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Universal Periodic Review

Report of the Working Group on the Universal Periodic Review*

Guatemala

Addendum

**Views on conclusions and/or recommendations, voluntary
commitments and replies presented by the State under
review**

* The present document was not edited before being sent to the United Nations translation services.

1. The Government of Guatemala is pleased to observe that the great majority of the recommendations made during the interactive phase of the review are in line with the Government's human rights policy and that 111 of the 138 recommendations can therefore be accepted at once and without discussion.
2. We have taken note of the remaining 27 recommendations, and most of them will also be accepted once we have issued an explanatory statement concerning our understanding of them.
3. Regarding the seven recommendations relating to ratification of conventions or protocols (101.1, Argentina; 101.2, Mexico; 101.3, France; 101.4, Spain; 101.5, France; 101.7, Norway; and 101.8, Slovakia), please note that the inter-agency consultations being held prior to their submission to Congress for approval and subsequent ratification or accession are quite far along. With respect to those of them that relate to the death penalty, our acceptance signals the fact that consideration will be given to the possibility of submitting a proposal for its abolition to the Colombian Congress.
4. Five recommendations refer to consultations with indigenous peoples (101.24, Slovenia; 101.25, Norway; 101.9, Republic of Korea; 101.26, Switzerland; and 101.27 United States of America). These recommendations do not present a problem either, as the promulgation of a law and the issuance of regulations governing such consultations are forthcoming. To that end, the Cabinet recently held a working meeting with representatives of the International Labour Organization (ILO) and officials from the Government of Peru, which is the only country that already has legislation on that subject in place.
5. The Constitution establishes that all subsoil resources are in the public domain and thus belong to all Guatemalans; consultations regarding such resources must therefore be conducted in a way that is in keeping with that constitutional provision. In addition, since there are no indigenous territories as such, although there are communal and community lands, references to land claims should be in keeping with the legal framework and actual circumstances existing in Guatemala.
6. Two recommendations (101.16, Canada; and 101.17, Germany) relate to events that occurred during the armed conflict. An amnesty is in place that was negotiated with the help of the United Nations. The corresponding amnesty law is currently in force, and any challenges to its validity or scope will have to be dealt with by the high courts of Guatemala.
7. With respect to the recommendation regarding the strengthening and decentralization of human rights institutions (101.10, Indonesia), we have already made a commitment to reorganize the country's human rights institutional structure with assistance from the United Nations, and this undertaking will include its decentralization. The Presidential Human Rights Commission currently has 17 regional offices.
8. Concerning the recommendation that a moratorium on the death penalty be re-established (101.11, Australia), we would note that the death penalty has not been applied in Guatemala since 2001 and that we have accepted six recommendations that consideration be given to submitting a proposal for its abolition to Congress.
9. We accept the recommendation regarding the allocation of resources for the implementation of the law against femicide (101.12, Uruguay) but would like to note that additional resources have already been provided for in the 2013 budget.
10. We do not accept the statement, made in another recommendation on the same subject (101.13, Netherlands), that the number of cases of femicide has increased; the number of such cases has actually decreased considerably.

11. In respect of the recommendation relating to the investigation of extrajudicial executions (101.14, Australia), we would like to note that the only recent report of such an execution is under investigation and that the Government is cooperating fully with the prosecutor's office and the courts.

12. Work is proceeding on the task of bringing the definition of the offence of extrajudicial execution into line with the definition set forth in international legal instruments, along with the alignment of laws on other types of offences.

13. With regard to the part of that recommendation that refers to human rights defenders and journalists, it should be noted that inter-agency mechanisms for their protection and for the investigation of reports of violations have been established.

14. In regard to the recommendation concerning protective measures and immediate, independent and systematic investigations of abuses perpetrated against human rights defenders (101.15, Switzerland), it should be noted that inter-agency mechanisms for the protection of human rights defenders are in place and that the investigations into reports of violations conducted by the prosecution service and the courts will improve once the constitutional amendments designed to increase their functional and economic independence have been approved.

15. In relation to the recommendation concerning improved participation on the part of stakeholders, with a focus on women and indigenous peoples, in decision-making processes that could have an impact on the future development of rural communities (101.19, Canada), it is our understanding that the consultation procedure provided for in the Constitution and the law that will govern consultations under ILO Convention No. 169 will be the appropriate mechanisms for these purposes; consideration may be given to additional measures in order to address the concerns of women and indigenous peoples.

16. We take note of the remaining six recommendations (101.20, Austria; 101.23, Slovakia; 101.18, Spain; 101.22, Ireland; 101.21, Iraq; and 101.6, Lichtenstein) and intend to analyse them in greater depth, since they contain statements, views or references that may prove to be at odds with the facts or with legal provisions.

17. The Government of Guatemala is pleased with the way in which this periodic review was conducted and with its outcome. We feel more fully understood and supported in our commitment and resolve to shape a democratic State under the rule of law in which respect for human rights and for individual freedoms is strong enough to serve as a foundation for the development and well-being of all Guatemalans, without discrimination of any type whatsoever.
