



# General Assembly

Distr.: General  
7 August 2012  
English  
Original: Spanish

---

## Human Rights Council

Report of the Working Group on the Universal Periodic Review

Fourteenth session

Geneva, 22 October–5 November 2012

## National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21\*

### Guatemala

---

\* The present document has been reproduced as received. Its content does not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations.

## Introduction

1. For the State of Guatemala, the universal periodic review offers a valuable opportunity to publicize the significant progress made in human rights in Guatemala. Since the first review, the Government has been able to work closely with the population to identify the advances made and the challenges faced and thus propose joint actions within the framework of the Government's policy for tackling and overcoming those challenges.
2. In November 2011, the people of Guatemala had the opportunity once more to engage in a major civic exercise of democratic participation: the election, in all transparency, of a new Government. This exercise is fundamental for all countries that, within a framework of respect for human rights, believe in and promote democratic principles and values.
3. The new Government is committed to improving living standards and ensuring that all Guatemalan citizens, without distinction, can fully enjoy their human rights. The Government is therefore implementing three major national pacts: the Zero Hunger Pact; the Security, Justice and Peace Pact; and the Fiscal Pact. The aim is to articulate a comprehensive response to the population's most pressing social needs.
4. To translate these pacts into action, State institutions have been strengthened and new agencies have been set up to draft, regulate and implement public policies that will improve the living conditions of the population in general, and of the poor and indigent in particular, by providing them with opportunities to improve those conditions and fully enjoy their rights. To this end, Congress has passed fiscal reforms which will enable the Government to implement the public policies that form part of its general plan and which include the three pacts, as well as other actions in the field of social development.
5. The Government of Guatemala reiterates its commitment to promoting and protecting human rights, as well as to implementing the recommendations made in the universal periodic review conducted by the United Nations Human Rights Council, so as to ensure the effective implementation of the human rights of all Guatemalans.

## I. Methodology

6. In compliance with its international human rights commitments and with a view to improving the follow-up given to the recommendations issued by various international human rights mechanisms, including the Human Rights Council, the Government of Guatemala has undertaken a series of actions that have had a positive impact on the human rights situation in the country.
7. The method used for the preparation of this report was as follows:

### *First stage: dissemination and analysis of the recommendations*

- In June 2008, the High-level Commission on Human Rights was presented with the set of recommendations made to Guatemala by the Human Rights Council in the country's first universal periodic review<sup>1</sup>
- With the support of the United Nations Human Rights Field Office in Guatemala, a workshop was held to inform civil society organizations of the results of the review process, including the recommendations received
- In order to reach as many people as possible, a press conference was held to disseminate the main results of the review and the recommendations made to Guatemala

*Second stage: follow-up to the recommendations*

- Beginning in 2009, annual meetings were held with Government agencies and representatives of other State entities to determine the progress made and the difficulties faced in implementing the recommendations of the universal periodic review. Three working groups were set up, one for each branch of government (the legislature, the executive and the judiciary), to perform an internal assessment of the advances made with regard to the recommendations and to determine the extent of their implementation in each State body, as well as the progress made overall.
- In 2011, regional inter-agency consultations were held on the topics covered in the universal periodic review. These were organized as “knowledge fairs” and were held in 15 of the country’s regions: Izabal, Petén, Cobán, Quetzaltenango, Quiché, Ixcán, Jutiapa, Suchitepéquez, Escuintla, Huehuetenango, Sololá, San Marcos, Chimaltenango, Coatepeque and Zacapa.
- Various Government institutions and municipal authorities participated in the fairs. The systematic nature of the process made it possible to discern the level of implementation of the recommendations made to the Government of Guatemala and to identify challenges that it would not have been possible to detect through a centralized consultation process.

*Third stage: coordination with other bodies*

- In compliance with the recommendation made to Guatemala during the first universal periodic review to fully involve civil society in the work to follow up that session and ensure that a gender perspective is fully integrated in the next stages of the review, including the outcome of the universal periodic review process, consultations were held in the first half of 2012 with civil society organizations in different parts of the country through regional workshops arranged in the six departments of Jutiapa, Quetzaltenango, Cobán, Izabal, Escuintla and Quiché. The goal was to ensure the broader and deeper involvement of stakeholders who could provide insights from a regional perspective on the human rights situation in the country.
- These consultations were arranged not only to obtain an accurate diagnosis of the situation nationwide, but also to establish a roadmap for improving the implementation, promotion and protection of human rights in the country.
- In 2012, a special inter-agency forum was held to determine the progress made and challenges faced in implementing the recommendations.

*Fourth stage: drafting of the second universal periodic review report*

- The information and input received at each stage of the consultation process was used to draw up this report, which was endorsed by the High-level Commission on Human Rights. It should be noted that the Office of the United Nations High Commissioner for Human Rights was involved at each stage of the consultation process.
- One outcome of the process described above was the establishment in 2010 of a mechanism within the Presidential Human Rights Commission to follow up on the recommendations received by Guatemala from human rights treaty bodies and non-treaty-based human rights monitoring mechanisms.

## **II. Background, and the legal and institutional framework for the promotion and protection of human rights**

### **A. Background**

8. In May 2008, Guatemala submitted its first report to the Human Rights Council under the universal periodic review procedure, as a result of which Guatemala assumed a number of commitments and received several recommendations. The review laid the foundations for the Government's efforts to implement and fulfil its commitments and act on the recommendations and to analyse the progress made and the challenges remaining in regard to human rights.

### **B. Legal framework**

9. Progress was made on the legislative front regarding the promotion and protection of human rights in 2008–2012, thereby strengthening the legal framework in Guatemala.

#### **1. International treaties and conventions**

10. Guatemala's accession to the Rome Statute of the International Criminal Court was approved by Congressional Decree No. 3-2012 of 26 January 2012, and the document of accession was deposited on 2 April 2012. This will boost national efforts to protect human rights and fulfils one of the recommendations made to Guatemala in the universal periodic review.

