



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**  
**Thirty-fifth session**

**Summary record of the 725th meeting**

Held at Headquarters, New York, on Thursday, 18 May 2006, at 10 a.m.

*Chairperson:* Ms. Pimentel (Vice-Chairperson)

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*The meeting was called to order at 10.15 a.m.*

**Consideration of reports submitted by States parties under article 18 of the Convention** *(continued)*

*Sixth periodic report of Guatemala (CEDAW/C/GUA/6; CEDAW/C/GUA/Q/6 and Add.1)*

1. *At the invitation of the Chairperson, the members of the delegation of Guatemala took places at the Committee table.*

2. **Ms. Núñez** (Guatemala), introducing the sixth periodic report of Guatemala (CEDAW/C/GUA/6), said that while there had been significant advances in the previous decade in national human development, poverty remained female, rural and indigenous. However, women's economic participation had increased during that time, although mostly in sectors of low productivity. Guatemalan women were also becoming more active in political and public life at all levels.

3. Guatemala had recognized the equality of all human beings in article 4 of its Constitution. The highest-level institution for handling women's issues had been the Women's State Platform, consisting of representatives from the three branches of government and responsible for guiding and coordinating the implementation of women's policy. However, the Presidential Secretariat for Women (SEPREM) had been established in 2005, and subsequently the Inter-Institutional Coordinating Office for the Comprehensive Development of Guatemalan Women. The latter body comprised of the Office for the Defence of Indigenous Women's Rights (DEMI), the National Women's Forum and other organizations.

4. Violence against women was a matter of great concern to Guatemala. A National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women (PLANOVI) had been developed and included elements such as research, analysis, statistics, violence prevention programmes, survivor assistance and State institutional capacity-building.

5. A number of legal provisions had been approved which would contribute to the advancement of girls and women; in particular, discrimination had been legally defined as an offence, and gender equity had been enshrined in the law. There were also laws,

recently passed, which provided protection against illegal trafficking in or sexual exploitation of young people, and a law which assured universal access to family planning services. However, despite many initiatives, the legal definitions of domestic violence, rape, sexual exploitation, trafficking and sexual tourism had yet to be approved.

6. One legal provision which was still in force and which had raised many questions was chapter VII, article 200, of the Criminal Code, whereby someone who committed sexual crimes was absolved if he married the victim, if she was more than 12 years old. The Ombudsman's Office had filed an appeal against that article, and its application had been provisionally suspended by the Constitutional Court.

7. In a move to identify and change stereotypes, an education reform project had been undertaken, recommendations had been submitted to the Ministry of Education and changes had been introduced into school textbooks. In addition, a consciousness-raising campaign against gender discrimination had been launched by the Presidential Commission to Combat Discrimination and Racism (CODISRA), using posters, educational materials and the mass media.

8. In 2005, an amendment to the Criminal Code had been approved, imposing increased penalties for trafficking in human beings. Trafficking awareness campaigns had also been carried out.

9. Women's political participation had increased in recent years, with the 2003 elections registering the highest number of woman voters ever. The number of women members of Congress had also risen, although only one congresswoman was indigenous. For the first time in the country's history, the presidents of the Supreme Court of Justice, the judiciary and the Bar Association were women.

10. The Ministry of Education had been working to increase school enrolment of girls. The gap in numbers between girls and boys had been reduced, although in mainly indigenous areas it was still quite wide. Gender issues had been incorporated into school curricula.

11. The Government had established machinery to investigate accusations of inequity in employment and violations of labour rights and social security provisions. The number of complaints received in 2005 had been significantly lower than in 2004. Labour

unions had been formed within certain enterprises where recurrent violations had been reported.

12. The Ministry of Health had expanded the coverage of its reproductive health programme in both urban and rural areas, to respond to obstetrical emergencies and provide family planning services, among other activities. Training had been provided for midwives, in recognition of the traditions of rural and indigenous women.

13. The State was working to implement the right of women to own property. Loans had been awarded to women for the purchase of land, with women representing 11 per cent of loan beneficiaries. Loans were also granted to women by the Government to participate in business and run enterprises.

14. Efforts had been made to harmonize existing national law with international agreements. Amendments had been proposed to regulate equality in family matters such as marriage and child custody, but those proposals were still pending consideration by Congress. There was a law on marriage and the family currently under consideration, but it made no reference to a legal age for marriage.

