

UNITED NATIONS HUMAN RIGHTS COUNCIL

14th Session of the Working Group on the Universal Periodic Review  
22 October to 5 November 2012

COMPARISON OF ICJ SECOND CYCLE RECOMMENDATIONS  
WITH CORRESPONDING FIRST CYCLE RECOMMENDATIONS AND COMMITMENTS

<b>Concerning the independence of the judiciary</b>		
<ul style="list-style-type: none"> <li>• First cycle UPR Working Group report, UN Doc A/HRC/8/38 (2008): see Summary of Proceedings at paras 69, 59 and 64 (Japan, United States and Switzerland), and responses/commitments by the Government of Guatemala at paras: 82 and 8.</li> <li>• First cycle UPR responses/commitments of the Government of Guatemala are included in the report of the HRC on its eight session, UN Doc A/HRC/8/52 (2008), chapter VI: see paras 681(b) and 681(g). All recommendations were accepted by the government of Guatemala: see paras 680 and 688.</li> <li>• Second cycle ICJ submission (April 2012): see paras 3 and 4.</li> </ul>		
<i>Second cycle ICJ recommendations</i>	<i>Corresponding recommendations in the first cycle</i>	<i>Corresponding first cycle voluntary commitments</i>
<p>i) Take the necessary measures to reinforce the independence of the judiciary by, for example, making provision for the security of tenure for judges, magistrates and judicial officers in general and adopting other measures regarding the career progression and development for judicial officers.</p>	<p>89(26) and 69. (Japan) Establish an environment where a judge can make a fair and appropriate decision without intimidation. - <i>Accepted</i></p> <p>89(30) and 59. (United States of America) Provide for and ensure the personal security of human rights defenders, witnesses, court officials, prosecutors and others who are subject to threats and other abuses connected with their efforts to support human rights and democracy, to combat impunity. - <i>Accepted</i></p> <p>89(31) and 64. (Switzerland) Provide better police protection to judges, investigators and witnesses. - <i>Accepted</i></p> <p>89(32) and 69. (Japan) Obtain support from the CICIG and enhance judicial power to solve the issue of impunity. - <i>Accepted</i></p> <p>89(33) and 59. (United States of America) Allocate and provide all necessary financial, technical and personnel resources to combat impunity and lack of respect for the rule of law, including to combat corruption and impunity within the government's institutions. - <i>Accepted</i></p>	<p>Doc 8/38: 82. Regarding the protection of human rights defenders and of members of the judiciary, action is taken through international mechanisms, mainly from the Inter-American and the United Nations systems. At the national level, protection for these persons is provided by the civil national police and through (other) measures (...)</p> <p>Doc 8/38: 8. In the area of civil and political rights, the Government highlighted efforts to provide citizen security, combat impunity, and strengthen the rule of law by strengthening the justice sector, identified by the Government as one of the main weaknesses of the State. On judicial reform, the Government has provided human rights training to judges, established five justice administration centres in remote areas, created mobile and duty courts to facilitate access to justice for persons with scarce resources and those inhabiting rural areas.</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(b). Improvement of the constitutional and legislative framework.</li> <li>➤ 681(g). Strengthening the administration of</li> </ul>

