁷

24. The High Commissioner noted that “femicide” and gender-based violence remained of utmost concern and underlined an enormous gap between the cases resolved by the judiciary and the number of complaints filed. She also noted deficiencies regarding the application of the Law against Femicide (2008) in non-specialized tribunals, such as their resistance to apply the criminal definition of femicide and to adopt measures to protect the victims.⁶⁸ CEDAW called upon Guatemala to ensure the provision of financial resources for the implementation of the Law.⁶⁹

25. UNCT reported that women were the victims in 86.55 per cent of cases of domestic violence in 2010.⁷⁰ The High Commissioner reiterated the need to implement and adequately fund the National Plan for the Prevention of Domestic Violence and Violence against Women (PLANOVI).⁷¹

26. The High Commissioner noted that two states of emergency were declared in Alta Verapaz and El Petén, in 2010 and 2011. She considered that measures that could better have an impact on the decrease of violence should have been taken under non-exceptional conditions.⁷² The Human Rights Committee was of the view that the 1965 Public Order Act should be amended so as to strictly limit the use of states of emergency, in compliance with article 4 of the Covenant.⁷³

27. The Committee reiterated that Guatemala should define the crime of torture in accordance with international standards and ensure that any alleged act of torture was duly recorded, prosecuted and punished in a manner proportionate to its severity.⁷⁴

28. The High Commissioner noted that the selection process for the national torture prevention mechanism has not complied with the principles of transparency, objectivity, suitability and publicity.⁷⁵

29. The Human Rights Committee expressed concern at the high levels of overcrowding in prisons and the high incarceration rate. It recommended improving the conditions of detained persons, in accordance with the Standard Minimum Rules for the Treatment of Prisoners, and adopting specific measures to protect the rights of detained women, especially during transfers.⁷⁶

30. The Office of the United Nations High Commissioner for Refugees (UNHCR) considered the Law against Sexual Violence, Exploitation, and Human Trafficking (2009) as a positive development.⁷⁷ According to CRC, tolerance of trafficking led to underreporting and impunity.⁷⁸ CMW recommended regulations to ensure that legislation on trafficking is applied.⁷⁹

31. CRC was concerned at the large number of children in street situations⁸⁰ and at the climate of violence linked to “maras” (juvenile gangs).⁸¹ It recommended developing a comprehensive policy to address the social factors and root causes of juvenile violence and to invest in prevention activities.⁸² CRC also recommended implementing all the recommendations made by the International Commission against Impunity in Guatemala (CICIG) regarding the impact of organized crime on children.⁸³

32. CEDAW urged Guatemala to strengthen its efforts to eradicate child labour and support education.⁸⁴

33. CRC was concerned about information that criminal networks active in the sale of children for international adoptions had not been dismantled.⁸⁵ It recommended ensuring

strict transparency and follow-up controls, prosecuting those involved in illegal adoptions; and implementing all the CICIG recommendations related to irregular adoptions.⁸⁶

34. CRC recommended legislative reforms to specifically prohibit corporal punishment of children in all settings.⁸⁷

C. Administration of justice, including impunity, and the rule of law

35. According to the Special Rapporteur on extrajudicial executions, investigations and responses to unlawful killings remained inadequate. He added that much needed improvements to the criminal-justice institutions, witness protection, budget allocation, and fiscal policy had not been implemented. The Special Rapporteur indicated that significant improvement had been achieved with the establishment of CICIG.⁸⁸

36. In 2009, the Special Rapporteur on the independence of judges and lawyers noted that the system to elect justice officials, open to external interference and highly politicized, had a negative impact on the independence of the judiciary.⁸⁹ The Special Rapporteur also pointed out that the abuse of *amparo* had obstructed or delayed justice.⁹⁰

37. In 2012, the Human Rights Committee expressed concern that the reforms of the justice system needed to ensure that the significant progress achieved in the criminal investigation and prosecution of high-profile cases became an institutional, permanent and sustained mechanism had not yet been made. It recommended giving priority to the adoption of legal reforms to the professional career system of the judiciary and in the Public Prosecution Service, and continuing to support CICIG.⁹¹ The High Commissioner expressed similar concerns and recommended that those reforms be in line with international standards.⁹²

38. The High Commissioner noted that high rates of violence and impunity continued to be linked to the generalized weakness of public institutions and the lack of a comprehensive State policy to combat them.⁹³ UNCT said that CICIG had proposed the introduction or reform of 15 laws on security and justice, but only four recommendations had been acted upon.