15. Government bodies had engaged in public awareness-raising about the Convention, including the preparation of a video about the Convention which had been disseminated to various parts of the country and incorporated in workshops at the local level. Judges, prosecutors, police officers and public defenders had participated in training on the Convention.

16. The main challenges faced by Guatemala in regard to the Convention were to harmonize national legislation with international standards, address more directly the problem of trafficking in human beings, expand the participation of women in public and political life at all levels, improve health care and education for women and girls, strengthen the national system for evaluating compliance with the Convention and other commitments relating to women's rights, and ensure the participation of Government institutions and civil society in the process of implementing the Convention.

#### *Articles 1 to 6*

17. The Chairperson, speaking in her capacity as an expert, noted that, while Guatemala had ratified the main international human rights instruments, including

the Convention and its Optional Protocol, national legislation still had not been fully harmonized with them. She wondered whether the current Government had a clear conceptual understanding of the issues involved. It would be interesting to know whether a strategy existed for ensuring consistency between national legislative provisions and the Convention; she referred in particular to the need for reforms in respect of the minimum age for marriage, maintenance for children after divorce, the waiting period for the remarriage of women after divorce and the definition of acts of domestic violence and sexual harassment. She urged that Guatemala, following the example of other Latin American countries, adopt as soon as possible a special law on domestic violence and violence against women. There was also a need for legislation on quotas in order to accelerate de facto gender equality, in accordance with article 4. Other issues related to the status of women working in agriculture and animal husbandry, the right of women to social security, and the reform of electoral law. She expressed concern about the apparent imbalance between the executive, judicial and legislative branches of government and noted in particular a resistance in the Congress to legislative changes in support of the human rights of women. She asked how the State party's sixth periodic report had been drawn up and whether it had benefited from the participation of the judiciary, the executive and NGOs. The Committee would also appreciate information about the follow-up to be given to the issues raised during the constructive dialogue, particularly as to how they would be presented and discussed in the Congress and in other branches of government, as well as in Guatemalan society. She emphasized the binding force of the Convention and enquired about the action taken to familiarize members of the judiciary with its provisions.

18. **Ms. Dairiam** said her understanding was that, in order to be invoked before the courts, the Convention had to be adopted by the national Congress. Since she assumed that such was the case, she was puzzled about the lack of harmonization. She enquired whether Decree No. 57-2002 of the Congress on reform of the Criminal Code incorporated the definition of discrimination against women given in article 1 of the Convention, and whether such discrimination was taken to include both its direct and indirect forms and included its exercise by private entities or individuals. Information would also be useful on measures taken to

enforce Decree No. 81-2002 promulgating the Act on Promoting Education against Discrimination. She asked whether it had been reflected in guidelines issued to ministries and whether any body had responsibility for monitoring the ministries' action. She wished to know what activities had been undertaken by the Office for the Defence of the Rights of Children and Adolescents established by Decree No. 27-2003, particularly in cases of abuse and neglect of girls. She acknowledged that SEPREM was engaged in a long battle and wondered whether that included plans for a campaign directed towards the structures of government, to encourage them to assume responsibility for implementation of the Convention.

19. **Ms. Saiga** said she was somewhat confused by the profusion of offices and units and uncertain in identifying the central body. She noted that while SEPREM had advisory and coordinating functions, that body seemed itself to be coordinated by the Inter-Institutional Advisory Board. She stressed the desirability of streamlining the advisory and coordinating bodies in the interests of the Government, the people at large and the Committee. She would welcome clarification of the position of SEPREM in the ministerial structure of government. She asked whether Ms. Núñez, as head of SEPREM, had ministerial status and attended Cabinet meetings. It would also be of interest to know which bodies SEPREM advised and whether it published an annual report on the situation of women in all areas. She noted that SEPREM's budget for the current year had been increased by 50 per cent after being cut by 20 per cent the previous year and expressed the hope that it would not be reduced again.

