

GUATEMALA

1. Discriminatory family code

The **legal age of marriage** without consent for heterosexual men and women in Guatemala is 18, although with parental consent, women can marry at 14 and men at 16.¹ As of the last report to the United Nations Committee on the Elimination of Discrimination against Women (CEDAW), the Congressional Committee on Women was preparing a bill that would change the minimum age of marriage with consent to 16 for both men and women.²

Indigenous Mayans make up 51% of the population in Guatemala; there are 21 different Maya groups in the country.³ While there is no official recognition of Mayan culture and traditions,⁴ it is unclear how indigenous traditions and practices effect the age of marriage in practice for a majority of the country's population.

Under the Civil Code, spouses are to share household responsibilities and both parents are obliged to share **parental authority**,⁵ but gender roles and stereotypes remain entrenched in Guatemala and women are expected to carry out nearly all of the domestic chores. Certain legislation restricts married women's rights: Article 255 of the Civil Code stipulates "when the husband and wife hold joint parental authority over minors, the husband must represent the minor and administer his or her property".⁶

Inheritance laws provide women equal inheritance rights as men, and daughters equal inheritance rights as sons.⁷ It is unclear how indigenous traditions and practices effect the age of marriage in practice for Maya groups.

There is a history of discrimination against widows in Guatemala, which has a large population of widows due to the 36-year internal armed conflict. Many widows have been "abducted or forced into

¹ Civil Code Article 80; UN Statistics Division (2008)

² CEDAW (2008a) , p. 36

³ Minority Rights Group (2008b)

⁴ Minority Rights Group (2008b)

⁵ FAO (n.d.)

⁶ Decree No. 82-98 amending the Civil Code

⁷ Articles 1078, 1079 and 1084, Civil Code; FAO (n.d.)

slavery to provide food and sexual services to the military”, though recently groups of widows have received training on how to advocate for rights and reparations.⁸

More

Divorce is legal in Guatemala, and both women and men have the right to initiate the procedure.⁹ However, it is unclear whether divorce laws and practices discriminate against women. A 1996 decision of the Guatemalan Constitutional Court struck down the Penal Code’s punishment of marital infidelity, which some women’s rights advocates read as a significant gain for women, since the criminalisation of adultery laws are “almost always implemented in a manner that is prejudicial to women”.¹⁰

2. Restricted physical integrity

In April 2008, the national Congress passed the Law against Femicide and Other Forms of Violence against Women, which establishes penalties for physical, economic and psychological violence against women because of their gender, including rape, spousal rape and **domestic violence**.¹¹ The law defines violence against women as “any act of violence based on the sex of the victim that causes or may cause physical, sexual or psychological injury or suffering for the woman, as well as the threat of such acts, and deprivation of liberty or arbitrary coercion, in both the public and private spheres”.¹²

In the past, indigenous women’s access to justice for violent acts has been complicated by the fact that the Guatemalan justice system operates in Spanish and not in native languages spoken by the majority of the population. According to its latest report to CEDAW, steps were being taken to address this shortcoming, and the Unit for Modernisation of the Judiciary was holding training workshops in cultural sensitivity.¹³

Under the 2008 Law against Femicide and Other Forms of Violence against Women, **rape**, including spousal rape, were defined as crimes.¹⁴

It is unclear how this law is implemented in practise, but according to the Organization of American States, there have been no public campaigns advising women of their right to specialised services under this legislation.¹⁵

According to the latest report to the CEDAW Committee, the issue of **sexual harassment** at work is one of particular concern in Guatemala, especially with regards to the *maquiladora* and domestic sectors, both of which are highly exploitative and sparsely regulated.¹⁶

As of the latest report to CEDAW, a Sexual Harassment Act was pending in Congress.¹⁷

⁸ UN Women (2013)

⁹ Article 155 of the Civil Code

¹⁰ Raday (2012)

¹¹ GHRC/USA (2009), pp. 2, 17

¹² CEDAW (2008a), p. 20

¹³ CEDAW (2008a), pp. 37-38

¹⁴ GHRC/USA (2009), pp. 2, 17

¹⁵ OAS (2012), p. 176

¹⁶ CEDAW (2008b)

There is no evidence to suggest that **female genital mutilation** is currently practised in Guatemala. During the 36-year conflict, mutilation of women's genitals, along with rape, was used by the Guatemalan Army scare tactics against the population.¹⁸

More

During Guatemala's civil war prior to 1996, a quarter of the 200,000 estimated missing people were women, and sexual violence was widely used as a war strategy.¹⁹ Today, violence against women (especially sexual violence) is a continued long-term consequence of the civil war, to which is linked the culture of impunity, widespread poverty and social exclusion.²⁰

One consequence of this culture of impunity and violence is **femicide** – the killing of women as an act of gender discrimination – a practise that is widespread in Guatemala. Penalties for the newly defined crime (as of the 2008 law) call for 25 to 50 years imprisonment without the possibility of parole; restraining orders and other forms of protection are also available for victims of violence.²¹ According to the Guatemala Human Rights Commission, 560 women were victims of femicide in 2012.²² And, despite these new punishments, approximately 98% of femicide cases in Guatemala end in impunity.²³

Another consequence of long-term violence in Guatemala is the high number of women widows, many of whom are destitute and especially vulnerable to crimes such as rape.

