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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

## Situation of human rights in Guatemala

### Report of the United Nations High Commissioner for Human Rights\*, \*\*

#### *Summary*

In her report, the United Nations High Commissioner for Human Rights describes the human rights situation and the activities of her office in Guatemala from 1 January to 31 December 2020. She highlights advances and persisting challenges in the promotion and protection of human rights, with a focus on issues related to equality and non-discrimination, inclusive and sustainable human development, justice, democratic space and the human rights impact of the coronavirus disease (COVID-19) pandemic. The report concludes with recommendations to various State institutions.

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\* The summary of the report is being circulated in all official languages. The report itself is being circulated in the language of submission and Spanish only.

\*\* The present report was submitted after the deadline in order to reflect the most recent developments.



## I. Introduction

1. The present report is submitted pursuant to the agreement between the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Government of Guatemala, signed in January 2005 and renewed in September 2020 for one year.<sup>1</sup> The report covers the year 2020 and is based on information provided by State institutions and other stakeholders as well as information collected and analysed by OHCHR in Guatemala. The report also provides an overview of some of the key activities undertaken by OHCHR in Guatemala in 2020.

2. OHCHR provided technical assistance to State institutions, notably the Ministry of Health and Social Assistance, the National Council for the Assistance of Persons with Disabilities (CONADI), the National Civil Police, the Ministry of Labour, the Ministry of Education, the Social Welfare secretariat, the National Council for the Assistance of Migrants (CONAMIGUA), the Presidential Commission on Human Rights (COPREDEH), the Office of the Attorney General, the judiciary, Congress, the Constitutional Court and the Office of the Ombudsperson. The Office also provided 65 capacity-building courses to State institutions; organized 39 forums on various human rights topics such as participation, health, water and sanitation, social protection, access to justice, violence against women and girls, and labour rights; and held webinars about the rights of indigenous peoples, women, persons with disabilities and young people.

3. The year 2020 was marked by the coronavirus disease (COVID-19) pandemic. OHCHR remained fully operational during the reporting period, and adjusted its activities in accordance with the guidelines and regulations established in the context of the pandemic. It continued to monitor the human rights situation remotely, through active engagement with public officials, communities and civil society at the national and local levels. OHCHR also produced 26 bulletins, guides and other publications,<sup>2</sup> and launched four public information campaigns to promote the rights of indigenous peoples, women, persons with disabilities, and lesbian, gay, bisexual and transgender persons in the context of the pandemic. It assisted in the development of public campaigns by the Ministry of Education, the Ministry of Health and the National Council for the Assistance of Migrants.<sup>3</sup> It held nine regional workshops and two three regional forums with the participation of institutions and civil society organizations from Guatemala as well as from Argentina, Chile, Colombia, Costa Rica, El Salvador, Honduras, Mexico and Panama.

4. OHCHR followed up on 141 cases and situations of alleged human rights violations, and worked with victims, civil society and State institutions to mitigate human rights risks and prevent violations. Throughout its work, OHCHR collaborated with regional and international human rights monitoring mechanisms.

## II. Context

5. Guatemala continued to face systemic and structural challenges to the effective implementation of its human rights obligations, in particular poverty, inequality, discrimination, impunity and insecurity. The COVID-19 pandemic exacerbated those issues and brought to light the need to urgently tackle the underlying challenges.

6. A new Government, Congress and municipal authorities took office on 14 and 15 January. On 16 January, President Giammattei presented his Government's general policy for 2020–2024. The policy highlights compliance with international human rights commitments as a general guideline to be observed by public institutions.<sup>4</sup>

7. Addressing the pandemic and its consequences dominated the agenda of the Government and Congress. To prevent the spread of COVID-19, Guatemala was one of the first countries in Latin America to implement restrictions of movement, including curfews,

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<sup>1</sup> Published in the *Diary of Central America* on 18 September 2020.

<sup>2</sup> <https://issuu.com/oacnudhgt/stacks>.

<sup>3</sup> <https://soundcloud.com/user-792902998/tracks>.

<sup>4</sup> Guatemala, *Política General de Gobierno 2020–2024*, p. 88.

and physical distancing measures. However, pre-existing institutional weaknesses and deficiencies in public services have impeded the health and social protection responses. The severe social and economic impact of COVID-19 has underscored inequalities in a country where even before the pandemic, 6 out of 10 people lived in poverty. Among indigenous peoples, the rate was even higher, with poverty affecting 8 out of 10 people.<sup>5</sup>

8. In November, tropical storms Eta and Iota caused flooding and landslides, leaving at least 60 dead and 100 missing, and displacing over 270,000 people.<sup>6</sup> The effects were particularly devastating in the majority of indigenous regions of Izabal, Alta Verapaz, Baja Verapaz, Huehuetenango, Petén, Quiché and Chiquimula.

9. The Government invoked special powers on 11 occasions, including the declaration of seven “states of prevention” affecting 80 municipalities; two states of siege in eight municipalities; one country-wide state of calamity, due to the pandemic; and one state of calamity in 10 regions, in response to tropical storm Eta (see para. 74).

10. Magistrates for the Supreme Court and the Court of Appeals were yet to be appointed for the period 2019–2024, and should have taken office in October 2019. As of December 2020, however, the selection process remained stalled in Congress. Moreover, OHCHR documented irregularities in the nomination and evaluation of candidates (see para. 67). In 2020, judges and prosecutors were subjected to increasing reprisals including defamation, threats and requests to lift their immunity for criminal prosecution. The Ombudsperson also faced smear campaigns and interpellations in Congress.

11. In the context of the COVID-19 pandemic, Congress expanded social protection programmes and increased the national budget to respond to the crisis. Some members of Congress, however, continued to promote bills undermining the protection of human rights. On 11 February, Bill No. 5257 was passed into law, reforming the law on non-governmental organizations for development and the Civil Code. Independent United Nations human rights experts expressed their concern about the impact of this law on the work of human rights defenders and civil society.<sup>7</sup> On 2 March, the Constitutional Court provisionally suspended the approval of the law.

12. The Government undertook a reconfiguration of the human rights institutional architecture. On 31 July, it created the Presidential Commission for Peace and Human Rights (COPADEF), with a mandate to enhance: the coordination of actions and advice on human rights, the implementation of the commitments made under the peace accords, and conflict prevention.<sup>8</sup> The Commission took on some of the tasks and responsibilities previously attributed to three institutions with important human rights remits that were abolished: the Presidential Commission on Human Rights, the Presidential Secretariat for Peace (SEPAZ), and the Secretary of Agricultural Affairs.

13. The approval of the 2021 national budget by Congress on 17 November precipitated protests across the country (see para. 91). The approved budget was perceived to not respond to the needs of the country, with a low allocation of funds to combat malnutrition, a reduction of 17 per cent of the budget of the Office of the Ombudsperson and almost 50 per cent of the judiciary, and no specific funding for the newly formed Presidential Commission for Peace and Human Rights. However, additional funds were allocated to Congress.