		justice and the rule of law.
<p><b>Concerning impunity and access to justice</b></p> <ul style="list-style-type: none"> <li>• First cycle UPR Working Group report, UN Doc A/HRC/8/38 (2008): see Summary of Proceedings at paras 60, 62, 32, 38, 59, 69, 35, 28, 64, 58, 68, 26, 76 and 61 (Denmark, Australia, Canada, Austria, United States, Japan, Cuba, Slovenia, Switzerland, South Africa, United Kingdom, Mexico, Jordan and Finland), and responses/commitments by the Government of Guatemala at paras: 22, 84, 21, 12, 19, 13 and 23.</li> <li>• First cycle UPR responses/commitments of the Government of Guatemala are included in the report of the HRC on its eight session, UN Doc A/HRC/8/52 (2008), chapter VI: see paras 681 (b), (c), (e), (f), (g) and (h). All recommendations were accepted by the government of Guatemala: see paras 680 and 688.</li> <li>• Second cycle ICJ submission (April 2012): see paras 5-10.</li> </ul>		
<i>Second cycle ICJ recommendations</i>	<i>Corresponding recommendations in the first cycle</i>	<i>Corresponding first cycle voluntary commitments</i>
<p>ii) Establish specialized tribunals operating in accordance with international standards of due process to address claims concerning land conflicts.</p>	<p>No corresponding recommendation. Related to: 89(12) and 60. (Denmark) Ensure the protection of indigenous peoples' rights and ensure the right of indigenous peoples to be heard before traditional indigenous land is being exploited. - <i>Accepted</i></p>	<p>No exactly corresponding voluntary commitment.</p> <p>Generally covered by:</p> <p>Doc 8/38: 22. The delegation underscored the strengthening of institutions and funding for indigenous development and the recent establishment of the Professional Secretariat and a unit of defense for indigenous women, as well as having indigenous public defenders and the use of Mayan interpreters within the court system. Consideration is being given to setting up an indigenous ombudsman. Their rights are being enhanced through bilingual education, a standing dialogue forum for agrarian conflicts, the establishment of a land identification system and an Ombudsman on agrarian affairs. The Government is consulting with indigenous people on issues relating to sacred lands, on which a law has already been implemented. The suspension of mining exploitation pending determination of whether it is harmful is underway.</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(b). Improvement of the constitutional and legislative framework.</li> </ul>

		<p>➤ 681(g). Strengthening the administration of justice and the rule of law.</p>
<p>iii) Reinforce the fight against impunity in cases of gross human rights violations, including crimes under international law, committed during the armed conflict by undertaking effective investigations in relation to, and where appropriate prosecutions against, alleged perpetrators, including former military personnel or governmental officials.</p>	<p>89(27) and 62. (Australia) Ensure effective and independent investigations into all reports of torture and extrajudicial executions by members of the security forces. - <i>Accepted</i></p> <p>89(28) and 32. (Canada) Take measures to address impunity and investigate and prosecute cases of enforced disappearances and torture. - <i>Accepted</i></p> <p>89(29) and 38. (Austria) Ensure the effective implementation of the International Commission against Impunity's mandate on the ground as necessary to remove any obstacles for serious international investigations and pay particular attention to the effective implementation of victims' assistance and protection programmes in the fight against impunity. - <i>Accepted</i></p> <p>89(30) and 59. (United States of America) Provide for and ensure the personal security of human rights defenders, witnesses, court officials, prosecutors and others who are subject to threats and other abuses connected with their efforts to support human rights and democracy, to combat impunity. - <i>Accepted</i></p> <p>89(32) and 69. (Japan) Obtain support from the CICIG and enhance judicial power to solve the issue of impunity. - <i>Accepted</i></p> <p>89(33) and 59. (United States of America) Allocate and provide all necessary financial, technical and personnel resources to combat impunity and lack of respect for the rule of law, including to combat corruption and impunity within the government's institutions. - <i>Accepted</i></p> <p>89(34) and 35. (Cuba) Continue its efforts in the fight against impunity in favour of the security of citizens. - <i>Accepted</i></p>	<p>Doc 8/38: 84. In order to combat impunity, a project is in place to strengthen the legal system, as well as a commission for transparency against corruption. There are also cooperative agreements between the CICIG and the Ministry of the Interior and intensive work is underway to include a human rights component in the police-training programme.</p> <p>Doc 8/38: 21. On cases of enforced disappearance, Guatemala has established a special unit on human rights in the Prosecutor's office. The Government has also been working on reforms of the criminal code, particularly on torture and enforced disappearances. (...) Prosecution of human rights abuses is being strengthened and victim protection programs are being introduced, free of charge. The civil national police and criminal investigations are being strengthened by improving the scene of crime procedures and public prosecution proceedings.</p> <p>Doc 8/38: 12. The Government is pursuing with Congress the ratification of (...) a law that would establish a National Commission to Find the Disappeared.</p> <p>Doc 8/38: 19. Following the adoption in 2005 of the Framework Law on the Peace Agreements, the State has adopted a policy of public recognition of the grave human rights violations committed during the armed conflict. Through the National Reparations Programme, the Government has provided moral and economic reparation to victims of the conflict and their families. The present administration has proposed to Congress an initiative to create a National Law on Reparations. The President also announced his intention to open military archives to assist in clarifying the past.</p> <p>Doc 8/52: Guatemala noted that it will need to</p>

