



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Ninety-eighth session

23 April to 10 May 2019

Item 4 of the provisional agenda

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention

List of themes in relation to the combined sixteenth and seventeenth periodic reports of Guatemala

Note by the Country Rapporteur

1. The Committee on the Elimination of Racial Discrimination decided at its seventy-sixth session (see *A/65/18*, para. 85) that the Country Rapporteur would send to the State party concerned a short list of themes with a view to guiding and focusing the dialogue between the State party's delegation and the Committee during the consideration of the State party's report. The present document contains a list of such themes. It is not an exhaustive list; other issues may also be raised in the course of the dialogue. No written replies are required.

Information on the demographic composition of the population

2. Updated and disaggregated information on the composition of the population of the State party, including the population of African descent (CERD/C/GTM/CO/14-15, para. 8). Information on the preliminary results of the Population and Housing Census conducted in 2018 and information on the self-identification approach.

Legal, institutional and public policy framework for combating racial discrimination (arts. 2, 4, 6 and 7)

3. Information on the legal provisions relating to the definition and prohibition of racial discrimination. Information on the definition of the actions described in article 4 of the Convention as criminal offences, citing specific cases involving such offences (CERD/C/GTM/CO/14-15, para. 19).

4. Progress made in implementing the Agreement on Identity and Rights of Indigenous Peoples and the Agreement on Economic Aspects and the Agrarian Situation, and in participation of indigenous peoples in their implementation (CERD/C/GTM/CO/14-15, para. 9).

5. Progress in discussing and adopting legislative proposals or initiatives to combat racial discrimination, in particular on promotion of the rights of indigenous peoples (CERD/C/GTM/CO/14-15, para. 9).

6. Measures taken to strengthen institutions combating racial discrimination, and to enhance coordination and intersectoral work with other State institutions. Information on the operation of, and concrete action taken by, the Presidential Commission on



Discrimination and Racism, the Office for the Defence of Indigenous Women's Rights, the Indigenous Development Fund of Guatemala and the Indigenous Peoples and Intercultural Affairs Office, and on the mechanisms for evaluating those bodies. Progress in the development of the policy on indigenous peoples and intercultural affairs (CERD/C/GTM/16-17, paras 23 and 24).

Situation of indigenous peoples and people of African descent

7. Implementation of measures, including special or affirmative action measures, to combat structural discrimination against indigenous peoples and to tackle poverty, which has a significant impact on them. Information on the impact of the implementation of the economic policy for the period 2016–2021 and the K'atun "Our Guatemala 2032" National Development Plan on the living conditions of indigenous peoples and people of African descent (CERD/C/GTM/16-17, para. 19)

8. Progress in the adoption of legislation on access to land by indigenous peoples and the creation of an effective mechanism for addressing ancestral land claims. Measures taken to prevent the forcible eviction of indigenous peoples from their traditional territories and to mitigate the impact of eviction.

9. Measures taken to ensure respect for the right of indigenous peoples to be consulted with a view to obtaining their free, prior and informed consent on all legislative or administrative measures that may affect them. Progress in the implementation of the decisions handed down by the Constitutional Court in relation to prior consultation. Information on the implementation of prior consultation procedures and their outcomes, particularly in relation to the granting of licences for natural resource exploration and exploitation projects.

10. The situation of indigenous peoples affected by economic or natural resource development projects, particularly with regard to their rights to land, natural resources, water, food and health. Information on environmental and human rights impact studies conducted prior to granting licences to companies in the extractive industry or to hydroelectric projects.

11. Implementation of concrete measures to ensure just and favourable working conditions for indigenous peoples, particularly in rural areas and in single-crop farming. Cases involving the labour exploitation of indigenous persons that have been investigated and prosecuted, and in which penalties have been imposed and reparations ordered. Information on concrete measures taken to put an end to the "mozos colonos" (tenant farming) system.

12. Measures taken to prevent and combat the economic exploitation of indigenous children and adolescents, particularly in agriculture and domestic labour.

13. Information on the resources allocated and the implementation of measures taken to combat chronic malnutrition among indigenous children and to guarantee the right to adequate food for indigenous peoples and people of African descent.

14. Concrete measures taken to improve the accessibility, availability, quality and cultural acceptability of health services for indigenous peoples. Progress in the development of an intercultural health strategy. Further information on the implementation of the national policy on midwives belonging to the four peoples of Guatemala, and the resources allocated for that purpose (CERD/C/GTM/16-17, para. 145).

15. Implementation of measures to ensure that indigenous children and adolescents have adequate access to education and to combat illiteracy among indigenous persons, particularly indigenous women, and the resources allocated for those purposes. Measures taken to prevent school dropout among indigenous children. Impact of measures taken to expand the reach of intercultural bilingual education and ensure effective access to it (CERD/C/GTM/CO/14-15, para. 22).

Participation of indigenous peoples and people of African descent in political and public life (arts. 2, 5 and 6)

16. Information on the measures taken to promote the political participation of indigenous peoples and people of African descent, particularly in decision-making positions, as well as to promote their representation in public administration institutions and in institutions responsible for developing policies that affect them.

Situation of human rights defenders

17. Development of the public policy on the protection of human rights defenders. Information on the protection measures granted to human rights defenders, including indigenous leaders who find themselves under threat for defending their rights. Information on investigations that have been undertaken in relation to killings and acts of violence, threats, intimidation and reprisals against human rights defenders, including indigenous leaders. Measures taken to prevent human rights defenders being prosecuted for actions relating to their work.

Access to justice and indigenous jurisdiction

18. Information on concrete action taken to improve access to justice for indigenous peoples and people of African descent. Measures taken to eliminate racist attitudes and racial discrimination in courts, in particular with regard to criminal justice and the prison system. Information on the implementation of the Protocol and Critical Route for dealing with cases of Discrimination and of the policy on the access of indigenous peoples to the Public Prosecution Service for the period 2017–2025.

19. Progress in investigating, punishing and awarding reparations in relation to human rights violations committed during the armed conflict (CERD/C/GTM/CO/14-15, para. 10), as well as information on the National Reparations Programme.

20. Information on the process of constitutional reform in the field of justice and, in particular, in the explicit recognition of the indigenous jurisdiction and its harmonization with the ordinary courts, as well as on coordination and cooperation between the authorities of both systems (CERD/C/GTM/CO/14-15, para. 18).

Situation of indigenous women

21. Concrete measures to combat impunity for cases of violence against indigenous women, particularly cases of violence against indigenous women during forced eviction. Cases of violence against indigenous women that have been investigated and prosecuted, and in which penalties have been imposed and reparations ordered.

22. Implementation and results of measures taken to combat multiple and intersectional discrimination affecting indigenous women. In particular, the extent to which there have been improvements to women's participation in political and public life, their access to education, work and health services, including sexual and reproductive health services, and their access to productive projects and land. Progress in the protection of collective intellectual property rights for indigenous textiles and clothing.

23. Concrete measures taken to ensure just and favourable conditions of work for indigenous women employed in domestic labour.

Combating racial discrimination (art. 7)

24. Concrete measures taken to prevent the spread of messages that encourage the dissemination of racial stereotypes and prejudices, particularly against indigenous peoples and people of African descent. Progress on the adoption of a legal framework on indigenous community media (CERD/C/GTM/CO/14-15, para. 24).