



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

Forty-third session

19 January – 6 February 2009

**Concluding observations of the Committee on the
Elimination of Discrimination against Women**

Guatemala

1. The Committee considered the seventh periodic report of Guatemala (CEDAW/C/GUA/7) at its 881st and 882nd meetings, on 3 February 2009. The Committee's list of issues and questions is contained in document CEDAW/C/GUA/Q/7 and the responses of Guatemala in CEDAW/C/GUA/Q/7/Add.1.

Introduction

2. While expressing its appreciation to the State party for its seventh periodic report, which was submitted on time, and the consultations with different State institutions and civil society in the preparation of the report, the Committee regrets that although the report mainly follows the Committee's guidelines for the preparation of periodic reports, it was too long. The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the pre-session working group.

3. The Committee commends the State party for its high-level delegation headed by the Minister of the Presidential Secretariat for Women, and composed of representatives of the Supreme Court, the Institute of Public Criminal Defence, the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women, the Presidential Human Rights Commission, the Office for the Defence of Indigenous Women's Rights, the Guatemala Beijing Committee and Guatemala's Permanent Mission in Geneva. The Committee appreciates the open and constructive dialogue that took place between its members and the delegation.

Positive aspects

4. The Committee notes with satisfaction the State party's efforts to implement the Convention, welcoming in particular the entry into force of the Act on Femicide and Other Forms of Violence against Women (Decree 22-2008).

5. The Committee welcomes the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol) and the creation of the Inter-Institutional Group against Trafficking in Persons.

6. The Committee also welcomes the reinforcement of the Presidential Secretariat for Women, the Office for the Defence of Indigenous Women's Rights and the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women, by providing these institutions with additional human and financial resources.

Principal areas of concern and recommendations

7. **While recalling the State party's obligation systematically and continuously to implement all the provisions of the Convention, the Committee views the concerns and recommendations identified in the present concluding observations as requiring the priority attention of the State party between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It also calls upon the State party to submit the present concluding observations to all relevant ministries, other Government structures at all levels, Parliament and the judiciary in order to ensure their effective implementation.**

Parliament

8. **While reaffirming that the Government has the primary responsibility and is particularly accountable for the full implementation of the State party's obligations under the Convention, the Committee stresses that the Convention is binding on all branches of Government and invites the State party to encourage its national Parliament, in line with its mandate and procedures, where appropriate, to take the necessary steps with regard to the implementation of these concluding observations and the Government's next reporting process under the Convention.**

Previous concluding observations

9. The Committee regrets that the recommendations issued in the concluding observations to the State party's sixth periodic report (CEDAW/C/GUA/CO/6) have not been sufficiently implemented.

10. The Committee urges the State party to make every effort to address the previous recommendations that have not yet been implemented, as well as the concerns contained in the present concluding observations.

Visibility of the Convention and the Optional Protocol

11. While noting with appreciation that international treaties prevail over domestic laws and can be directly invoked in national courts, the Committee remains concerned that a prohibition of all forms of discrimination against women in line with articles 1 and 2 b of the Convention, including sanctions for such documentation, has not yet been adopted. The Committee is further concerned that the provisions of the Convention and its Optional Protocol are not sufficiently known by the public at large, including among legal professionals, manifested by its limited use by lawyers and the judiciary. The Committee is also concerned at the lack of awareness of women, in particular rural and indigenous women, domestic workers and women working in the maquiladora industry and agro-industrial companies, of their rights.

12. The Committee recommends that the State party prohibit discrimination against women in line with articles 1 and 2 b of the Convention, including sanctions, in relevant national legislation. It further recommends that educational programmes on the Convention, including its Optional Protocol, as well as programmes on women's rights be designed and introduced, in particular for legal professionals, including judges, lawyers, prosecutors and law enforcement personnel, and for the public at large. It further urges the State party to take proactive measures, including comprehensive legal literacy programmes to enhance women's awareness of their rights. These measures should be adapted and take into account the illiteracy and the multilingual character of the population, and should also target all vulnerable groups of women, so that they may know and be able to exercise their rights.