11. The National Office for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was established as the national mechanism for the prevention of torture with the passing of Congressional Decree No. 40-2010 on 2 November 2010. Congress is currently selecting the rapporteurs who will head the Office. The process of establishing this mechanism began after Guatemala had deposited its instrument of ratification for the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 9 June 2008.

12. Guatemala's accession to the Convention on the Rights of Persons with Disabilities was approved by Congressional Decree No. 59-2008. The National Council for Persons with Disabilities was appointed as the body responsible for the observance and implementation of the Convention by Government Order No. 78-2009, which also sets out a national policy on disabilities to facilitate the implementation of the Convention.

13. As to international humanitarian law, Guatemala signed the Convention on Cluster Munitions on 3 December 2008; its accession was approved on 9 September 2010 by Congressional Decree No. 33-2010, and the instrument of ratification was deposited at United Nations Headquarters in New York on 3 November 2010. The Convention entered into force for Guatemala on 1 May 2011.

#### **2. Domestic legislation**

14. The prevention of violence against women has been a priority for the Guatemalan Government, which has, among other measures, strengthened the legislation on the subject. The passing of the Act on Femicide and Other Forms of Violence against Women<sup>2</sup> and then of the Act against Sexual Violence, Exploitation and Trafficking in Persons<sup>3</sup> paved the way for the amendments made to the definitions of several offences in the Criminal Code, such as rape and trafficking in persons, and for the penalization of new offences, such as the employment of children in work that is harmful to their integrity or dignity. The provisions

criminalizing certain acts, such as abduction and statutory rape, were repealed, since the acts would be covered by the new definition of the crime of rape. The purpose of the Act is to prevent, suppress, punish and eliminate sexual violence, exploitation and trafficking in persons and to ensure that victims receive care and protection and are compensated for harm.

15. The Act on the Alba-Keneth Warning System, passed into law on 12 August 2010 and amended by Congressional Decree No. 5-2012, is another important tool for protecting children and adolescents.<sup>4</sup> The purpose of the Act is to ensure the prompt location and rescue of missing or abducted children.<sup>5</sup>

16. The Housing Act was also passed.<sup>6</sup> This Act regulates State housing policy with a view to ensuring coherent State action as regards the development of the housing sector and the related services and social infrastructure. The aim is to provide Guatemalan families with access to decent, suitable and healthy housing that is adequately equipped and connected to services.

17. As far as transparency measures are concerned, the Act on Appointments Committees, approved by Decree No. 19-2009, established the procedures and mechanisms for selecting candidates for civil service posts.

18. To boost the country's capacity to prosecute crime, the Act to Strengthen Criminal Prosecution was passed into law by Decree No. 17-2009. The Act introduced amendments to the Criminal Code, the Code of Criminal Procedure, the Organized Crime Act and the Act Regulating the Extradition Process.

19. In relation to indigenous peoples, the following legislative proposals were submitted to Congress: the General Act on Indigenous Peoples,<sup>7</sup> the Act on Consultations with Indigenous Peoples,<sup>8</sup> the Act on Indigenous Dress<sup>9</sup> and the Act on Indigenous Jurisdiction.

### **3. The establishment of new national agencies**

20. The Ministry of Social Development<sup>10</sup> was established in 2012 as the lead agency for drafting, regulating and executing public policies aimed at improving the living standards of individuals and groups living in poverty or extreme poverty. Its actions are described in detail in section III of this report. The establishment of the Ministry has made it possible to institutionalize the activities previously carried out by the Council for Social Cohesion that used to be responsible for coordinating the Government's social programmes.<sup>11</sup>

21. To promote access to justice for women victims of violence, the Presidential Commission for Combating Femicide in Guatemala was set up by Government Order No. 46-2012. The Commission's role is to develop strategies, plans, programmes and projects and to carry out studies that will help improve the protection of women in Guatemala, as well as to promote preventive action and the proper handling of cases. The Commission coordinates a multi-sectoral forum on the life and safety of women, which brings together representatives of the State agencies and civil society organizations working in defence of women's rights.

22. In accordance with the Act against Sexual Violence, Exploitation and Trafficking in Persons, passed into law by Congressional Decree No. 9-2009, the Secretariat on Sexual Violence, Exploitation and Trafficking in Persons was set up to coordinate action with State agencies to prevent, address, protect against and punish sexual violence, exploitation and trafficking in persons.

23. As mentioned above, a unit was established in the Attorney-General's Office (*Procuraduría General de la Nación*) to implement the Alba-Keneth Warning System. The unit's responsibilities include analysing and processing the information received through

the warning system as input for protection, prevention and prosecution activities and for use by the Public Prosecution Service and the Ministry of the Interior in the prosecution of the corresponding cases.

24. The National Commission for Police Reform was established under the plan for reforming the police force. The coordinator of the Commission is a civil servant appointed by the President of the Republic. The Commission meets to analyse situations, diagnose problems and propose reforms in specific areas that require technical support and follow-up. Its main objective is to improve the police service and strengthen the police as an institution with two main areas of action: crime prevention and criminal investigation.

#### **4. Strengthening the institutional system through decentralization**

25. The presence of human rights institutions outside the capital city has strengthened the institutional framework for protecting human rights at the local level by bringing the services of those institutions closer to people. The Office of the Human Rights Advocate of Guatemala now has 34 departmental branch offices and 9 public defender's offices. The executive has also set up branch offices of the Presidential Human Rights Commission in 17 of the country's regions. The Office for the Defence of Indigenous Women has opened 12 regional offices. These actions not only mean greater access for the population, they also ensure greater local involvement in the promotion of human rights and the prevention of human rights abuses.