39. The Human Rights Committee recommended prioritizing the implementation of the reform of the National Civil Police and ensuring that any Army intervention in actions of the National Civil Police took place in accordance with clear and previously established protocols.⁹⁴

40. The Human Rights Committee was concerned that the local security boards were carrying out State tasks relating to territorial control and the use of force and that they were committing abuses and violations.⁹⁵ The High Commissioner recommended derogating General Order 11-99 of the National Civilian Police, and implementing operational and normative measures guaranteeing that citizens do not carry out State security functions.⁹⁶

41. The Human Rights Committee was concerned at the inadequate geographical coverage of the judicial system and the prevalence of a monocultural vision within that system.⁹⁷ CERD urged Guatemala to ensure respect for and recognition of the traditional systems of justice, in conformity with international HR law; and to guarantee a system of legal interpreters, bilingual counsel and court officials. The Human Rights Committee made similar recommendations.⁹⁸

42. CERD encouraged Guatemala to continue working with OHCHR in order to comply with the recommendations in its study on access to justice for indigenous peoples.⁹⁹

43. The High Commissioner noted progress in the investigation, prosecution and trial of those responsible for serious human rights violations committed during the internal armed

conflict.¹⁰⁰ However, she observed that intimidations, threats and attacks against some victims, witnesses and judicial operators remained an obstacle to the fulfilment of the rights to truth and justice.¹⁰¹

44. According to the Human Rights Committee, Guatemala should take a clear position in support of the proceedings in cases of genocide and other serious human rights violations committed during the internal armed conflict.¹⁰² CERD welcomed the National Compensation Programme.¹⁰³ The Human Rights Committee was concerned, nonetheless, that the main reparative measures adopted under the programme had been economic in nature, and that insufficient attention had been given to psychosocial support, restoration of dignity and recovery of historical memory.¹⁰⁴

45. The Human Rights Committee took note of the State party's commitment to establish a national commission of inquiry and recommended providing it with the necessary resources and establishing a single centralized registry of disappeared persons.¹⁰⁵ In 2012, WGEID made a similar recommendation.¹⁰⁶

46. In 2009, the Special Rapporteur on the human rights of migrants noted that efforts to combat corruption and impunity for abuses by public officials had been inadequate.¹⁰⁷ He urged Guatemala to ensure that those responsible were brought to trial and served their sentences in full.¹⁰⁸

D. Right to privacy, marriage and family life

47. CRC remained concerned at the high rate of birth underregistration, especially in rural areas,¹⁰⁹ and encouraged the adoption of flexible measures of birth registration, including mobile units. It further recommended implementing a specific birth-registration strategy for indigenous peoples.¹¹⁰

E. Freedom of expression, association and peaceful assembly, and right to participate in public and political life

48. In 2012, the Special Rapporteur on the situation of human rights defenders expressed concern at the rising tide of violence against human rights defenders, and particularly the high proportion of defenders who were killed, and at the prevailing climate of intimidation and harassment of defenders.¹¹¹ She urged Guatemala to create an environment in which defenders could go about their work without fear of violence and to ensure that no attack on them went unpunished.¹¹²

49. The High Commissioner noted that 2011 was marked by the death of several young human rights defenders (HRDs),¹¹³ and that some authorities tended to discredit such defenders and criminalize their activities.¹¹⁴ During her mission to Guatemala in 2012, in Totonicapán, the High Commissioner heard of legal proceedings against individuals protesting legitimately in defence of their rights.¹¹⁵

50. In 2009, the Special Representative on human rights defenders recommended that the Government turn the commitment to human rights into a political agenda;¹¹⁶ adopt a policy in consultation with HRDs and relevant stakeholders;¹¹⁷ and take concrete and visible steps to give political recognition and legitimacy to the work of such defenders.¹¹⁸

51. In 2012, the Human Rights Committee recommended that measures be taken to provide effective protection for defenders and to provide the Unit for the Analysis of Attacks against Human Rights Defenders with the resources it needed to carry out its functions.¹¹⁹