14. In December, the Government and the United Nations system in Guatemala signed the sustainable development cooperation framework for 2020–2024. OHCHR was involved in the elaboration of the framework and will contribute to its implementation.

<sup>5</sup> Guatemala, Ministry of Social Development, *Índice de Pobreza Multidimensional*, December 2018. Available at: [https://mppn.org/wp-content/uploads/2019/10/Guatemala-Report-IPM-gt\\_29jul19-v1.1.pdf](https://mppn.org/wp-content/uploads/2019/10/Guatemala-Report-IPM-gt_29jul19-v1.1.pdf).

<sup>6</sup> <https://conred.gob.gt/atencion-a-mas-de-2-mil-400-incidentes-tras-el-paso-de-fenomenos-iota-eta/>.

<sup>7</sup> Communication GTM 2/2020, dated 21 February 2020 (in Spanish).

<sup>8</sup> Government Agreement No. 100-2020 (in Spanish). Available at <https://sgp.gob.gt/wp-content/uploads/2020/07/AG-100-2020.pdf>.

### III. Impact of the COVID-19 pandemic on human rights

15. The COVID-19 pandemic had far-reaching effects on the enjoyment of all human rights. It underscored structural challenges and aggravated the situation of vulnerability of indigenous peoples and Afrodescendants, women, migrants, young people and persons with disabilities. This section highlights some key aspects of the human rights impact of the pandemic, and the work of OHCHR to support the response to the COVID-19 pandemic.

#### A. Right to health

16. The pandemic overwhelmed the health system, underscoring the need to increase public investment in order to provide adequate and equal access to health services, facilities and goods. The Government made efforts to address shortcomings in accessibility and availability of health services by building five temporary hospitals and hiring additional health-care professionals. In May, it created a presidential commission to provide assistance during the COVID-19 Emergency (COPRECOVID). The commission is responsible for coordinating prevention, control and mitigation measures by the Ministry of Health and other institutions. Through the United Nations, OHCHR supported the mainstreaming of human rights in the health response to COVID-19.

17. Several issues hampered the prompt implementation of emergency funds, including the transition between the former and new authorities, insufficient health-care personnel, institutional weaknesses and cumbersome procurement processes for the acquisition of medicines, supplies and personal protective equipment. Health professionals denounced the lack of protective equipment and delays in the formalization of contracts and payments.

18. The Ministry of Health took steps to strengthen access to culturally appropriate health care in the context of the pandemic. For instance, it issued a guide for the prevention and management of COVID-19 for indigenous peoples at the community level.<sup>9</sup> The Ministry recognized the key role of indigenous midwives as health service providers in rural communities, introducing an exemption to curfew regulations in order to allow them to assist their patients, broadcasting information for them through the radio, and providing basic protective equipment to them and their patients.<sup>10</sup> However, some midwives reported they had not received, or had only partially received, such equipment. Indigenous midwives were at the forefront of the response to COVID-19 in their communities, providing access to sexual and reproductive health for women, and disseminating information about COVID-19 and steps to prevent contagion. OHCHR continued to strengthen the capacities of midwives, and it worked with midwives' organizations, the Office of the Ombudsperson and the Ministry of Health to promote their inclusion and collaboration with the public health system.

#### B. Impact on groups in vulnerable situations

##### 1. Women and girls

19. Women and girls faced increased risks of violence as a result of confinement and restrictions to movement (see para. 38). Indigenous women, women of African descent and women with disabilities were particularly affected, as they faced isolation and compounded barriers to access support. Government institutions, including the Ministry of the Interior, the police and the Office of the Attorney General, launched public campaigns to disseminate information about helplines and assistance, and to encourage reporting.

20. OHCHR highlighted the positive role of women in the response to COVID-19 through an empowerment and awareness-raising campaign.<sup>11</sup> It also supported the efforts of the national weavers' movement with the purchase of 3,000 facemasks handcrafted by

<sup>9</sup> [www.mspas.gob.gt/index.php/component/jdownloads/send/483-documentos-tecnicos/4539-guia-sociocultural?option=com\\_jdownloads](http://www.mspas.gob.gt/index.php/component/jdownloads/send/483-documentos-tecnicos/4539-guia-sociocultural?option=com_jdownloads).

<sup>10</sup> [www.mspas.gob.gt/noticias/noticias-ultimas/5-noticias-mspas/1091-mspas-con-el-apoyo-de-la-onu-entrega-insumos-de-proteccion-personal-a-comadronas.html](http://www.mspas.gob.gt/noticias/noticias-ultimas/5-noticias-mspas/1091-mspas-con-el-apoyo-de-la-onu-entrega-insumos-de-proteccion-personal-a-comadronas.html).

<sup>11</sup> [https://twitter.com/oacnudh\\_gt/status/1250499237583912963?lang=en](https://twitter.com/oacnudh_gt/status/1250499237583912963?lang=en).

indigenous weavers. The masks were distributed to various stakeholders to showcase the contribution of indigenous women in the fight against COVID-19 and to highlight the importance of their rights to equality, cultural identity, economic development and collective intellectual property.

## 2. Indigenous peoples

21. The pandemic threatened the livelihoods of indigenous peoples, who are overrepresented in the informal sector and twice as likely to live under the poverty line, compared with the non-indigenous population.<sup>12</sup> COVID-19 has compounded the historical discrimination and exclusion of indigenous peoples regarding access to basic services, including inequalities in access to rights to health care, food, water and education. Recommended sanitary measures were beyond reach for most indigenous peoples but their own forms of organization played an important role in the prevention of the spread of COVID-19 in indigenous territories. For example, indigenous authorities coordinated actions, including collective community confinement, and the *Aj Q'ij* (spiritual guides) provided psychosocial and spiritual support.

## 3. Migrants and asylum seekers

22. Cases of COVID-19 were reported among Guatemalan migrants and asylum seekers deported from Mexico and the United States of America. Deportees who arrived during the pandemic were subjected to a mandatory quarantine, and the Government set up temporary shelters for this purpose. OHCHR received information regarding inadequate infrastructure, food and sanitation at the quarantine shelters, and long waits to receive test results that prolonged the isolation of deportees.<sup>13</sup> Deportees faced stigmatization as the returns were associated with the transmission of the virus in the country. With support from OHCHR, the National Council for the Assistance of Migrants launched a radio campaign to combat stigma and raise awareness of the rights of migrants.

## 4. Persons with disabilities

23. Human rights mechanisms expressed concerns over the living conditions and lack of access to adequate health care for persons with disabilities in the National Mental Health Hospital “Federico Mora”.<sup>14</sup> The State disseminated informative messages on COVID-19 in accessible formats, particularly with sign language interpretation. OHCHR provided technical assistance to the State for the dissemination of inclusive messages through an information campaign for persons with disabilities.<sup>15</sup> It also assisted the National Council for the Assistance of Persons with Disabilities in the elaboration of a guide for the protection of persons with disabilities during the crisis.<sup>16</sup> It supported the Ministry of Education for the development of a protocol for the inclusion of students with disabilities in remote education, and provided sign language interpretation for the televised education programme “Learning from Home”.<sup>17</sup>

## 5. Young people

24. Children and young people faced additional barriers in accessing education as a result of the pandemic. The Ministry of Education implemented online and televised education programmes, but these were not universally accessible, as 30 per cent of homes in the country do not have a television and 83 per cent do not have access to the Internet.<sup>18</sup> OHCHR provided technical assistance to the inter-institutional round table on education for peace,

<sup>12</sup> Guatemala, Ministry of Social Development, *Índice de Pobreza Multidimensional*, December 2018.

