

# GUATEMALA: JUSTICE UNDER ATTACK

## AMNESTY INTERNATIONAL REPORT TO THE WORKING GROUP OF THE 42ND SESSION OF THE UN UNIVERSAL PERIODIC REVIEW, JANUARY 2023

### SUMMARY

This document has been prepared for the Universal Periodic Review (UPR) which will consider Guatemala's report in January-February 2023. In this document, Amnesty International assesses the implementation of the recommendations made to Guatemala in its previous UPR, including with regard to the situation of human rights defenders, the independence of judges and prosecutors, violence against women, discrimination based on sexual orientation and gender identity, access to healthcare and the abolition of the death penalty.

It also assesses the national human rights framework regarding the ratification of international human rights treaties and impediments to the work of the Human Rights Advocate.

With regard to the human rights situation on the ground, Amnesty International is concerned at measures taken since 2017 to halt the progress made during the past decade in access to justice and combating impunity, the constant attacks on the independence of judges and prosecutors involved in key cases and human rights defenders, often involving the misuse of the criminal law, and the regressive human rights agenda fostered by Congress.

It concludes with a series of recommendations to Guatemala which, if implemented, would contribute to the improvement of the human rights situation.

## **FOLLOW-UP TO RECOMMENDATIONS FROM THE PREVIOUS REVIEW**

1. During its third UPR in 2017, Guatemala supported a total of 150 of the 205 recommendations made.<sup>1</sup>
2. Guatemala noted 55 recommendations on the protection of journalists and defenders of human rights<sup>2</sup> and the rights of Indigenous peoples;<sup>3</sup> reform of the justice system;<sup>4</sup> the sexual and reproductive rights of women and girls;<sup>5</sup> and the situation of LGBTI people.<sup>6</sup>
3. Amnesty International welcomes the progress made towards abolition of the death penalty through decisions of the Constitutional Court. Unfortunately, many other recommendations have not been implemented at all.
4. Despite Guatemala's acceptance of several recommendations on the protection of human rights defenders,<sup>7</sup> attacks against them have continued. Instead of adopting structural measures to ensure their protection, the authorities have adopted legislation that could limit their activities.
5. Similarly, while Guatemala has accepted recommendations on strengthening the justice system<sup>8</sup> and combating impunity and corruption,<sup>9</sup> Amnesty International is concerned at the increase in attacks on the independence of judges and prosecutors involved in key cases.
6. In both instances, the Public Prosecution Service and the judiciary have been complicit in misusing the criminal law to harass and punish human rights defenders and those administering justice.

## **NATIONAL HUMAN RIGHTS FRAMEWORK**

7. Guatemala has not ratified the International Convention for the Protection of All Persons from Enforced Disappearance; the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty; the Optional Protocol to the Convention on the Rights of the Child; or the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).
8. The ombudsperson has faced multiple criminal complaints and petitions for his dismissal in reprisal for his work. In addition, the ombudsperson has reported on several occasions about the insufficient funds allocated to its activities and delays in the transfer of funds by the Executive.

## **HUMAN RIGHTS SITUATION ON THE GROUND**

### **IMPUNITY FOR CRIMES UNDER INTERNATIONAL LAW**

9. Guatemala has taken some significant steps forward in delivering justice in several cases of human rights violations and crimes under international law perpetrated during the internal armed conflict (1960-1996). In 2018, a court ruled against five retired military personnel responsible for the enforced disappearance of 14-year-old Marco Antonio Molina Theissen and the unlawful detention, torture and rape of his sister, Emma Guadalupe, in 1981. In 2022, a court handed down sentences against five paramilitaries, members of the former civil self-defence patrols, for sexual violence inflicted on 36 Mayan Achí women. In addition, a court prosecuted at least nine retired military and police officers suspected of involvement in enforced disappearances, extrajudicial executions and other crimes against at least 183 people considered political opponents between 1983 and 1985 in the "Diario Militar" (Death Squad Diary) case.

10. However, impunity persists in most cases. There is also concern at the frequent intimidation, surveillance and attacks targeting the families of victims, activists calling for investigations and those administering justice in these cases.

## HUMAN RIGHTS DEFENDERS

11. Human rights defenders regularly face threats, intimidation and attacks, among other things. In 2020 and 2021, the NGO Unit for the Protection of Human Rights Defenders (Unidad de Protección a Defensoras y Defensores de Derechos Humanos -Guatemala, UDEFEGUA) registered 1,004 and 839 attacks, respectively, against individuals and groups defending the land and environment and fighting against impunity, as well as against those administering justice, Indigenous peoples and journalists and media workers.
12. Although in 2018 the Public Prosecution Service adopted a protocol for the investigation of crimes against human rights defenders, most of these attacks still remain unpunished.
13. The criminalization of human rights defenders solely for exercising their human rights is another frequent form of attack. It is usually preceded or accompanied by smear campaigns and stigmatization on social media aimed at discrediting human rights defenders and their work to try to force them to stop their legitimate activities, and by public statements by authorities constructing a narrative portraying defenders as dangerous criminals. In 2022, the Mayan Q'eqchi' defender Bernardo Caal Xol was released for good conduct after more than four years of being deprived of his liberty. In 2018, a court sentenced him to seven years and four months in prison for the crimes of aggravated robbery and unlawful detention with aggravating circumstances, despite the fact that there was no credible evidence to support the charges.
14. There is concern about the shutting down of spaces for dialogue between the authorities and civil society, which are essential to coordinate their protection, such as the Office for the Analysis of Attacks against Human Rights Defenders, which ceased to function in 2018 after 10 years in operation. The adoption of a public policy for the protection of human rights defenders, ordered by the Inter-American Court of Human Rights in 2014, remains pending. Despite warnings from international organizations and civil society, in 2021 an amendment to the NGO Law (Decree 04-2020) came into force that puts at risk freedom of association and expression and the right to defend human rights.
15. On several occasions, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) has raised concerns about attacks and threats against journalists.

## INDEPENDENCE OF PROSECUTORS AND JUDGES

16. Since the government announced that it would not extend the mandate of the International Commission against Impunity in Guatemala (Comisión Internacional contra la Impunidad en Guatemala, CICIG) in 2018, there has been an increase in attacks against those administering justice involved in the fight against impunity in cases of human rights violations during the armed conflict and more recently, as well as corruption cases, in particular the cases being pursued by the CICIG.
17. Members or former members of the Office of the Prosecutor for Human Rights and the Office of the Special Prosecutor Against Impunity (Fiscalía Especial contra la Impunidad, FECl), judges in the Courts for High-Risk Cases and members of the Constitutional Court (CC) face constant intimidation, surveillance, threats, unfounded criminal proceedings and smear campaigns on social media and in the media aimed at discrediting their work. Amnesty International also received information of irregularities in dismissals and in the taking up of positions among those administering justice. On many occasions, the same institutions, the Public Prosecution Service and the judiciary, have initiated proceedings based on manifestly unfounded claims against them. Twenty-two individuals responsible for administering justice have had to leave the country to protect their physical integrity and their lives since 2018 due to these practices, which violate judicial and prosecutorial independence.

## PEACEFUL ASSEMBLY

18. In November 2020, the National Police used excessive force against protesters who took to the streets in several cities in Guatemala to protest at the approval of the 2021 national budget, as well as against passers-by. Amnesty

International was able to verify the indiscriminate use of tear gas and the unlawful use of force, including beatings of detainees and journalists. At least 43 arrests were recorded and at least two people were injured by projectiles.

19. In 2021, the authorities apprehended and initiated proceedings against several activists and students for painting graffiti on the walls of Congress in the context of the 21 November protests. According to information received by the organization, dozens of human rights activists and defenders are being investigated for organizing or participating in that protest. The media also reported that some police officers were being prosecuted for excessive use of force.

## DEATH PENALTY

20. In October 2017, the Constitutional Court declared that the last articles of the Criminal Code and the Law Against Drug Activity providing for the imposition of the death penalty were unconstitutional; since then this punishment can no longer be imposed in the country for ordinary crimes.

## VIOLENCE AGAINST WOMEN

21. In 2021, seven years after the ruling of the Inter-American Court of Human Rights, a court handed down a custodial sentence to an individual responsible for the femicide of the 15-year-old Maria Isabel Veliz Franco in 2001.
22. However, Guatemala still does not take sufficient measures to guarantee the right of women and girls to a life free from violence. Despite the high rates of violence against women, organizations have criticized the lack of state resources allocated to the Centres for Comprehensive Support for Women Survivors of Violence (Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia, CAIMUS), which are coordinated by civil society.
23. Criminal proceedings against those suspected of responsibility for the deaths of 41 girls in a fire at the state shelter Hogar Seguro Virgen de la Asunción in 2017 have stalled and no one has been brought to justice in connection with the case.
24. Abortion continues to be criminalized unless the pregnancy endangers the life of the pregnant person. Congress passed Decree 8-2022, which sought to amend the Penal Code to criminalize miscarriages and impose prison sentences on anyone who “promotes or facilitates access to abortion”<sup>10</sup> but this was shelved following national and international pressure.
25. According to the Reproductive Health Observatory (Observatorio de la Salud Reproductiva, OSAR) in 2021, 72,077 girls and adolescents gave birth, of whom 2,041 were aged 14 or younger.<sup>11</sup> In 2018, Congress rejected a bill that sought to provide girls who were victims of rape with access to abortion.<sup>12</sup>

## LGBTI PEOPLE

26. Civil unions and same-sex marriage are not recognized.
27. According to the National LGBTIQ+ Rights Observatory, from January 2021 to May 2022, at least 45 LGBTIQ+ people were killed because of their sexual orientation or gender identity. Activists criticized the lack of any policy on investigating violence against LGBTIQ+ people and of training for officials who receive complaints.<sup>13</sup>
28. At the request of the President of the Republic, in March 2022 Congress shelved Decree 18-2022 expressly prohibiting same-sex marriage and the teaching of sexual diversity and gender equality in schools, among other things. However, Congress has passed Bill 5940, which seeks to prohibit the dissemination of information on transgender identities and non-heterosexual relationships in school sexuality education programmes; only one further vote is needed for its approval by the plenary.

## ACCESS TO HEALTH

29. According to publicly available figures, at least 18,414 people died of Covid-19. As of 17 June 2022, only 34.5% of the population had a completed their Covid-19 vaccination schedule.<sup>14</sup>

30. Insufficient public spending on health limits the enjoyment of the highest attainable standard of health. According to the World Health Organization, Guatemala is the country that invests the least public resources in health as a percentage of GDP.<sup>15</sup> Guatemala has the lowest number of hospital beds per thousand inhabitants in the region (0.4), and ranks last and penultimate, respectively, in terms of the number of doctors (0.4) and nurses (1.3) per thousand inhabitants.

## PEOPLE ON THE MOVE

31. Tens of thousands of Guatemalans who have fled violence, impunity, poverty and inequality are returned to the country from Mexico and the USA every year, often without adequate care and protection upon arrival in Guatemala.
32. In January 2021, Guatemalan security forces beat and used tear gas against a caravan of refugees and migrants trying to enter the country, using the pretext of applying Covid-19 protocols.

## INDIGENOUS PEOPLES

33. In several places, Indigenous peoples have complained that the authorities have not ensured their right to free, prior and informed consultation, often in the context of hydroelectric or mining projects affecting their territories, environment or water.

## CLIMATE CHANGE AND HUMAN RIGHTS

34. According to the Rainforest Alliance, there are barriers to the implementation of the National Climate Change Action Plan due to lack of collaboration between government bodies at the national and local levels, insufficient scientifically based climate information to support adaptation plans and limited funding, among other factors.<sup>16</sup>

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

### Amnesty International calls on the Guatemalan authorities to:

#### Impunity for crimes under International law perpetrated during the internal armed conflict

- Conduct prompt, independent, impartial and effective investigations into all allegations of outstanding human rights violations committed during the internal armed conflict.

#### Human rights defenders

- Implement previously supported recommendations to ensure thorough, prompt, impartial and independent investigations into all attacks against human rights defenders and journalists and bring those responsible to justice
- As previously recommended, refrain from misusing the criminal justice system to intimidate, harass and prosecute human rights defenders and journalists solely for exercising their human rights and close unfounded criminal cases.
- Without further delay, implement the previously supported recommendations to adopt a Public Policy for the Protection of Human Rights Defenders, in accordance with the 2014 ruling of the Inter-American Court of Human Rights.
- Ratify the Escazú Agreement.

#### Judicial and prosecutorial independence

- Ensure that those administering justice can continue to carry out their work without undue external or internal pressure and end the harassment and misuse of the criminal law targeted against them.

## Peaceful assembly and freedom of association

- Fully guarantee the exercise of the right to peaceful assembly.

## Death penalty

- Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

## Use of force

- Adopt measures to ensure that the use of force by members of the security forces fully complies with international human rights standards and norms and impartially investigate all acts of unlawful use of force.