52. In 2011, WGEID welcomed the 2008 Act on Access to Public Information.^{120, 121}

53. CEDAW was concerned about the low representation of women in public administration at all levels.¹²² Similar concerns were expressed by the Human Rights Committee.¹²³ CEDAW called upon Guatemala to amend the Elections and Political Parties Act in order to guarantee women's equal participation in the electoral process.¹²⁴

54. CERD recommended redoubling efforts to ensure full participation of indigenous people, including at all levels of public service, and to secure fuller participation in decision-making.¹²⁵

F. Right to work and to just and favourable conditions of work

55. In 2010, the Special Rapporteur on right to food observed that labour legislation remained insufficiently protective of the rights of workers in certain areas. He noted that 50.1 per cent of workers received a salary below the legally established minimum wage and the cost of the basic food basket was higher than the minimum salary.¹²⁶

56. The High Commissioner observed that Guatemala did not monitor labour practices, mainly due to the absence of adequate budgetary allocations to the Labour Inspectorate.¹²⁷ She also noted the use of strategies to avoid paying benefits and social security,¹²⁸ as well as working and sanitary conditions putting agro-industry workers' health and lives at risk and inhuman treatment.¹²⁹

57. CEDAW was concerned at the overall disadvantaged situation of women in the labour market, and the critical situation in the *maquiladora* industries.¹³⁰ The High Commissioner noted that domestic workers, mainly indigenous women, were frequently subjected to multiple forms of discrimination, and suffered segregation in everyday life.¹³¹ CEDAW requested the adoption of measures guaranteeing access to social security and other labour benefits for women domestic workers and women workers in the informal and agricultural sectors. It urged Guatemala to ensure that women working in the *maquiladora* industry be fully protected under the labour laws.¹³² Similar concerns and recommendations were expressed by the Human Rights Committee.¹³³

G. Right to social security and to an adequate standard of living

58. The High Commissioner noted that poverty affected 53.71 per cent of the population, and that measures taken were insufficient to eliminate the structural causes of poverty. Despite an increase in social expenditure, Guatemala remained the second-to-last country in the region in that regard. CERD was greatly concerned that a majority of the persons affected by poverty were indigenous.¹³⁴

59. UNCT, citing the World Food Programme, said that, even though Guatemala had a legal and institutional framework to guarantee food security and institutional stability, it faced challenges in guaranteeing an adequate supply of food. According to the World Food Programme, UNICEF and the Pan American Health Organization, food and nutrition insecurity among children had reached alarming levels.¹³⁵

60. In 2010, the Special Rapporteur on the right to food was impressed at the Government's commitment and efforts to improve food security. He considered, however, that too little was done to remove the structural obstacles to the full realization of the right to food and to put an end to the very high levels of child malnutrition.¹³⁶

61. Regarding the National Policy for Integral Rural Development (NPIRD), the High Commissioner noted that efforts were focused mainly on short-term strategies rather than

on the full implementation.¹³⁷ The Special Rapporteur on the right to health expressed similar concerns.¹³⁸

62. The High Commissioner called on the Government to integrate cash transfer programmes within social protection policies, providing solid legal and institutional frameworks and establishing clear and consistent criteria to select beneficiaries.¹³⁹

63. The Special Rapporteur on the right to food recommended, inter alia, addressing unequal access to land, including through full implementation and codification into law of the NPIRD; integrating human rights principles into existing social programmes, including *Mi Familia Progresá*; raising the minimum wage and reinforcing the capacity of the Labour Inspectorate.¹⁴⁰

64. CRC recommended steps to ensure that any violation of the right to food be considered justiciable under the Act on the Food and Nutrition Security System.¹⁴¹

65. CRC remained concerned at the inaccessibility of potable water across Guatemala.¹⁴² CERD recommended steps to ensure access to safe drinking water for all the indigenous communities.¹⁴³

66. CRC was concerned that disputes over land ownership resulted in forced evictions of indigenous peoples.¹⁴⁴ CEDAW expressed similar concerns.¹⁴⁵ OHCHR-Guatemala observed actions that were inconsistent with human rights standards in the conduct of evictions in Alta Verapáz, Retalhuleu and El Petén,¹⁴⁶ and recommended a moratorium on all evictions until due process.¹⁴⁷

67. According to the High Commissioner, an unequal system of land distribution continued to prevail, hampering the right to food for rural families. Large-scale production covered 70 per cent of the fertile land, controlled by 2 per cent of landowners, while the parcel-owning peasants, mainly indigenous people, had access to only 2.5 per cent of this land.¹⁴⁸