<sup>13</sup> OHCHR, Human Rights Case Database, press statement of the Office of the Ombudsperson, dated 24 May 2020 (in Spanish): <https://twitter.com/PDHgt/status/126465559351046144/photo/1>.

<sup>14</sup> Communication GTM 7/2020, dated 1 July 2020 (in Spanish).

<sup>15</sup> [www.youtube.com/watch?v=INsJAno4IcQ&list=PL6C0JjQhnzmysz4rK9TuqfWhHpn4ZeMJS&index](http://www.youtube.com/watch?v=INsJAno4IcQ&list=PL6C0JjQhnzmysz4rK9TuqfWhHpn4ZeMJS&index).

<sup>16</sup> <http://conadi.gob.gt/web/documentos-sobre-discapacidad-ante-el-covid19-guatemala>.

<sup>17</sup> <http://aprendoencasa.mineduc.gob.gt>.

<sup>18</sup> Census 2018: [www.censopoblacion.gt/](http://www.censopoblacion.gt/).

memory and human rights for the preparation of guides on human rights education in the context of COVID-19. It also organized virtual forums with high school students, teachers and parents to share best practices on distance learning.

#### **6. Persons deprived of their liberty**

25. Persons deprived of their liberty were at a heightened risk of contagion owing to chronic overcrowding in detention facilities. On 16 March, the prison system suspended personal visits and adopted a protocol for the prevention of the spread of COVID-19, in line with international recommendations. However, structural deficiencies and a lack of resources hindered a comprehensive institutional response, and shortages of medicine, cleaning products and protection equipment were reported. Some prisons restricted access to outdoor areas, and inmates were not given alternative means of communication with the outside world. As at 2 October, the prison system had recorded 328 confirmed cases of COVID-19 and 26 coronavirus-related deaths.<sup>19</sup> No periodic testing for COVID-19 in detention facilities has been reported.

### **C. Access to information and participation**

26. The Government made efforts to provide information in accessible formats and indigenous languages. OHCHR assisted the Ministry of Health in the production and broadcasting of a radio campaign on COVID-19 preventive measures and on combating discrimination against people affected by the disease. The campaign was broadcast in 13 regions and 22 indigenous languages, with the support of the Academy of Mayan Languages.

27. Journalists reported difficulties in accessing public information on the State's response to COVID-19. Indigenous authorities, women, persons with disabilities and other stakeholders had limited access to relevant decision-making forums. To address this situation, OHCHR and the Pan-American Health Organization facilitated a series of dialogues between the Ministry of Health and indigenous authorities across the country. OHCHR also supported the National Council for the Assistance of Persons with Disabilities in the development of a protocol for consultation with persons with disabilities (see para. 46).

### **D. Rights to freedom of movement and assembly**

28. The Government implemented a range of contingency measures to prevent the spread of COVID-19, within the framework of the state of calamity declared on 6 March.<sup>20</sup> The duration and intensity of the measures varied, but restrictions included a daily curfew,<sup>21</sup> travel bans, prohibition or limitation of public and private gatherings, restrictions to collective transportation, and closure of outpatient clinics in hospitals. To isolate cases, the Ministry of Health established cordons sanitaires, restricting movement in eight municipalities with high incidences of the virus.<sup>22</sup>

29. Indigenous peoples and rural communities, often distant from urban centres, were particularly affected by the restrictions. Coupled with poor road infrastructure, the restrictions posed significant challenges to their continued livelihoods and to accessing vital services such as health care and food markets. Over 42,000 people were arrested for

<sup>19</sup> Ministry of the Interior, document reference MGCA/lq. As at 2 October 2020, the prison system was overcrowded by 270 per cent, with some prisons operating at up to 10 times their capacity.

<sup>20</sup> Government Decree 5-2020; and 23 presidential directives issued between 16 March and 14 September.

<sup>21</sup> In place between 22 March and 30 September.

<sup>22</sup> San Pedro Sacatepéquez (15 March–17 April); Patzún (5 April–6 May); Ixcanal, San Agustín Acasaguastlán (18 April–19 June); Mayuelas, Gualán (3 May–5 June); villages of Tzanjuyup 1 and Tzanjuyup 2 in Chipuac (7 May–5 June), village of Lo De Mejía in San Juan Sacatepéquez (10 May–3 June), Malacatán (19 May–21 June); and Sipacapa (8–15 July).

infringements of restrictions related to COVID-19, of which 38,903 were men, 2,756 were women and 550 were children.<sup>23</sup>

## E. Right to work

30. COVID-19 had a considerable impact on employment. According to official estimates, 107,000 formal jobs had been lost as of August.<sup>24</sup> The measures to prevent the spread of COVID-19 had also affected the livelihoods of workers in the informal sector, who represent 70 per cent of the workforce.<sup>25</sup> Between March and August, the Ministry of Labour received an average of 3,500 monthly complaints, three times as many as in the period prior to the COVID-19 pandemic.<sup>26</sup> Most complaints concerned unjustified dismissal and violations of occupational health and safety standards. OHCHR developed a practical questionnaire for the Labour Inspectorate for the verification of hygiene and safety standards in the context of COVID-19, built on international human rights norms and national regulations.

## F. Social protection

31. The pandemic aggravated the situation of over 10.5 million people who already lived in poverty before the crisis.<sup>27</sup> The Government increased funding for social programmes and launched schemes targeting populations in vulnerable situations, including cash transfers, direct delivery of foodstuffs and medicines, and initiatives to guarantee the continuity of basic services like water or electricity. However, limitations were observed in identifying and reaching the beneficiaries, partly owing to the absence of a consolidated registry of people in vulnerable situations.

32. A major initiative was the “Family Bonus” – a cash transfer programme consisting of two instalments of 1,000 Guatemalan quetzales (\$130) and a third instalment of 250 quetzales (\$32) – that reached approximately 2.6 million households.<sup>28</sup> Eligibility requirements initially excluded some of the poorest sectors of the population, and adjustments were made to expand coverage. Between 8 April and 1 October, the Job Protection Fund supported over 180,000 workers from the private sector who had been suspended as a result of the pandemic. Access was limited to workers enrolled in a social security scheme, and for which employers were up to date with payments. However, only 18 per cent of the economically active population was registered with the social security system,<sup>29</sup> and a fraction of them met the criteria. The Popular Economy Support programme provided a one-time subsidy in the amount of 1,000 quetzales to informal sellers registered in municipalities, but vendors without resources to pay municipal taxes did not have access. The Office of the Ombudsperson identified inconsistencies in the reported numbers of beneficiaries.<sup>30</sup>

## G. Access to justice

33. OHCHR monitored the impact of COVID-19 on access to justice and to a fair trial. Despite efforts by the judiciary to conduct online hearings, over 64,000 hearings were suspended between March and September in the criminal branch alone,<sup>31</sup> aggravating pre-

<sup>23</sup> <https://mingob.gob.gt/mas-de-41-mil-personas-detenido-a-nivel-nacional-por-incumplimiento-de-restricciones-en-estado-de-calamidad/>.