## Violence against women

- Implement the recommendations previously supported to investigate promptly, impartially and effectively all forms of violence against women, bring those responsible to justice and implement effective and coordinated measures, with sufficient resources, to prevent such violence.
- As previously recommended, adopt effective measures to address widespread child pregnancy and ensure access to sexual and reproductive health rights and education programmes.
- Decriminalize abortion in all circumstances and ensure access to abortion in law and in practice for all those who are pregnant.

## Discrimination and violence against LGBTI people

- In line with previous recommendations, ensure the right to equality and non-discrimination for all without distinction, and in particular take all necessary measures, including legal reforms, to recognize same-sex marriage and unions without discrimination.
- Conduct thorough investigations into all crimes committed against LGBTI people. Possible lines of inquiry should seek to determine whether crimes were committed because of the victim's sexual orientation and/or gender identity.

## Access to health

- Adopt taxation and budget allocation measures, ensuring a gradual increase so that public spending on health approaches the minimum 6% of GDP suggested by the Pan American Health Organization (PAHO), as a fundamental measure to ensure the enjoyment of the highest possible standard of health.

## People on the move

- Implement effective procedures in consular services and reception centres to identify deported and returned individuals who are at risk and provide them with protection, paying special attention to vulnerable groups (women, children and LGBTI people).

## Indigenous peoples

- Guarantee the right to free, prior and informed consent of Indigenous peoples in relation to policies, projects and legislation that may affect them, in accordance with human rights standards.

## Climate change and human rights

- Resolve the existing obstacles to the implementation of the National Climate Change Action Plan and adopt the most ambitious measures, to the extent possible for Guatemala, to reduce greenhouse gas emissions in the shortest possible time and to support people under its jurisdiction to adapt to the effects of climate change.

- Identify in detail Guatemala’s needs in terms of technology transfer and financial resources from the richest countries to complement their emission reduction and adaptation efforts and for loss and damage, so that human rights are protected from the climate crisis.

## ANNEX 1 - KEY AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE

‘Guatemala: Court decision ruling death penalty unconstitutional for most crimes is a key step on path to full abolition’ (Act 50/7412/2017), 7 November 2017, <https://www.amnesty.org/en/documents/act50/7412/2017/en/>

‘Guatemala: Seven human rights defenders killed in four weeks’, 11 June 2018, <https://www.amnesty.org/en/latest/news/2018/06/guatemala-seven-human-rights-defenders-killed-in-four-weeks/>

‘Guatemala: ‘Legislators could pass a discriminatory law’, 10 September 2018 (AMR 34/9028/2018), <https://www.amnesty.org/en/documents/amr34/9028/2018/en/>

‘Guatemala: Continuing hostile environment for human rights defenders in Guatemala’ (AMR 34/0128/2019), 27 March 2019, <https://www.amnesty.org/en/documents/amr34/0128/2019/en/>

‘Guatemala: Legislative initiatives seriously threaten human rights’, 12 February 2019, <https://www.amnesty.org/en/latest/news/2019/02/guatemala-legislative-initiatives-seriously-threaten-human-rights/>

‘Guatemala: New Law Threatens NGOs’ Work’ (AMR 34/1811/2020), 13 February 2020, <https://www.amnesty.org/en/documents/amr34/1811/2020/en/>

‘Guatemala: COVID-19 Hospital Workers Fired; Not paid’ (AMR 34/2465/2020), 9 June 2020, <https://www.amnesty.org/en/documents/amr34/2465/2020/en/>

‘Guatemala: Amnesty International demands investigation into excessive use of force in protests’, 23 November 2020, <https://www.amnesty.org/en/latest/news/2020/11/guatemala-amnistia-exige-investigacion-uso-excesivo-fuerza/>

‘Guatemala: Open letter to the President on the need to adopt a public policy for the protection of human rights defenders’ (AMR 34/3079/2020), 17 September 2020, <https://www.amnesty.org/en/documents/amr34/3079/2020/en/>

‘Guatemala: La pandemia no puede ser un pretexto para negar protección internacional’, 30 March 2020, <https://www.amnesty.org/es/latest/news/2021/03/guatemala-la-pandemia-no-puede-ser-un-pretexto-para-negar-proteccion-internacional/>