68. CEDAW urged Guatemala to strengthen initiatives aimed at promoting women's economic sustainable empowerment, including through access to land and credits.¹⁴⁹

H. Right to health

69. In 2011, the Special Rapporteur on the right to health noted that the health sector was severely under-resourced and concentrated in urban areas. He also observed the substantial inequalities in the enjoyment of the right to health for indigenous peoples.¹⁵⁰ He recommended, inter alia, a comprehensive health strategy for indigenous peoples and increased investments to improve quality and accessibility to health care facilities and services in rural communities.¹⁵¹ CRC,¹⁵² CEDAW¹⁵³ and CERD¹⁵⁴ made similar recommendations.

70. The High Commissioner and the UNCT noted that women still faced difficulties in gaining access to comprehensive sexual and reproductive health services.^{155, 156} The High Commissioner was concerned at the large number of pregnancies among girls between 10 and 14 years old, mainly resulting from sexual domestic violence and a lack of access to sex education.¹⁵⁷ The Special Rapporteur on the right to health recommended, inter alia, building the capacity of traditional midwives along with health-care professionals,¹⁵⁸ and improving information and counselling on contraception within the public health care system.¹⁵⁹ CEDAW¹⁶⁰ and CERD made similar recommendations.¹⁶¹ CRC also recommended ensuring the entry into force of the Act on Universal and Equitable Access to Family Planning Services and its integration in the national reproductive health programme.¹⁶²

71. According to the High Commissioner, the goal of reducing maternal mortality is still far from being reached. The mortality rate among indigenous women is three times higher than among non-indigenous women.¹⁶³ According to UNCT, 85 per cent of cases are preventable, given the knowledge and technology available to Guatemala.¹⁶⁴

72. The Human Rights Committee expressed concern at the criminalization of abortion resulting from rape or incest. It recommended including additional exceptions to the prohibition of abortion so as to save women from having to resort to clandestine abortion services that endangered their lives or health.¹⁶⁵ CEDAW¹⁶⁶ and the Special Rapporteur on the right to health expressed similar concerns/recommendations.¹⁶⁷

73. As for mental health disorders, UNCT reported that only 2 per cent of the people concerned had received specialized treatment for them.¹⁶⁸

74. UNCT noted the need to implement effective strategies to combat discrimination against people with AIDS.¹⁶⁹

I. Right to education

75. In 2009, the Special Rapporteur on the right to education noted with concern the fall in investment in education and the trend towards privatization of education, which made it impossible to guarantee a diverse basic education for all.¹⁷⁰ He recommended establishing a legal mechanism to ensure increased investment in education¹⁷¹ and securing national political consensus on an adequate, non-regressive budget.¹⁷² CEDAW¹⁷³ and CERD¹⁷⁴ expressed similar concerns. CRC was also concerned at the very low rate of school retention.¹⁷⁵

J. Cultural rights

76. The Special Rapporteur on the right to education expressed concern that teaching in indigenous languages was restricted to the first three years of primary education in a very limited number of schools. He recommended increasing the intercultural bilingual education budget in proportion to the population served.¹⁷⁶ CRC,¹⁷⁷ CEDAW,¹⁷⁸ and CERD¹⁷⁹ made similar recommendations. CERD also recommended that Guatemala duly implement educational reform, bearing in mind the provisions of the peace accord on identity of indigenous peoples.¹⁸⁰

K. Persons with disabilities

77. CRC was concerned at the limited access to education, health, cultural life and services for children with disabilities¹⁸¹ and recommended giving them the necessary support to enable them to exercise their rights as active members of their communities.¹⁸²

L. Indigenous peoples and minorities

78. In 2011, the Special Rapporteur on the rights of indigenous peoples noted that Guatemala was going through a period of high instability and social conflict related to the activities of companies in the traditional lands of indigenous peoples.¹⁸³ He also noted that the aim of protecting the rights of indigenous peoples had not yet filtered through to legislation or State policies in areas that were particularly relevant to them.¹⁸⁴

