



## **Guatemala's Compliance with the Convention on the Elimination of Discrimination against Women (CEDAW)**

**Submitted by The Advocates for Human Rights,**  
a non-governmental organization in special consultative status with ECOSOC since 1996

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**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact-finding, direct legal representation, education and training, and publications, including the report *Justice Suspended: the Failure of the Habeas Corpus System in Guatemala*. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims of human rights violations from Guatemala have requested legal assistance from The Advocates in applying for asylum. First-hand information from asylum-seekers about the human rights violations that they experienced in Guatemala since the last review in 2017 has been used with their permission in this submission.

## EXECUTIVE SUMMARY

1. Since Guatemala's last review in 2017, widespread and systemic violence has continued, with threats and extortion carried out by gangs acting with impunity. Women, especially victims of sexual and domestic violence, remain most vulnerable to violence, extortion, and institutional lack of accountability.
2. The Advocates has received direct information about the human rights violations detailed in this submission from clients in the Guatemalan diaspora who have fled Guatemala to seek asylum in the United States.
3. In August 2022, the Advocates for Human Rights submitted a Suggested List of Issues to this Committee. The current report summarizes and updates the information in that report regarding Guatemala's compliance with The Convention on the Elimination of All Forms of Discrimination Against Women for the Committee's 85 (PSWG) Pre-Sessional Working Group.

### **I. Gender-based violence against women and access to justice and remedies (List of issues and questions, paragraph 12)**

4. In the List of Issues, the Committee on the Elimination of Discrimination against Women ("The Committee") requested information from the State about the measures taken to ensure effective prosecution of cases of gender-based violence against women, including number of convictions of perpetrators.<sup>1</sup> The Committee inquired about Guatemala's efforts to formulate a holistic judicial policy addressing various barriers women face in accessing justice. The Committee identified barriers such as "institutional, social, economic, accessibility, [and] technological," among others.<sup>2</sup>
5. Violence against women remains widespread and persistent in Guatemala,<sup>3</sup> with a inadequate and poorly implemented legislation to address gender-based violence.<sup>4</sup> Perpetrators often experience impunity for crimes of violence against women.<sup>5</sup> According to reports from regional NGOs, "Guatemala ranked in 2022 as the Central American

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<sup>1</sup> Committee on the Elimination of Discrimination Against Women, List of issues and questions in relation to the tenth periodic report of Guatemala, (4 November 2022), CEDAW/C/GTM/Q/10, ¶4 (a).

<sup>2</sup> Committee on the Elimination of Discrimination Against Women, List of issues and questions in relation to the tenth periodic report of Guatemala, (4 November 2022), CEDAW/C/GTM/Q/10, ¶4(c).

<sup>3</sup> Sydney Bay, *Criminalization is Not the Only Way: Guatemala's Law Against Femicide and Other Forms of Violence Against Women and the Rates of Femicide in Guatemala*, (Washington International Law Journal, 2021). Available online at <https://digitalcommons.law.uw.edu/wilj/vol30/iss2/11>.

<sup>4</sup> Interviews conducted by The Advocates (2017-2022).

<sup>5</sup> See Silvia Trujillo, *Violencia contra las mujeres: cambian las cifras, persiste el problema*, March 8 2021. Also available at: <https://dialogos.org.gt/blog/violencia-contra-las-mujeres-cambian-las-cifras-persiste-el-problema>; Tribuna Feminista Guatemala: aumenta feminicidio, con 99% de impunidad. Also available at: <https://tribunafeminista.org/2017/06/guatemala-aumenta-feminicidio-con-99-de-impunidad/>.

country with the highest rate of femicides, with 532 victims.”<sup>6</sup> According to civil society reports, between 2008 and 2022, “2,168 femicides have been reported and 71% of them remain in impunity.”<sup>7</sup> According to research, a high number of cases of forced disappearance on women in Guatemala are direct relation to intimate partner violence.<sup>8</sup>

6. To August 2023, 1,286 Isabel-Claudina alerts<sup>9</sup> were activated in the country.<sup>10</sup> According to research, a high number of cases of forced disappearance on women in Guatemala are direct relation to intimate partner violence.<sup>11</sup> About the alerts’ suitability to protect women, one of the biggest barriers families face to access the mechanism is the requirement to wait a minimum of 24 hours to file a report. Instead, it is reported that civil society has advocated for possibility of receiving reports and implement the alert immediately the victim's family considers the victim to be missing.<sup>12</sup>
7. The testimonies from our women clients include multiple ways of gender-based violence, including kidnapping, rape, and pregnancies resulting from rape. Clients reported that police systemically failed to investigate the reports of acts of violence.<sup>13</sup> Survivors of violence rarely received remedy and rehabilitation.<sup>14</sup> Our clients have reported receiving constant threats by perpetrators and experiencing PTSD and depression, partly due to the lack of police action taken to protect them. According to these testimonies, remedies and rehabilitation are commonly not available for survivors.<sup>15</sup> These clients eventually were forced to flee Guatemala seeking for international protection.<sup>16</sup>

