

Unofficial translation from the CERD to Guatemala - CERD REFERENCE:
CERD/EWUAP/2022/MJ/CS/ks

December 2, 2022

Your Excellency,

It is an honor to address you in order to inform you that the Committee on the Elimination of Racial Discrimination has reviewed information that it received through the CERD's Early Warning and Urgent Action Procedure, related to the lack of security for the Indigenous Peoples' land and territorial tenure and the consequences thereof, in particular with regard to forced violent displacements against Indigenous communities, as well as the criminalization of Indigenous Peoples defending their lands.

According to the information received, there has been a significant increase in forced violent displacements against Q'eqch'i and Poqomochí Indigenous communities in the Departments of Alta and Baja Verapaz and Izabal, including these instances, among others:

- The attempted forced displacement of the community of Pancoc, Municipality of Purulha (Baja Verapaz), on April 27, 2022, by the National Civil Police and members of the riot control police, resulting in three wounded people, one of whom was severely wounded;
- The forced displacement of the community of Joventec, Cahabón, Alta Verapaz, on June 15, 2022, an incident in which members of the National Civil Police burned the homes, belongings, and crops of the community;
- Forced displacements carried out against the community of Pacoc, Municipality of Purulha (Baja Verapaz), from November 21-23, 2022, by a contingent made up of military personnel and agents of the National Civil Police, as well as other nearby communities, including Dos Fuentes, Washington, and El Monjón.

The information received alleges that the State Party does not actively promote the protection of the Indigenous Peoples' lands; that, in 2020, the State Party disbanded the Secretariat of Agrarian Affairs, which was in charge of finding peaceful solutions to land conflicts; and that it reduced the personnel and financing of the Special Prosecutor's Office for Human Rights.

Her Excellency, Mrs. Angela María Chávez Bietti
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Likewise, the information received indicates an increase of violent incidents, related to land tenure, that were perpetrated against the Q'eqch'i and Poqomochí Indigenous communities in the Departments of Alta and Baja Verapaz, Izabal and Petén, including these instances, among others:

- On April 5, 2022, around 150 unidentified armed individuals entered the community of Las Pilas, Alta Verapaz, surrounded community members and fired shots to intimidate them and displace them, and brutally assaulted one of the Indigenous leaders. This situation was repeated on April 8 and May 7, without an adequate timely response by the National Civil Police;
- On April 7, 2022, around 30 armed individuals entered the community of Quejec, Alta Verapaz, and fired shots to intimidate and displace community members, burning their homes, which resulted in two wounded people. It is alleged that the National Civil Police was intermittently present, but that they did not remain there permanently to protect the community, alleging that they lacked sufficient personnel;
- On September 30, 2022, approximately 150 masked armed individuals entered the community of Xeinup, a community of Q'eqch'i Mayan people in the Municipality of El Chal, Department of Petén; they fired shots at the population; they burned the community's homes, crops, and animals; and they committed assaults and made death threats against community members. It is alleged that the community received no help of any kind from the authorities of the State Party.

The information received also refers to the increase in criminal proceedings carried out against Indigenous people who defend their lands, resources, and rights, particularly in the context of the lack of security for the land tenure of Indigenous communities. Likewise, the Committee has been informed that the majority of the people who have been physically assaulted or wounded in the events described in the preceding paragraphs have chosen not to report the cases to the relevant authorities, out of fear of the criminalization suffered by those who defend their rights; in fact, they have abstained from seeking medical attention in the hospitals of the State Party. The Committee has also received reports of instances of defamation and hate speech, directed—by private parties, including associations for the defense of private property and farmers' associations—against Indigenous communities and individuals who defend their lands and rights.

The Committee is concerned by the allegations received which, if confirmed, may constitute violations of the rights of Indigenous Peoples and individuals. Regarding this matter, the Committee reminds the State Party of its General Recommendation No. 23 (1997) regarding the rights of Indigenous Peoples, in which it particularly exhorts States Party to recognize and protect the right of Indigenous Peoples to possess, develop, control, and use their lands, territories, and communal resources.

Likewise, the Committee reminds the State Party that, in its final observations issued in 2019, it expressed its concern regarding the lack of protection, legal certainty, and guarantees in relation to title allocation, delimitation, demarcation, and restitution of lands and territories that have traditionally been occupied by Indigenous Peoples, as well as regarding the

allegations of incidents of forced displacement of Indigenous Peoples from their territories without adequate legal protection and, on some occasions, via the excessive use of force (CERD/C/GTM/CO/16-17, paragraphs 21 and 22). Likewise, the Committee expressed its concern regarding certain occasions in which criminal proceedings are improperly used to criminalize defenders of the rights of Indigenous Peoples and their territories, and regarding defamation campaigns against these defenders, including Indigenous leaders (paragraphs 27 and 28).

Pursuant to Article 9 (1) of the Convention and Article 65 of its regulations, the Committee will thank the State Party for providing information regarding the aforementioned allegations by April 11, 2023. The Committee requests that the State Party include, in its response, information regarding the measures adopted to promote dialogue-based solutions for conflicts regarding land and avoid displacements, violence, and violations of the rights of Indigenous communities, including existing mechanisms and human and financial resources allocated to this end; in addition to investigating and bringing those responsible for these attacks, threats, and violent extrajudicial displacements against Indigenous communities and Indigenous human rights defenders to justice, whether they be state or non-state actors.

Your Excellency, I would like to reiterate the Committee's desire to continue to maintain a constructive dialogue with the Government of Guatemala, in order to strengthen the effective implementation of the Convention.

Sincerely,
[signature]
Verene Shepherd
President
Committee on the Elimination of Racial Discrimination