79. The Special Rapporteur recommended debating and adopting a legal instrument that would regulate a formal mechanism for consultations on the adoption of measures affecting

indigenous peoples, in accordance with international standards. He also recommended a review of the legislation on the approval of extractive and other investment projects.¹⁸⁵ CERD recommended effectively consulting the communities that might be affected by development projects or the exploitation of natural resources, with a view to obtaining their free, prior and informed consent.¹⁸⁶ Similar recommendations were made by the Human Rights Committee¹⁸⁷ and the High Commissioner.¹⁸⁸

80. As far as the communities affected by the Marlin mining operation were concerned, the Special Rapporteur felt it was necessary to hold consultations on new impact-mitigation measures; reparations for injury and loss caused by the mining operation; and the establishment of profit-sharing, complaints and conciliation mechanisms.¹⁸⁹

M. Migrants, refugees and asylum seekers

81. In 2009, the Special Rapporteur on the human rights of migrants said that it was crucial to implement policies that would protect migrants in transit, and to establish mechanisms for reporting abuses, as well as effective sanctions.¹⁹⁰

82. CMW encouraged Guatemala to implement a comprehensive migration policy and to facilitate coordination between relevant institutions.¹⁹¹ It recommended that migration procedures be in accordance with the Convention.¹⁹² A similar recommendation was made by the Special Rapporteur on migrants.¹⁹³

83. UNHCR encouraged measures to ensure that the living conditions in shelters for migrants comply with international standards.¹⁹⁴

84. UNCT referred to UNICEF's concern about the vulnerability of migrant children.¹⁹⁵ CMW recommended policies to address the difficulties faced by unaccompanied migrant children.¹⁹⁶ Similar recommendations were made by CRC.¹⁹⁷ UNHCR recommended the development of mechanisms to identify and provide international protection to migrant children.¹⁹⁸

N. Environmental issues

85. CERD was concerned that 90 per cent of 38 hydrographic basins were polluted, causing diseases mainly affecting indigenous communities.

86. The High Commissioner noted allegations of corruption related to licences awarded for industrial activity in Punta de Manabique, Izabal and the Laguna del Tigre National Park, El Petén.¹⁹⁹

Notes

¹ Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 1 April 2009* (ST/LEG/SER.E/26), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>. Please also refer to the United Nations compilation on [country] from the previous cycle (A/HRC/WG.6/xx/xx/2).

² The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR

- ICCPR-OP 2 Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
- CEDAW Convention on the Elimination of All Forms of Discrimination against Women
- OP-CEDAW Optional Protocol to CEDAW
- CAT Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- OP-CAT Optional Protocol to CAT
- CRC Convention on the Rights of the Child
- OP-CRC-AC Optional Protocol to CRC on the involvement of children in armed conflict
- OP-CRC-SC Optional Protocol to CRC on the sale of children, child prostitution and child pornography
- OP-CRC-IC Optional Protocol to CRC on a communications procedure
- ICRMW International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
- CRPD Convention on the Rights of Persons with Disabilities
- OP-CRPD Optional Protocol to CRPD
- CPED International Convention for the Protection of All Persons from Enforced Disappearance
- ³ Individual complaints: ICCPR-OP 1, art 1; OP-CEDAW, art. 1; OP-CRPD, art. 1; OP-ICESCR, art. 1; OP-CRC-IC, art. 5; ICERD, art. 14; CAT, art. 22; ICRMW, art. 77; and CPED, art. 31; Inquiry procedure: OP-CEDAW, art. 8; CAT, art. 20; CPED, art. 33; OP-CRPD, art. 6; OP-ICESCR, art. 11; and OP-CRC-IC, art. 13; Inter-State complaints: ICCPR, art. 41; ICRMW, art. 76; CPED, art. 32; CAT, art. 21; OP-ICESCR, art. 10; and OP-CRC-IC, art. 12; Urgent action: CPED, art. 30.
- ⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.
- ⁵ 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the Status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.
- ⁶ Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Geneva Convention relative to the Treatment of Prisoners of War (Third Convention); Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html.
- ⁷ International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No. 105 concerning the Abolition of Forced Labour; Convention No. 87 concerning Freedom of Association and Protection of the Right to Organise; Convention No. 98 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.
- ⁸ International Labour Organization Convention No.169, concerning Indigenous and Tribal Peoples in Independent Countries.
- ⁹ International Labour Organization Convention No.189 concerning Decent Work for Domestic Workers.
- ¹⁰ CERD/C/GTM/CO/12-13, para. 18.
- ¹¹ CRC/C/GTM/CO/3-4, para. 103.
- ¹² CEDAW/C/GUA/CO/7, para. 45.
- ¹³ A/HRC/11/41/Add.3, paras. 16–17.
- ¹⁴ A/HRC/10/12/Add.3, para. 11.