### ***Domestic Violence***

8. To the best availabilities, the Advocates finds a lack of official data on domestic violence since at least 2019,<sup>17</sup> it is estimated that more than 36% of women in Guatemala living with

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<sup>6</sup> La Lupa, *Mujeres centroamericanas: Nos siguen violentando derechos que son fundamentales*, (3 Feb. 2023), available online at: <https://lalupa.press/mujeres-centroamericanas-nos-siguen-violentando-derechos-que-son-fundamentales/>

<sup>7</sup> Information by the Center for Economic Research (CIEN) on Ana María Méndez Dardón, Regressive Wave for Women in Central America, (WOLA, 8 March 2023), available online at: <https://www.wola.org/analysis/regressive-wave-women-central-america/>

<sup>8</sup><https://repositorio.flacsoandes.edu.ec/bitstream/10469/16321/2/TFLACSO-2020LMM.pdf>, P. 51

<sup>9</sup> The National alert system for disappeared women is established on the Ley de Búsqueda Inmediata de Mujeres Desaparecidas (Decree No. 9-2016).

<sup>10</sup> Ministerio Público and Unidad de Enlace Fiscalía de la Mujer on Agencia de Noticias, Más de mil alertas Isabel-Claudina desactivadas al 21 de agosto de 2023, (30 Aug. 2023), online at <https://agn.gt/mas-de-mil-alertas-isabel-claudina-desactivadas-al-21-de-agosto-de-2023/>

<sup>11</sup><https://repositorio.flacsoandes.edu.ec/bitstream/10469/16321/2/TFLACSO-2020LMM.pdf>, P. 51

<sup>12</sup> Lucía Mayorga Morales, *Estudio de caso del mecanismo ‘Alerta Isabel Claudina’ y sus efectos en Ciudad de Guatemala, Guatemala, durante 2018 – 2019 [Master tesis] (FLACSO Mayo 2020)*, at 54, available on <https://repositorio.flacsoandes.edu.ec/bitstream/10469/16321/2/TFLACSO-2020LMM.pdf>.

<sup>13</sup> Interviews conducted by The Advocates (2017-2022).

<sup>14</sup> Interviews conducted by The Advocates (2017-2022).

<sup>15</sup> Interviews conducted by The Advocates (2017-2022).

<sup>16</sup> Interviews conducted by The Advocates (2017-2022).

<sup>17</sup> Instituto Nacional de Estadística, *Indicadores de violencia familiar*, last accessed July 13 2022. Available at: <https://www.ine.gob.gt/ine/violencia-intrafamiliar/>

male partners experience intimate partner violence.<sup>18</sup> More than 57,000 cases of violence against women were reported in 2020.<sup>19</sup> Clients of the Advocates, mainly women and children, reported their experiences of physical abuse and sexual assault, and other crimes in their homes by intimate partners, fathers, and uncles. Impunity and lack of access to protection mechanisms were reported by the testimonies.<sup>20</sup>

9. Guatemalan police fail to consistently investigate reports of domestic violence and perpetrators often act with impunity.<sup>21</sup> The Advocates has received multiple testimonies of women experiencing harassment and persecution by their former partners, including death threats, sexual abuse, and extortion. In most cases, police do not act after receiving the reports.<sup>22</sup> One of our clients testified that the failure to investigate worsened her case as the perpetrator worked for the National Police Force.<sup>23</sup>
10. Fear of retaliation by organized crime and gangs also prevents victims from reporting domestic abuse. Commonly, the Advocates have received testimonies of families being afraid to “stand up” to their abusive relatives — members of a gang— even in cases of documented domestic assault charges in the past.<sup>24</sup> The connection between gender-based violence and gangs is well long documented by global civil society<sup>25</sup>, however, women especially lack protection when enduring gender-based violence within this frame. According to reports, organized crime and gangs weightily perpetrate gender-based violence and gender roles as part of their illegal activities, “much of the sexual violence is perpetrated by gangs including rape of women and children if they do not comply and become “girlfriends” of gang members, sexual violence if they fail to pay gang members, and sexual servitude to gang members for women as a gang initiation.”<sup>26</sup>

### ***Access to Justice and Remedies***

11. Impunity and inaccessibility to justice mechanisms continue to persist as a barrier for women in Guatemala throughout the criminal justice system. Likewise, impunity remains

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<sup>18</sup> Zoë Elspeth, and Tolib Mirzoev, *Intimate Partner Violence Against Indigenous Women in Sololá, Guatemala: Qualitative Insights Into Perspectives of Service Providers, Violence Against Women*, vol. 28, no. 1 (Violence Against Women, Jan 2022), 150–168. Also available online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8564254/>.

<sup>19</sup> Washington Office on Latin America, “Little to Celebrate: 5 Facts about Women and Violence in El Salvador, Guatemala and Honduras,” accessed 12 July 2022, <https://www.wola.org/2022/03/women-violence-northern-triangle-5-facts/>

<sup>20</sup> Interviews conducted by The Advocates (2017-2022).