Discriminatory laws

13. The Committee notes the initiatives of the State party to modify discriminatory laws, but is concerned that several provisions that discriminate against women in the Labour, Civil and Criminal Codes have not yet been eliminated.

14. **The Committee urges the State party to give priority attention to legislative reforms to eliminate discriminatory laws against women, and compliance with the State party's obligations under the Convention and the Constitution. The Committee recommends that the State party undertake a comprehensive process of review of the compatibility of national legislation with the Convention and repeal all remaining legislation that discriminates against women, including the discriminatory provisions in the Labour, Civil and Criminal Codes.**

Temporary special measures

15. The Committee is concerned that temporary special measures are not systematically used in the State party as a necessary strategy to accelerate the achievement of de facto equality between women and men in all areas of the Convention, The Committee is also concerned that a clear understanding of temporary special measures, as well as the reason for their application according to article 4, paragraph 1, of the Convention which is directly applicable, seems to be lacking in the State party.

16. **The Committee encourages the State party to introduce specific legislation providing for the adoption of temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation No. 25 in order to accelerate the realization of women's de facto equality with men in areas where women are underrepresented or in disadvantaged situations. The Committee recommends that the State party raise public awareness about the direct applicability of article 4, paragraph 1 of the Convention, as well as about the importance of temporary special measures in accelerating the process of achievement of gender equality.**

National machinery for the advancement of women

17. While acknowledging the important work undertaken by the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women to eradicate domestic violence and violence against women, as well as the work of the Office for the Defence of Indigenous Women's Rights to protect and promote the rights of indigenous women, and the key role of the Presidential Secretariat for Women as the highest national machinery for the advancement of women and the executive branch's leading organ for the promotion of public policies for gender equity and equality, the Committee is concerned about weak coordination of the work of these different bodies, as well as the possible overlap in their work.

18. The Committee recommends that the State party strengthen the existing machinery for gender equality by providing it with adequate visibility, power and human and financial resources at all levels, in order to increase its effectiveness, and enhance its capacity to coordinate and monitor actions at the national and local levels for the advancement of women and the promotion of gender equality.

Stereotypes and cultural practices

19. Notwithstanding various measures taken by the State party to eliminate gender stereotypes, the Committee is concerned at the pervasiveness of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family, in the workplace, in political life and society, which constitute serious obstacles to women's enjoyment of their human rights. The Committee is also concerned that certain groups of women, in addition to being affected by gender stereotypes, face multiple forms of discrimination on grounds such as their ethnicity or their sexuality.

20. The Committee urges the State party to increase its efforts to design and implement comprehensive awareness-raising programmes to foster a better understanding of, and support for, equality between women and men at all levels of society. Such efforts should aim at modifying stereotypical attitudes and cultural norms about the responsibilities and roles of women and men in the family, the workplace, political life and society, as required under articles 2 (f) and 5 (a) of the Convention. The Committee also urges the State party to adopt an overall strategy to eliminate gender stereotypes relating to women in general, and in particular discrimination against women based on their ethnicity or sexuality. This strategy could include awareness-raising programmes in school curricula, the training of teachers and the sensitization of the media and the public at large, including actions specifically targeting men and boys.

Violence against women

21. The Committee welcomes the adoption of the Act on Femicide and Other Forms of Violence against Women (Decree 22-2008), and the reinforcement of the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women to address the issue of violence against women, including domestic violence. However, the Committee remains concerned at the high incidence of violence against women in the State party, including sexual violence in the home and wider society and sexual harassment in the workplace. The Committee is also concerned at cases of extreme violence against women manifested by the murder of women motivated by gender-specific causes, which has been described as “femicide”. The Committee is also concerned that despite the entry into force of the Act on Femicide and Other Forms of Violence against Women, there have been insufficient investigations into reported cases of femicide and violence against women, that the climate of impunity has not been eradicated, and women are still afraid to report cases.

