

2 June 2006

Original: English

ADVANCE UNEDITED VERSION

**Committee on the Elimination of Discrimination
against Women**
Thirty-fifth session
15 May-2 June 2006

**Concluding comments of the Committee on the Elimination of
Discrimination against Women: Guatemala**

1. The Committee on the Elimination of Discrimination against Women considered the sixth periodic report of Guatemala (CEDAW/C/GUA/6) at its 725th and 726th meetings, on 18 May 2006 (see CEDAW/C/SR.725 and 726). The Committee's list of issues and questions is contained in document CEDAW/C/GUA/Q/6, and Guatemala's responses are contained in document CEDAW/C/GUA/Q/6/Add.1.

Introduction

2. The Committee expresses its appreciation to the State party for its sixth periodic report, while noting that it did not fully comply with the Committee's guidelines for the preparation of periodic reports and did not make reference to the Committee's general recommendations. The Committee also expresses its appreciation to the State party for its written replies to the list of issues and questions raised by the pre-session working group and for the oral presentation and further clarifications offered in response to the questions posed orally by the Committee.

3. The Committee commends the State party for its high-level delegation headed by the Minister of the Presidential Secretariat for Women, which included the Minister of Education and representatives from the Ministries of Health and Social Assistance, Planning and Programming, the legislature, and the Defender of Indigenous Women, contributing to the quality of the constructive dialogue that was held between the delegation and the members of the Committee.

Positive aspects

4. The Committee welcomes the efforts of the State party to achieve greater coordination among the various institutions for the advancement of women, including the Presidential Secretariat for Women, the National Office for Women's Affairs, the Indigenous Women's Defense Unit and the First Lady's Social Work Secretariat.

5. The Committee also welcomes the efforts of the State party to evaluate and update the National Policy for the Advancement and Development of Guatemalan Women: Equal Opportunity Plan 2001-2006 in order to ensure that it contributes effectively to the improvement of women's conditions in the areas of law, economy, health, education, personal security, labour and political participation.

6. The Committee further welcomes the adoption of the National Plan for Prevention and Eradication of Domestic Violence as well as the efforts to strengthen the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women.

7. The Committee welcomes the adoption of the Law on Universal Access to Family Planning Services and the Integration in the Programme on Reproductive Health, Decree 87-2005.

Principal areas of concern and recommendations

8. While recalling the State party's obligation to systematically and continuously implement all the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, the Committee views the concerns and recommendations identified in the present concluding comments as requiring the State party's priority attention between now and the submission of the next periodic report. Consequently, the Committee calls upon the State party to focus on those areas in its implementation activities and to report on action taken and results achieved in its next periodic report. It calls upon the State party to submit the present concluding comments and the Committee's concluding comments on the State party's combined third and fourth, and fifth periodic reports (see A/57/38) to Congress and to all relevant ministries so as to ensure their full implementation.

9. The Committee is concerned that not all relevant government entities, in particular the legislative and judicial branches, may have been fully involved in the process of elaborating the report. As a result, the impact of the reporting process as an aspect of a holistic approach to the ongoing implementation of the Convention may be limited.

10. The Committee calls upon the State party to strengthen the coordination among all relevant government entities, including representatives from the legislative and judicial powers, as a means to enhance the implementation of the provisions of the Convention, the follow-up to the concluding comments of the Committee and the preparation of future periodic reports under article 18 of the Convention.

11. The Committee is concerned that the definition of discrimination contained in Decree 57-2002 that amends the Criminal Code is not in accordance with article 1 of the Convention, which prohibits both direct and indirect discrimination, as well as article 2 (e), which explicitly requires measures to eliminate discrimination against women by private actors.

12. The Committee encourages the State party to ensure that a definition of discrimination that encompasses both direct and indirect discrimination, in line with article 1 of the Convention, is explicitly reflected in all appropriate legislation and to include effective sanctions and remedies for the violation of rights by public and private entities and actors. It urges the State party to

carry out awareness-raising campaigns on the Convention and its Optional Protocol, including on the meaning and scope of substantive equality between women and men, aimed, inter alia, at the general public, legislators, the judiciary and the legal profession. Such efforts should focus on the systematic use of the Convention to respect, promote and fulfil women's human rights, and of the use of the Optional Protocol.

13. While noting the efforts of the State party aimed at revising the existing discriminatory legislation in the Civil, Criminal and Labour Codes, the Committee is concerned that in spite of the recommendations it addressed to the State party on the occasion of the consideration of Guatemala's initial and second periodic reports in 1994 and its combined, third and fourth, and fifth periodic reports in 2002, the domestic legislation is still not in conformity with the Convention. It is also concerned about the lack of awareness about women's human rights among members of the legislature, which may be obstructing the adoption of required legislative reforms, in particular with regard to violence against women.