26. The Public Criminal Defence Institute has set up special indigenous public defender's units which have bilingual staff to provide services in 10 Mayan languages and in Garifuna in 15 regional offices.

27. The Public Prosecution Service reorganized and strengthened the unit for special cases, human rights violations and historical clarification, which has nationwide jurisdiction to investigate and prosecute all serious offences associated with the internal armed conflict. The reorganization has resulted in the establishment of the following units: (a) a unit for the historical clarification of cases associated with the internal armed conflict; (b) a special unit for crimes against human rights activists and defenders; and (c) a unit for crimes against journalists, trade unionists and justice officials. The Public Prosecution Service also has a crime analysis unit. To further support and improve the investigation of crime, the Public Prosecution Service signed a bilateral cooperation agreement with the International Commission against Impunity in Guatemala.

28. It is important to note that the judiciary has institutionalized a women's rights approach and gender perspective in its efforts to strengthen the women's affairs and gender analysis unit. This unit is responsible for coordinating, advising and offering guidance on matters related to the gender-based approach and women's rights and their incorporation in the policies, plans and development strategies of the judiciary, and for analysing and publishing sex-disaggregated statistics.

29. In accordance with Ministerial Order No. 09-2012, a special body for analysing attacks against human rights defenders was established on 10 January 2012.<sup>12</sup> The body comprises a representative of the Ministry of the Interior, who also coordinates its activities, a representative of the Prosecutor-General of the Public Prosecution Service and a representative of the Presidential Human Rights Commission. The body's responsibilities include: (a) analysing cases to identify patterns in the attacks on human rights defenders; (b) making recommendations to the competent bodies for the investigation of such attacks; (c) recommending technical criteria for assessing risk and threat levels and the vulnerability of human rights defenders; and (d) compiling information on the enforcement of prevention and protection measures and on their effectiveness in reducing risk. In addition, the Public Prosecution Service, the Ministry of the Interior and the Presidential Human Rights

Commission signed an inter-agency agreement in which they express their commitment to participating in this dialogue mechanism and to supporting its institutionalization.

### III. The promotion and protection of human rights in practice

30. The Government of Guatemala is continuing to strengthen the institutional framework for the protection of human rights by implementing and improving domestic legislation and creating opportunities for inter-agency coordination in the promotion and protection of human rights. The Government is, for example, continuing with the inter-agency forum set up to follow up on the recommendations addressed to Guatemala in the field of human rights, which is coordinated by the Presidential Human Rights Commission and brings together representatives of agencies of the executive, Congress, the Supreme Court of Justice, the Constitutional Court, the Supreme Electoral Court, the Attorney-General's Office and the Public Prosecution Service. The role of the forum is to follow up on the recommendations made to Guatemala by international organizations and to provide input for the reports it submits under its treaty obligations and for other types of reports.

#### A. Measures taken to protect human rights

##### 1. Economic, social and cultural rights

31. To improve the living conditions of poor and indigent Guatemalans, the Government introduced a number of social programmes as part of the solidarity-based component of its social development policy. These include the programmes on families (*Mi Familia Progresada*), food (*Bolsa Solidaria*, *Comedores Solidarios*) and education (*Becas Solidarias* and *Escuelas Abiertas*).

32. To ensure the continuation of these programmes, they were formally taken over and restructured by the Ministry of Social Development. As a result, the following welfare programmes, among others, were implemented in 2012: *Bono Seguro*, *Bolsa Segura* and *Comedores Seguros*. The *Bono Seguro* programme is a programme in which participating families receive financial support (principally for acquiring food, clothes and school items) in return for meeting certain health, nutrition and education commitments and attending training sessions as required. The *Bolsa Segura* programme assists poor and vulnerable families and individuals living in the urban parts of the 17 municipalities in the department of Guatemala. Basic food items are provided under the programme to help mothers avert and cope with the risks and difficulties their families face, to reduce the school dropout rate and to improve nutritional food security.

33. The *Comedores Seguros* programme aims to provide low-cost balanced meals to people with scant resources. Specifically it seeks to provide those living in extreme poverty or who are particularly undernourished with a healthy and balanced breakfast and lunch at affordable prices (less than US\$ 0.50).

34. Since 2012, a new national "Zero Hunger Plan" (*Plan Cero Hambre*) has been rolled out by the National Food and Nutrition Security Council, starting in the municipalities with the highest undernourishment rates.

35. To guarantee access to education, the Directorate for Education Outside the School System has developed a number of initiatives, such as the adult education correspondence course,<sup>13</sup> the family education for development programme, flexible modalities for secondary education, municipal centres for human resources training and skills-building, and educational radio stations.

## 2. Civil and political rights

36. To ensure the personal safety of human rights defenders, witnesses, judicial officials, prosecutors and other persons liable to threats or harassment, the Division for Protection and Security was set up in the National Civil Police. In addition, the protection programme operated by the Public Prosecution Service and the special unit for crimes against human rights activists and defenders was strengthened. Within the executive branch, the Presidential Human Rights Commission converted the coordinating unit for the protection of human rights defenders, justice officials and administrators, journalists and social communicators into a department, thereby increasing its responsibilities and its influence.

## 3. Vulnerable groups

37. Factors such as domestic violence, disabilities and poverty lead to young children and adolescents being institutionalized and placed in care homes for their protection and to give them an opportunity to study. The Social Welfare Secretariat of the Office of the President runs four children's homes, which look after on average 950 young children and adolescents who, for various reasons, have been made wards of the State. To promote family reunification in such cases, a deinstitutionalization plan has been drawn up, and psychological and financial support is provided to families under the Programme for the Prevention and Elimination of Domestic Violence and the family allowances scheme.

38. The Social Welfare Secretariat also runs the following programmes to prevent and eliminate corporal punishment in the home and in the community at large: the Comprehensive Care Centres Programme, the Disabilities Programme and the Programme for the Prevention and Elimination of Domestic Violence.