22. The Committee calls on the State party to ensure the provision of financial resources for, and to closely monitor implementation, of the Act on Femicide and Other Forms of Violence against Women and to establish coordination and mechanisms for its implementation, so as to make sure that all women and girls who are victims of violence have access to protection and effective redress. The Committee further urges the State party to take appropriate measures to ensure that perpetrators of such acts are effectively prosecuted and punished and do not enjoy impunity. The Committee also recommends the implementation of gender-sensitive training on violence against women for public officials, particularly law enforcement personnel, the judiciary and health-service providers, to ensure that they are sensitized and can respond effectively to all forms of violence against women. The Committee also calls on the State party to take measures to modify social and cultural attitudes which are the root causes of most forms of violence targeting women, in particular murders motivated by gender prejudice. The Committee further recommends that the State party seek technical assistance from the Office of the United Nations High Commissioner for Human Rights and the United Nations Development Fund for Women, to ensure full implementation of the Act on Femicide and Other Forms of Violence against Women.

Trafficking and sexual exploitation

23. The Committee notes with appreciation the ratification of the Convention against Transnational Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (the Palermo Protocol). The Committee is, however, concerned at the lack of appropriate legislation and other measures to prevent trafficking for the purpose of sexual exploitation and for forced work, which also involves women and girls. The Committee is further concerned about the human rights principles related to deportation of migrants who

have been trafficked. The Committee is also concerned at the lack of data disaggregated by sex, the types of cases reported and cases sentenced relating to the existence of trafficking.

24. **The Committee urges the State party to intensify its efforts to combat all forms of trafficking in women and girls. It also calls on the State party to determine the extent of the problem by collecting and analysing data on trafficking from the police and international sources. The Committee calls on the State party to enact legislation to enable prosecution and punish traffickers, ensure the protection of the human rights of trafficked women and girls, especially migrants, and provide for their rehabilitation and reintegration programmes. The Committee calls on the State party to ensure that trafficked women and girls receive adequate support so that they can testify against their traffickers without fear. The Committee further encourages the State party to develop and implement awareness-raising programmes, conduct research on the root causes of trafficking, provide comprehensive training to lawyers, criminal justice workers, health-care providers and law enforcement officials in all matters concerning sexual exploitation and trafficking, strengthen the capacity and provision of sufficient resources to the Inter-Institutional Commission to Combat Trafficking in Persons and continue and strengthen bilateral and multilateral cooperation with neighbouring countries.**

Political participation and participation in public life

25. While recognizing the active political participation of women at the community level, the Committee is concerned about the low representation of women in elected bodies and public administration at all levels. It is also concerned at the apparent lack of awareness and interest of political parties to include more women. The Committee is further concerned that the absence of identity cards prevents women from fully enjoying their citizen rights, including registering as voters.

26. **The Committee calls upon the State party to continue its efforts to amend the Elections and Political Parties Act in order to guarantee women's equal participation, by ensuring a minimum percentage of women in the electoral process, as well as in its results. The Committee encourages the State party to take sustained measures, including temporary special measures in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to accelerate the representation of women in all areas of political and public life, including elected bodies and designated governmental posts at all levels. The Committee also suggests that the State party implement leadership training programmes for women and carry out awareness-raising campaigns on the importance of women's participation in decision-making as a democratic requirement, and that it evaluate the impact of such measures. The Committee requests the State party to accelerate the process of issuance of identity cards to all eligible women.**

Education

27. While welcoming the introduction of free education and the efforts made to encourage bilingual and multicultural education, the Committee is concerned at the significant level of illiteracy among indigenous and rural women, the difficulties of accessibility of schools, and the poor quality of education, in particular in rural areas. The Committee is also concerned at the lack of information provided by the State party on vocational education and training for girls and women in professions traditionally occupied by men.