<sup>21</sup> Erik Beck, *Los Impactos Desiguales de Leyes contra Violencia contra la Mujer en Guatemala*, (2021). Available online at <https://cpb-us-e1.wpmucdn.com/blogs.uoregon.edu/dist/4/18551/files/2021/11/Los-Impactos-Desiguales-de-Leyes-contra-VCM.pdf>

<sup>22</sup> Erik Beck, *Los Impactos Desiguales de Leyes contra Violencia contra la Mujer en Guatemala*, (2021). Available online at <https://cpb-us-e1.wpmucdn.com/blogs.uoregon.edu/dist/4/18551/files/2021/11/Los-Impactos-Desiguales-de-Leyes-contra-VCM.pdf>

<sup>23</sup> Interviews conducted by The Advocates (2017-2022).

<sup>24</sup> Interviews conducted by The Advocates (2017-2022).

<sup>25</sup> Pulte Institute For Global Development, *Addressing the Sex and Gender-Based Violence in Guatemala, Honduras, and El Salvador Fueling the U.S. Border Crisis: Corruption, Impunity, and Violence Against Women and Girls*, by Cory Smith (Notre Dame, Indiana: 2020), 4.

<sup>26</sup> Pulte Institute For Global Development, *Addressing the Sex and Gender-Based Violence in Guatemala, Honduras, and El Salvador Fueling the U.S. Border Crisis: Corruption, Impunity, and Violence Against Women and Girls*, by Cory Smith (Notre Dame, Indiana: 2020), 4.

high in the country.<sup>27</sup> Guatemalan legislation to protect women requires stronger institutional measures for effective enforcement. Women victims of intimate partner violence receive insufficient protection and remedies from judges, with reported systemic rejection protection orders, especially excluding the perpetrators from accessing the house victim's house, as well as the decline of remedies and compensation.<sup>28</sup>

12. Adequate justice is reported to be hindered by biased prosecution and gender stereotypes within the justice operators and law enforcement in the country.<sup>29</sup> Barriers such as delays in prosecution and disproportionate requirements to victims to access the justice system are reported.<sup>30</sup> Adequate justice is not served to victims since it is reported that many sentences are commuted or diminished.<sup>31</sup>
13. In matter of investigation of reported gender-based violence against women, accounts detail inadequate training and insufficient capacity to assist victims.<sup>32</sup> Investigation be hindered by absence of coordination between agencies and inadequate evidence collection and preservation. Law enforcement is also reported to “frequently blame the victims of the crimes and fail to respond in a timely manner.”<sup>33</sup>
14. Guatemala has implemented substantial efforts to improve the access to justice for women victims of gender-based violence against women, but further measures are necessary. Reported improvements are operating specialized courts and a 24-hour court in Guatemala City, as well as the Public Ministry maintaining a 24-hour victim service center, offering medical, psychosocial, and legal support to victims, including restraining orders.<sup>34</sup> However, these improvements are reported to not be present in all geographic areas in the countries.<sup>35</sup>

## II. Recommendations

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<sup>27</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 284 (2013).

<sup>28</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 285.

<sup>29</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 286 (2013).

<sup>30</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 286 (2013).

<sup>31</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 287 (2013).

<sup>32</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guatemala*, by Bureau of Democracy, Human Rights, and Labor (2023), 23, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala>.

<sup>33</sup> Karen Musalo & Blaine Bookey, *Crimes Without Punishment: An Update on Violence Against Women and Impunity in Guatemala*, 10 *Hastings Race and Poverty Law J.* 265, 286 (2013).

<sup>34</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guatemala*, by Bureau of Democracy, Human Rights, and Labor (2023), 23, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala>.

<sup>35</sup> U.S. State Department, *2022 Country Reports on Human Rights Practices: Guatemala*, by Bureau of Democracy, Human Rights, and Labor (2023), 23, <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/guatemala>.

15. The Advocates for Human Rights respectfully suggests the CEDAW Committee to provide the following recommendations to Guatemala:

- Take measures to combat gang presence and recruitment in places where girls and youth frequently visit, especially schools.
- Implement effective and coordinated measures to prevent violence against women, especially against young women and girls, and ensure that perpetrators of violence are brought to justice and the victim is repaired.
- Train state officials such as judges, law enforcement personnel and prosecutors in victim-centered and trauma-informed approaches to justice and reparation of victims of gender-based violence.
- Provide training on free of bias prosecution and gender stereotypes in the criminal justice system.
- Adopt reforms to ensure the independence of the police force from organized crime and to end deep-rooted associations between gangs and police officers to adequately protect at-risk women and LGBTIQ+ persons.
- Take steps to ensure gender-equitable representation in the police force and other agencies of the justice system, particularly at the decision-making and managerial levels.
- Collect annual on the data on the access to justice and rehabilitation of survivors of violence against women, LGTBIQ+ persons, and victims of domestic violence.
- Enact campaigns to promote awareness, education, and respect for LGBTIQ+ persons.
- Take steps to strengthen legislation against discrimination based on sexual orientation or gender identity.
- Take steps to combat impunity by ensuring that law enforcement conducts a thorough, victim centered, trauma-informed investigation of every allegation of violence or discrimination based on sexual orientation or gender identity to assist prosecutors in prosecuting individuals suspected of committing crimes against LGBTIQ+ persons.