		<p>strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(g). Strengthening the administration of justice and the rule of law.</li> </ul>
<p>iv) Undertake effective investigations in relation to, and where appropriate prosecutions against, alleged perpetrators of crimes against community leaders from the Department of Peten and in Valle del Polochic.</p>	<p>No corresponding recommendation.</p> <p>Related to:</p> <p>89(7) and 28. (Slovenia) Follows up on the relevant recommendations made by CERD and other human rights bodies and mechanisms towards enhancing de jure and de facto equal protection of indigenous peoples (...). – <i>Accepted</i></p> <p>89(11) and 64. (Switzerland) Develop a law criminalizing discrimination based on social origin, racial hatred and acts of violence against indigenous. – <i>Accepted</i></p> <p>89(34) and 35. (Cuba) Continue its efforts in the fight against impunity in favour of the security of citizens. – <i>Accepted</i></p> <p>89(10) and 58. (South Africa) Enact specific legislation to provide appropriate remedies for victims of racial discrimination, in particular, relating to the dissemination of ideas based on notions of racial superiority, racial hatred, incitement to racial discrimination and violent acts targeting indigenous peoples and People of African Descent in Guatemala. – <i>Accepted</i></p>	<p>No corresponding voluntary commitment.</p> <p>Related to:</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(g). Strengthening the administration of justice and the rule of law.</li> <li>➤ 681(f). Ensuring the right to life, liberty and security.</li> </ul>
<p>v) Immediately abrogate the State of Emergency under the Ley de Orden Público.</p>	<p>No corresponding recommendation.</p>	<p>No corresponding voluntary commitment.</p> <p>Generally covered by:</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(g). Strengthening the administration of justice and the rule of law.</li> </ul>
<p>vi) Undertake meaningful consultations with indigenous people in the case of proposed projects in areas where indigenous communities are present, and establish and apply procedures for the</p>	<p>89(12) and 60. (Denmark) Ensure the protection of indigenous peoples' rights and ensure the right of indigenous peoples to be heard before traditional indigenous land is being exploited. – <i>Accepted</i></p>	<p>Doc 8/38: 13. The Ministry for Foreign Affairs has also created a department on human and indigenous rights to follow up on international commitments assumed by the State, as well as</p>