28. The Committee calls on the State party to continue to take proactive measures to reduce the illiteracy rate among indigenous women and to continue to provide education, both formal and informal, to all women and girls, especially in rural areas. The Committee recommends that the State party accelerate the process of training bilingual teachers and the extension of bilingual education to all indigenous communities.

Employment

29. The Committee is concerned at the overall disadvantaged situation of women in the labour market, as shown by the significant wage gap between women and men and the critical situation of women's labour rights in the maquiladora industries, in particular the lack of access to social security, long working hours and exposure to sexual harassment. It is also concerned at the precarious situation and lack of protection available for women domestic workers and women workers in the informal and agricultural sectors.

30. The Committee requests the State party to take all appropriate measures, including temporary special measures and strengthened equality mechanisms, to address women's disadvantaged situation in the labour market. It recommends that efforts be intensified to eliminate occupational segregation, both horizontal and vertical. The Committee further recommends the adoption of legislative, administrative and other measures guaranteeing access to social security and other labour benefits for women domestic workers and women workers in the informal and agricultural sectors. The Committee urges the State party to ensure that women working in the maquiladora industry are fully protected under the existing labour laws. It requests the State party to include information on the impact of measures taken and results achieved in its next report. The Committee calls on the State party to adopt legislation guaranteeing equal pay for work of equal value, in line with the Committee's general recommendation no. 13 and ILO Convention no 100.

31. The Committee is seriously concerned that child labour persists in the State party, the lack of detailed information provided by the State party on the extent of this phenomenon and at its implications for children's individual development and enjoyment of their right to education and health care, especially for girls.

32. The Committee urges the State party to strengthen its efforts to eradicate child labour and support education as a means of empowering girls and boys. The Committee urges the State party to take proactive steps to ensure that all children, especially girls, have access to basic education, health care and the protection of the minimum labour standards elaborated by the International Labour Organization.

Poverty and economic empowerment

33. The Committee recognizes the efforts made by the State party to initiate and support community projects which promote women's economic empowerment, but remains concerned at the effects and the sustainability of these programmes, the persistence of high levels of poverty and social exclusion of women, especially in rural areas. The Committee is also concerned about issues relating to access to land for women in general and in particular women belonging to indigenous communities, who can be displaced as a result of new economic development plans.

34. The Committee recommends that the State party to ensure that economic and social policies and public investment take into specific account the situation of women and monitor the impact resulting from these programmes. The Committee urges the State party to strengthen initiatives aimed at encouraging women's economic sustainable empowerment, in particular promote women's access to land and to credits.

Health

35. The Committee recognizes the efforts made by the State party in relation to maternal and infant health. It is however concerned that although the maternal and infant mortality rates have decreased, they still remain high, and that vulnerable groups of women, in particular in rural areas, still have difficulties in accessing reproductive healthcare services. The Committee is also concerned at the lack of information provided by the State party about the extent and consequences of illegal and unsafe abortions. The Committee is further concerned at the lack of information on the number of women screened for early detection of uterine, cervical or breast cancer. The Committee is also concerned about the lack of information on services and counselling available for women suffering from mental health problems.

36. The Committee recommends that the State party increase the coverage and accessibility of medical services for women, in particular in rural areas, and increase the training of health professionals, including midwives, in rural areas and in indigenous communities. The Committee recommends that the State party adopt and implement effective measures, including through the revision of legislation criminalizing abortion, to prevent unsafe abortions and its impact on women's health and on maternal mortality. The Committee requests the State party to provide information on the existence of an integral health policy for women, including facilities for cancer screenings, and the services available for women with mental health problems.