- 15 A/HRC/16/48/Add.2, para. 9.
- 16 CRC/C/GTM/CO/3-4, para. 24.
- 17 Ibid., para. 25.
- 18 A/HRC/19/21/Add.1, para. 95 (j).
- 19 CRC/C/GTM/CO/3-4, para. 26.
- 20 A/HRC/19/21/Add.1, para. 94.
- 21 According to article 5 of the rules of procedure for the International Coordination Committee (ICC) Sub-Committee on Accreditation, the different classifications for accreditation used by the Sub-Committee are: A: Voting Member (Fully in compliance with each of the Paris Principles), B: Non-Voting Member (Not fully in compliance with each of the Paris Principles or insufficient information provided to make a determination); C: No Status (Not in compliance with the Paris Principles).
- 22 For the list of national human rights institutions with accreditation status granted by the ICC of National Institutions for the Promotion and Protection of Human Rights, see A/HRC/20/10, annex.
- 23 The following abbreviations have been used for this document:
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|--------------|------------------------------------------------------------------------------------------------|
| CERD | Committee on the Elimination of Racial Discrimination |
| CESCR | Committee on Economic, Social and Cultural Rights |
| HR Committee | Human Rights Committee |
| CEDAW | Committee on the Elimination of Discrimination against Women |
| CAT | Committee against Torture |
| CRC | Committee on the Rights of the Child |
| CMW | Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families |
| CRPD | Committee on the Rights of Persons with Disabilities |
| CED | Committee on Enforced Disappearance |
| SPT | Subcommittee on Prevention of Torture |
- 24 CCPR/C/GTM/CO/3, para. 7.
- 25 Ibid., para. 21.
- 26 CCPR/C/GTM/CO/3, para. 22.
- 27 CEDAW/C/GUA/CO/7, para. 22.
- 28 CEDAW/C/GUA/CO/7/Add.1.
- 29 CERD/C/GTM/CO/12-13, para. 7.
- 30 Ibid., para. 9.
- 31 Ibid., para. 14.
- 32 CERD/C/GTM/CO/12-13/Add.1.
- 33 For the titles of special procedures, see www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx and www.ohchr.org/EN/HRBodies/SP/Pages/Countries.aspx.
- 34 A/HRC/19/58/Rev.1, p. 59.
- 35 A/HRC/19/58/Rev.1, paras. 201–205.
- 36 A/HRC/19/21/Add.1, para. 1.
- 37 See press release of 15 March 2012.
- 38 CEDAW/C/GUA/CO/7, para. 19.
- 39 Ibid., para. 20.
- 40 Ibid., para. 14.
- 41 Ibid., para. 16.
- 42 CCPR/C/GTM/CO/3, para. 8.
- 43 A/HRC/19/21/Add.1, para. 12.
- 44 CCPR/C/GTM/CO/3, para. 10.
- 45 A/HRC/19/21/Add.1, para. 53.
- 46 UNCT submission, p. 9.
- 47 CERD/C/GTM/CO/12-13, para. 5.
- 48 CRC/C/GTM/CO/3-4, para. 40.
- 49 UNCT submission, p. 2.
- 50 CRC/C/GTM/CO/3-4, para. 41.
- 51 CERD/C/GTM/CO/12-13, para. 7.
- 52 Ibid., para. 16.
- 53 Ibid., para. 17.