<sup>24</sup> Public statement of the Minister of Labour on 8 September 2020.

<sup>25</sup> [www.ine.gob.gt/estadisticasine/index.php/usuario/enei\\_menu](http://www.ine.gob.gt/estadisticasine/index.php/usuario/enei_menu).

<sup>26</sup> Ibid.

<sup>27</sup> Guatemala, Ministry of Social Development, *Índice de Pobreza Multidimensional*, December 2018.

<sup>28</sup> <https://twitter.com/midesgt/status/1321912684644847618>.

<sup>29</sup> Guatemalan Social Security Institution, *Boletín estadístico de afiliaciones*, 2019, p. 6.

<sup>30</sup> [www.pdh.org.gt/index.php/comunicacion/noticias/pdh-verifica-ejecucion-del-programa-de-apoyo-al-comercio-informal.html](http://www.pdh.org.gt/index.php/comunicacion/noticias/pdh-verifica-ejecucion-del-programa-de-apoyo-al-comercio-informal.html).

<sup>31</sup> According to judicial information provided by the Development and Statistics Centre, 2 October 2020.

existing delays in access to justice. Moreover, online hearings may not have been accessible to large segments of the population, especially in rural and indigenous communities with limited access to electricity and to the Internet.

## IV. Equality and non-discrimination

### A. Indigenous peoples and Afrodescendants

34. Indigenous peoples continued to face racism and discrimination on the basis of their race, culture, spirituality and ancestral practices. Indigenous women and women of African descent endured multidimensional forms of discrimination, including racially motivated and gender-based violence (see para. 78).

35. Human rights mechanisms expressed their concern about the killing, on 6 June, of Domingo Choc Che,<sup>32</sup> a recognized Q'eqchi' spiritual guide and researcher on traditional Mayan medicine who was burned alive by a group of people who accused him of "being a sorcerer". OHCHR urged society to reject any kind of behaviour that attacks the spirituality of indigenous peoples.<sup>33</sup>

36. The Constitutional Court played an important role in the protection of indigenous peoples' rights to self-determination and to pursue their economic, social and cultural development. It consolidated its jurisprudence in the cases of the Fénix nickel mine, owned by Compañía Guatemalteca de Niquel, and the Progreso VII "La Puya" gold and silver mine, recognizing the rights of the Q'eqchi' and Kaqchikel peoples to be consulted on large-scale projects, and ordering the suspension of these projects until the affected indigenous peoples were adequately consulted and environmental impact studies were conducted.

37. With support from OHCHR, some progress was achieved in the implementation of two judgments issued in previous years in connection with the rights of indigenous peoples. Thus, the Xinka authorities of the village of Quezada and the Cofradía peoples of San José Poaquil advanced in the development of tools to build community-based cadastres. The Cofradía presented a compilation of ancestral practices for the management and conservation of indigenous communal lands to the municipal authorities of San José Poaquil, representatives of the National Forestry Institute (INAB) and the Sotzil Association, with a view to establishing inter-institutional coordination mechanisms.

### B. Women and girls

38. Violence against women and girls remained among the most prevalent human rights violations. The Office of the Attorney General received 39,809 complaints of violence against women between 1 January and 30 September.<sup>34</sup> Over 20,000 complaints for crimes under the law against femicide and other forms of violence against women were filed with the peace courts. The specialized courts for femicide obtained 996 convictions in the same period.<sup>35</sup> The Ministry of Health recorded 2,794 cases of sexual violence against women and girls.<sup>36</sup>

39. The allocation of resources for the prevention of all forms of violence against women and the protection of victims continued to be inadequate considering the magnitude of the issue. No allocation of funding has been made since 2019 for the network of centres for women victims of violence (CAIMUS) in the General Budget Law, imperilling the sustainability of their work.

40. The pandemic further delayed judicial proceedings of the case of the *Hogar Virgen de la Asunción* (safe house of the Virgin of the Assumption), a shelter in which 41 girls living

<sup>32</sup> Communication GTM 6/2020, dated 17 June 2020 (in Spanish).

<sup>33</sup> [https://twitter.com/oacnudh\\_gt/status/1270140945242128385](https://twitter.com/oacnudh_gt/status/1270140945242128385).

<sup>34</sup> Information provided by the Attorney General's Office on 2 December.

<sup>35</sup> Information provided by the judiciary on 2 October.

<sup>36</sup> Ministry of Health, reference VT-NLRS-1269-5-2020.

under the protection of the State died in a fire in March 2017.<sup>37</sup> The 15 survivors faced significant delays and barriers to access the pension granted to them by Congress in 2018. OHCHR continued to coordinate actions with the Social Welfare secretariat to support them and improve the protection protocols at child protection facilities.

41. On 14 July, the Government announced the replacement of the Presidential Secretariat for Women (SEPREM) with a lower-ranking institution. The Committee on the Elimination of Discrimination against Women noted that its recommendation to strengthen this institution and elevate it to ministerial status had been rejected.<sup>38</sup>

### C. Migrants and asylum seekers

42. The transition from the General Directorate for Migration to the Guatemalan Migration Institute was completed, and the National Council for Assistance and Protection of Migrants was created. This action had been pending for four years.<sup>39</sup>

43. Remittances reached a record high, surpassing the monthly \$1 billion barrier,<sup>40</sup> highlighting the contribution of migrants in times of crisis. All the while, 37,600 nationals of Guatemala were forcibly returned from Mexico and the United States of America between January and October.<sup>41</sup> Upon their return, they often found themselves in vulnerable situations in the absence of adequate reintegration mechanisms and due to the high costs incurred in their migratory journey.

44. Between 21 November 2019 and 16 March 2020, a total of 939 asylum seekers from El Salvador and Honduras, mostly women and children,<sup>42</sup> were transferred from the United States to Guatemala under a cooperation agreement signed by the two countries in July 2019.<sup>43</sup> Only 20 of those individuals requested asylum in Guatemala, reportedly owing to fear of persecution in Guatemala, the local insecurity situation and lack of opportunities.<sup>44</sup> On 17 March, the Government of Guatemala temporarily suspended the agreement owing to the pandemic.

45. Collective movements of migrants and asylum seekers in “migrant caravans” continued. OHCHR undertook field missions and monitoring activities to identify protection needs, and it advised government authorities, other United Nations agencies and civil society on the protection of their rights. On 1 October, an estimated 4,000 people, including approximately 800 children, entered Guatemala from Honduras without undergoing health checks or migratory control measures. The Government consequently declared a “state of prevention” in six border regions and deployed the police and armed forces. Over 3,700 people were returned to Honduras between 1 and 4 October.<sup>45</sup> Returns carried out under pressure cannot be considered voluntary, and express and collective returns of migrants and asylum seekers without evaluating the individual risks, exposes them to potential human rights violations.