37. While noting that more men than women are affected by HIV/AIDS, the Committee is concerned that there is a growing feminization of the disease taking place in the State party, reflected in a reduction in the ratio of HIV/AIDS infection between men and women. The Committee also notes that not enough information or disaggregated data was provided on HIV/AIDS prevalence in the report of the State party or in the response to the list of issues and questions posed during the constructive dialogue.

38. The Committee urges the State party to undertake comprehensive research to determine the factors leading to the feminisation of HIV/AIDS with a view to developing appropriate strategies to reduce women's vulnerability to the disease. It also calls on the State party to provide in its next report data disaggregated by sex and ethnic group on the prevalence of the disease.

39. While the Committee welcomes the Act on Universal and Equitable Access to Family Planning Services and its Integration in the National Reproductive Health Programme, it is concerned that it was vetoed, and that there is an unsatisfied need for birth control and sex education.

40. The Committee draws attention to its general recommendation 24 and recommends that comprehensive research be undertaken to determine the specific health needs of women, including reproductive health needs. It also recommends that the State party take measures to ensure the entry into force of the Act on Universal and Equitable Access to Family Planning Services and its Integration in the National Reproductive Health Programme, and strengthen family planning programmes to ensure that men and women have access to contraceptives, including teenagers and young adults.

Indigenous and other minority women

41. While welcoming various initiatives by the State party to improve the status of indigenous women, the Committee is concerned about the precarious situation of indigenous women and the lack of information provided by the State party on Maya, Xinca and Garifuna women, who experience multiple and intersectoral discrimination, based on their sex, ethnic origin and social status.

42. **The Committee encourages the State party to adopt concrete, targeted and time-bound measures, with evaluation criteria, to accelerate the improvement of conditions of indigenous women in all spheres of life. It calls upon the State party to ensure that maya, xinca and garifuna women have full access to land, education and health services and can fully participate in decision-making processes.**

Beijing Declaration and Platform for Action

43. **The Committee urges the State party to utilize fully, in the implementation of its obligations under the Convention, the Beijing Declaration and Platform for Action, which reinforce the provisions of the Convention, and requests the State party to include information thereon in its next periodic report.**

Millennium Development Goals

44. **The Committee also emphasizes that full and effective implementation of the Convention is indispensable for achieving the Millennium Development Goals. It calls for the integration of a gender perspective and explicit reflection of the provisions of the Convention in all efforts aimed at the achievement of the Millennium Development Goals and requests the State party to include information thereon in its next periodic report.**

Ratification of other treaties

45. **The Committee notes that States' adherence to the nine major international human rights instruments¹ enhances the enjoyment by women of their human rights and**

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of

fundamental freedoms in all aspects of life. Therefore, the Committee encourages the Government of Guatemala to ratify the treaties to which it is not yet a party, namely the International Convention for the Protection of All Persons from Enforced Disappearances and the Convention on the Rights of Persons with Disabilities.

Dissemination of concluding observations

46. The Committee requests the wide dissemination in Guatemala of the present concluding observations in order to make the people, including Government officials, politicians, parliamentarians and women's and human rights organizations, aware of the measures that have been taken to ensure de jure and de facto equality of women, as well as the further steps that are required in this regard. It requests the State party to continue to strengthen the dissemination, in particular to women's and human rights organizations, of the Convention, its Optional Protocol, the Committee's general recommendations, the Beijing Declaration and Platform for Action and the outcome of the twenty-third special session of the General Assembly, on the theme "Women 2000: gender equality, development and peace for the twenty-first century".

Follow-up to concluding observations

47. The Committee requests the State party to provide, within one year, written information on the steps undertaken to implement the recommendations contained in paragraph 22. The Committee also requests the State party to consider seeking technical cooperation and assistance, including advisory services, if necessary and when appropriate for implementation of the above recommendations.

Date of next report

48. The Committee requests the State party to respond to the concerns expressed in the present concluding observations in its next periodic report under article 18 of the Convention. The Committee invites the State party to submit its combined eighth and ninth periodic report in September 2015.

Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance.