

SHADOW REPORT REGARDING INDIGENOUS WOMEN IN GUATEMALA.

68th SESSION OF THE CONVENTION
ON THE ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN
-CEDAW-



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ACRONYMS

ANN	New Nation Alliance (Political Party)
ATRAHDOM	Association of Domestic, Special Services and Drawback Industry Workers.
CAIMUS	Centers for Women Victims of Violence
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CICIG	UN International Commission against Impunity in Guatemala
CODISRA	Presidential Commission Against Discrimination and Racism
CONALFA	National Literacy Commission
CREO	Commitment, Renewal and Order (Political Party)
DDHH	Human Rights
DEMI	Indigenous Women Ombudsman
DIGEMOCA	Directorate General for Quality Monitoring and Verification
ENCOVI	National Survey of Living Conditions
ENSMI	National Maternal and Child Health Survey
FODIGUA	Guatemalan Indigenous Development Fund
GAM	Mutual Support Group
GGM	Guatemalan Women's Group
INACIF	National Institute of Forensic Sciences
INDH	National Indices of Human Development
INE	National Statistics Institute
ITS	Sexually Transmitted Infections
MINEDUC	Ministry of Education
MP	Public ministry
MSPAS	Ministry of Public Health and Social Assistance
MVM	Violent Death of Women
ILO	International Labor Organization
WMO	Municipal Office of Women
UN WOMEN	United Nations Entity for Gender Equality and the Empowerment of Women
OSAR	Sexual and Reproductive Health Citizens Observatory
PNC	Civil national police
UNDP	United Nations Development Program

REDOMISAR	Network of Indigenous Women's Organizations for Reproductive Health
SESAN	Secretariat of Food and Nutrition Security
SNIVCM	National Information System on Violence against Women
TSE	Supreme Electoral Tribunal
UNICEF	United Nations Children's Fund
URNG	Guatemalan National Revolutionary Unit
HIV	Human immunodeficiency virus
WINAQ	Political Movement

PRESENTATION

In 2015, the State of Guatemala submitted its 8th and 9th combined report for the years 2009-2014, within the framework of the periodic reviews of States by the CEDAW Committee and also as part of article 18 of the Convention on the Elimination of all Forms of Discrimination against Women - CEDAW - (for its acronym in English).

For the organizations that make up the Tz'ununija' Indigenous Women's Movement, this shadow report recovers importance because it presents the reality of the situation and the conditions of indigenous women in the country, with information emanating from the communities through local liaisons, leaders, member organizations and different spaces for dialogue, analysis and discussion, promoted by the Tz'ununija Movement, such as the First National Congress of Mayan, Garífuna and Xinka Women in 2,015; the consultation meetings on the initiative to promote a general recommendation on indigenous women by the CEDAW Committee during 2015-2016; a public celebration of Indigenous Women's Day - September 5, 2016; and several parallel processes that the Tz'ununija Movement carries out at the local level to verify, accompany and defend the rights of indigenous women. These activities have made it possible to obtain reliable information on the state of implementation of the actions proposed by the Convention to prevent and eradicate discrimination in all its forms towards women and in particular of indigenous women, based on the reality they live daily and facing the recommendations that the CEDAW Committee has issued to the state of Guatemala.

This report will take into account the recommendations emanating from the forty-third session of the CEDAW Committee derived from the 7th report presented by the State of Guatemala in 2009, as well as the contents of its 8th and 9th reports, which will be contrasted with information of the national reality, statistical data and various reports on specific topics.

Women's organizations welcome the fact that the CEDAW Committee expresses special concern about the situation of Mayan, Garífuna and Xinka women and insists on motivating the State to respond to advances, obstacles and challenges in the implementation of certain articles of the Convention, in order to understand the true scope of the problem of discrimination in the country.

Indigenous women continue to be concerned that the State's response to the CEDAW Committee is limited to listing a set of actions, listing education and training activities; like the 7th, the 8th and 9th reports lack data disaggregated by ethnicity and do not demonstrate that public policies, laws, actions, programs and projects have a real impact on the lives of indigenous women.

GENERAL CONTEXT

Guatemala is the most populous country in Central America, with a population of 15,607,640 in 2014, of which 50.79% are women, that is, the country has 7,927,951 women¹. Indigenous population, according to official data from the 2002 Census is 41%, while in data from unofficial studies it totals 66%. Guatemala has 22 indigenous peoples of Mayan descent plus the Xinka, Garífuna and Mestizo peoples. About 22 languages of Mayan origin are recognized, plus the Garífuna. The lingua franca is Spanish.

Guatemala leads some of the worst social indicators in the Americas, in terms of poverty and inequality, with a Gini index of 0.628. Thus, half of Guatemalan children under 5 years old suffer from chronic malnutrition.² And, the number of persons living in hunger exceeds 3 million, where indigenous and farmer population is the most affected. Although malnutrition mortality has been declining steadily in recent years, in 2014 it still represented a rate of 9.1³.

The National Survey of Living Conditions (Encovi- 2014) reports that the incidence of poverty among the indigenous population is 79.2%, equivalent to a number 1.7 times higher than among the non-indigenous population (46.6%). That is, four out of five indigenous people are in poverty. For the indigenous population, poverty has increased, from 77.3% in 2000, to 75.0% in 2006 and to 79.2 in 2014.

The majority of the indigenous population is concentrated in the western departments of the country, Totonicapán (97%), Sololá (96%), Quiché (89%),

1 Republic of Guatemala: Demographic and Vital Statistics 2014, National Statistic Institute -INE-.

2 UNICEF, 2010

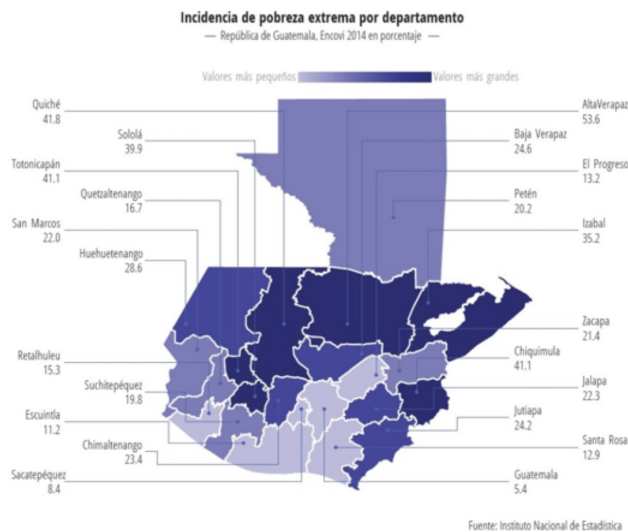
3 <http://www.ine.gob.gt/index.php/estadisticas/tema-indicadores>

Huehuetenango (57%), Quetzaltenango and Chimaltenango (78%); and in the northern region, Alta Verapaz (90%) and Baja Verapaz (90%)⁴.

For the non - indigenous population, extreme poverty increased by five percentage points, from 7.8% to 12.8%, between 2000 and 2014. This increase in poverty is characterized by concentrating in rural areas⁵.

The table below shows the incidence of extreme poverty in the departments with the highest indigenous population: Alta Verapaz 53.6%, Sololá 39.9%, Quiché 41.8%, Chiquimula 41.1%, Totonicapán 41.1%, Izabal 35.2%, Huehuetenango 28.6% and San Marcos 22%. * It is important to note that these departments have presence of the Xinka and Garífuna populations. (The darker the color, more poverty is reported).

Table No. 1⁶
Incidence Rate of Extreme Poverty per Department
Republic of Guatemala, Encovi 2014, in percentages



4 Encuesta Nacional de Condiciones de Vida –ENCOVI–, Pobreza y Desarrollo, Un enfoque Departamental, Guatemala, Noviembre 2011, Instituto Nacional de Estadística- INE- {National Living Conditions Survey, ENCOVI, Poverty and Development, A Departmental Approach, Guatemala, November 2011}

5 Please refer to Table No.1

6 Table 1. Source: National Statistic Institute, 2014

The United Nations Development Program (UNDP) 2013 Human Development Report, reports that in 155 of the country's 333 municipalities (there are currently 340), the majority of the indigenous population (approximately 80%) live in poverty, with only Q 24 per day (US \$ 3.13), in the best of cases, for their survival.

Situation and Status of Indigenous Women:

The situation of indigenous peoples, particularly women, has been aggravated by the political situation in the country, characterized by corruption scandals, megaprojects, open pit mining, femicide and the persecution of women leaders defending the land and territory. Lack of work remains a constant in the country as well as segregationist policies that do not contribute to the development of indigenous women.⁷

The stigma towards the Mayan, Garífuna and Xinka women in Guatemala City is constant; there has been aggressions by the municipal police towards indigenous women who, due to poverty and extreme poverty, have migrated to the city and resorted to “informal” trade for their personal and their family's survival. They have suffered harassment in the public thoroughfare, they have been forcibly removed from public spaces, they have been subjected to physical violence and humiliating acts, by throwing their sales on the ground, forcibly depriving them of their belongings and confiscating them, even if they are minors, exacerbating the use of public force. This has happened in streets and municipal parks based on the argument of being against public decoration and territorial regulation.⁸ These cases have been reported in the cities of Guatemala and Antigua Guatemala,^{9,10} (the later a place of great tourist influx). In this sense, the State has not attempted to respond to the social and economic crisis that mainly affects indigenous women and their families.

7 <http://www.guatelevision.com/departamental/discriminacion-mujer-quiche/> (Discrimination against a quiche woman news clip)

8 <http://www.prensalibre.com/guatemala/comunitario/la-conflictiva-relacion-del-alcalde-y-vendedores> {The conflict ridden relation between the Mayor and street vendors}

9 <https://www.youtube.com/watch?v=yt2yThYIiII>

10 <http://www.soy502.com/articulo/disturbios-antigua-guatemala-desalojo-vendedores-informales-50172> {Street vendors are evicted in Antigua Guatemala}

The COMMITTEE commented on its observation on Indigenous Women as follows: “Adopt concrete and specific measures, as well as evaluation criteria and timelines, to accelerate the improvement of the conditions of indigenous women in all areas of life. Ensure that women of the Maya, Xinka and Garifuna have full access to land, education and health services, and can participate fully in decision-making processes.”¹¹

Improvement of the living conditions of indigenous women cannot occur if we are still being relegated from the political life of the country. If it is through paternalistic programs, if health posts lack personnel, materials and adequate budgets to function properly; if laws and public policies deny the need to be inclusive, if the media allow the use of images that violate the dignity of indigenous women, if there is no recognition of the right of self-determination of the people in relation to their land and territory; if the intellectual property of their knowledge, art and culture is not recognized; if the education system moves away from the culture of the people; if the State and society do not understand that there is a worldview different from the Western one, among other aspects.

According to article 1, discrimination means “any distinction, exclusion or restriction based on sex ... on the political, economic, social, cultural and civil spheres or in any other sphere.” The Convention positively affirms the principle of equality when urging State Parties to “take all appropriate measures, including those of a legislative nature, to ensure full development and progress of women, in order to guarantee the exercise and enjoyment of human rights and of the fundamental freedoms under equal conditions (Article 13).

Discrimination extends in Guatemala for different reasons: ethnic, socioeconomic or gender. Gender inequalities can be observed in the country in almost all areas. The National Indices of Human Development (INDH for its Spanish acronym) report how the country’s structure allows and encourages women to be discriminated against under similar conditions when accessing services or decision-making that affects them. In this scheme of exclusions, indigenous women are suffering greater disadvantages.¹²

11 Recommendations. The Committee, in its 43rd session held Jan. 19 through Feb. 6 2009, examined the VII Periodic Report issued by the State of Guatemala in light of seven alternative reports from civil society and two UN Reports. UN Doc. CEDAW/C/GUA/CO/7]

12 Synopsis of Human Development in Guatemala, United Nations Development Programa, 2014, National Human Development Report. www.desarrollohumano.org.gt

Even though the indigenous population is the majority, the State of Guatemala still has not advanced in adopting legislative or other measures, to sanction and prohibit discrimination against indigenous women who are living its effects daily. On the contrary, being a Monist state, founded under a liberal ideology of national homogeneity, denying the inclusion of gender and ethnicity is saying, “We are all equal.”

In the case of the Garífuna population, there has been an increase of their presence in Guatemala City since 2010, mainly of women and children who arrive with the purpose of seeking a job opportunity. Given the difficulty of entering the “formal” labor market, women have opted to offer their services as hairstylists on one of the main streets of Guatemala City. It is in this context that they report discriminatory treatment towards them, infringing their rights.

“It seems that the interaction between city residents and the Garifuna has occurred too slowly. Ignorance of culture is the main barrier between the city and us, but I think we can begin to narrow that gap. Living with other ethnicities is not new for us; we have done it for more than 200 years. It’s just a question that the citizens accept giving us the necessary space,” says Carlos Caballeros, presidential commissioner against Discrimination and Racism. There is a lot of mistrust when it comes to befriend or give them a job, says María Trinidad Gutiérrez, head of the Commission Against Discrimination and Racism.”¹³

The United Nations Permanent Forum independent expert on Indigenous Issues, Álvaro Pop, states “discrimination in Guatemala occurs automatically ... when social indicators reveal that indigenous people live shorter lives and in worse conditions than the Ladino population, which are the principal discriminators, this is reflected in the number of children dying from malnutrition in Guatemala, in exploited adults or those working in the informal sector in the country ... Guatemala is a country recognized by its multiethnic, multilingual and multicultural character, however the official language continues to be Spanish, leaving aside the application of Decree 19-2003, Law of National Languages,

¹³http://www.prensalibre.com/revista_d/Garifunas-diaspora_garifuna-emigrantes_garifunas_0_1021697993.html
{Garifuna Diaspora – migrants}

which establishes that public services should be provided in the languages of each linguistic community (articles 14, 15 and 16).” On the other hand, the State of Guatemala has not advanced introducing a prohibition of discrimination against women, and even less, defining it as a crime in its national legislation.

POLITICAL PARTICIPATION:

Article 7

In the 2011 elections, the number of registered women (able to vote and participate) increased, becoming a greater percentage than men (51%) according to the Electoral Registrar. This tendency continued during the 2015 general elections (54%). However, women are still underrepresented in elected positions, reaching only 12.7% of representation in the National Congress (with 20 of 158 seats). The number of indigenous women elected fell from 4 (2.53%) in 2007 to 3 (1.89%) in 2011 to 1 in 2015 (0.58%). In the municipal governments, only seven mayoralties (2%) are occupied by women out of a total of 336, one more compared to results of the 2007 elections, but none by indigenous women. Ethnic asymmetry in Congress is a sign of exclusion and racism that characterize both Guatemalan society and the political system in particular.

In the same framework, there were two indigenous women as candidates to the highest positions: Rigoberta Menchú Tum supported by the coalition WINAQ-URNG-MAIZ-ANN for the Presidency of the Republic and Petrona Laura Reyes Quino by the CREO party, for the vice presidency. These candidatures represent an important fact, because their mere presence introduced themes such as racism and discrimination against indigenous peoples. It also marked a political polarization because each was representing ideologically different options: Menchú leading a coalition of her Winaq party united with left-wing forces such as URNG-MAIZ and ANN. In the case of Reyes, with a party that supports conservative principles and ideologies, capitalists and liberals.

In the case of the 22 departmental governors, the representation of women appointed since 1986 to 2011 has been scarce. For the 2012-2016 period of government, three indigenous women were named, but only two of them remained in office.¹⁴

¹⁴ When the report was written, during the current administration (2016-2020) only one indigenous woman had been named governor. She was discriminated by Congressional Representatives using discriminating and racist sentences, because she did accept political pressures.

The data points not only to gender but also to ethnic discrimination, with a negligible participation, and within the same gender, it becomes “class” discrimination: indigenous women participate to a lesser degree in politics than women in general (taking into account the percentage of indigenous population). That’s the reason their political rights are more violated and has consequences in the enjoyment of other rights. Women that have more access to public positions, have a higher level of education, are professionals or traders with a higher economic level. This is greatly related with the prevailing logic of the political parties.¹⁵

Discrimination implies that, in the parties’ candidates’ lists, they are placed in positions where it is certain that they will not be elected (either in national or electoral district lists). In another particularly serious issue, they may choose to participate in public management: however it may generate domestic family violence (with spouses who see and feel loss of control over women) and increasingly widespread harassment and political violence.

Political parties that reach the exercise of public power impel political favoritism, politicizing communal organizations, leaders and activists and thus deteriorating the social fabric and the credibility of political participation. Although there is an articulated agenda of Mayan, Garífuna and Xinka women, it is not present in the plans of political parties, so it is inferred that the women’s agenda is not a priority for the parties.

During the proselytizing campaigns, women are politicized by political parties, which take advantage of the needs of indigenous families by providing food, cash and other gifts, while in the exercise of power the benefits do not reach the communities.

One area that could be an opportunity for indigenous women are the Municipal Offices of Women - OMM -, unfortunately, these are subject to municipal authorities and therefore respond to partisan interests.

15 Intercultural citizenship, Contributions from the political participation of indigenous peoples in Latin America, UN Development Program, (UNDP) 1UN Plaza, New York, 10017, Authors Ferran Cabrero (coordinator), Álvaro Pop, Zully Morales, Monica Chuji and Carlos Mamani, First Edition, May 2013, Printed in Quito, Ecuador

Garifuna women are also concerned due to the absence of their people in public policies and because their image is used only in the context of cultural activities and to promote tourism. They believe that there is also a responsibility by the media in the loss of the Afro-descendant woman's value in political, proselytized events. At the national level, the Garifuna population is recognized as a cultural face, and their traditional dances are often used to create sexual symbols with the women's body. However, the great needs to ensure the development of the Garifuna women are not a subject of debate by politicians, ignoring pending issues such as extreme poverty, child malnutrition, violence against women and HIV, among others.

Although the Supreme Electoral Tribunal - TSE - approved Agreement No. 113-2015 which among other things, punishes the use of sexist stereotypes, it does not take into account stereotypes based on ethnicity or culture and to date, there are no political parties sanctioned by this offense, despite the fact that several have used sexist images and women in different activities, to attract public attention. The TSE sanctioned several political parties including the Unity of Hope (UNE), Renewed Democratic Freedom (LIDER) and Partido Patriota (PP), but only for "the execution of various actions constituting electoral political propaganda, before issuing the decree calling for elections."¹⁶,¹⁷.

Regarding reforms to the electoral law and political parties, the discussion has been sterile. Women's and indigenous women's organizations have raised the possibility of reforming different articles of the law, to ensure, not only parity but also rotation between Mayan and Garifuna women, men, Xinka and mestizos, as well as registration of candidates with indigenous representation, in districts with a majority of indigenous population. Neither parity nor rotations were included in the reforms approved by Congress in April 2016.

Concerned, we have seen that indigenous institutions within the State, established under the Peace Accords, 19 years later have not been able to

16 Document of the Supreme Electoral Tribunal, according to agreement 11-2015, April 21, 2015. (Annex)

17 Analytical Report of the Electoral Process 2015, Association of Research and Social Studies -ASIES-2016, Author: Gabriel Duarte, Guatemala, 2016.

be strengthened, autonomous and sufficiently funded. Most of these were created through governmental agreements or internal resolutions issued by the institutions to which they belong, which makes them vulnerable with risk of disappearing or to be politicized by current governments and exercise their functions in conditions of subordination.

During the 2012-2016 administration, the official agreement to create the Indigenous Woman Ombudsman - DEMI - (for its Spanish acronym) was modified to favor party sympathizers; this violated the spirit and nature of its creation. Previously, the President of the Republic elected the Ombudsman from a short list submitted by the Coordinating Board, composed of eight representatives of indigenous women's organizations, and the Consultative Council, composed of representatives of each linguistic community, one each. The Governmental Accord No. 38-2013 eliminated the participation of the Coordinating Board in this appointment.

On the other hand, the availability of resources influences the capacity for decision and action of the DEMI, which means that more resources are needed to meet the demands of indigenous women, as well as to decentralize it to give it the necessary autonomy. In 2009 DEMI had a budget increase of almost 100%, which remains the same to date.¹⁸ Due to an insufficient budget, DEMI requests international cooperation funds to meet its annual programming, which impacts the continuity of its officers. This working instability affects the implementation and monitoring of DEMI's cases and generates internal conflicts and divisiveness among officers, depending on the origins of the funds used to pay their salaries.

Other entities, such as the Presidential Commission against Racism - CODISRA- and the Guatemalan Indigenous Fund - FODIGUA - have been politicized in recent years and submitted to government interests. FODIGUA, has assumed patronizing and populist programs that do not generate sustainability, neither do they change the macho culture nor discrimination against indigenous

18 Roselia Pop, head of DEMI, stated that according to the 2012 report of the National Council of Peace Agreements, progress on this issue is significant but minimal, because it lacks the necessary allocations to develop strategies that would help stop accentuating flagella such as malnutrition, illiteracy and violence, among others. <http://www.congreso.gob.gt/noticias.php?id=7722>

women. CODISRA, has limited itself to making public denunciation of cases related to discrimination, to provide accompaniment to tables of dialogue, training of public officials and to carry out legal, social and psychological counseling, leaving behind its main role in formulating public policies to combat racism and discrimination.

EDUCATION:

Articles 10, 11, 12 and 14.

The Political Constitution of the Republic provides for education ... “It is the obligation of the State to provide and facilitate education for its inhabitants without discrimination.” (Art.71) ... “Education provided by the State is free” (Art. 74) “Administration of the educational system should be decentralized and regionalized. In schools established in areas of predominant indigenous population, teaching should preferably be implemented bilingually.”(Art.76).

The State of Guatemala continues having a large debt to indigenous women in terms of access to and coverage of education. The average schooling of an indigenous woman living in the rural area is one year. Out of 10 indigenous girls, only three reach third grade of primary school and two, sixth grade. Only 31 out of every 100 indigenous women are literate.¹⁹

In 2011, the National Literacy Commission - CONALFA - registered an overall illiteracy rate of 17.46% (16.43% in men and 18.39% in women). Poor and indigenous women, residing mainly in rural areas, are the most affected. The highest rates of illiteracy are in the departments of Quiché with 33.09% (29.37% men and 36.32% women), 30.62% in Alta Verapaz (26.66% men and 34.40% women), Baja Verapaz 26.88% (25.81% men and 27.78% women), Chiquimula 28.45% (31.64% men and 25.76% women) and Huehuetenango 25.69%, (23.6% men and 27.34% women). Not being able to read and write deprives indigenous women of formal jobs, access to social security, health, recreation, housing, food and fair wages.²⁰

¹⁹ According to data from the UN System, 2010, included in the report “Where is the Guatemalan Public Education Headed To”, Bulletin No.1, Acces and Coverage, Guatemala 2014, by Prodesa, CNEM, ICEFI, IPNUSAC, IBIS and THE LINGUISTIC AND INTERCULTURAL INSTITUTE.

²⁰ <http://www.guatelevision.com/departamental/quiche-analfabetismo-guatemala> {Note on illiteracy in the department of Quiche}

Educational policies implemented since 2010 have been detrimental to the permanence of children in primary school. In 2009, the program of gratuity and conditional transfers was implemented. The latter delivered an economic remittance for the attendance of the family's children to school including the respective health control. Unfortunately, as the years went by, the transfers were reduced and with it, the decrease of the number of children attending school.

Within this same framework, economic transfers to the parents' school boards or to the Departmental Education Directorates to purchase food have been irregular. During 2014 there was a budget assignment of Q1.58 per child in the rural area. By 2015, an increase of 0.50 cents (reaching Q2.08) was applied if the municipality was prioritized by the Secretariat of Food and Nutrition Security (SESAN), as part of the implementation of the Zero Hunger Pact Plan. However, fulfilling this assignment was very irregular, a study monitoring school snacks concluded:²¹ budget allocations for school meals have not been given timely and disbursements are irregular, which does not ensure that boys and girls receive snacks on a regular basis. There is insufficient food due to incomplete disbursements and the generation of backlogged debt with food suppliers, transportation costs, gas and firewood, among others. Inadequate conditions for food preparation, ranging from deficiencies in infrastructure, equipment, utensils, drinking water and safety, put the lives of those who prepare food and those who consume them at risk. The previous situation shows that although the Zero Hunger Pact Plan claims to be an initiative that has contemplated the eradication of hunger in the prioritized municipalities, it does not actually show concrete results as the poverty, hunger and malnutrition rates continue to show no progress.

A phenomenon that has been occurring at schools that worries mothers and fathers is school desertion, caused by the harassment between the students themselves and also among some teachers towards the students. The harassment of indigenous girls has to do with the use of traditional clothing, speaking their mother tongue and being women. There are few programs to prevent this type of crime but victims prefer not to file a complaint for fear of reprisals from teachers or from the perpetrators.

21 [http://www.alianmisar.org/userfiles/Informe%20Monitoreo%20de%20RE%202016\(2\).pdf](http://www.alianmisar.org/userfiles/Informe%20Monitoreo%20de%20RE%202016(2).pdf)

The following chart exemplifies the way in which primary level coverage has declined. We focus on this aspect because the indigenous girl only reaches the first year of primary school and this data is discouraging.

Table 2

COVERAGE INDICATORS	
Net Enrollment of Schooling for Primary Level	
Year	%
2009	98.70%
2010	95.10%
2011	92.80%
2012	89.10%
2013	85.45%
2014	82%

Source: Prepared with data from the Ministry of Education by authors -
<http://estadistica.mineduc.gob.gt/reporte>

We can interpret that although the conditional transfers promoted in 2009 could be the reason for the increase in enrolled children, as the program disappeared, the Ministry of Education did not have the conditions to provide attention and retain the totality of the country's children in school, and also demonstrate that families remain in extreme poverty. Conditional transfers could have promoted the enrollment and permanence of children and somehow, this program made a verifiable link between children's health conditions and their nutritional situation. But at the same time, it generated other conflicts at the family level due to the lack of mechanisms to monitor the proper use of the economic resources provided and if they were effectively used for the family's welfare.

On the other hand, communities continue to demand education in their mother tongue and also that aspects of the culture from each place are retaken. Indigenous women consider that sometimes the children do not have the motivation to attend a school because it subjects them to a culture that does

not belong to them; they consider that for this reason, their values are lost, encouraging vagrancy among young people and dropping out of school

An act of discrimination was providing students with over-rated and substandard materials. Cases such as these are being investigated. Here are some examples:



Low quality backpacks distributed to students.

Source: <http://www.prensalibre.com/estudiantes-reciben-mochilas-de-malacalidad>



“... Currently more than 200 Mayan Q’eqchi students are taught in a rustic gallery, which has been rebuilt twice by the same community, and worst of all, it lacks desks and blackboards, according to one the five teachers who attend school ...”²²

On the other hand, in 2014 the career of teaching in primary education was suppressed and with it, the preparation of thousands of indigenous students to become teachers in Intercultural Bilingual Education. That career was replaced by the Bachelor with Orientation in Teaching, a profession that adds two more years to the teaching career (currently requiring five years) and which restricts teaching until three years of studies at university have been completed. This decision transgresses the educational reform processes arising from the Peace Accords, which established the need to expand and promote bilingual education. When establishing a relationship between indigenous persons who complete a mid level education with those that enter university, there are few, historically,

²² Children from Ixcán without school for a three year period, Communal Press, January 2017. <http://www.pren-sacomunitaria.org/ninos-sin-escuela-en-ixcan-desde-hace-tres-anos/>

that have that opportunity. By 2012 indigenous students at the state university were only 6%.²³ Many families lack the financial resources to support these long years of their children's education and this factor was not taken into consideration. An indigenous woman cannot be a primary school teacher if she is poor; this is a discriminatory and class-biased policy.

HEALTH

Articles 4, 5, 10 and 16.

Guatemala is characterized by inequality in the distribution of services, including health. This inequality can be analyzed from two perspectives: the barriers and factors to access it.

If we talk about the barriers we could say that the situation at hospitals and health centers are characterized by the lack of medications, overcrowding and understaffing, resulting from differences in the distribution of resources, economic as well as material and human, making it impossible to address the health needs of indigenous women efficiently and timely. Factors that negatively influence access to health of indigenous women are language, stereotypes against indigenous women, the distance between communities and the nearest health center, lack of materials and of experienced personnel, as well as absence of cultural relevance in the service.

Health equality implies that all people should have equal opportunities to develop their full health potential. The principle of equity recognizes that people are different and that responses must be according to their specific needs. It recognizes diversity in different population groups by sex, age, peoples and place of residence, sexual orientation and gender identity and level of education, among others.²⁴

23 During 2012, only 6% of studentes from the State University, San Carlos de Guatemala were indigenous, a total of 9,832 persons, according to the Academic Support Program for Indigenous Students.

24 Gender and Health Profile, Guatemala 2013, by the Panamerican Health Organization, World Health Organization, UNFPA, SEPREM and the Ministry of Health and Social Assistance of Guatemala.

http://www.paho.org/gut/index.php?option=com_docman&view=download&category_slug=2-salud-de-las-familias-y-del-individuo-por-etapa&alias=598-perfildegeneroysalud&Itemid=518

Indigenous women continue to have more children, concentrating fertility between the ranges of 42.7% to 44%, with a slight increase in the last five years. Most of them are single mothers, with a minimum primary education or none at all. In that sense, we can also say with certainty that since there is a predominantly young population, these are young mothers living with their children in extreme poverty with a tendency to perpetuate the cycles of poverty and illiteracy.

Health in Guatemalan is closely related to the socioeconomic status of its people. According to data recorded by the National Health System, women die from preventable causes. The first and second causes are due to respiratory and gastrointestinal diseases and the third, to conditions related to pregnancy, childbirth and postpartum. The fourth is HIV. It is important to note that at ages 15 to 24, the third leading cause of death for women is pregnancy, childbirth and postpartum, but it is the first cause among those aged between 25 to 39.

Maternal death affects indigenous women mainly (71% of cases), residing in rural areas (66%), with little education (48% illiterate), with multiple pregnancies (56%) and who usually die at home (46%). 44% of maternal deaths had as a risk factor, what is known as the fourth delay, which is the lack of adequate and comprehensive treatment. The risk that an indigenous woman will die from pregnancy-related causes is three times more, in relation to non-indigenous women.

Malnutrition among women is another factor leading to maternal death. During the course of life, women have little access to food containing enough nutrients to strengthen their immune system. Foods are regularly assigned to men in greater quantities, given the importance of their productive role and consequently, in the household economy as well. Their reproductive/domestic work is not visualized as worthy of being compensated with food.

As for family planning, it is claimed that almost all (98.2%) indigenous women aged 15-49 know of modern contraceptive methods, but only half (52.3%) use one, either modern (38.9%) or traditional (13.4%). Its use is increasing based on measurements made in 1987 (5.5%), 1998 (12.6%), and 2008 (40.2%). Among the factors for not using family planning methods are deficient or non-existent sex education programs in rural areas, particularly among institutions of the public education system, and also due to the influence of Christian religions.

We view with great concern the alarming rise of pregnancy cases among girls and young women in the country's departments with the largest indigenous population. According to monitoring by the Sexual and Reproductive Health Citizens Observatory (OSAR for its Spanish acronym), pregnancies among adolescents²⁵ aged 10 to 17 years old in 2014 reached a total of 39,501 nationwide, with a strong impact in the department of Alta Verapaz (where the Q'eqchi ethnic group resides) registering a record of 2,891 cases and other departments with an indigenous majority as well. Please see table below.