<p>implementation of results from such consultations.</p>	<p>89(7) and 28. (Slovenia) Follows up on the relevant recommendations made by CERD and other human rights bodies and mechanisms towards enhancing de jure and de facto equal protection of indigenous peoples including the Maya, Xinca and Garifuna peoples. - <i>Accepted</i></p> <p>89(3) and 64. (Switzerland) Full commitment of the national human rights commission to the improvement of indigenous rights. - <i>Accepted</i></p> <p>89(8) and 68. (United Kingdom) Implement all the measures agreed in the 1996 Peace Accords to combat discrimination and promote inclusion. - <i>Accepted</i></p> <p>89(9) and 26. (Mexico) Consider harmonizing Guatemala's civil and penal codes with international human rights norms, in relation to racial discrimination and gender issues. - <i>Accepted</i></p> <p>89(12) and 32. (Canada) Take measures to ensure the full enjoyment of all human rights by members of indigenous communities. - <i>Accepted</i></p> <p>89(37) and 76. (Jordan) Take the necessary measures to ensure the effective participation of indigenous peoples in the public and political life, including through implementation of the relevant recommendations of human rights treaty bodies and special procedures. - <i>Accepted</i></p> <p>89(39) and 58. (South Africa) Accelerate the poverty alleviation programmes with a view to addressing the uneven distribution of wealth, access to health and the high level of social exclusion of indigenous peoples and People of African Descent. - <i>Accepted</i></p> <p>89(15) and 28. (Slovenia) Follow up the CEDAW recommendation to Guatemala to ensure that indigenous women have full access to bilingual education, health services and credit facilities and to fully participate in decision-making processes. - <i>Accepted</i></p> <p>89(7) and 61. (Finland) Strengthen its efforts to fully implement the concluding observations adopted by CERD, as well as other relevant concluding observations adopted by other treaty</p>	<p>high-level commissions on indigenous rights, and on human rights. The Government highlighted the Presidential Commission against Discrimination and Racism against Indigenous Peoples (CODISRA) and the Institute for the Defence of Indigenous Women (DEMI). It is promoting the creation of a Presidential Secretariat on Indigenous Peoples to pursue public policies, plans, programmes and projects in this area. It is also seeking approval from Congress to recognize the competence of the Committee on the Elimination of Racial Discrimination.</p> <p>Doc 8/38: 22. The delegation underscored the strengthening of institutions and funding for indigenous development and the recent establishment of the Professional Secretariat and a unit of defense for indigenous women, as well as having indigenous public defenders and the use of Mayan interpreters within the court system. Consideration is being given to setting up an indigenous ombudsman. Their rights are being enhanced through bilingual education, a standing dialogue forum for agrarian conflicts, the establishment of a land identification system and an Ombudsman on agrarian affairs. The Government is consulting with indigenous people on issues relating to sacred lands, on which a law has already been implemented. The suspension of mining exploitation pending determination of whether it is harmful is underway.</p> <p>Doc 8/38: 23. Guatemala has criminalized the offence of discrimination within the Criminal Code and complaints can be submitted to the Commission of Human Rights.</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(e). Adoption of additional measures to combat discrimination and to obtain equality for indigenous peoples.</li> <li>➤ 681(c). Establishment or strengthening of institutional and human rights infrastructure.</li> <li>➤ 681(f). Ensuring the right to life, liberty and security.</li> </ul>
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	bodies. – <i>Accepted</i>	➤ 681(h). Guaranteeing the freedom of expression, opinion and participation in political life of the country.
<p><b>Concerning abolition of the death penalty</b></p> <ul style="list-style-type: none"> <li>• First cycle UPR Working Group report, UN Doc A/HRC/8/38 (2008): see Summary of Proceedings at paras 72 and 68 (Italy and United Kingdom), and responses/commitments by the Government of Guatemala at paras 23 and 8.</li> <li>• First cycle UPR responses/commitments of the Government of Guatemala are included in the report of the HRC on its eight session, UN Doc A/HRC/8/52 (2008), chapter VI: see paras 681 (b), (f) and (a). All recommendations were accepted by the government of Guatemala: see paras 680 and 688.</li> <li>• Second cycle ICJ submission (April 2012): see para 11.</li> </ul>		
<i>Second cycle ICJ recommendations</i>	<i>Corresponding recommendations in the first cycle</i>	<i>Corresponding first cycle voluntary commitments</i>
vii) Take immediate steps toward abolition of the death penalty in law.	<p>89(14) and 72. (Italy) Maintain and strengthen the moratorium currently in force with a view to abolishing the death penalty. - <i>Accepted</i></p> <p>89(14) and 68. (United Kingdom) Abolish the death penalty. - <i>Accepted</i></p>	<p>Doc 8/38: 23. The Government is looking at a law relating to clemency put forth by the president of the republic. The death penalty is under a moratorium and the 26 people condemned to death cannot be executed due to the processes involved with the Organization of American States.</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(b). Improvement of the constitutional and legislative framework.</li> <li>➤ 681(f). Ensuring the right to life, liberty and security.</li> </ul>
viii) Become a party to the Second OP to the ICCPR.	No corresponding recommendation.	<p>No corresponding voluntary commitment.</p> <p>Generally covered by:</p> <p>Doc 8/52: Guatemala noted that it will need to strengthen its actions in the following areas:</p> <ul style="list-style-type: none"> <li>➤ 681(a). Ratification of international instruments.</li> </ul> <p>Doc 8/38: 8. In the area of civil and political rights, the Government highlighted efforts to provide citizen security, combat impunity, and strengthen the rule of law by strengthening the justice sector, identified by the Government as one of the main weaknesses of the State.</p>