20. **Ms. Núñez** (Guatemala) acknowledged that there was some inconsistency between national legislation and international instruments; efforts had been made and would continue to be made towards harmonization. A strategy was indeed necessary for the adoption of reforms, which required the cooperation of Congress as well as the expertise provided by women's organizations, particularly through the challenges they presented to the constitutionality of certain laws. On the question of family violence, she said that a draft law had been prepared and was currently at the stage of first reading; unfortunately, however, it did not include sexual harassment. There was also a proposal, as yet not approved, for new provisions in regard to agricultural work. She recognized that the three

branches of government were not always in step and stressed the need for further strengthening of the judiciary. Training had been provided to judges and law enforcement officials, but it had not covered every angle. As for the sixth report, it had been completed in September 2003, before the installation of the new Government, in March 2004, with the participation of various ministries, the judiciary and women's movements. She could not say, however, how active that participation had been. She recognized the binding nature of the Convention: over the previous year, the Supreme Court of Justice, under the presidency of a woman, had done much to raise awareness of women's rights among members of the judiciary. Cases of discrimination by individuals could indeed be referred to the courts; sentences had been handed down in several such cases in the previous year. Follow-up was ensured through such mechanisms as CODISRA. A number of judicial decisions and sentences reflected ongoing changes of benefit to women in Guatemalan society. Other institutional mechanisms under the law included the programme of the Secretariat for Social Welfare aimed at protecting young girls against sexual exploitation. SEPREM benefited from growing support in its work, as demonstrated by the range of membership of Guatemala's delegation at the current meeting; stronger cooperation was needed nevertheless, not only with women's organizations but also with the different mechanisms of the State. SEPREM was indeed the highest-ranking institution for women's affairs and she herself attended all Cabinet meetings with ministerial rank. Coordination was therefore ensured at the highest level of government in the promotion and development of policies in support of women. It was true that there were a great many mechanisms, with different and quite specific levels of concern. They included the Office for the Defence of Indigenous Women's Rights, the National Office for Women's Affairs and the National Women's Forum, and they needed to be coordinated in order to avoid overlapping, both in their actions and in their proposals for the advancement of women. With regard to the Advisory Board of SEPREM, it formed an integral part of SEPREM. The cut noted in SEPREM's budget had been made in 2004; in 2005 its budget had not been reduced. It had been able indeed in 2005 to execute 98 per cent of its activity without any assistance from other Government agencies and was perfectly happy with its new, enhanced budget.

21. **Ms. Montenegro** (Guatemala) said that the Congressional Committee on Women was a diverse body that worked independently of the central government. There were only 14 women in official positions, but with her appointment as Chair, for the first time, the Committee was headed by a woman. Taking the opportunity to outline achievements in the elaboration of legislation and comprehensive reforms aimed at curbing all forms of violence against women and trafficking in persons, improving access to family planning, enhancing the participation of women in political life, and tackling labour issues, she underscored the need for increased political will and investment.

22. **Ms. Aceña** (Guatemala) said that since 2005, school curricula at all levels had been adapted to promote civic responsibility and social values, stressing racial harmony, equity and respect for ethnic and cultural differences. With the support of German agencies, a group of NGOs had launched a study to quantitatively assess attitudinal changes, and to develop standards to evaluate to what extent the new curricula had improved civic knowledge. She also stressed that the commitment of the Ministry of Education which she headed, the largest within the central government, was evident through the importance it placed on sensitizing staff members and the priority given to influencing the attitude of its civil servants towards discrimination based on race or gender.

23. **Ms. Zapeta** (Guatemala) said that as the National Defender of Indigenous Women, she was responsible for the Office for the Defence of Indigenous Women's Rights (DEMI), an office established, in compliance with the 1999 Peace Agreement, at the initiative of indigenous women. Its functions included the promotion of public policy in favour of indigenous women's rights, and it maintained ongoing coordination with SEPREM. It had a duty to promote harmonious coexistence among cultures. Furthermore, it provided attention and legal and social support for indigenous women who were victims of violence. In 2005, there had been 2006 cases of violence, 85 per cent of them involving domestic violence, followed in prevalence by attacks of a sexual nature and violence related to ethnic discrimination and land disputes.

24. A bill had been drafted to secure decent conditions for indigenous women employed as domestic workers, and was currently pending adoption.

The promulgation of Decree No. 57-2002 of the Congress of the Republic represented a major step forward. It established a definition of the offence of discrimination, including gender discrimination. Two sentences had already been handed down under that decree, and a number of actions had been brought against private entities.

25. She was pleased to mention that the budget for her Office had been increased by 131 per cent in 2006 over the previous year. The increase in funding had facilitated the recruitment of a larger number of highly qualified professionals and boosted the effectiveness of the Office's operations.

26. **Ms. Simms** pointed out that, other than in symbolic instances, the implementation of special measures had been rather limited in Guatemala. The adoption of such measures was a commitment under the Convention and, as such, the Government must be held accountable for their application. Women from all groups must reap the benefits of special measures, and indigenous women should be targeted in a specific way as they were particularly vulnerable to discriminatory practices.