Table 3 * ²⁶

Pregnancy among girls and adolescents in departments with a majority of Indigenous population, with presence of the following ethnic groups: Q'eqchi, K'aqchikel, Mam, Xinka and Achí, among others

Departamento	Edad								Total
	10	11	12	13	14	15	16	17	
Alta Verapaz	4	4	27	75	272	566	907	1036	2891
Baja Verapaz	0	2	2	16	67	167	233	264	751
Chimaltenango	4	3	4	33	96	212	384	504	1240
Chiquimula	1	2	5	33	131	254	344	325	1095
Huehuetenango	1	7	17	86	271	638	1008	1233	3261
Quiché	3	3	9	58	192	534	866	1085	2750
Sololá	2	1	3	19	66	134	253	344	822
San Marcos	8	8	13	82	277	595	881	1101	2965
Totonicapán	3	1	4	15	45	152	271	328	819
	26	31	84	417	1417	3252	5147	6220	16594
Total de casos a nivel nacional	43	72	213	1104	3687	7883	12031	14468	39501

Fuente: Estudio de Diagnóstico Madres Adolescentes, con datos del Sistema de información gerencial SIGSA, MSPAS, Diciembre 2014.
Source: Adolescent Mothers Diagnosis Study, with data from the Manager Information System, SIGSA (for its Spanish acronym) MOH, December 2014.

TN - The left column refers to the Departments of Guatemala. The top horizontal line refers to ages. The extreme right column includes totals.

²⁵ The Comprehensive Protection of Children and Adolescent bill, Decree 27-2003, art. 2, defines a child as all those persons starting from their conception until they are 13 years old. It defines adolescents as all persons ranging from 13 to 18 years old.

²⁶ The table presents ages ranging from 10 to 17 years old. The Civil Code was modified by Congress to raise the minimum age for marriage to 18. Previously it was 14 years old for women and 16 for men. Adulthood in Guatemala is defined at 18 years old.

It is worrying that more than half of 10-year-old girl pregnancies during 2014 concentrated among indigenous people, mainly in the departments of Huehuetenango, San Marcos, Quiché and Alta Verapaz.²⁷ These pregnancies show violence towards this population group and the ineffectiveness of entities responsible for preventing and protecting minors. Some of them die due to their nutritional condition and lack of quality health care during pre and postpartum periods. The VI National Survey of Maternal and Child Health (ENSMI) 2014-15 indicates that 16.8% of indigenous women aged 15 to 19, has had a child and 21.2% of them have begun to bear children.

The Ministries of Public Health and Social Assistance (MOH) and of Education²⁸ have an agreement to implement actions to strengthen intersectoral strategies for comprehensive sex education and the promotion of sexual and reproductive health, including HIV/AIDS, STIs, teenage pregnancies and sexual violence (Ministerial Declaration “Preventing through Education” adopted at the XVII International Conference on AIDS, Mexico, 2008). However these are issues that lack an adequate approach. It has been done based on modern medicine without taking into account aspects such as cultural patterns, conservatism of the population, traditional practices and using terms in their own languages.

48.6% of births are attended at homes and the role of midwives is important here, because they are responsible for caring not only for the mother but also for the family, monitoring nutritional needs, providing advice on family planning and emotional support. The reasons why indigenous women request a midwife relate to having someone who understands their language, that keeps in mind aspects of the peoples’ worldview, is an elder person that deserves respect, and whose advice is worth listening to because she has acquired experience through the path of her life and is wise, does not discriminate and is respectful.

That’s the reason why indigenous women are questioning the fact that currently, with support from the international community, there are training programs for midwives, while the traditional ones are relegated to the background

27 During the first semester 2016 data surpassed half of the total reported from the same departments and also at a national level.

28 <http://www.mspas.gob.gt/decap/files/descargas/bibliotecaVirtual/Programa%20Nacional%20de%20Salud%20Reproductiva/COMPONENTE%20SALUD%20Y%20EDUCACION/Prevenir%20con%20educaci%C3%B3n.pdf>

although they were born with the “gift” of service, a “gift” converted into a mission and sustained with years of experience and wisdom. On the other hand there is a policy of Midwives with a tutelary vision that discredits ancestral values related to the “gift and mission.” This does not dignify in any way the traditional midwife; on the contrary, it makes her a victim of a system that discriminates her due to her lack of formal education, her practice, language and dress.

Yolanda Hernández, from Pop Jay Association and the Network of Organizations of Indigenous Women for Reproductive Health (REDOMISAR), stated: “We recognize that there are doctors and very professional nurses, but unfortunately there is staff who takes advantage of the humble state of midwives, because they see the traditional dress and bare feet, without giving them an opportunity to deliver her patient.” This is how the accompaniment provided by the midwife is interrupted when entering a health center.

Ana Saput, president of the Chimaltenango midwives, said that the midwives initially face problems with the private security officers who guard the entrance to the emergency. “They ask us to leave the patient, because inside it’s the work of doctors and nurses, and do not let us give our diagnosis and the reasons why we took our patients,” she said.

It is important to note that the Midwives Policy of the Four Peoples of Guatemala 2015-2025 from the MOH has not been the best tool to combat the stereotypical thinking, discrimination and racism exerted towards midwives by doctors and nurses in different areas of the public health system.

Congress proposed bill No 4966-2016 related to the dignity of midwives, which among other things contemplated the registration and payment of a financial incentive of Q. 3,000 per year (Q 250 per month, about US\$ 1.15 per day approximately) and also, declaring a day for the national signification of the National Iyom and/or Rati’t Ak’al, the midwife of Guatemala. The importance of this law is born from the reference to the role played by midwives in the health system and until today, devalued by the official health system. The proposal was an answer to the needs expressed by the different tables of dialogue promoted by the MOH.²⁹

29 Analysis of National Reality Magazine, , Year 6, No. 123, August 2017, p. 81-84, article by Hugo Icu Peren.

Acting President Jimmy Morales vetoed the bill (4966-2016) via the governmental decree (44-2017) justifying it with lack of funds, using discriminatory arguments towards midwives and a total ignorance of the processes that the MOH has promoted, in addition to having maliciously used certain articles of the ILO Convention 169.

VIOLENCE AGAINST WOMEN AND ACCESS TO JUSTICE:

Articles 2, and 2 c.

The main problem facing the State is its inability to provide women with legal, judicial and institutional protection against violence.³⁰ From January to December 2013, the National Prosecutor registered 25 thousand 410 cases of violence against women, including psychological violence (722 cases), physical violence (159 cases) and economic violence (238 cases). Between January and September 2014, the same entity reported 21 thousand 752 cases. 2014 data point to an increase of psychological violence cases, because September and had 1,643 cases, while during the previous year 722 cases were registered by this form of violence against women.³¹

Abuse against women, according to the Mutual Support Group (GAM) is 23 victims per 100 thousand inhabitants. As for the homicide rate for women, it is lower in the departments with the largest indigenous population compared to the mestizo population, as shown by the following table.

30 Report of the Special Rapporteur on Violence Against Women, its Causes and Consequences, Yakum Ertürk, Guatemala Mission, Human Rights Commission, 61st. Period of Sessions, Feb. 10 2005, par. 27, related to violent manifestations against women, p. 12.

31 Annual Detailed Report, Human Rights Situation, 2014, Human Rights Ombudsman, Guatemala 2014, http://www.dip.mindef.mil.gt/inf_2014.pdf

Table 3³²
Rate of Violent Deaths of Women, VDW, per 100 thousands inhabitants per department during 2014 compared to 2012-2013 rates.