- ⁵⁴ UNFPA submission, para. 6.
⁵⁵ CCPR/C/GTM/CO/3, para. 11.
⁵⁶ UNFPA, para. 14.
⁵⁷ CCPR/C/GTM/CO/3, para. 13.
⁵⁸ A/HRC/11/2/Add.7, para. 45.
⁵⁹ A/HRC/11/41/Add.3, paras. 13–14.
⁶⁰ A/HRC/10/12/Add.3, para. 13.
⁶¹ A/HRC/11/2/Add.7, para. 45.
⁶² CRC/C/GTM/CO/3-4, 1 October 2010, para. 45.
⁶³ UNCT submission, p. 2.
⁶⁴ *Ibid.*, p. 2.
⁶⁵ A/HRC/19/21/Add.1, para. 19.
⁶⁶ CCPR/C/GTM/CO/3, para. 14.
⁶⁷ *Ibid.*, para. 16. see also A/HRC/11/2/Add.7, para. 45.
⁶⁸ A/HRC/19/21/Add.1, para. 48.
⁶⁹ CEDAW/C/GUA/CO/7, 17 February 2009, para. 22.
⁷⁰ UNCT submission, p. 3.
⁷¹ A/HRC/19/21/Add.1, para. 95 (d).
⁷² *Ibid.*, para. 17.
⁷³ CCPR/C/GTM/CO/3, para. 12.
⁷⁴ *Ibid.*, para. 23.
⁷⁵ A/HRC/19/21/Add.1, para. 25.
⁷⁶ CPR/C/GTM/CO/3, para. 24.
⁷⁷ UNHCR submission, p. 2.
⁷⁸ CRC/C/GTM/CO/3-4, para. 94.
⁷⁹ CMW/C/GTM/CO/1, para. 45.
⁸⁰ CRC/C/GTM/CO/3-4, para. 90.
⁸¹ *Ibid.*, para. 92.
⁸² *Ibid.*, para. 93.
⁸³ *Ibid.*, para. 95.
⁸⁴ CEDAW/C/GUA/CO/7, 17 February 2009, para. 32.
⁸⁵ CRC/C/GTM/CO/3-4, para. 60.
⁸⁶ *Ibid.*, para. 61.
⁸⁷ *Ibid.*, para. 54.
⁸⁸ A/HRC/11/2/Add.7, p. 2.
⁸⁹ A/HRC/11/41/Add.3, pp. 1–2.
⁹⁰ *Ibid.*, para. 89.
⁹¹ CCPR/C/GTM/CO/3, para. 25.
⁹² A/HRC/19/21/Add.1, para. 95 (c).
⁹³ *Ibid.*, para. 7.
⁹⁴ CCPR/C/GTM/CO/3, para. 15.
⁹⁵ *Ibid.*, para. 17.
⁹⁶ A/HRC/19/21/Add.1, para. 22.
⁹⁷ CCPR/C/GTM/CO/3, para. 26.
⁹⁸ *Ibid.*, para. 26.
⁹⁹ CERD/C/GTM/CO/12-13, 19 May 2010, para. 8.
¹⁰⁰ A/HRC/19/21/Add.1, para. 33.
¹⁰¹ *Ibid.*, para. 36.
¹⁰² CCPR/C/GTM/CO/3, para.
¹⁰³ CERD/C/GTM/CO/12-13, 19 May 2010, para. 4 (b).
¹⁰⁴ CCPR/C/GTM/CO/3, para. 7.
¹⁰⁵ *Ibid.*, para. 21.
¹⁰⁶ A/HRC/16/48/Add.2, para. 8.
¹⁰⁷ A/HRC/11/7/Add.3, para. 115.
¹⁰⁸ *Ibid.*, para. 126.
¹⁰⁹ CRC/C/GTM/CO/3-4, para. 51.