‘Guatemala: International organizations demand end to criminalization of justice officials and human rights defenders’, 9 June 2020, <https://www.amnesty.org/en/latest/news/2021/06/guatemala-demandamos-cese-criminalizacion-contra-funcionarios-justicia/>

‘Guatemala: Discriminatory law foments hate and puts lives, rights and families at risk’, 9 March 2022, <https://www.amnesty.org/en/latest/news/2022/03/guatemala-discriminatory-law-lives-rights-families-risk/>

*Guatemala: Last Chance for Justice: Dangerous setbacks for human rights and the fight against impunity in Guatemala*, (AMR 34/0611/2019) <https://www.amnesty.org/en/documents/amr34/0611/2019/en/>

*Desigual y letal, Cinco claves para recuperarse de la crisis de derechos humanos que desató la pandemia en América Latina y el Caribe* (AMR 01/5483/2022), 27 April 2022, <https://www.amnesty.org/es/documents/amr01/5483/2022/es/> (Spanish only).

## ANNEX 2 - RECOMMENDATIONS FROM THE PREVIOUS SESSION/CYCLE AND NOTES ON PROGRESS

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
<b>Theme: A42 Institutions &amp; policies - General</b>			
111.4 Continue internal institutional processes to strengthen democracy, justice and respect for human rights (El Salvador); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	A42 Institutions & policies - General A43 Human rights policies <b>Affected persons:</b> - general	<b>Not yet implemented</b> The measures taken by Guatemala since 2017 to halt the progress of the last decade in access to justice and combating impunity, in particular with the government's decisions not to renew the mandate of the International Commission against Impunity, the regressive agenda on human rights promoted by Congress, and the criminalization of human rights defenders and those administering justice and the obstruction of their activities represent serious setbacks for human rights and the rule of law. Amnesty International is concerned at the overall reduction of civic space.
<b>Theme: A44 Structure of the national human rights machinery</b>			
111.7 Increase funding and political support for government human rights institutions and programmes, including the Presidential Commission on Human Rights, the Human Rights Ombudsman's Office and the National Reparations Programme (United States of America); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	A44 Structure of the national human rights machinery A45 National Human Rights Institution (NHRI) <b>Affected persons:</b> - general	<b>Not yet implemented</b> In retaliation for his work in defending and promoting human rights, the Human Rights Advocate has faced multiple criminal complaints and petitions for his dismissal. In addition, the Office of the Human Rights Advocate has complained on several occasions about the insufficient funds allocated to its activities and delays in the transfer of funds by the Executive.
<b>Theme: B52 Impunity</b>			
111.74 Ensure that the International Commission against Impunity in Guatemala is able to perform its work effectively (United Kingdom of Great Britain and Northern Ireland); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	B52 Impunity A28 Cooperation with other international mechanisms and institutions <b>Affected persons:</b> - judges, lawyers and prosecutors	<b>Not yet implemented</b> The government obstructed the work of the CICIG, hindering its access to the country and denying visas to its international workers, and decided not to renew the mandate of the CICIG, which ceased its work in September 2019.
111.69 Increase efforts in the fight against impunity and corruption, through increasing the financial resources for the judiciary and through the implementation of judicial reforms aimed at fully ensuring the independence of the judiciary (Netherlands); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	B52 Impunity A47 Good governance D51 Administration of justice & fair trial <b>Affected persons:</b> - judges, lawyers and prosecutors	<b>Not yet implemented</b> Since 2017, the authorities have been made determined efforts to put an end the fight against impunity and corruption. In addition to ending the mandate of CICIG, which stopped work in September 2019, the authorities have systematically obstructed the work of the Office of the Special Prosecutor Against Impunity (FECI) and of the judges in the cases pursued by CICIG, through the misuse of the