27. The fact that women in Guatemala had to struggle hard to gain positions of influence made it all the more urgent for attention to be paid to special measures. Issues such as racism should be confronted frankly and openly in order to move away from a patronizing view of indigenous and ethnic differences. While urging the Government of Guatemala to enforce more targeted measures, she asked whether anyone had been sentenced to jail for overtly racist offences.

28. Turning to the issue of traffic in women and exploitation of prostitution of women, under article 6 of the Convention, she asked whether Guatemala had set up a database to monitor the extent of internal traffic in women for exploitative purposes, including their engagement for domestic work under poor conditions. She was also curious to know whether attention had been paid to the men who were involved in the domestic trafficking of women and children.

29. **Ms. Coker-Appiah** commended the efforts made by Guatemala to eliminate sexist roles and stereotypes, as outlined in paragraphs 82 to 86 of the sixth periodic report, and asked what results the work of the Government in that area had achieved. She was particularly interested in the distribution of printed educational materials aimed at influencing the

perception of gender roles, and the means by which adequate supplies of such materials could be ensured.

30. Violence against women and the murder rate had reached alarming proportions, yet it was clear that law enforcement officers were unable to effectively investigate and bring the perpetrators of such crimes to justice. The State had a duty to protect its nationals and, in that vein, she asked the delegation to provide the Committee with statistics on the number of murders that had been fully investigated and convictions handed down, and to explain what measures had been established to ensure that the families of victims had access to the justice system. In addition, she asked what form of protection had been extended to victims' families and key witnesses, and what procedures had been adopted to identify and charge the representatives of State agencies linked to organized criminal gangs. Additional data on murders, disaggregated on the basis of the age of victims and ethnicity, and specifying whether the murders were committed in rural or urban areas, would be appreciated. The increase in the budgetary allocations for law enforcement was a laudable trend, and she urged the Government to maintain those resources at a high level.

31. **Ms. Arocha Domínguez** noted that the Government of Guatemala had acknowledged the existence of limitations on the influence of women and their ability to achieve equality of opportunity. She wished to know what measures and special activities had been devised to combat the persistence of stereotypes, especially given the fact that Guatemala had a large population of women who neither read nor spoke Spanish and therefore had no access to or contact with the mass media.

32. She expressed concern over the troubling murder rate for women, and asked what immediate measures had been established to curb the incidence of murder. She was also interested in receiving further information on the Commission on Femicide that had been established to deal with the matter, and asked the delegation to provide specific information on the resources with which that Commission was equipped to carry out its mandate and its programme of work.

33. **Ms. Núñez** (Guatemala) acknowledged that there was much scope for additional special measures to be adopted in Guatemala. The recently launched crusade against discrimination and racism was a bold step towards official recognition of an immense problem.

She was hopeful that, although the results were not yet apparent, her Government was on the right path to facing the challenges through its adoption of appropriate legislation, the establishment of institutional mechanisms to ensure follow-up and the recognition of the importance of including the indigenous population of Guatemala in nation-building. Indigenous people must be given an opportunity to reach decision-making positions within the executive branch.

34. The Committee should not interpret the report's relative lack of information on violence against women as a sign that the Government did not take that problem seriously. On the contrary, 14 men had been convicted of femicide and imprisoned in 2006, but the State's investigative capacity was very limited and it had encountered problems relating to impunity and a lack of credible evidence. To overcome those difficulties, it would be necessary to strengthen cooperation between the National Civil Police and the Office of the Public Prosecutor. Efforts were also under way to harmonize the ways in which the various law enforcement bodies recorded statistical information.

35. Approximately 2,170 women had been murdered in Guatemala over the past five years and, according to the statistics available, those between the ages of 14 and 35 years and those living in Guatemala City, Izabal and Escuintla, where organized crime and drug trafficking were particularly prevalent, were most at risk. The Commission on Femicide, which was composed of representatives from the executive, legislative and judicial branches, was in the process of establishing victim profiles and identifying trends. It was also working to pinpoint any information gaps and to ensure that the State approached the problem in a systematic and coordinated fashion. With regard to protective measures, the Office of the Procurator-General had taken a number of steps to protect victims of violence, but Guatemala's legal system did not provide adequately for witness protection programmes.

36. Since the Commission on Femicide had been established as a temporary body, it did not have a dedicated budget. However, the institutions involved in its work had contributed financial and human resources. The Commission was due to complete its strategy and plan of action by the end of 2006 and had already set up a number of working groups.