14. The Committee urges the State party to put in place an effective strategy with clear priorities and timetables to achieve the required amendments to discriminatory provisions in the Civil, Criminal and Labour Codes so as to bring them into conformity with the Convention as required by article 2. The Committee encourages the Government to ensure that the national machinery for the advancement of women has the necessary authority and human and financial resources to undertake awareness-raising initiatives for a full understanding of women's human rights in light of the provisions of the Convention among the legislative and judicial branches.

15. While noting the adoption of the various laws and decrees aimed at protecting women and girls, including Decree 81-2002 aimed at promoting actions towards the elimination of discrimination on grounds of race and gender among all State ministries, the Committee is concerned about the lack of enforcement, coordination, effective implementation and monitoring of those laws and decrees.

16. The Committee urges the State party to take all the appropriate measures to ensure the effective enforcement, implementation and assessment of the application of those laws and decrees aimed at protecting women and girls' rights. It recommends that the State party include the impact of those measures in its next periodic report.

17. While noting the steps taken by the State party to strengthen the national mechanism for the advancement of women, the Committee expresses its concern that the national machinery does not have enough human and financial resources to carry out its mandate and promote the advancement of women at the national and local levels. It is also concerned about the limited capacity of the Presidential Secretariat to undertake effective coordination and cooperation with the legislative and judicial branches. It is further concerned about the existing imbalance among the three branches of the State, which results in the resistance to adopt and modify legislation aimed at protecting women's human rights.

18. The Committee recommends that the State party strengthen the national machinery, especially the Presidential Secretariat for Women, by providing it with the necessary authority and adequate human and financial resources so as to enhance its effectiveness in carrying out its mandate at all levels. That

should, in particular, include the capacity for better and more effective cooperation among all Government entities responsible for the implementation of the Convention.

19. While welcoming the active role played by the women's movement to achieve progress in the realization of gender equality and the cooperation between the Presidential Secretariat for Women and women's organizations, the Committee is concerned that the State party may be delegating some of its responsibilities with regard to the implementation of the Convention to women's groups and organizations, leading to an imbalance in the interaction between those different stakeholders.

20. The Committee encourages the State party to assume clear responsibility for implementing all its obligations under the Convention. It also encourages the State party to enhance collaboration with women's groups and organizations without, however, delegating to those stakeholders its own responsibilities with regard to the implementation of the Convention.

21. While appreciating the State party's efforts to combat the trafficking of women and girls, including the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Committee remains concerned about the absence of adequate measures to combat this phenomenon including its causes and extent, in particular from the State party's position as a country of origin, transit and destination. It is further concerned at the insufficient information and awareness about the incidence of internal trafficking.

22. The Committee urges the State party to increase efforts to determine the causes and extent of trafficking of women and girls from its perspective as a country of origin, transit and destination and the incidence of internal trafficking. It recommends that the State party strengthen the measures to combat and prevent trafficking in women and girls and provide detailed information about the impact of the measures taken in its next periodic report.

23. The Committee is deeply concerned about the continuing and increasing cases of disappearances, rape, torture and murders of women, the engrained culture of impunity for such crimes, and the gender-based nature of the crimes committed, which constitute grave and systematic violations of women's human rights. It is concerned about the insufficient efforts to conduct thorough investigations, the absence of protection measures for witnesses, victims and victims' families and the lack of information and data regarding the cases, the causes of violence and the profiles of the victims.

24. The Committee urges the State party to take without delay all the measures necessary to put an end to the murders and disappearances of women and the impunity of perpetrators. In that regard, it suggests to the State party to take into account the recommendations made by the Committee in relation to its inquiry undertaken under article 8 of the Optional Protocol regarding the abduction, rape and murder of women in the Ciudad Juarez area of Chihuahua, Mexico (CEDAW/C/2005/OP.8/MEXICO). It encourages the State party to institutionalize the Commission on Femicide as a permanent body, with its own human and financial resources. It requests the State party to provide in its next periodic report detailed information on the causes, scope and

extent of the disappearances, rape and murder of women and of the impact of measures taken to prevent such cases, to investigate occurrences and prosecute and punish perpetrators and to provide protection, relief and remedies, including appropriate compensation to victims and their families.

25. The Committee is concerned about the prevalence of domestic violence against women, the lack of effective access to justice for women, particularly indigenous women, who also face language barriers, and the lack of social awareness about and condemnation of violence against women and girls in the country.

26. The Committee urges the State party to accord priority attention to the adoption of a comprehensive and integrated approach to address violence against women and girls, taking into account the Committee's general recommendation 19 on violence against women. It urges the State party to enact the pending reforms to the Criminal Code to criminalize domestic violence and to allocate the necessary resources to implement the Plan for the Prevention and Eradication of Domestic Violence and Violence against Women 2004-2014. It recommends gender sensitivity training on violence against women for public officials, particularly law enforcement personnel, the judiciary, teaching personnel and health service providers, so as to ensure that they are sensitized to all forms of violence against women and can adequately respond to it.