Finally, Guatemala is a major source, transit and destination country for women and children for **sexual exploitation** purposes.²⁴

Abortion is only permitted in Guatemala to save a woman's life.²⁵

3. Son bias

The male-to-female **sex ratio** at birth in 2013 is 1.05 and for the working age population (15-64 years old) is 0.94.²⁶ There is no evidence to suggest that Guatemala is a country of concern in relation to **missing women**.

More

UNICEF provides data from 2008-2012 on **education**. There is a slight gender gap in secondary and primary education, in detriment of girls.²⁷

Based on 2002-2012 data, child labour appears to affect boys more than girls.²⁸

¹⁷ CEDAW (2008a), p. 29

¹⁸ Musalo et al. (2010), p. 181

¹⁹ Musalo et al. (2010)

²⁰ Bastick et al. (2007)

²¹ Article 6 of the Law Against Femicide and Other Forms of Violence against Women; GHRC (2009), p. 9

²² GHRC/USA (2013)

²³ GHRC/USA (2013)

²⁴ Bastick et al. (2007), p. 77

²⁵ UN DESA (2013)

²⁶ CIA. <https://www.cia.gov/library/publications/the-world-factbook/fields/2018.html> (accessed 28/03/2014)

²⁷ UNICEF. http://www.unicef.org/infobycountry/guatemala_statistics.html (accessed 23/04/2014)

4. Restricted resources and assets

There are no legal restrictions on women's **access to land**, but the percentage of female landowners is extremely low. (In 2003, women accounted for only 6.5% of landowners.²⁹) When land is allotted to a household, it is registered under the name of both spouses; however, when it is allotted to an individual, women benefit in only 11% of cases.³⁰ The government has established special programmes to improve women's access to land and correct the current imbalance in favour of men.³¹

Women in rural areas and/or indigenous women have particularly low rates of land ownership. In 2009, the CEDAW Committee expressed concern regarding "access to land for women in general and in particular women belonging to indigenous communities, who can be displaced as a result of new economic development plans".³²

Under the Civil Code, both married and unmarried women have the same rights to **property other than land** as men.³³ It is unclear how indigenous customs and practices affect access to property other than land for women of Maya groups.

Concerning **financial services**, women are able to sign contracts and to open bank accounts in the same way as men,³⁴ however the percentage of men with accounts at financial institutions – 29.9% – is nearly double that of women – 15.6%. Further, only 11.2% of women received a loan from a financial institution within the last year, while 16.6 of men did,³⁵ and only 26% of women reported having control over their spending decisions.³⁶

According to the latest CEDAW report, access to credit is limited in practice because women often lack guarantees (such as title deeds). Further, rural banks grant very few loans to women for agricultural activities, and indigenous women are generally unable to obtain loans.³⁷ However, women in Guatemala make up a large majority of microcredit borrowers: 70.89% in 2011 and 72.72% in 2012.³⁸

5. Restricted civil liberties

Although there are no legal restrictions on women's **access to public space** within Guatemalan law, more than 30 years of armed conflict have left a legacy of high rates of violence against women, as addressed in the Physical Integrity section. Further, it is unclear how Maya women's access to public space might be affected by indigenous customs and practices.³⁹

²⁸ UNICEF. http://www.unicef.org/infobycountry/guatemala_statistics.html (accessed 23/04/2014)

²⁹ FAO (n.d.)