### D. Persons with disabilities

46. Guatemala made strides towards ensuring the rights of persons with disabilities. In January, Congress approved a law for the recognition of the Law that recognizes and approves the sign language of Guatemala. With technical assistance from OHCHR, the National Council for the Assistance of Persons with Disabilities developed a model for the consultation and inclusion of persons with disabilities in decision-making about matters

<sup>37</sup> [www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/InformeHSVA.pdf](http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/InformeHSVA.pdf).

<sup>38</sup> CEDAW/C/GTM/CO/8-9.

<sup>39</sup> A/HRC/43/3/Add.1, para. 77.

<sup>40</sup> According to Bank of Guatemala family remittances for 2010–2020.

<sup>41</sup> <https://igm.gob.gt/informe-estadistico-2017/>.

<sup>42</sup> Guatemalan Migration Institute, data of 16 March 2020.

<sup>43</sup> A/HRC/43/3/Add.1, para. 81.

<sup>44</sup> Refugee International and Human Rights Watch, “Deportation without a layover”, 19 May 2020.

<sup>45</sup> According to data from the Guatemalan Migration Institute, 5 October 2020.

affecting their lives and development, and that of their communities, in line with international human rights standards.

47. Despite the progress made, legal and policy measures that do not fully recognize people with disabilities as rights-holders persist. The Congressional Committee on Disability Issues advanced in the discussion of the law on the care of persons with different abilities (Bill No. 5125), which is aimed at addressing intersectional discrimination, and creating social programmes and a registry of persons with disabilities, in line with the latest recommendations by the Committee on the Rights of Persons with Disabilities.<sup>46</sup> However, the necessary consensus for the approval of the bill has not been reached.

## **E. Sexual diversity and gender identity**

48. Discrimination, harassment and stigmatization of lesbian, gay, bisexual and transgender persons persisted. Members of the lesbian, gay, bisexual and transgender community continued to be the targets of violence. As at 12 November, nine gay men (including a witness in the murder of a transgender woman), four transgender women and one transgender man had been murdered. Five of the murders took place in the Izabal region.<sup>47</sup>

49. In the framework of the United Nations Free and Equal campaign, OHCHR advocated for the free expression of sexual orientation and gender identity, and warned about the harmful effects of “conversion therapies” that attempt to change the gender identity and sexual orientation of lesbian, gay, bisexual and transgender persons.<sup>48</sup>

## **F. Young people**

50. OHCHR organized 2 workshops on the rights of young people, and participated in 15 workshops organized by civil society and public institutions, providing young leaders and civil servants with information about international standards on the rights of young people. OHCHR also led the “Connected Youths” initiative in coordination with 12 youth organizations, which gathered over 400 people in four virtual meetings to discuss proposals made by young persons concerning digital security, education, economic rights and fighting discrimination.

## **V. Inclusive and sustainable human development**

### **A. Rights to food and water**

51. The Government launched the “Great Crusade against Malnutrition”, a national strategy focusing on malnutrition as a humanitarian emergency. The National Council for Food Security adopted a working plan for compliance with the judgment in the *Camotán* case, based on a report developed by the Office of the Ombudsperson with technical assistance from OHCHR.<sup>49</sup>

52. Despite these efforts, as at 14 November, the Ministry of Health had recorded 25,292 cases of acute malnutrition in children under the age of 5.<sup>50</sup> Malnutrition and food insecurity remained high, driven by poverty rates, lack of decent work opportunities, unequal access to land, and diminishing returns of small-scale farming due to climate change.<sup>51</sup> The economic

<sup>46</sup> CRPD/C/GTM/CO/1, para. 12.

<sup>47</sup> Data on violent deaths due to sexual orientation and gender identity provided by the national network of sexual diversity and HIV of Guatemala (REDNADS).

<sup>48</sup> [www.facebook.com/LibreseIgualesGT/](http://www.facebook.com/LibreseIgualesGT/).

<sup>49</sup> Office of the Ombudsperson and others, “Informe sobre el cumplimiento de las sentencias de Camotán”, 2019.

<sup>50</sup> [www.siinsan.gob.gt/siinsan/desnutricion-aguda/](http://www.siinsan.gob.gt/siinsan/desnutricion-aguda/).

<sup>51</sup> A/HRC/43/3/Add.1, paras. 60–63.

fallout of the pandemic worsened the situation, and white flags, signalling people in need of food, became a common sight across the country. To address the situation, the Government launched several initiatives (see paras. 31–32).

53. The COVID-19 pandemic highlighted the importance of access to water and sanitation as determining factors in preventing the spread of diseases. However, one in four households does not have access to running water, and this figure rises to one in three in regions where the majority of the population is indigenous.<sup>52</sup> The provision of drinking water and basic sanitation is the responsibility of the municipalities. OHCHR held two capacity-building forums with technicians from 125 municipalities, with the participation of the Special Rapporteur on the human rights to safe drinking water and sanitation.

54. OHCHR followed eight cases of contamination of water sources that have damaged the environment and negatively affected the human right to water. In the case of the protected area of Manchón Guamuchal, the National Council for Protected Areas (CONAP) denounced the severe contamination of Ocosito River. This contamination was likely caused by the dumping of waste from the agricultural industry. Institutions charged with the investigation of environmental pollution had limited capacity to carry out the required scientific tests, analyse environmental impact studies and follow up on sanctions.

## **B. Access to lands, territories and natural resources**

55. The distribution of land remained highly unequal.<sup>53</sup> Border disputes and the lack of security of tenure, including over indigenous peoples' lands and territories, were a source of conflicts. OHCHR documented two violent and unlawful evictions by private actors: the expulsions of the Maya Poqomchi' "Washington" community in Baja Verapaz in April, and of the Q'eqchi' community of Cubilgüitz in Alta Verapaz in August. On 21 October, the Inter-American Commission on Human Rights granted precautionary measures to 76 families of the Washington and Dos Fuentes communities.<sup>54</sup>

56. As the regulatory framework does not guarantee the human rights of all parties to agrarian conflicts, the Constitutional Court and regional human rights mechanisms continued to be called upon to resolve such matters. The Constitutional Court issued four decisions recognizing the claims of indigenous peoples to their territorial rights. The decisions pertained to the cases of the Maya Ch'orti people of the Community of Morola and 6 communities of Jocotán; and the cases of 12 Maya Ixil communities of the Tzalbal and Ak'ul villages in Santa María Nebaj, who were stripped of their lands during the internal armed conflict.<sup>55</sup>

57. To guarantee the rights of the Xinka community of Quezada, Jutiapa, to a healthy environment and to water, the Constitutional Court suspended the implementation of a project for electricity generation from biomass. It also ordered the company to implement a reforestation plan to plant native trees in the region, under the supervision of the National Forest Institute and the National Council for Protected Areas, with the participation of the community.

## **C. Right to work**

58. Challenges persisted in terms of labour conditions and decent work. Minimum legal wages are not sufficient to cover the monthly cost of the basic food basket,<sup>56</sup> and most

<sup>52</sup> [www.censopoblacion.gt](http://www.censopoblacion.gt).

<sup>53</sup> A/HRC/43/3/Add.1, paras. 53–54.

<sup>54</sup> [www.oas.org/es/cidh/prensa/comunicados/2020/255.asp](http://www.oas.org/es/cidh/prensa/comunicados/2020/255.asp).

<sup>55</sup> Constitutional Court, Files No. 3353-2018 of 11 June 2020; No. 4420-2017 of 23 July 2020; No. 4408-2017 of 16 June 2020; and No. 3883-2017 of 13 July 2020.

<sup>56</sup> [www.ine.gob.gt/ine/canasta-basica-alimentaria](http://www.ine.gob.gt/ine/canasta-basica-alimentaria).

workers are paid below the minimum wage.<sup>57</sup> In the agricultural sector, estimated to employ 30 per cent of workers, wages are even lower.<sup>58</sup> Only 5 per cent of agricultural workers and 0.1 per cent of domestic workers had access to social security benefits.<sup>59</sup>

59. The President created a commission against child labour, in response to allegations about practices in coffee farms supplying international brands. A bill on the prevention and eradication of child labour advanced in Congress<sup>60</sup> to prohibit work that could harm the health or development of children, and raise the minimum working age from 14 to 16. However, the bill does not envisage strengthened penalties for violations by employers, or enhance protections against discrimination and compensation for victims.

60. OHCHR monitored the situation of *mozos colonos*, rural workers who, like their ancestors, live in conditions amounting to servitude. There are an estimated 37,000 families of mostly indigenous *mozos colonos* in Guatemala.<sup>61</sup> OHCHR documented cases of communities of *mozos colonos* who were evicted from lands that had been their homes, often for generations (see para. 55). The Office also strengthened the capacity of the Labour Inspectorate to recognize and address cases of contemporary forms of slavery and human trafficking in agricultural activities.

61. The capacity of the Labour Inspectorate to enforce labour rights remained limited, with only 171 labour inspectors nationwide and 40 in the Guatemala City area.<sup>62</sup> OHCHR continued to support the work of the Inspectorate through a capacity-building programme on human rights and labour inspection, building on verification protocols developed in previous years with support from OHCHR.

## D. Business and human rights

62. Three important business sector associations developed human rights policies: the Guatemalan Exporters' Association (AGEXPORT), the Association of Renewable Energy Generators (AGER), and the Guatemalan Palm Growers' Union (GEPALMA). OHCHR provided technical assistance for the harmonization of the policies of the Guatemalan Exporters' Association and the Association of Renewable Energy Generators with international standards related to business and human rights.

63. Between January and July, OHCHR provided technical assistance to the Presidential Commission on Human Rights, which played an important role for the development of a national action plan on business and human rights. In September, the Vice Minister for Foreign Affairs participated in the fifth Regional Forum on Business and Human Rights in Latin America and the Caribbean, organized by OHCHR, and reinstated the Government's commitment to developing the action plan.

## VI. Justice and accountability

### A. Access to justice and independence of the judiciary

64. Access to justice was largely conditioned by the suspension of the activities of the judiciary owing to the COVID-19 pandemic (see para. 33). Judicial institutions undertook efforts to promote access to justice. For instance, the Supreme Court's secretariat for Indigenous Peoples developed an online training course on the rights of indigenous peoples

<sup>57</sup> National Statistics Institute, *Encuesta Nacional de Empleo e Ingresos*, 2-2019, p. 30. Available at [www.ine.gob.gt/sistema/uploads/2020/08/13/2020081354355Y1KZ2HK3GnWnOvCP6lkZunmf8PiHYFSH.pdf](http://www.ine.gob.gt/sistema/uploads/2020/08/13/2020081354355Y1KZ2HK3GnWnOvCP6lkZunmf8PiHYFSH.pdf).

<sup>58</sup> *Ibid.* p. 45.

<sup>59</sup> Data are extrapolated from the following sources: Guatemalan Social Security Institution, *Boletín estadístico de afiliaciones*, 2019, p. 10; National Statistics Institute, *Encuesta Nacional de Empleo e Ingresos*, 2-2019, p. 36; and CEDAW/C/GTM/FCO/8-9.

<sup>60</sup> Bill No. 4849.

<sup>61</sup> Bulletin No. 641, Secretary of Social Communication of the Presidency, 11 February 2014.

<sup>62</sup> Information provided by the Labour Inspectorate on 25 November.

for justice sector professionals, with technical assistance from OHCHR. However, indigenous peoples and women continued to face barriers. For instance, the judiciary only employed a total of 106 court interpreters, resulting in the limited availability of interpretation services in certain regions and languages.<sup>63</sup>

65. Patterns of attacks against judges, prosecutors and lawyers persisted.<sup>64</sup> OHCHR recorded acts of intimidation and reprisals against four judges with jurisdiction in high-risk cases, six magistrates of the Constitutional Court, three magistrates of the Supreme Court and three members of the Special Prosecutor's Office against Impunity (FECI). It also documented death threats against two agents of the Prosecutor's Office for crimes against journalists.

66. In April, three prosecutors of the Special Prosecutor's Office against Impunity received precautionary protection measures from the Inter-American Court of Human Rights.<sup>65</sup> Despite threats and attacks against its staff, the Special Prosecutor's Office continued to make progress in the fight against impunity.

67. OHCHR continued to document challenges in the appointment of magistrates to the Supreme Court of Justice and the Appeals Court for the period 2019–2024.<sup>66</sup> The Special Rapporteur on the independence of judges and lawyers expressed concern about a lack of transparency, independence and objectivity in the process.<sup>67</sup> The Special Prosecutor's Office against Impunity and the Constitutional Court played an important role in ensuring the transparency and probity of the nomination and appointment process. Following an investigation into alleged influence peddling, the Attorney General's Office filed an injunction before the Constitutional Court denouncing flaws in the process. The Court granted this motion on 6 May, ordering Congress to dismiss unsuitable candidates and select magistrates by 23 June. Yet, as at 30 November, Congress had postponed the voting procedure on 31 occasions.

68. Attacks against judges and prosecutors increased following the Constitutional Court's judgment. At least eight criminal complaints were filed between June and August against four magistrates of the Constitutional Court in relation to this decision, and the Supreme Court and Congress initiated procedures to lift their immunities. The Constitutional Court granted injunctions invalidating these procedures, which the Board of Directors of Congress and the Supreme Court have refused to recognize.<sup>68</sup> The Special Rapporteur on the independence of judges and lawyers called on State authorities, including the Supreme Court, to cease harassment and threats against Judge Erika Aifán<sup>69</sup> and the magistrates of the Constitutional Court.<sup>70</sup>

## B. Transitional justice

69. Hearings in cases related to human rights violations committed during the internal armed conflict (1960–1996) suffered significant delays due to the COVID-19 pandemic, notably for: the cases of genocide against the Mayan Ixil people, committed in the periods 1978–1982 and 1982–1984; cases of sexual violence and other serious human rights violations against Mayan Achí women; the Dos Erres massacre; and the judgment of former paramilitary group member Juan Alecio Samayoa.

70. OHCHR continued to strengthen the capacities of judges and prosecutors to prosecute human rights violations committed during the internal armed conflict. In coordination with the School of Judicial Studies and the Training Unit of the Attorney General's Office,

<sup>63</sup> According to judicial information, Development and Statistics Centre, 2 October 2020.

<sup>64</sup> A/HRC/43/3/Add.1, paras. 33–36; and A/HRC/40/3/Add.1, paras. 17–18.

<sup>65</sup> [www.corteidh.or.cr/docs/medidas/ruizfuentes\\_se\\_01.pdf](http://www.corteidh.or.cr/docs/medidas/ruizfuentes_se_01.pdf).

<sup>66</sup> A/HRC/43/3/Add.1, para. 29; and A/HRC/28/3/Add.1, paras. 7 and 18.

<sup>67</sup> Communication GTM 1/2020, dated 13 February 2020 (in Spanish).

<sup>68</sup> <https://twitter.com/CongresoGuate/status/1277372695584346112?s=20>.

<sup>69</sup> A/HRC/43/3/Add.1, para. 36.

<sup>70</sup> OHCHR, "Guatemala: attacks against Constitutional Court and delays in appointment of judges to high courts must stop", 19 November 2020.

OHCHR delivered a course on transitional justice for 23 judges and 35 prosecutors. OHCHR also facilitated technical exchanges between judicial officials, victims' organizations and international experts.

71. OHCHR continued to document setbacks in accessing victims' rights to reparation, including with regards to the functioning of the National Reparations Programme.<sup>71</sup> In March, its regional offices were closed, and the implementation of ongoing reparation processes were halted. On 31 July, the Government announced that the programme would become a social welfare programme within the Ministry for Development. Victims' organizations and the Office of the Ombudsperson filed an injunction before the Constitutional Court concerning this decision.

72. On 26 January, the Supreme Court of Justice granted an injunction filed by the Ombudsperson and civil society organizations, and ordered the Ministry of Culture to protect the Historical Archive of the National Police. On 7 October, the Ministry declared the archive to have national cultural heritage status.

### C. Security

73. Congress considered two bills seeking to amend the Criminal Code. If adopted, Bill No. 5692 would expand the definition of terrorism to include the actions of criminal groups that are dedicated to altering the public-social order of the State, thereby threatening the life and integrity of citizens, commerce, heritage, peace and social coexistence. This broad and vague formulation could increase the risk of criminalization of human rights organizations and defenders. Bill No. 5693 seeks to modify the concept of "legitimate defence" to allow for the use of firearms by private citizens and law enforcement in instances of trespassing, or if a person's "attitude" represents a threat to life, property or other rights. The broadening of the circumstances under which the use of firearms is considered a legitimate defence could encourage vigilante activity and generate impunity for extrajudicial killings.

74. In 2020, the Government declared 11 states of exception establishing limitations on the rights to freedoms of movement, peaceful assembly and due process rights. The length, scope and geographic span of the restrictions to fundamental rights varied. Less restrictive "states of prevention" were used on seven occasions, affecting 80 municipalities. Two states of calamity were declared: one state of calamity was declared nationwide owing to the COVID-19 health emergency, and a second state of emergency was declared in 10 regions in response to the tropical storm Eta. The more severe state of siege was declared twice in predominantly indigenous areas to respond to conflict situations. In each of these instances, the armed forces were deployed to perform citizen security tasks, including in indigenous territories, where human rights violations were perpetrated during the internal armed conflict. In some cases, the population was unaware of the exact scope of the measures adopted, which generated uncertainty and fear.<sup>72</sup>

75. There were various security operations led by the police and the armed forces during the states of exception. OHCHR notes that according to international human rights law, states of emergency should only be used with clear justification of their necessity and proportionality.<sup>73</sup> Efforts by the Vice-President to establish a space for dialogue on the historical land conflict between Nahualá and Santa Catarina Ixtahuacán, are encouraging steps towards negotiated solutions to conflicts.

## VII. Democratic space

76. The erosion of civic space continued, with increasing attacks and intimidation against human rights defenders and journalists, and reduced space for dialogue between the State and

<sup>71</sup> A/HRC/43/3/Add.1, para. 45; and A/HRC/40/3/Add.1, para. 23.

<sup>72</sup> Monitoring carried out by the OHCHR country office in Guatemala during 11 states of exception, including through remote monitoring and two field visits.

<sup>73</sup> Human Rights Committee, general comment No. 29 (2001) on derogations from provisions of the Covenant during a state of emergency.

indigenous peoples and civil society at large. Restrictions of freedom of movement and gatherings in the context of the pandemic posed challenges to traditional forms of organization and collective action, and moved advocacy and activism to online platforms. People living in rural areas, indigenous peoples and women faced technological and connectivity barriers that hindered their participation.

77. OHCHR observed an increase in discourse stigmatizing human rights defenders, with a view to discrediting or silencing them. Women and lesbian, gay, bisexual and transgender defenders were harassed on the basis of their gender, gender identity and sexual orientation, and indigenous defenders were the targets of racist hate speech. Campesino movements and organizations denouncing corruption were branded as “criminals” or “terrorists”.

78. OHCHR also identified a growing trend of digital smear campaigns against human rights defenders and journalists on social networks, including through “net centres” (trolls and bots) and fake accounts. For instance, after denouncing racism and sexism on their platforms, indigenous artist Sara Curruchich and anthropologist and writer Sandra Xinico were the targets of defamation, racist and sexist hate speech, and threats.

79. OHCHR continued to strengthen the participation and enhance the capacities of civil society to promote human rights. A total of 1,778 members (1,093 women and 685 men) from 101 civil society organizations and academic institutions participated in training activities conducted by the Office.

## A. Human rights defenders

### 1. Protection of human rights defenders

80. The frequency and severity of attacks against human rights defenders continued to be alarming, and they included physical attacks, gender-based and sexual violence, threats, intimidation, surveillance and stigmatization. Indigenous peoples, women and lesbian, gay, bisexual and transgender defenders, journalists, judges, and defenders of victims of the internal armed conflict faced particular risks.<sup>74</sup>

81. The non-governmental organization Udefegua registered 844 attacks against human rights defenders – including 310 men, 297 women and 70 organizations – between 1 January and 30 September, a sharp increase of 71 per cent compared with the attacks registered over the same period in 2019.<sup>75</sup> As of December, 14 human rights defenders had been killed, including 5 members of campesino and indigenous organizations: 3 members of the Comité de Desarrollo Campesino (Campesino Development Committee) and 2 members of Nuevo Día (New Day).