37. **Ms. Altolaguirre** (Guatemala) said that combating human trafficking was a priority of the current administration. To that end, article 194 of the Criminal Code had been amended to include trafficking in persons, and the Government had ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. An Inter-Institutional Group against Trafficking in Persons had been established to address the issue of trafficking in a comprehensive manner and, with the support of NGOs and international organizations, had drafted a bill against trafficking in persons and illicit trafficking in migrants which provided for the prevention of trafficking and the protection of victims.

38. Efforts were also under way to harmonize national legislation with the relevant international standards, and the National Civil Police and the Office of the Public Prosecutor had set up anti-trafficking units to investigate cases of trafficking and prosecute those responsible. Considerable emphasis had been placed on training and awareness-raising activities, particularly since Guatemala was a transit country for migrants, who were especially vulnerable to sexual and commercial exploitation. The Government was cooperating with Mexico, El Salvador and Honduras in order to develop joint anti-trafficking strategies.

39. Turning to the issue of femicide, she said that it was a regional phenomenon in Central America, where misogynistic attitudes were on the increase and women were increasingly regarded as second-class citizens. While the National Coordinating Office for the Prevention of Domestic Violence and Violence against Women (CONAPREVI) was doing everything possible to combat all forms of violence against women, it was encountering difficulties related to impunity. Guatemala's judicial organs had been weakened and fragmented during the 34-year war, and although efforts were under way to strengthen the country's justice system, financial resources were scarce.

40. **Ms. Aceña** (Guatemala) said that the Vice-Ministry of Intercultural Bilingual Education had been established in 2003. There were currently between 10,000 and 85,000 bilingual indigenous teachers in Guatemala, and bilingual education, covering the four major indigenous languages, was already available in grades 1 to 3. A curriculum was being prepared for grades 4 to 6. Although new school textbooks had been

issued nationwide in 2003, it had proved difficult to ensure that all teachers used them. However, usage figures had risen from 20 per cent in 2004 to 40 per cent in 2005. Teachers would need time to familiarize themselves with the new elements of the curriculum and might require additional training.

41. Illiteracy rates were extremely high among rural indigenous women over the age of 40. However, the Government had established a literacy programme specifically geared towards those women and was making use of radio broadcasts to disseminate relevant information. In addition, SEPREM had launched a project entitled "Creciendo bien", which was designed to enhance women's self-esteem and foster autonomy.

42. **Ms. Zapeta** (Guatemala), responding to the points raised by Ms. Simms, referred to three recent cases in which the courts had ruled in favour of individuals who had lodged complaints against restaurants and private companies. Although none of those cases had resulted in the imprisonment of the perpetrators, they were highly symbolic in Guatemala because they demonstrated that discrimination against the indigenous population was unacceptable.

43. In terms of affirmative action, a number of measures had been taken to facilitate the involvement of indigenous women and men in decision-making. Furthermore, the State had launched a national policy to end discrimination against women and a study had been commissioned to determine the economic impact of such discrimination at the national level.

44. **Ms. Shin** enquired whether the issue of femicide was regularly discussed by the Council of Ministers and whether the President of Guatemala had publicly announced his determination to eradicate that scourge.

45. **Mr. Flinterman** said that the judiciary could play a vital role in efforts to protect human rights. The State party should therefore indicate whether the training seminars on women's rights for judges and prosecutors focused merely on domestic legislation or whether they also covered the relevant international standards. He also wished to know whether judges were now able to interpret and apply the provisions of the Convention directly, since the procedures provided for in the Optional Protocol were based on that premise.

46. **Ms. Gaspard** pointed out that the report did not address all the Committee's previous recommendations. She was particularly concerned that the State party had

misinterpreted article 4, paragraph 1, of the Convention and, in that regard, drew attention to general recommendation 25.

47. **Ms. Šimonović** asked whether the Convention had been incorporated into Guatemala's domestic legal order and, if so, whether it was directly applicable. In that connection, she would be particularly interested to know whether the Convention had been invoked as grounds for the repeal of article 200 of the Criminal Code.

48. She recalled that, under article 8 of the Optional Protocol, the Committee had conducted an inquiry into the murders of women in Ciudad Juárez, Mexico. The comments and recommendations made by the Committee on that occasion might be of interest to the Government of Guatemala.

*The meeting rose at 1 p.m.*