27. While noting the efforts to amend the Act on Elections and Political Parties to impose a quota of 44 per cent for women's participation, the Committee remains concerned about the underrepresentation of women, in particular indigenous women, in political and public positions at all levels. The Committee is also concerned about the persistence and pervasiveness of patriarchal attitudes and deep-rooted stereotypes regarding the roles and responsibilities of women and men in the family and society, which constitute a significant impediment to the participation of women in decision-making at all levels and a root cause of women's disadvantaged position in all spheres of life.

28. The Committee calls upon the State party to accelerate the process of amending the Act on Elections and Political Parties and strengthen the use of temporary special measures, including quotas, in accordance with article 4, paragraph 1, of the Convention and the Committee's general recommendation 25, to increase the number of women, in particular indigenous women, in political and public life and in decision-making positions. It suggests that the State party implement leadership training programmes aimed at women to help them participate in leadership and decision-making positions in society. The State party is urged to carry out awareness-raising campaigns aimed at women and men to help ensure the elimination of stereotypes associated with men's and women's traditional roles in the family and in society at large and enhance women's political empowerment.

29. The Committee is concerned about the significant gaps in the existing legislation pertaining to article 11 of the Convention, including the lack of provisions to address sexual harassment. It expresses concern about the violations of women's labour rights in the maquiladora industries, including the right to association, minimum wage, and maternity leave. The Committee is concerned about the excessive hours of work and discriminatory practices against pregnant women. It is also concerned about the absence of legislative and policy measures to

protect the rights of domestic workers despite the recommendations made by the Committee at the consideration of the previous periodic report.

30. The Committee calls upon the State party to bring its legislation fully into compliance with article 11 of the Convention and to ratify the International Labour Organization Convention (No. 155) concerning Occupational Safety and Health and the Working Environment. It requests the State party to accelerate efforts aimed at the adoption of legislation concerning sexual harassment. It urges the State party to put in place effective measures to prevent and punish violations of the rights of women working in the maquiladora industries, to address the lack of safety and health standards in those industries and to enhance women workers' access to justice. It also urges the State party to establish a concrete timetable for the adoption of legislative and policy measures to protect the rights of domestic workers. It requests the State party to include information on the steps and measures taken and, in particular, on their impact, in its next periodic report.

31. The Committee observes with concern the possible adverse impact that the free trade agreements may have on the living and working conditions of Guatemalan women.

32. The Committee suggests that the State party undertake a study to determine the impact of the free trade agreements on the socio-economic conditions of women and to consider the adoption of compensatory measures that take into consideration women's human rights.

33. The Committee is concerned about the persistent high levels of poverty among women, particularly among women living in rural areas, and their lack of access to basic social services. The poverty conditions of women are reflected in their high illiteracy rates, low school enrolment and completion rates, poor access to health care, including sexual and reproductive health, leading to high rates of maternal mortality, and lack of access to land and training opportunities. The Committee is also concerned about the absence of a comprehensive strategy for rural development that addresses the structural nature of the problems rural women continue to face.

34. The Committee urges the State party to ensure that all poverty eradication policies and programmes integrate a gender perspective and explicitly address the structural nature and various dimensions of poverty faced by women, in particular women living in rural areas. It recommends that the State party strengthen its efforts to implement nationwide effective health and educational programmes, including programmes in the areas of functional literacy, enterprise development, skills training and microfinance, as a means of poverty alleviation, and adopt measures to ensure women's equal access to land.

35. Noting that the majority of the Guatemalan population are indigenous peoples, the Committee expresses concern about the situation of indigenous women, who lack enjoyment of their human rights and are vulnerable to multiple forms of discrimination. It is also concerned about the absence of statistical information related to the situation of indigenous women.

36. The Committee encourages the State party to adopt concrete, targeted measures to accelerate the improvement of conditions of indigenous women in all spheres of life. It calls upon the State party to ensure that indigenous women

have full access to bilingual education, health services and credit facilities and can fully participate in decision-making processes. It requests the State party to include information and data on the situation of indigenous women and on the impact of measures taken to overcome multiple discrimination against them in its next periodic report.

37. The Committee calls upon the State party to enhance its collection of data disaggregated by sex and its use of indicators to monitor more effectively progress in implementation of the Convention. Such data should be used as the basis for effective policy and programme development and for assessing the impact of measures taken and trends in the status of women over time.

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

39. The Committee commends the State party for having ratified the seven major international human rights instruments.¹ It notes that the State party's adherence to those instruments enhances the enjoyment by women of their human rights and fundamental freedoms in all aspects of life.

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

41. The Committee requests the State party to respond to the concerns expressed in the present concluding comments in its next periodic report under article 18 of the Convention, which is due in September 2007.

¹ The International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.