Tasa de Muertes Violentas de Mujeres -MVM- por 100 mil habitantes mujeres por departamento									
República de Guatemala									
para el año 2014 y comparación de tasas MVM para 2012-2013									
Departamento	No. De MVM	%	Población de mujeres	Tasa 2014	Tasa 2013	Dif. Interanual*	Tasa 2012	Tasa 2013*	
Guatemala	330	46.81	1,691,774	19.51	19.25	0.26	18.03	1.48	
Escuintla	69	9.79	371,599	18.57	20	-1.49	14.6	3.97	
Zacapa	20	2.84	121,582	16.45	16.73	-0.28	14.47	1.98	
El Progreso	14	1.99	86,370	16.21	11.79	4.42	4.8	11.41	
Santa Rosa	21	2.98	190,300	11.04	15.02	-3.98	13.68	2.64	
Retalhuleu	18	2.55	166,181	10.83	6.15	4.68	1.89	8.94	
Jutiapa	26	3.69	245,227	10.6	14.57	-3.97	8.49	2.11	
Jalapa	17	2.41	178,783	9.51	12.65	-3.14	14.77	-5.26	
Izabal	19	2.7	225,232	8.44	15.47	-7.03	12.13	-3.69	
Petén	29	4.11	344,772	8.41	9.92	-1.51	8.42	-0.01	
Chiquimula	16	2.28	207,143	7.72	19.26	-11.54	18.19	-10.47	
Quetzaltenango	29	4.11	439,288	6.6	6.52	0.08	6.9	-0.3	
Chimaltenango	16	2.27	339,784	4.71	3.03	1.68	4.67	0.04	
Sacatepequez	8	1.13	170,948	4.68	4.77	-0.09	6.7	-2.02	
Suchitepéquez	12	1.7	283,656	4.23	6.14	-1.91	2.59	1.64	
Baja Verapaz	5	0.71	151,933	3.29	3.37	-0.08	2.08	1.21	
Totonicapan	8	1.13	272,426	2.94	2.64	0.3	1.56	1.38	
Alta Verapaz	17	2.41	612,395	2.78	1.51	1.27	3.12	-0.34	
Sam Marcos	13	1.84	560,629	2.32	1.64	0.68	3.37	-1.05	
Huehuetenango	11	1.56	644,647	1.71	2.22	-0.51	2.42	-0.7	
El Quiché	5	0.71	540,756	0.92	2.1	-1.18	2.76	-1.84	
Sololá	2	0.28	241,854	0.83	2.13	-1.3	2.63	-1.8	
Total	705	100	8,087,279	8.72	9.46	-0.74	8.69	0.03	

Fuente: Elaboración de GGM con base al *reporte de personas fallecidas ingresadas a sedes policiales del INACIF a nivel nacional* y monitoreo mensual de medios de comunicación escritos: Prensa Libre, La Hora, Nuestro Diario Departamental (edición digital) Siglo XXI, El Periodico y el Quetzalteco. Así mismo, se tomaron las estimaciones de población del INE para el período 1950-2050.
*Observación: la diferencia interanual para 2012-2013 está calculada en relación al valor de la tasa neta para el año 2014.

Source: Table by GWG based on INACIF National Death Report* and printed media monitoring including Prensa Libre, La Hora, Nuestro Diario in its Departmental edition (digital version), Siglo XXI, elPeriodico and El Quetzalteco and INE's 1950-2050 population estimates. *Obs. Inter annual differences for 2012-2013 estimated in relation to the net rate of 2014.

TN – Left column includes names of departments, followed by deaths reported, and by percentages. The fourth column provides total female population data per department, followed by death rates per year.

Table by authors, based on the analysis of violent deaths of women in Guatemala -VDW- January to October 2014, by the Guatemalan Women's Group -GGM- Guatemala, 2014

32 Análisis de las muertes violentas de mujeres –MVM- en Guatemala, Enero a octubre 2014, realizado por el Grupo Guatemalteco de Mujeres –GGM-, Guatemala, 2014 {Analysis of violent deaths of Women (VDW) in Guatemala, Jan-Oct. 2014 by the Guatemalan Women's Group, -GWG, Guatemala 2014.
<http://ggm.org.gt/wp-content/uploads/2012/12/An%C3%A1lisis-Muertes-Violentas-de-Mujeres-a%C3%B1o-2014.pdf>

Data indicates that the departments with lower rates of Violent Deaths of Women -VDW- during 2014 are Quiché and Sololá, with 0.92 and 0.83 per 100 thousand women, respectively. Territories with rates below three deaths per 100 thousand women are: Huehuetenango (1.71), San Marcos (2.32), Alta Verapaz (2.78) and Totonicapán (2.94).

... The viciousness and advantages practiced on the women's bodies, is not only evidenced by their dismemberment, sexual violence, written notes left by their bodies, but also when using more than one type of weapon to exert violence on women before their death, while torturing, and humiliating them. 46% of female victims were between the ages of 16 and 30.³³

One case that may exemplify today the rawness of sexual violence and racism, is the one known as "Sepur Zarco" in which soldiers were processed in an oral and public debate related to the violence, sexual and domestic slavery claim, committed against 15 Mayan Q'eqchi women while detained in a military base located in El Estor, Izabal. During the hearings, these women were once more stigmatized and victimized, receiving misogynous comments and accused of being liars by the defense.

The "Commission also made a note of the landmark decision issued by the Appeals Court of Processes of Greater Risk, ratifying the landmark judgment of the Sepur Zarco case, related to domestic and sexual violence against Maya Q'eqchi women. Notwithstanding, such advances are limited, compared to the number of violations committed during the conflict and the obligations that the State of Guatemala has in relation to the rights to truth, justice and reparation for the victims. The Commission verified that multiple factors contributing to a situation of structural impunity both in cases involving human rights violations of the past and the present prevail today."³⁴

Although the Law against Femicide and Other Forms of Violence against Women is standing, it has not been a mechanism that restrains the violent death of women. Raising awareness among judges, magistrates and officials in

33 GAM report, p.17

34 Preliminary Observations of the in loco of the ICHR to Guatemala, August 4th. 2017, <http://www.oas.org/es/cidh/prensa/comunicados/2017/114A.asp>

its implementation, understanding and application is pending. Additionally, it is also essential that the State of Guatemala demonstrate the effectiveness of specialized courts in this matter and how the application of the law in favor of indigenous women is translated.

In the courts covering departments with a majority of indigenous population, Castilian continues to be the language used to provide services instead of the language of the region, which constitutes a barrier for the victim. A study on the attention provided by the courts to indigenous women found that only two departments out of five included in the study, Sololá and Chimaltenango, had staff providing attention in a Mayan language. While the other three departments with the largest indigenous population -Quiché, Huehuetenango and Quetzaltenango- did not reflect the use of a Mayan language. The study concludes that this situation makes the possibility of solving the problems of Mayan women in the justice system a remote one and implies that the Guatemalan State must make a greater effort.³⁵ On the other hand, the courts do not accept translation support that is not accredited by the justice system, resulting in increasing the risk of women remaining unprotected.

It has been established that indigenous women do not present complaints because of religious and economic reasons, due to ignorance and illiteracy, and when they do go to the justice system they lack the benefit of primary care. On the other hand, during those scarce occasions, indigenous women lack a full understanding of their case because they ignore legal aspects, such as the definition of crimes and the cycle of a complaint. This discourages resorting to court. Additionally, most women ignore their rights and the few who do know them, do not exercise them, because they distrust those institutions. Indigenous women still fear being stigmatized for showing up to make complaints, they report that they are judged by prosecutors and authorities blaming them if they decide to continue living with their partners, in cases of domestic violence or abuse.

35 According to the study on the attention provided to Mayan women that have survived violence by specialized courts (Peace, Family, Femicide) and holistic support centers done with emphasis in departments of Quiché, Huehuetenango, Quetzaltenango, Sololá and Chimaltenango, by the Tz'ununija' Indigenous Womens Movement and Project Miriam, 2013.

On the other hand Maya, Garifuna and Xinka women explain that in their communities there is collusion between judges, prosecutors and victimizers, taking advantage of the vulnerability of the victim. “We have been very afraid of what might happen once our aggressor is in free.” This fear is due to the consequences not only for the victim but also against women who provided her with legal counsel during the process.

The role of the defenders is crucial, to accompany a victim of violence against women, yet they also are criminalized, threatened and often challenged in their work because they lack a credential that endorses or supports their work. Questioning is not only posed by the perpetrators who in some cases file complaints against them, but also by officers from the justice system.