- 110 Ibid., para. 52.
111 A/HRC/19/55/Add.2, para. 149.
112 Ibid., para. 150.
113 A/HRC/19/21/Add.1, para. 40.
114 Ibid., para. 41.
115 Press release of 15 March 2012.
116 A/HRC/10/12/Add.3, para. 88.
117 A/HRC/10/12/Add.3, para. 89.
118 Ibid., para. 90. See also CERD/C/GTM/CO/12-13, para. 9.
119 CCPR/C/GTM/CO/3, para. 22.
120 A/HRC/16/48/Add.2, para. 5.
121 Ibid., para. 9.
122 CEDAW/C/GUA/CO/7, para. 25.
123 CCPR/C/GTM/CO/3, para. 8.
124 CEDAW/C/GUA/CO/7, para. 26.
125 A/HRC/18/35/Add.3, para. 73.
126 A/HRC/13/33/Add.4, paras. 27–28.
127 A/HRC/19/21/Add.1, para. 69.
128 Ibid., para. 73.
129 Ibid., para. 74.
130 CEDAW/C/GUA/CO/7, para. 29.
131 A/HRC/19/21/Add.1, para. 70.
132 CEDAW/C/GUA/CO/7, para. 30.
133 CCPR/C/GTM/CO/3, para. 9.
134 A/HRC/19/21/Add.1, para. 62.
135 UNCT submission, p. 5.
136 A/HRC/13/33/Add.4, p. 2.
137 A/HRC/19/21/Add.1, para. 65.
138 A/HRC/17/25/Add.2, para. 37.
139 A/HRC/19/21/Add.1, para. 95 (h).
140 A/HRC/13/33/Add.4, p. 2.
141 CRC/C/GTM/CO/3-4, para. 78.
142 Ibid., para. 76.
143 CERD/C/GTM/CO/12-13, para. 14.
144 CRC/C/GTM/CO/3-4, para. 77.
145 CEDAW/C/GUA/CO/7, para. 33.
146 A/HRC/19/21/Add.1, para. 76.
147 Ibid., para. 95 (i).
148 Ibid., para. 66.
149 CEDAW/C/GUA/CO/7, para. 34.
150 A/HRC/17/25/Add.2, p. 1.
151 Ibid., para. 88 (a).
152 CRC/C/GTM/CO/3-4, para. 71.
153 CEDAW/C/GUA/CO/7, paras. 35–40.
154 CERD/C/GTM/CO/12-13, para. 13.
155 A/HRC/19/21/Add.1, para. 50.
156 UNCT submission, p. 6.
157 A/HRC/19/21/Add.1, para. 50.
158 A/HRC/17/25/Add.2, para. 89 (a).
159 Ibid., para. 89 (d).
160 CEDAW/C/GUA/CO/7, paras. 35–40.
161 CERD/C/GTM/CO/12-13, para. 13.
162 CRC/C/GTM/CO/3-4, para. 75.
163 UNCT submission, p. 7.
164 Ibid., p. 7.
165 CCPR/C/GTM/CO/3, para. 20.

- ¹⁶⁶ CEDAW/C/GUA/CO/7, para. 36.
¹⁶⁷ A/HRC/17/25/Add.2, p. 2.
¹⁶⁸ UNCT submission, p. 7.
¹⁶⁹ *Ibid.*, p. 8.
¹⁷⁰ A/HRC/11/8/Add.3, p. 2.
¹⁷¹ *Ibid.*, para. 84 (c).
¹⁷² *Ibid.*, para. 84 (e).
¹⁷³ CEDAW/C/GUA/CO/7, para. 27.
¹⁷⁴ CERD/C/GTM/CO/12-13, para. 15.
¹⁷⁵ CRC/C/GTM/CO/3-4, para. 80.
¹⁷⁶ A/HRC/11/8/Add.3, para. 84 (p).
¹⁷⁷ CRC/C/GTM/CO/3-4, para. 81 (a).
¹⁷⁸ CEDAW/C/GUA/CO/7, para. 28.
¹⁷⁹ CERD/C/GTM/CO/12-13, para. 15.
¹⁸⁰ *Ibid.*, para. 15.
¹⁸¹ CRC/C/GTM/CO/3-4, para. 68.
¹⁸² *Ibid.*, para. 69.
¹⁸³ A/HRC/18/35/Add.3, para. 73.
¹⁸⁴ *Ibid.*, para. 74.
¹⁸⁵ *Ibid.*, paras. 78 and 80.
¹⁸⁶ CERD/C/GTM/CO/12-13, para. 11. See also para. 10.
¹⁸⁷ CCPR/C/GTM/CO/3, para. 27.
¹⁸⁸ A/HRC/19/21/Add.1, para. 56.
¹⁸⁹ A/HRC/18/35/Add.3, appendix, paras. 69 and 70.
¹⁹⁰ A/HRC/11/7/Add.3, paras. 130–131.
¹⁹¹ CMW/C/GTM/CO/1, para. 39.
¹⁹² *Ibid.*, para. 11.
¹⁹³ A/HRC/11/7/Add.3, para. 121.
¹⁹⁴ UNHCR submission, p. 4.
¹⁹⁵ *Ibid.*, p. 3.
¹⁹⁶ CMW/C/GTM/CO/1, para. 43.
¹⁹⁷ CRC/C/GTM/CO/3-4, para. 83.
¹⁹⁸ UNHCR submission, p. 3.
¹⁹⁹ A/HRC/19/21/Add.1, para. 43.
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