			criminal law against prosecutors, judges and former CICIG staff. Judges dealing with cases of human rights violations during the armed conflict have also been criminalized. The leadership of the Public Prosecutor's Office and the judiciary have not taken steps to stop these attacks on judicial and prosecutorial independence.
<b>Theme: D43 Freedom of opinion and expression</b>			
111.46 Continue efforts to promote freedom of expression and information by protecting journalists (Holy See); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	D43 Freedom of opinion and expression <b>Affected persons:</b> - media	<b>Not yet implemented</b> Amnesty International has received information about attacks on journalists during the November 2020 protests, as well as about the misuse of the criminal law and other restrictions on the work of journalists in the country.
<b>Theme: D51 Administration of justice &amp; fair trial</b>			
111.68 Strengthen the independence and effectiveness of the judiciary and adopt all necessary measures to consolidate recent efforts in the fight against impunity (Germany); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	D51 Administration of justice & fair trial B52 Impunity <b>Affected persons:</b> - judges, lawyers and prosecutors	<b>Not yet implemented</b> The Public Prosecutor's Office and the judiciary have participated in the misuse of the criminal law against prosecutors, judges and magistrates in cases of corruption and human rights violations during the armed conflict. The leadership of the Public Prosecutor's Office and the judiciary have not taken steps to stop these attacks on judicial and prosecutorial independence. Amnesty International has also learned of irregularities regarding transfers, dismissals and blocking people from taking up posts in the administration of justice.
<b>Theme: E42 Access to health-care (general)</b>			
111.92 Increase the budget allocated to health care and take all necessary measures to strengthen a national health-care system accessible to all, without discrimination (Côte d'Ivoire); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	E42 Access to health-care (general) E41 Right to health - General <b>Affected persons:</b> - persons living in rural areas	<b>Not yet implemented</b> Guatemala is the country that invests the least public resources in health as a percentage of GDP (2.2%) despite the fact that <b>the minimum to ensure universal health care established by the Pan American Health Organization is 6%. As a result, Guatemala has the lowest</b> number of hospital beds per thousand inhabitants in the region (0.4), and ranks last and second to last, respectively, in terms of the number of doctors (0.4) and nurses (1.3) per thousand inhabitants.
<b>Theme: F13 Violence against women</b>			
111.111 Strengthen efforts to carry out prompt, impartial and effective investigations into all forms of violence against women and to bring those responsible to justice (Iceland); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	F13 Violence against women <b>Affected persons:</b> - women	<b>Not yet implemented</b> Women and girls continue to face high levels of gender-based violence.
111.118 Open up and strengthen specialized centres providing care to women victims of violence (Paraguay);	Supported	F13 Violence against women	<b>Not yet implemented</b>

Source of position: A/HRC/37/9 - Para. 111		Affected persons: - women	Organizations have highlighted the lack of state resources provided to the Comprehensive Support Centres for Women Survivors of Violence (Centros de Apoyo Integral para Mujeres Sobrevivientes de Violencia, CAIMUS), coordinated by civil society.
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### Theme: H1 Human rights defenders

111.48 Take all necessary measures to protect human rights defenders through the removal of legal and policy measures which inhibit the ability of defenders to carry out their vital work in safety, without fear of interference, obstruction or harassment of any kind, including by finalizing the public policy for the protection of human rights defenders with strong participation by civil society and an adequate budgetary allocation (Ireland); Source of position: A/HRC/37/9 - Para. 111	Supported	H1 Human rights defenders Affected persons: - human rights defenders	Not yet implemented Delays persist in developing and implementing a policy for the protection of human rights defenders. In 2021, amendments to the NGO Law (Decree 04-2020) came into force which threatened freedom of association and expression and the right to defend human rights.
111.58 Implement public policies so as to protect the work of human rights defenders in line with international standards, and implement measures aimed at the effective reduction of attacks and at their independent and effective investigation (Spain); Source of position: A/HRC/37/9 - Para. 111	Supported	H1 Human rights defenders Affected persons: - human rights defenders	Not yet implemented Human rights defenders continue to face high levels of violence, including threats, attempted assassination, killing and arbitrary detention. Most of these attacks go unpunished.
111.64 Initiate or pursue timely, independent, impartial and effective investigations into threats and attacks against human rights defenders and bring those responsible to justice (Belgium); Source of position: A/HRC/37/9 - Para. 111	Supported	H1 Human rights defenders Affected persons: - human rights defenders	Not yet implemented Most attacks on human rights defenders go unpunished.
111.43 Support the work of civil society by implementing public policies to protect it and end the misuse of penal and administrative law against human rights defenders, including indigenous peoples' human rights defenders, especially in the context of hydroelectric and mining projects (Germany); Source of position: A/HRC/37/9 - Para. 111	Supported	H1 Human rights defenders A41 Constitutional and legislative framework G3 Indigenous peoples Affected persons: - human rights defenders	Not yet implemented The authorities are misusing the criminal law, opening or pursuing unfounded legal proceedings against human rights defenders in order to harass them and prevent them from carrying out their legitimate activities.

### Theme: A12 Acceptance of international norms

112.10 Consider the possibility of ratifying the International Convention for the Protection of All Persons from Enforced Disappearance and adapting its national legislation to this instrument (Ecuador); Source of position: A/HRC/37/9 - Para. 112	Noted	A12 Acceptance of international norms A41 Constitutional and legislative framework D32 Enforced disappearances Affected persons: - disappeared persons	Not yet implemented
112.1 Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (Montenegro); Source of position: A/HRC/37/9 - Para. 112	Noted	A12 Acceptance of international norms D1 Civil & political rights - general measures of implementation D23 Death penalty Affected persons: - general	Not yet implemented
112.6 Consider ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (Uruguay); Source of position: A/HRC/37/9 - Para. 112	Noted	A12 Acceptance of international norms F31 Children: definition; general principles; protection Affected persons: - children	Not yet implemented

### Theme: B31 Equality & non-discrimination

<p>112.18 Create a legislative framework and implement public policies and social awareness campaigns to eliminate violence and discrimination based on sexual orientations and gender identity (New Zealand);</p> <p><b>Source of position:</b> A/HRC/37/9 - Para. 112</p>	Noted	<p>B31 Equality &amp; non-discrimination A41 Constitutional and legislative framework</p> <p><b>Affected persons:</b> - lesbian, gay, bisexual, transgender and intersex persons (LGBTI)</p>	<p><b>Not yet implemented</b></p> <p>Levels of violence and discrimination against LGBTIQ+ people remain high. Equal same-sex marriage is not recognized.</p> <p>Congress has initiated several legislative initiatives that discriminate against LGBTIQ+ people and violate their rights.</p>
<b>Theme: D21 Right to life</b>			
<p>112.32 Formally abolish the death penalty and accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights (Australia);</p> <p><b>Source of position:</b> A/HRC/37/9 - Para. 112</p>	Noted	<p>D21 Right to life A12 Acceptance of international norms D1 Civil &amp; political rights - general measures of implementation D23 Death penalty</p> <p><b>Affected persons:</b> - general</p>	<p><b>Partially implemented</b></p> <p>In October 2017 the Constitutional Court declared unconstitutional the last articles of the Criminal Code and the Law Against Drug Activity providing for the imposition of the death penalty; since then, this punishment can no longer be imposed in the country for ordinary crimes.</p>
<b>Theme: D51 Administration of justice &amp; fair trial</b>			
<p>112.41 Deepen the measures aimed at speeding up the progress of trials of the perpetrators of acts of genocide and crimes against humanity and provide due protection to the judges involved in these investigations (Argentina);</p> <p><b>Source of position:</b> A/HRC/37/9 - Para. 112</p>	Noted	<p>D51 Administration of justice &amp; fair trial B13 Genocide B12 Crimes against humanity</p> <p><b>Affected persons:</b> - judges, lawyers and prosecutors</p>	<p><b>Not yet implemented</b></p> <p>While courts have handed down several convictions and sentences against those responsible for human rights violations and crimes under international law perpetrated during the internal armed conflict, impunity persists in many other cases that have been under investigation for decades. The intimidation, surveillance and attacks targeting the families of victims, activists pushing for investigations and those administering justice in such cases are a cause of concern.</p>
<b>Theme: E43 Access to sexual and reproductive health and services</b>			
<p>112.52 Decriminalize and eliminate all punitive measures related to termination of pregnancies in cases of rape, incest and severe fetal impairment (Denmark);</p> <p><b>Source of position:</b> A/HRC/37/9 - Para. 112</p>	Noted	<p>E43 Access to sexual and reproductive health and services A41 Constitutional and legislative framework F13 Violence against women</p> <p><b>Affected persons:</b> - women</p>	<p><b>Not yet implemented</b></p> <p>Abortion continues to be criminalized unless the pregnancy endangers the life of the pregnant person. Congress passed Decree 8-2022, which sought to amend the Penal Code to criminalize miscarriages and impose prison sentences on anyone who “promotes or facilitates access to abortion”. However, it could not enter into force because Congress “shelved” it following concerns expressed by national and international human rights organizations.</p>
<p>112.47 Adopt effective measures to address the high level of pregnancy among girls and adolescents and ensure their effective access to sexual and reproductive health services (Belgium);</p> <p><b>Source of position:</b> A/HRC/37/9 - Para. 112</p>	Noted	<p>E43 Access to sexual and reproductive health and services E41 Right to health - General</p> <p><b>Affected persons:</b> - girls</p>	<p><b>Not yet implemented</b></p> <p>According to civil society organizations, the pregnancy rate among girls and adolescents remains high. According to the Reproductive Health Observatory (Observatorio de la Salud Reproductiva, OSAR) in 2021, 72,077 girls and adolescents gave birth, of whom 2,041</p>

			were aged 14 or younger. In 2018, Congress rejected a bill that sought to provide girls who were victims of rape with access to abortion.
<b>Theme: G3 Indigenous peoples</b>			
111.23 Ensure the full participation of indigenous peoples in decision-making processes which concern them, and ensure that they are consulted in the context of the planning and implementation of large-scale economic projects (Switzerland); <b>Source of position:</b> A/HRC/37/9 - Para. 111	Supported	G3 Indigenous peoples E1 Economic, social & cultural rights - general measures of implementation <b>Affected persons:</b> - Indigenous peoples	Indigenous peoples have complained in a number of places that the authorities have not guaranteed their rights to free, prior and informed consultation, often in the context of hydroelectric or mining projects that affect them.

<sup>1</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review\* Guatemala, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review. doc. UN, A/HRC/37/9/, 23 February 2018.

<sup>2</sup> A/HRC/37/9/Add.1, para. 18.

<sup>3</sup> A/HRC/37/9/Add.1, para. 14.

<sup>4</sup> A/HRC/37/9/Add.1, paras 19 to 21.

<sup>5</sup> A/HRC/24/9/Add.1, paras 25 to 29.

<sup>6</sup> A/HRC/37/9/Add.1, paras 12 and 13.

<sup>7</sup> UN Human Rights Council, Report of the Working Group on the Universal Periodic Review\* Guatemala doc. UN A/HRC/37/9, recommendations 111.40 (El Salvador); 111.42 (Georgia); 111.43 (Germany); 111. 45 (Greece) 111.48 (Ireland); 111.49 (Italy); 111.50 (Lithuania); 111.52 (Luxembourg) 111.54 (Netherlands); 111.55 (Republic of Korea); 111.56 (Sierra Leone); 111.57 (Slovakia); 111.58 (Spain); 111.59 (Sweden); 111.60 (Switzerland); 111.61 (Ukraine); 111.62 (United States); 111.63 (Australia); 111.64 (Belgium); 111.65 (Canada); and 111.67 (Chile).

<sup>8</sup> A/HRC/37/9/, Recommendations 111.68 (Germany); 111.69 (Netherlands); and 111.70 (South Korea).

<sup>9</sup> A/HRC/37/9/, recommendations 111.72 (Venezuela); 111.73(Canada); 111.74 (United Kingdom); 111.75 (Lithuania); 111.76 (Sweden); 111.77 (Australia); and 112.41(Argentina).

<sup>10</sup> "promueva o facilite el acceso al aborto". See Amnesty International, 'Guatemala: Discriminatory law foments hate and puts lives, rights and families at risk' (press release), March 2022, <https://www.amnesty.org/en/latest/news/2022/03/guatemala-discriminatory-law-lives-rights-families-risk/>

<sup>11</sup> OSAR, Embarazos y registro de nacimientos de madres adolescentes – año 2021, January 2022, <https://osarguatemala.org/embarazos-y-registro-de-nacimientos-2021/> (Spanish only).

<sup>12</sup> <https://www.informador.mx/internacional/Congreso-de-Guatemala-rechaza-proyecto-sobre-violencia-sexual-en-menores--20180906-0166.html>

<sup>13</sup> Agencia Ocote, Violencia contra la comunidad LGBTQ+, 5 June 2022, <https://www.agenciaocote.com/blog/2022/06/05/don-maria-don-galilea-los-registros-que-invisibilizan-a-las-diversidades/> (Spanish only).

<sup>14</sup> See <https://ourworldindata.org/coronavirus>

<sup>15</sup> Amnesty International, *Desigual y letal, Cinco claves para recuperarse de la crisis de derechos humanos que desató la pandemia en América Latina y el Caribe* (AMR 01/5483/2022), April 2021, <https://www.amnesty.org/es/documents/amr01/5483/2022/es/> (Spanish only).

<sup>16</sup> Rainforest Alliance, January 2022, <https://www.rainforest-alliance.org/in-the-field/strengthening-climate-adaptation-and-resilience-in-guatemala/>