Legal training efforts have been insufficient to eliminate discriminatory and stereotyped attitudes towards indigenous women. Complaints about these attitudes persist, as presented in the report of the International Human Rights Commission, IHRC, during a recent visit to Guatemala:

“The Commission has received information related to the lack of access to justice by members of indigenous peoples in Guatemala and the persistence of linguistic, geographical and cultural barriers.” The United Nations Special Rapporteur on the Rights of Indigenous Peoples indicates that about 10% of indigenous peoples have adequate and effective access to justice. During the site visit, the IHRC was informed that some authorities make indigenous people wait more than other non-indigenous people, “when a Ladino arrives and we have arrived earlier, they make us wait.” In Alta Verapaz, a lady told the Commission “The Public Ministry has translators, but do not know Q’eqchi, they do not translate everything we say.”³⁶

Derived from limited access to justice, organizations of indigenous women, together with the Judicial Organism, have promoted the implementation of an instrument called “Protocol of Attention for Indigenous Women” containing minimum aspects to be observed by officials, and by judicial and administrative employees working at the Judicial Organism and in the Supreme Court, when

36 Preliminary Observations from the in Loco visit to Guatemala of the IHRC, August 4 2017, <http://www.oas.org/es/cidh/prensa/comunicados/2017/114A.asp>

attending an indigenous woman, recognizing that the system needs to change in this way. Indigenous women believe that this initiative must be included by other institutions responsible for ensuring access to justice and law, such as the office of the Attorney General, the National Civil Police (PNC), and the Human Rights Ombudsman, among others.

On the other hand, although there is a comprehensive care protocol for victims in the Attention to the Victim Offices and there's also a coordination mandate between institutions such as the judiciary, the National Civil Police and the Public Prosecutor, victims continue to be addressed without coordination. "Each entity says something different when we present our cases, we are sent from one institution to another, we repeat our complaint again and again. There are times when it feels that ones' privacy, as well as our dignity are violated and additionally, doubted. Those entities are not coordinated."

On the other hand, although there are Care Centers for Women Victims of Violence (CAIMUS for its Spanish acronym), these instances are not covering the entire country and do not meet the demand of women, particularly indigenous women. Resources to run them were not delivered complete, in a timely fashion in recent years. In 2012 they received 50.9%; in 2013, 47% and in 2014, an amount representing 53% funds that were not spent during 2013. This means that one year's budget was divided in two, to cover two years. These actions hinder comprehensive care for indigenous women since these CAIMUS centers are centralized in the cities.

The State of Guatemala has reported the development of a National Information System on Violence Against Women (SNIVCM for its Spanish acronym), however the Defense of Indigenous Women, DEMI, is not included as part of the instances that make up it up³⁷ even though it is an entity that

37 The SNIVCM is made up by 13 institutions including: The Judicial Organism, General Attorney, Ministry of Interior, the National Prosecutor, the Human Rights Ombudsman, National Civil Police, the Public Defense Institute, the Universities' Law Students Professional Practice Offices (USAC and URL), The General Directorate of the Penitentiary System, the National Forensic Sciences Institute and the Ministries of Education and of Health and Social Welfare.

accompanies indigenous women victims of violence. The lack of disaggregated data by ethnicity or by indigenous peoples creates a void in the interpretation of information related to violence against women, because then, it must be inferred by the number of indigenous population residing in each department of the country.

CRIMINALIZATION

Articles 1-e and 14

The imposition of a dependent economic model aimed at the expulsion of the indigenous and peasant population from rural areas in order to implement agricultural and mining projects, mostly focused on exports, has devastating effects on their rights, especially the right to appropriate food, to free, prior and informed consultation and access to land and other natural resources. Human Rights defenders are persecuted, especially those related to economic, social, cultural and environmental rights that oppose the aforementioned projects.³⁸

For Defenders of Land Rights, the situation is critical and compounded by structural issues that generate conflict in the country: the lack of an agrarian reform under the Peace Accords, the re-militarization and poor management of social unrest with criminalizing measures, such as the “Bump Law” (TN: Road barriers), structural discrimination against indigenous peoples, inequality and poverty and the systematic violation of the right to consultation, which is considered by the Constitutional Court as binding. In particular, communities that have mobilized in defense of human rights, such as Santa Cruz Barillas, La Puya or San Rafael de las Flores and Mataquescuintla, have been subject to a repressive policy, using state mechanisms such as the unjustified State of siege (TN: restricting certain individual liberties) and violent evictions.³⁹

38 Report of the Third International Mission on the Right to Adequate Food and the situation of the Human Rights Defenders in Guatemala, 2015. http://www.clfcaeu.org/wpcontent/uploads/2015/10/informedaa_completo.pdf

39 European Parlamento Mision Report–DROI- to Guatemala, Feb. 2016. http://www.omct.org/files/2016/03/23638/2016.01.29_briefing_guatemala_espaol.pdf

It should be noted that those who defend the rights of indigenous peoples as well as environmental rights, are especially persecuted. In relation to gender, women defenders accounted for 53% of the victims of aggression in the first half of 2015.⁴⁰

In May 2012 indigenous community protests against the construction of a hydroelectric plant in Santa Cruz Barillas, Huehuetenango, culminated in a state of emergency declared in the region; women experienced persecution, criminalization, arrests and raids disguised as legal actions, destruction of property; population harassment and sexual abuse.⁴¹

In defense of indigenous territories in Quiché and in the fight against industry and mining exploration, Lolita Chávez, a K'iche indigenous leader, has been threatened and is facing arrest warrants that have not been implemented by Guatemalan authorities. However, it is a situation that keeps her on constant alert and deprived of her fundamental freedoms.

Another case is that of women from the community of San Miguel Ixtahuacan, facing more than 14 arresting warrants issued by their resistance to the Marlin Mine in 2008. Their leader, Crisanta Pérez, avoided detention by hiding for several months. During 2010 an attempt to capture her was not possible due to the community's intervention. Today, Ms. Pérez lives in fear due to that persecution causing her uneasiness.⁴²

San Juan Sacatepéquez is one of Guatemala's 17 municipalities, with a resident majority of Maya K'aqchikel descent. 12 communities from this municipality, since 2006, have demonstrated against the Cementos Progreso (CEMPRO), company (TN- A cement factory). The business planned and built a cement plant, which annulled the peace, security and tranquility of the local communities, giving rise to a series of conflicts in the area. Under these conditions, a communal consultation

40 IDEM

41 <https://tierrayterritorio.wordpress.com/2012/07/06/pronunciamento-frente-al-riesgo-de-las-defensoras-en-la-lucha-por-la-defensa-del-territorio/> {Land and Territory, Wordpress, Statement related to the risks faced by women defending their territory.}

42 Map of the criminalization by the opposition to mining activities, Report – Arrest warrentas against eight women and one man in the Agel community, San Miguel Ixtahuacán, San Marcos <http://criminalizacion.conflictos-mineros.net/reports/view/19>

process was carried out in 2007, however the results were not respected, and this aggravated the conflict.

Since then, the state has implemented repressive mechanisms against communities, since 2008 to 2014, a State of Prevention has been declared on several occasions ⁴³ affecting children, youth, women and senior citizens who have suffered multiple acts of violence, ranging from psychological violence, to physical violence, intimidation, harassment and even rape against women.

One of the cases that arose in the course of this conflict is that of Ms. Barbara Diaz Surín, a Mayan K'aqchikel leader, twice elected president of the Community Development Council COCODE (for its Spanish acronym). As a member of the community opposing the construction of the plant, she was imprisoned and linked to a legal process for murder in 2014, a few days after participating in a protest against the many human rights violations that were previously described in several communities. Police captured her using excessive force and violated due process at the time of her arrest, because they did not present the arrest warrant nor was she notified the reason for her arrest. She was transferred to a court out of the legal jurisdiction and later, when transported by elements of the police, her arms had bruises.

A number of abnormalities surround the case of Ms. Surín since it did not follow due process, and there was pressure from representatives of the cement factory. Ms. Surín, without previous notice, dropped support from her defense lawyers and hired a private attorney. It is known there was an agreement between the parties, she was released without charge and from that point, left her activism against the cement plant. This is a case that exemplifies the repression and terror mechanisms implemented by the private sector in the country and legitimized by authorities.