39. When adolescents come into conflict with the law, face-to-face meetings are held with the adolescent, the family and the technical team to raise their awareness of the consequences of corporal punishment. The issue is raised in the same way by social workers when they make home visits to adolescents who are on probation.

40. The Social Welfare Secretariat of the Office of the First Lady introduced the Community Homes Programme, whose objective is to facilitate the integral development of the children under the age of 5 of poor or extremely poor working women or women who have few resources. The community homes, which operate in deprived urban and rural areas across the country, provide day care, food, education, preventive health care and recreational activities and teach the children about good behaviour and moral values while their mothers are at work. There are two types of homes: simple homes and Child Care and Development Centres. In both types, the children are placed in the care of a "carer-mother".

41. The Social Welfare Secretariat of the Office of the First Lady also has a social services programme which seeks out inter-agency coordination mechanisms to provide support and guidance for vulnerable people.

42. To ensure women know their rights and are aware of the comprehensive support mechanisms available to them, especially when they have been the victims of violence, the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women revised and endorsed the comprehensive care model for women survivors of violence. Comprehensive support centres for women survivors of violence<sup>14</sup> were set up as part of the support strategies set out in the National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women for 2004–2014. These centres provide free advice, information and support. They are funded by the State and run by the aforementioned National Coordinating Office.



#### 4. Human rights training and awareness-raising for public officials

43. Several institutions are involved in promoting human rights in Guatemala and they all arrange training for their officials so that they can apply the relevant laws in the performance of their duties and become effective agents for the promotion and observance of human rights.

44. For example, for the Act against Femicide and Other Forms of Violence against Women to be implemented, justice officials needed special training; diploma courses to update skills and specialize in the subject were therefore arranged for judges and magistrates.

45. As part of its training activities, the Office for the Defence of Indigenous Women has introduced a diploma course entitled “The rights and citizenship of indigenous women”. The course includes a module on human rights law, women’s rights and the legislation on femicide and other forms of violence against women and provides information on available support mechanisms and complaints procedures. It is mainly held in the 12 regional branches of the Office.

46. The judiciary has arranged training for its staff in social work, justice, human rights and gender affairs, as well as in the mainstreaming of the gender perspective and the analysis of legislation on violence against women. Courses have also been given on discrimination and racism, and programmes on multiculturalism have been arranged for magistrates and judges.

47. The National Civil Police has also arranged training courses for its officers to improve their professionalism and the quality of their work. The courses cover criminalistics, human rights and the enforcement of specific laws, such as the Act against Femicide and Other Forms of Violence against Women, the Act against Sexual Violence, Exploitation and Trafficking in Persons and the Act on the Alba-Keneth Warning System.

48. The General Directorate for Quality Management in Education of the Ministry of Education is implementing a programme called “Education for peace and a full life”. The programme has a number of components, including: environmental education and education for peace (2011); sustainable development, education for peace and *Oxlajuj b’aqtun*, which uses educational processes to promote reflection among agents of change (students, teachers, education authorities and parents) and encourages intercultural crossover to spread ownership and knowledge of the Mayan world view and Mayan culture; and an awareness-raising component aimed at sensitizing the research community and promoting research into the implementation of the peace agreements. The Directorate also organizes activities for the days in the 2012 civic calendar designated as special days for promoting human rights and the peace agreements.

49. The Ministry of Health and Social Welfare is pursuing a number of strategies to promote healthy municipalities, healthy schools, healthy spaces, health services, healthy practices and healthy lifestyles. It has also assumed responsibility for safeguarding, monitoring and controlling the water supply system with a view to reducing morbidity and mortality rates in both urban and rural areas.

50. One of the roles of the Presidential Human Rights Commission, as the coordinating body for the executive’s human rights policy, is to promote human rights in the training of civil servants. In 2011, inter-agency working groups were organized at the 15 “knowledge fairs” held outside the capital to determine the views of local communities on human rights and identify good practices as regards human rights monitoring and promotion in their localities. The working groups examined the following issues: (a) human rights and cultural diversity; (b) human rights and historical memory; (c) human rights and security and justice; and (d) human rights and sustainable development.

51. The Attorney-General's Office also organized campaigns to prevent trafficking in persons, child abuse and irregular adoptions, and the National Commission on Children and Adolescents organized a national workshop on the rights of children and adolescents.

#### **IV. Successes, best practices, challenges and constraints**

52. The following are some of the successes recorded in ensuring the prevention, investigation, trial and punishment of crimes of violence against women and in implementing measures to provide comprehensive support for women victims of violence:

- As indicated above, the Act against Femicide and Other Forms of Violence against Women was passed into law. To ensure its effective implementation, the Supreme Court of Justice established special tribunals and courts in 2010 to hear cases involving femicide and other forms of violence against women in the departments of Guatemala, Chiquimula, Quetzaltenango, Huehuetenango and Alta Verapaz.<sup>15</sup>
- In 2012, a division was set up in the Criminal Appeals Court in the department of Guatemala to deal with cases involving femicide and other forms of violence against women.
- To increase and promote women's access to justice, the courts that specialize in femicide and violence against women have a comprehensive care system in place for women victims of violence, which provides personalized assistance through psychologists, social workers and doctors to help women victims recover from the violent acts committed against them. The assistance includes support during legal proceedings to avoid re-victimization and identify any protection measures that need to be taken in a particular case.
- The Public Prosecution Service set up two specialized units to handle femicide cases in the Office of the Prosecutor for Offences against Life. Other forms of violence against women are investigated by the prosecution unit of the Women and Child Victims Section. Additionally, in the district (departmental) prosecutor's offices, prosecution units for women's issues have been set up to handle cases involving the aforementioned types of crimes.
- The full-time service unit and the victim-care unit of the Public Prosecution Service both offer 24-hour comprehensive assistance for victims.
- The protocol for implementing the Act against Femicide and Other Forms of Violence against Women was drawn up.
- The National Commission for Addressing Femicide in Guatemala was officially established in 2012 to provide support in the femicide cases brought to the attention of the Public Prosecution Service, and an anti-femicide task force was set up in the Ministry of the Interior to combat femicide and investigate femicide cases.
- The Public Criminal Defence Institute, in accordance with article 19, paragraph 3, of the Act against Femicide, established a national office to coordinate legal aid for women who have been the victims of any form of violence and for affected family members. The office has specialized lawyers to provide legal assistance, as well as psychologists and social workers to provide further assistance.<sup>16</sup> The Institute also set up the 1571 emergency hotline service centre. The role of the centre is to provide a timely response all year round, 24 hours a day, to situations in which women of any age are in imminent danger of losing their lives or being physically harmed.

- The Office for the Defence of Indigenous Women has a mandate to provide legal, psychological and social assistance. It provides advisory services and handles complaints of violence against women.

53. The Guatemalan Commission for the Promotion of International Humanitarian Law arranged for 24 persons who had lost an arm or a leg in the armed conflict to receive prosthetic limbs under a scheme financed by the International Committee of the Red Cross.

54. As part of the efforts to improve the investigation of crime in Guatemala, the Public Prosecution Service implemented a strategic criminal prosecution system to tackle organized crime, with a view to dismantling criminal organizations. Constant coordination and communication between the Public Prosecution Service and the Ministry of the Interior has resulted in greater efficiency in the investigation of crime.

55. In the area of public health, the Government considers the new comprehensive health-care model to be a major advance. The model facilitates the implementation of programmes at the individual, family and community level, making it possible to better manage health services and to extend their scope. A programme to make medicines accessible to the poor by selling them at affordable prices was implemented in 287 of the country's 334 municipalities.

56. The health services network has been strengthened with the establishment of 179 permanent clinics, 40 outpatient clinics, 4 facilities for medical emergencies and 310 upgraded health posts. There are also 35 mobile clinics which provide basic medical and dental services to people who have difficulty accessing the services provided by the public health network.

57. In terms of good practices, Guatemala has continued its open-door policy towards international human rights monitoring mechanisms and reaffirms its commitment to following up and implementing the recommendations it has received in the field of human rights.

58. The challenges that the Government currently faces in the promotion and protection of human rights include:

- Formal legislative recognition, as a priority, of the competence of the Committee on the Elimination of Racial Discrimination, in accordance with article 14 of the Convention
- The hiring of interpreters by the Public Prosecution Service so as to be able to assist victims who speak indigenous languages
- Improved professional, university-level training for mid-level officers of the National Civil Police, and continued police reform
- The modernization of the prison system and the use of new technologies
- Improved mechanisms for protecting migrant children and adolescents, especially those not accompanied by adults
- The implementation of the early childhood development policy established by Government Order No. 405-2011, which aims to guarantee the adequate development of all children up to the age of 5 years
- The decentralization of the services for children and adolescents and their families through the establishment of branch offices in the different departments of the country (departmental branch offices have already been set up in Quetzaltenango, Alta Verapaz and Chimaltenango)

- The hiring of the management team and the leasing of permanent offices for the Security, Justice and Peace Pact, as well as the design and implementation of the monitoring, follow-up and evaluation system, the establishment of benchmarks and the design of a national system for citizens' participation in security matters
- The organization of a national survey on perception and victimization
- The implementation of a coordinated inter-agency strategy for preventing violence against women in all circumstances
- The establishment and implementation of a mechanism for consulting indigenous peoples in accordance with the relevant national and international legal instruments
- The effective implementation of the three main national pacts

## **V. Expectations in terms of capacity-building and possible requests for technical assistance**

59. To have the technical and financial support needed to improve the assessment of the national human rights situation and the associated consultation process in the preparation of the Government's human rights reports.

60. To increase technical assistance and financial support so that the actions aimed at fulfilling the recommendations made to Guatemala in the field of human rights can be properly implemented.

## **VI. Follow-up to the recommendations made by the Human Rights Council in 2008**

61. The actions and measures described in this report have strengthened the institutional framework for human rights and compiling them has made it possible to identify the progress achieved and the obstacles faced in implementing the recommendations made to Guatemala by the Human Rights Council in the country's first universal periodic review.

### **A. Ratification of international human rights treaties and conventions**

62. The Government has made progress in fulfilling the recommendations made by the Council regarding the ratification of international treaties inasmuch as it has acceded to the Rome Statute of the International Criminal Court, ratified the Convention on the Rights of Persons with Disabilities and deposited its instrument of ratification for the Optional Protocol to the Convention against Torture.

### **B. Security and justice**

63. Action to improve security and justice has been a State priority, and coordination among the three branches of Government has been fundamental in that regard, as is particularly apparent in the joint action by the Ministry of the Interior and the Public Prosecution Service to prosecute and combat ordinary and organized crime.

64. The Government is currently promoting the Security, Justice and Peace Pact. The goal is to foster a spirit of cooperation and shared responsibility among all sectors of society and State institutions so as to legitimize and pave the way for a set of major transformational changes that will improve governance and security in the country.

65. Under the Pact, action will be taken to control crime in the worst-affected areas through better inter-agency coordination that will ensure there is judicial oversight of investigations. As regards the justice component of the Pact, the aim is to improve the quality of investigations and the administration of justice and to overhaul the prison system. With regard to peace, the action envisaged includes addressing the outstanding commitments assumed under the peace agreements and strengthening institutions as necessary.

66. The advances made so far in the implementation of the Pact include: (a) the drafting of a document outlining the conceptual framework, with input from government agencies, civil society and experts in various fields; (b) the signing of an agreement on inter-agency coordination by the President of the Republic, the President of the Judiciary and the President of the Legislature; (c) progress in drawing up the “Safe Neighbourhood”, “Safe Municipality” and “Safe Department” programmes; (d) selection of the El Limón neighbourhood in zone 18 of the capital city as the neighbourhood in which to pilot the project; (e) establishment of the coordinating technical committee for the Safe Neighbourhood programme and coordination with the Spanish cooperation agency to obtain technical support for the Safe Municipality programme; (f) coordination with the business community and civil society to obtain support for the programmes; (g) review and reorientation of the national policy on the prevention of youth violence; (h) selection of Jocotenango in the department of Sacatepéquez as the municipality in which to pilot the Safe Municipality programme, starting with the installation of security cameras; (i) the drop recorded in the murder rate in El Limón, from two to zero murders a month, and the inauguration of the “Scholarships and Young Protagonists” programme in that neighbourhood. A mobile magistrate’s court was also set up.

67. To complement these activities, the strengthening and modernization of the National Civil Police has been ongoing: a Commission for Police Reform has been established, and the number of new police officers graduating from the police academy each year is expected to increase.

68. In the Ministry of the Interior, various task forces have been set up to coordinate the efforts of the agencies responsible for security and justice to combat ordinary and other crimes. There are currently task forces for blackmail, robbery and assault, contract killings, the murder of women and kidnapping. It should be noted that the efforts of the task forces have resulted in numerous arrests of suspected criminals, who have been brought before the competent authorities for a fair hearing.

69. With regard to regional security efforts, it should be noted that, in the context of the second technical consultation on the drafting of a hemispheric plan of action against transnational organized crime, held in June 2012, the members of the Organization of American States agreed to combine their efforts to eliminate organized crime and to establish a network among their prosecution services and police forces. The network will set up the necessary technological platform for sharing information.

70. As to the investigation, trial and punishment of the offences committed during the internal armed conflict, convictions have been handed down in the cases of El Jute, Dos Erres, Plan de Sánchez, Río Negro and Fernando García. In accordance with the rulings of the Inter-American Court of Human Rights and with various amicable settlements, the Government has continued to seek justice and full compensation for victims.

71. The establishment of a system for registering all persons held in pretrial detention and for keeping track of prison sentences was challenging, and the creation of the Central Registry of Detainees<sup>17</sup> was therefore a major achievement for the Government. The role of the Registry is to centralize information on all persons who are brought into detention centres under an arrest warrant or detention order or who are held in police stations or jails

after they have been apprehended in flagrante delicto or after a warrant for their arrest has been issued. The Registry will also keep a record of all transfers of detainees.

72. As regards security and justice, measures have been taken to improve access to justice for women victims of violence and to protect children by strengthening the existing agencies so that they can effectively implement the laws on those matters. These measures include the establishment of:

- Courts specialized in dealing with cases of femicide. These specialized trial courts, sentencing courts and appeals court are competent to prosecute offences under the Act against Femicide and Other Forms of Violence against Women.
- Courts for children and adolescents in conflict with criminal law. There are currently 11 such courts.
- The Court of First Instance for Children and Adolescents, in Guatemala City metropolitan area. The Court has the authority to examine, try and decide cases of human rights violations, whether threatened or committed, against children and adolescents in accordance with the procedure established in the Act on the Comprehensive Protection of Children and Adolescents.
- The Secretariat for Strengthening the Judiciary. This is an organ of the Supreme Court of Justice and designs, manages and coordinates specific programmes to strengthen the legal and administrative bodies of the judiciary.
- The unit that analyses attacks on human rights defenders in Guatemala.

73. To improve the language skills of the interpreters it employs, the judiciary signed a cooperation agreement with the Fund for Indigenous Development.

74. In relation to the recommendation to continue and extend the moratorium on the death penalty, it should be noted that nobody is currently facing the death penalty in Guatemala, since all death sentences for the offences of kidnapping, murder and rape were commuted to life imprisonment through special applications for judicial review submitted by the Public Criminal Defence Institute, in line with the judgements in specific death penalty cases that had been the subject of international litigation in the Inter-American Court of Human Rights.

### **C. Actions to strengthen the justice system**

75. Since 2009, the mandate of the International Commission against Impunity in Guatemala has been renewed twice (it has now been extended until September 2013), so that, by its presence and its actions, it can help strengthen and boost the capacity of the bodies responsible for the administration of justice in Guatemala.

76. As noted and described above, the Government has taken steps to increase the protection of human rights defenders and activists and to improve the investigation of acts of violence committed against them, with a view to ensuring that such cases are properly investigated and handled by the corresponding authorities. The procedures used to investigate attacks on human rights defenders are monitored by the Prosecution Section for Human Rights Offences through its Special Unit for Human Rights Defenders. At the request of several civil society organizations working in the field of human rights that had associated themselves with the prosecution in several cases, staff of the Prosecution Section for Human Rights Offences established an accountability committee.

77. The Witness Protection Office of the Public Prosecution Service continues to provide protection, assistance and other services to witnesses of crimes who meet the criteria (as determined on a case-by-case basis) to be classified as “protected witnesses”.

The Department of Security and Protection of the Public Prosecution Service, for its part, carries out risk assessments and provides security services as necessary to guarantee the security of prosecutors and public officials as they go about their work. It evaluates, designs, implements and supervises security arrangements for officials of the Public Prosecution Service and has set up an emergency hotline for Service staff who find themselves in serious danger.

#### **D. Economic, social and cultural rights**

78. The implementation of the Zero Hunger Pact is one of the Government's key policies in the area of Guatemalans' economic, social and cultural rights; 166 municipalities have been identified as priority targets for measures to combat malnourishment. Substantial support has been received from the Food and Agriculture Organization of the United Nations (FAO), which, together with the Ministry of Agriculture, Livestock and Food and other local stakeholders, is already undertaking various projects in 43 of the 166 target municipalities.

79. In addition, social programmes have been formalized and programmes promoting literacy and access to education have been implemented. As mentioned above, steps have also been taken to strengthen the public health network.

80. Reducing illiteracy in Guatemala, especially among indigenous women in rural areas, has proven to be a challenge for the Government. The gap between men and women has gradually narrowed, however, with increasing numbers of rural women participating in literacy programmes. The data of the National Literacy Committee show that 926,364 women, compared with 372,553 men, were enrolled in literacy courses in 2007–2011.<sup>18</sup> Most of the female participants were Mayan: in 2011, for example, of the 194,874 women in the programme, 108,780 were Mayan. The Committee works in partnership with civil society organizations to implement the literacy programmes.

81. The Government considers declaring "illiteracy-free municipalities" to be good practice, since such a declaration acknowledges the work done at community level to promote literacy and the important contribution that literacy makes to the overall development of individuals who have not been through the school system. The official declaration is made after a statistical study has been performed to verify the literacy rate in the municipality. The study is also used to identify any illiterate person who was not enrolled in the literacy programme, to help them or to establish why they did not enrol (e.g. because of age or health problems). In the 13 municipalities declared illiteracy-free, the illiteracy rate is below 4 per cent.

82. Continuing the efforts to reduce illiteracy and build a country that offers its inhabitants better opportunities for development is a challenge for the Government.

83. To complement the bilingual education programme, workbooks, reading schemes and children's literature were published in 13 Mayan languages and supplied to bilingual schools. In addition, technical and pedagogical support was given to teachers in bilingual nursery and primary schools to improve the quality of their education programmes.

84. With a view to helping safeguard the welfare of children and adolescents in the education system, a protocol was drawn up in 2011 for the identification, handling and referral of cases of violence in the national education system. The protocol establishes procedures for identifying cases of violence, discrimination or racism in accordance with the rules for peaceful coexistence and discipline. In 2012, a manual is being prepared on procedures for identifying, handling and referring such cases and a system is being set up to register and monitor them.

## **E. Children and adolescents**

85. With regard to the best interests of the child and the provision of comprehensive protection to children and adolescents, it is important to note that when the 2007 Adoptions Act and its regulations were passed into law by Government Order No. 182-2010, adoption procedures in the case of many children had already been started before the Act came into force. These cases therefore ended up effectively caught between two sets of adoption laws. An inter-agency technical committee, coordinated by the International Commission against Impunity, was set up to complete the processing of these cases and avoid negative consequences for the children involved. A definitive list of the cases was drawn up to ensure they were given priority, and exceptional international adoption procedures were established specifically for them. On the whole, adoption procedures have improved in Guatemala. The laws and statutes on the matter are enforced, the number of illegal or irregular adoptions has fallen, and measures, such as the campaign to create a DNA database for parents who claim that their children have been stolen, have been taken to ensure that adoptions carried out under the new Act do not involve children who have been snatched from their parents.

86. To monitor the adoption process and ensure that adopted children end up living in an environment that is suitable for raising children, post-adoption follow-up visits are arranged and adoptive parents are given training in child-rearing. As at 30 June 2012, 360 post-adoption follow-up visits had been made and 94 workshops providing information and training had been held.

87. One important advance in the legislation to protect children is the definition of irregular adoptions<sup>19</sup> and the abuse of minors<sup>20</sup> as criminal offences in the Criminal Code.

88. The National Adoption Council supervises temporary care homes to ensure compliance with the United Nations Guidelines for the Alternative Care of Children and to ensure that children placed in such homes are not subjected to ill-treatment or corporal punishment. Children's homes have to be authorized by the National Adoption Council, and they are supervised by the Council as well. As at 30 June 2012, 317 visits had been made to temporary homes for supervision purposes.

89. To prevent children from being given up for adoption in an irregular manner, the Council introduced a "Mothers Conflicted by Motherhood" programme, which aims to give assistance and advice to mothers before they decide to give up their children for adoption and to determine whether they need to do so.

## **F. Indigenous peoples**

90. To ensure access to justice for indigenous peoples, the Public Criminal Defence Institute provides culturally-appropriate services in keeping with its mandate to acknowledge the multi-ethnic, pluricultural and multilingual nature of the Guatemalan population in its work. Interculturality is a cross-cutting component of the Institute's strategic plan for 2005–2014. A positive precedent was set in this regard by the first sentences handed down in the Guatemalan courts for racial discrimination.

91. An office for coordinating the intercultural approach has been set up to, inter alia: (a) coordinate the action of indigenous and governmental authorities through round tables, exchanges of experiences and the use of indigenous peoples' methods of dispute settlement; (b) boost the capacity of indigenous authorities to apply their own legal system by increasing their knowledge of national and international norms that contribute to the full implementation of such systems; and (c) promote exchanges with State bodies in the justice



system and other relevant institutions to help public officials to offer culturally-appropriate services.

92. An indigenous affairs unit was also set up in the judiciary. The unit's responsibilities include studying the legal issues facing indigenous peoples, identifying problems and proposing solutions, with a view to guiding and advising judicial authorities on the subject and promoting the inclusion of courses on the laws of indigenous peoples in the training given to judicial personnel.

93. The Presidential Commission on Discrimination and Racism against Indigenous Peoples combats discrimination and racism on three fronts through its Directorate for the Elimination of Racism and Discrimination:

(a) *Action to combat institutional racism:* Inter-agency agreements to eliminate racism and discrimination have been signed with various institutions, including the National Registry of Persons, the Academy of Mayan Languages, the Guatemalan Association of Indigenous Mayors and Authorities and the Rigoberta Menchú Foundation, and cooperation agreements have been signed with the Women and Biodiversity Network, the National Coordinating Office for Mayan, Garifuna and Xinka Women's Affairs, the Presidential Human Rights Commission and the Ministry of Labour and Social Welfare. The implementation of the Government's policy on peaceful coexistence and the elimination of racism and racial discrimination has been analysed and monitored in 58 State bodies. In addition, 140 police officers have attended courses on cultural diversity, racism and discrimination as part of the training programme of the Crime Prevention Division;

(b) *Action to combat economic racism:* A report on the proposed classification and codification of the State budget for linguistic communities and peoples was drafted. Advice was also given on the production of statistics broken down by linguistic communities and peoples to the ministries of the economy, labour and social welfare, the environment and natural resources, health and education, and to the Food and Nutrition Security Secretariat, the Land Fund and the National Institute of Statistics;

(c) *Action to combat legal racism:* Coordination with the Public Criminal Defence Institute has been enhanced to improve the handling of cases involving indigenous peoples. A memorandum of understanding on institutional cooperation was signed with the People's Legal Office of the University of San Carlos of Guatemala. Since 2008, 236 cases of economic racism have been recorded.

94. To promote the inclusion of indigenous peoples and prevent discrimination against them, a campaign entitled "We indigenous women have rights and demand that they be recognized" was carried out from October to December 2010 in Garifuna, Kiche, Man, Achi, Kanjobal, Kekchi and Spanish. In 2011, 250 young people were trained to give courses on cultural diversity, discrimination and racism, one of the components of civic service in the departments of Huehuetenango, Quetzaltenango, Chimaltenango, Santa Rosa, Puerto Barrios, El Petén and Alta Verapaz (Cobán). These activities were coordinated with the Presidential Human Rights Commission and the National Civic Service Board.

95. Given the important role played by the media in preserving and disseminating culture, a bill on community media was submitted to Congress in January 2010. The bill has already been approved by the congressional committee on indigenous peoples and is now due to go on to the next stage of the review process.

96. In accordance with International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169), the Government of Guatemala is analysing the need to regulate the consultations held with indigenous peoples through their representative institutions whenever consideration is being given to legislative or administrative measures which may affect them directly.

97. To conclude, the Government of Guatemala recognizes that there are challenges and obstacles that need to be overcome for the recommendations made by the Human Rights Council in the framework of the universal periodic review to be fully implemented and therefore reiterates its commitment to continue taking action and measures to enhance the promotion and protection of human rights in Guatemala.

*Notes*

- <sup>1</sup> La Comisión de Alto Nivel es una instancia política coordinada articuladamente por el Ministerio de Relaciones Exteriores y por la Comisión Presidencial coordinadora de la Política del Ejecutivo en materia de Derechos Humanos y en la cual participan funcionarios de alto nivel de los tres organismos del Estado e instituciones descentralizadas y autónomas del Estado, para la toma de decisiones consensuadas a favor de los derechos humanos.
- <sup>2</sup> Decreto Número 22-2008 del Congreso de la República de Guatemala.
- <sup>3</sup> Decreto Número 9-2009 del Congreso de la República de Guatemala.
- <sup>4</sup> La reforma realizada se refiere a la integración de la Coordinadora Nacional del Sistema de Alerta Alba-Keneth, la Unidad Operativa del Sistema.
- <sup>5</sup> El artículo 4 de la Ley define el Sistema de Alerta Alba-Keneth como el conjunto de acciones coordinadas y articuladas entre instituciones públicas, que permitan agilizar y lograr la localización y resguardo de los niños, niñas y adolescentes que han sido sustraídos o desaparecidos y la recuperación y resguardo del mismo.
- <sup>6</sup> Decreto Número 9-2012 del Congreso de la República.
- <sup>7</sup> La iniciativa se encuentra en la Comisión de Legislación y Puntos Constitucionales y en la Comisión de Pueblos Indígenas.
- <sup>8</sup> Pendiente de conocerse en primer debate por el Congreso de la República.
- <sup>9</sup> Dictamen Favorable de la Comisión de Pueblos Indígenas.
- <sup>10</sup> Creado a través del Decreto 1-2012 del Congreso de la República de Guatemala, que reformó la Ley del Organismo Ejecutivo, el 24 de enero de 2012.
- <sup>11</sup> Este espacio interinstitucional sirvió de mecanismo para la coordinación de las acciones que desde cada programa social se planificaron para fomentar el desarrollo humano.
- <sup>12</sup> Instancia que sustituye la creada por el Acuerdo Gubernativo 103-2008, a la que se hacía referencia en el informe presentado en 2008.
- <sup>13</sup> El programa atiende una población anual de 8,073 estudiantes, según las estadísticas 2011 de la DIGEEX.
- <sup>14</sup> El Modelo de Atención fue elaborado por el Grupo Guatemalteco de Mujeres -GGM-, que es una organización feminista que tiene dentro de sus objetivos la investigación y la propuesta de estrategias para erradicar la violencia contra las mujeres en Guatemala.
- <sup>15</sup> Con jurisdicción de Playa Grande, Ixcán, departamento de Quiché.
- <sup>16</sup> Acuerdo 68-2008 de la Dirección General del Instituto de la Defensa Pública Penal.
- <sup>17</sup> Creado por Acuerdo Número 5-2012 de la Corte Suprema de Justicia.
- <sup>18</sup> La mayor parte de las mujeres fueron inscritas a través de estrategias de alfabetización propias de CONALFA.
- <sup>19</sup> Artículo 242 bis del Código Penal Guatemalteco, adicionado por el Decreto Número 9-2009 del Congreso de la República de Guatemala.
- <sup>20</sup> Artículo 150 bis del Código Penal Guatemalteco, adicionado por el Decreto Número 9-2009 del Congreso de la República de Guatemala.