82. The Office of the Attorney General recorded the following figures concerning crimes against human rights defenders between 1 January and 30 September.<sup>76</sup>

<i>Type of defender</i>	<i>Complaints received</i>	<i>Arrest warrants issued</i>	<i>Convictions obtained</i>
Activists	65	2	1
Journalists	139	2	1

83. The task force for the analysis of attacks against human rights defenders – the only inter-institutional mechanism for the coordination of protection measures – has remained inoperative since 2018.<sup>77</sup> The loss of this key space for coordination and information exchange heightens the vulnerability of human rights defenders to attacks.

<sup>74</sup> [www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe\\_personas\\_defensoras.pdf](http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe_personas_defensoras.pdf).

<sup>75</sup> <https://udefegua.org/comunicados/aumento-hist%C3%B3rico-en-agresiones-contra-personas-defensoras-en-guatemala-registra>.

<sup>76</sup> Information provided by the Office of the Attorney General on 2 December.

<sup>77</sup> A/HRC/40/3/Add.1, para. 39.

84. The efforts of the new specialized unit on human rights defenders and journalists of the Office of the Ombudsperson, which has been playing an active role since its creation in December 2019, are noted with appreciation.

85. In early 2020, OHCHR provided technical assistance for the development of the public policy for the protection of human rights defenders. However, the process has been delayed owing to changes in human rights institutions (see para. 12).

## 2. Criminalization

86. The misuse of criminal law against human rights defenders and journalists persisted, in the form of penalizing them or impeding their work. OHCHR documented delays and irregularities in criminal procedures against human rights defenders, such as in the case against María Cuc Choc,<sup>78</sup> a Q'eqchi' defender of the environment and of indigenous rights to land and territories, which has been delayed for over two years.

87. Indigenous and campesino organizations and communities were subjected to high levels of criminalization in the context of their claims for ancestral land ownership and the defence of the environment. As of October, at least 881 arrest warrants had been issued against members of the Comité Campesino del Altiplano (Campesino Committee of the Highlands). On 7 September, after several suspensions of the hearings, Bernardo Caal's request for an appeal was denied. As of December 2020, he had served almost three years of a sentence of 88 months for illegal detention and aggravated robbery.<sup>79</sup>

## B. Freedom of expression

88. Indigenous journalists, organizations and community radios undertook critical work to disseminate information to indigenous communities. OHCHR trained community reporters on human rights and communication tools.

89. Harassment and online abuse against women journalists proliferated. In February, over 15 women journalists reported having been harassed by the same person through phone calls.<sup>80</sup> In September, OHCHR documented attacks against five female journalists, perpetrated through social networks from fake or anonymous accounts. On a few occasions, victims received threats on their personal telephone numbers. The attacks often consisted of defamatory comments and abusive language with sexual or misogynistic connotations. In the most serious cases, victims were threatened with death, violence and rape.

90. Journalists also faced reprisals for their investigative work. OHCHR documented harassment and threats with prosecution against Sonny Figueroa and Marvin Del Cid, following the publication of investigations into alleged acts of corruption by Government officials. On 11 September, Sonny Figueroa was detained for 24 hours, and released without charges. As a positive step, the Office of the Attorney General promptly initiated an investigation into the planting of false evidence and excessive use of force by the police officers involved. On 22 September, Anastasia Mejía, a Mayan K'iche' communicator from Joyabaj, Quiché, was arrested after she live-broadcast a demonstration against the local mayor.

## C. Freedom of assembly and association

91. The approval of the 2021 national budget triggered a wave of protests across the country, as the budget was perceived to be inadequate to respond to various issues. OHCHR observed the protests in Guatemala City, which were largely peaceful. However, on 21 November, part of the building of the Congress was set on fire during a protest. In the aftermath of this incident, the police detained dozens of protesters and journalists in

<sup>78</sup> [www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe\\_personas\\_defensoras.pdf](http://www.oacnudh.org.gt/images/CONTENIDOS/ARTICULOS/PUBLICACIONES/Informe_personas_defensoras.pdf).

<sup>79</sup> A/HRC/40/3/Add.1, para 49.

<sup>80</sup> <https://bit.ly/3bjaSDC>.

Guatemala City and Quetzaltenango. OHCHR recorded instances of excessive use of force against protesters, including the use of tear gas against persons peacefully gathering at Guatemala City's Constitution Plaza, on 21 November. Demonstrations held on 28 November and on 5 December were largely peaceful.

## **VIII. Conclusions and recommendations**

92. Systemic and structural challenges, notably poverty, inequality, discrimination, impunity and insecurity, continued to hamper the effective implementation of the human rights obligations of Guatemala. The COVID-19 pandemic has underscored the urgency of addressing these issues as it exacerbated human rights concerns, particularly concerning the most vulnerable groups. At the same time, the pandemic revealed the potential of joint, innovative actions for the benefit of the population. OHCHR salutes the immense efforts of health-care professionals, State institutions, civil society, volunteers and communities in combating the pandemic.

93. The United Nations High Commissioner for Human Rights reiterates her commitment to supporting Guatemala in enhancing the protection of all human rights for all people. On the basis of the activities of OHCHR in Guatemala, and in addition to previous recommendations, the High Commissioner recommends that the Government:

- (a) Promote social dialogue and consultations to strengthen the inclusion of all groups in decision-making processes, including indigenous peoples, women, young people and persons with disabilities;
- (b) Ensure that the newly formed Presidential Commission for Peace and Human Rights continues and further strengthens the implementation of activities previously performed by the Presidential Secretariat for Peace, the Presidential Commission on Human Rights and the Secretary of Agricultural Affairs;
- (c) Continue to strengthen dialogue and coordination between the traditional and the national health systems, and enhance access to health services with cultural adequacy to indigenous peoples, including women and girls;
- (d) Strengthen social protection with further emphasis on persons in situations of vulnerability;
- (e) Review and reform policies and programmes on land, and encourage all relevant authorities to strengthen their capacities to address land-related conflicts in line with international human rights standards;
- (f) Pursue the development of a national action plan on business and human rights, based on the Guiding Principles on Business and Human Rights and international human rights standards, in consultation with all relevant stakeholders;
- (g) Strengthen legislation, policies and institutional structures for the protection, including from criminalization, of human rights defenders, including journalists, judges and prosecutors, and ensure implementation of the recommendations contained in the report of OHCHR and the Office of the Ombudsperson on the situation of human rights defenders in Guatemala;
- (h) Strengthen the capacities of the National Civil Police to apply international human rights standards;
- (i) Guarantee the human rights of persons on the move regardless of their migratory status, including ensuring access to asylum and protection, non-refoulement and access to humanitarian aid, and harmonize the regulations of the Migration Code with international human rights standards;
- (j) Further strengthen the work of the Presidential Secretariat for Women by appointing its officials and allocating adequate resources, as recommended by the Committee on the Elimination of Discrimination against Women.

94. **The United Nations High Commissioner for Human Rights recommends that Congress:**

- (a) **Prioritize a legislative agenda aimed at strengthening the promotion and protection of human rights, and avoid the adoption of regressive legislation;**
  - (b) **Reform the law on public order according to international standards.**
-