Another case is that of Rosa Elvira Coc, a victim of massive and multiple rape during violent evictions committed by agents of a private security company,

43 According to the Public Order Bill, (Chapter II, Art. 8, 14.12.1965) during a State of Prevention, the state has the power to militarize public services, limit or ban the right to protest, strike as well as meetings, and interrupt them by force. Ban vehicle circulation and censor publications.

the National Civil Police and the army of Guatemala, on January 17, 2007 in the community Lote 8, in El Estor, Izabal. A complaint for this case was filed in Toronto, Canada and for which she being threatened. Rosa Elvira describes how she has been threatened because of her pursuit of justice: “Although I have received many threats, I have been told that I will be killed where they find me, but I will not stop this fight, because of that, I will continue as far as my life reaches.”⁴⁴

Policies implemented in favor of employers and landlords have also caused the violent eviction of families and entire communities, in which women and girls are the ones who mostly see their rights violated. The same entities responsible for ensuring due process and respect for human rights before, during and after the evictions – Human Rights Ombudsman, the Presidential Commission that Coordinates the Administration’s Policy on Human Rights, prosecutors and other local government officials - usually accompany the process of eviction as silent observers of that violence occurring in front of them.⁴⁵ As it has been the case, specifically in the Valley of Polochic.

“Indigenous peoples who loose their territory loose their lives, many times our sisters are not going to state it this way. Because they know from their everyday that if they loose their land, they lose their life.”

WORK:

Article II, paragraphs d and e.

In Guatemala there are almost 200,000 domestic workers, 98% of them are women and of these, 60 percent are indigenous, many of them subjected to endless tasks and ill - treatment without legal benefits and earning less than the minimum wage established by law (Q. 2,893).⁴⁶ Their working conditions are precarious and usually suffer ethnic and gender discrimination, coupled with harassment, stalking and sexual abuse. Domestic workers in Guatemala have a 16 hour-long workday without fair pay.

44 <http://comunitariapress.blogspot.com/2013/07/se-que-la-justicia-es-mia-aunque-me-la.html> {I know justice is mine...}

45 http://www.ghrc-usa.org/Resources/2011/GHRC_denounces_violent_evictions.htm#espanol

46 <http://www.mintrabajo.gob.gt/index.php/salariominimo.html> {Ministry of labor, on minimum wages}

The ratification of the ILO Convention 189 by Guatemala is a priority. According to studies throughout Latin America and the Caribbean⁴⁷ access to social benefits is determined mainly by paid rather than the unpaid work, pointing out to the disadvantage of women.

General access to work is difficult for indigenous women. According to official data, only 42.9% of women are employed, while 50.4% have not worked in the last 12 months.

Anthropologist Irma Alicia Velásquez Nimatuj, agrees with that view, adding that such latent discrimination is given by gender, especially towards women, because sometimes they are paid less even though they perform the same work as men do, and have fewer opportunities or incorporating in decision-making spaces.

RECOMMENDATIONS

1. It is urgent that state institutions establish the necessary mechanisms for recording data on indigenous women, ethnicity or the peoples they are part of, as well their mother tongue.
2. The Electoral and Political Parties Law should be reformed to include parity and rotation with the inclusion of indigenous women.
3. It is essential that the State of Guatemala, through its legislative and executive branches, respect the nature of the Indigenous Women Ombudsman, returning to indigenous women the possibility of participating in the election their representative; allocate the necessary resources to ensure the implementation of actions according to the context, situation and conditions of indigenous women.
4. The State, through the Ministry of Education, must improve strategies ensure the ongoing enrollment of indigenous girls in school, promoting scholarships, fellowships, meals and preventing harassment.

⁴⁷ Gender Matter Series “Surveys on using time and unpaid work in Latin America Latina and the Caribbean, Paths Travelled and Future Challenges. Rosario Aguirre, Fernanda Ferrari, UN and Cepal Consultants, Feb. 2014, UNDP Santiago de Chile, CEPAL.

5. The Ministry of Education must resume the preparation of Bilingual and Multicultural Education Teachers.
6. The State must adopt steps to provide attention in cases of violence, generate awareness among public servants, generate actions to regain public confidence in state institutions, particularly to ensure access to justice
7. It is necessary to strengthen the CAIMUS, providing them with greater economic resources, monitor the impact among indigenous women and consider the creation of new centers, under the responsibility of indigenous women.
8. Implement the application of the Protocol of attention for indigenous women, with participation of all justice related sectors.
9. The state must understand and respect the decisions of indigenous peoples arising from consultations and stop defending the interests of big businesses and transnational corporations.
10. It is urgent that institutions from the justice sector in Guatemala, have protocols or attention models with the specificity required for indigenous women and girls supporting an appropriate and respectful treatment.
11. The state of Guatemala must acknowledge worthy work of midwives and together with its institutions, ensure that stigma and discrimination towards them is reported.

ANNEXES

- Verification report of San Juan Sacatepéquez
- Protocol of Attention for Indigenous Women
- Petition to the Committee CEDAW: General recommendation to guarantee respect and application of individual and collectives of Indigenous Women.

LIST OF THE ORGANIZATION PARTICIPANTS IN SHADOW REPORT.

1. Asociación Ixoq´ Ta Peet
2. Asociación de Mujeres Luna Kaqchikel
3. ALANEL
4. Organización Juvenil para el Desarrollo de la Sociedad Chirijox OJDES
5. Asociación Jo Junam
6. Comisión Comunitaria de la Mujer
7. Grupo de Mujeres Nueva Vida
8. Comité de Mujeres Estrella Tzutujil
9. Grupo de Jóvenes Chuisajcap
10. Grupo de Mujeres Nuevo Amanecer
11. Organización de Mujeres Nueva Esperanza
12. Grupo De mujeres Nuevo Amanecer
13. Pastoral de la Mujer
14. Grupo de Mujeres Sembradoras de Girasoles
15. Grupo de Mujeres Medicina Natural
16. Moloj Ixoqi´
17. Organización AMAP
18. Grupo de Mujeres Nuevo Amanecer
19. La Voz de la Resistencia
20. Organización de mujeres COMIDEC
21. Organización de mujeres MUIXIL
22. Red de Jóvenes Cotzaleses
23. Grupo de Mujeres el Manantial
24. Comité de Mujeres Nueva Esperanza
25. Comité de mujeres por el Desarrollo Chuixpita
26. Comité de mujeres San Pablo
27. Grupo de Mujeres el Buen Sembrador
28. Comité de Mujeres Las Estrellas
29. Asociación de Mujeres Nuevo Amanecer
30. Asociación de Desarrollo Comunal de la Mujer
31. Comité de mujeres El Desengaño
32. MUJEMAYA
33. Movimiento Nacional de Victimas Qanil Tinimit
34. Asociación El Porvenir

35. Comité de mujeres nuevo Milenio
36. Afro América 21
37. ISERI BAGARI
38. JUGADISU
39. KIMON UWARA
40. Comité de mujeres KAWOQ
41. Asociación de Desarrollo Integral de la Mujeres Mayas, Santiago Chimaltenango ADIMMSACHI
42. Grupo de Mujeres Las Rositas
43. Organización de mujeres Jolom
44. Organización Red de mujeres
45. Unión San Pedrana
46. Organización de Mujeres PRODEMUIER
47. Organización de Mujeres Tierra Nueva
48. Grupo de Mujeres Flor de mi Tierra
49. Grupo de Mujeres flor de Valle
50. Grupos de Jóvenes misiones de Cristo
51. Mujeres Pocomchi' Construyendo el Futuro
52. Comité de Mujeres Comunal San Luis
53. Comité de Mujeres Renacer en Cristo
54. Caserío Monte Alegre Purulha
55. Comité de Mujeres Mayas Pocomchi'
56. Comité de Mujeres Caserío El comunal
57. Comité De Mujeres Sachut
58. Comité de Mujeres Caserío Bretaña
59. Comité De Mujeres Caserío Patal
60. Red Inter Municipal ASIMAM
61. Coordinadora de Organizaciones de Mujeres Cantelense
62. ADIURI MUJERES
63. Asociación Totointegral
64. Asociación de Mujeres Xinka de Guatemala ASOMUXIGUA



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