³⁰ JICA (2006), pp. 29-30

³¹ CEDAW (2008b)

³² CEDAW (2009), p. 9

³³ Civil Code, Articles 460, 464 and 1794; World Bank (2013b)

³⁴ World Bank (2013b)

³⁵ World Bank (2013a)

³⁶ Vital Voices Guatemala (2012)

³⁷ CEDAW (2008b), pp. 145-146

³⁸ Microfinance Information Exchange (2013)

³⁹ Minority Rights Group (2008b)

Lesbians, bisexual women and transgender women also face violence and discrimination that affects their access to public space. Attacks, including by government employees, have been reported especially in the case of human rights defenders who work on issues of sexual orientation and gender identity.⁴⁰

Political representation by women is low in Guatemala, especially among Maya groups. According to the Minority Rights Group: “[w]hile constitutional law permits universal suffrage, indigenous people’s voting rights are still constrained by exclusionary social practices... [including] tedious voter registration requirements, elections scheduled during harvest season and inadequate transportation”.⁴¹

There are no **quotas** at the national or sub-national level to promote women’s political participation, although two political parties have voluntary quotas at the electoral list level.⁴² On the local level, representation is also low, with only 6 of the country’s 333 municipalities headed by a woman mayor in 2011.⁴³

Despite these obstacles, woman and indigenous rights activist Rigoberta Menchú ran for the Guatemalan presidency in 2007, on a platform of creating a plural and inclusive government that recognised the rights of all groups in Guatemala.⁴⁴ Menchú did not win the presidency.

More

Women in Guatemala are not well represented in the **media**, either as reporters or in terms of inclusion in news stories in ways that do not reinforce gender stereotypes. A recent study by the Global Media Monitoring Project found that women in Guatemala made up 23% of news presenters, 31% of news reporters and only 17% of news subjects.⁴⁵ Further, 65% of news stories reinforced gender stereotypes, while only 4% challenged them.⁴⁶

In the area of **workplace rights**, Articles 147, 152 and 153 of the Civil Code set out protections for women’s work, especially regarding working mothers.⁴⁷ Women in Guatemala are offered 84 days of paid maternity leave, however they must present a medical certificate to their employer announcing their pregnancy. Women are paid 100% of their wages, two-thirds by the National Social Security Institute and the remainder by their employers unless they are ineligible for social security, in which case the employers pay the full amount. In order to be eligible, a woman must have contributed in three of the six months preceding her leave. It is illegal in Guatemala to dismiss a pregnant or nursing woman without just cause.⁴⁸ However, these protections are routinely violated in some sectors of the economy, especially in the *maquiladora* industry.⁴⁹

⁴⁰ Desde Nosotras (2008)

⁴¹ Minority Rights Group (2008b)

⁴² The Quota Project (2013)

⁴³ IPS (2011)

⁴⁴ Minority Rights Group (2008a)

⁴⁵ GMMP (2010), p. 67

⁴⁶ GMMP (2010), p. 105

⁴⁷ FAO (n.d.)

⁴⁸ ILO (2011)

⁴⁹ CEDAW, 2009, p. 3

Sources

Bastick, M., K. Grimm and R. Kunz (2007) *Sexual Violence in Armed Conflict: Global Overview and Implications for the Security Sector*, Geneva Centre for the Democratic Control of Armed Forces, Geneva, Switzerland, <http://www.dcaf.ch/DCAF/EZ/Publications/Sexual-Violence-in-Armed-Conflict> (accessed 19 July 2013).

CEDAW (2008a) *Reponses to the List of Issues and Questions with Regard to the Consideration of the Seventh Periodic Report: Guatemala CEDAW/C/GUA/7/Add.1*, Committee on the Elimination of Discrimination against Women, New York.

CEDAW (2008b) *Consideration of Reports Submitted by States Parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women. Seventh Periodic Report of States Parties, Guatemala. CEDAW/C/GUA/7* Committee on the Elimination of Discrimination against Women, New York.

CEDAW (2009) *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Guatemala. CEDAW/C/GUA/CO/7* Committee on the Elimination of Discrimination against Women, New York.

Desde Nosotras (2008) *Guatemala: The Situation of Lesbian, Bisexual, Transgender and Transexual Women with Respect to Discrimination, Shadow Report*. Organization of Bisexual and Lesbian Women, 'Desde Nosotras.' Convention on the Elimination of all Forms of Discrimination against Women, 43rd Session, New York.

FAO (n.d.) "Guatemala: Full Country Report." Gender and Land Rights Database, www.fao.org/gender/landrights/report/en/ (accessed 19 July 2013).

GMMP (2010) *Who Makes the News? Global Media Monitoring Project Report, 2010*. Global Media Monitoring Project, London and Toronto.

Guatemala Human Rights Commission/USA (GHRC/USA) (2009) *Guatemala's Femicide Law: Progress Against Impunity?* Guatemala Human Rights Commission/USA, Washington D.C.

Guatemala Human Rights Commission/USA (GHRC/USA) (2013) *Femicide and Femicide: Fact Sheet*. Guatemala Human Rights Commission/USA, Washington, D.C., <http://www.ghrc-usa.org/wp-content/uploads/2011/12/Femicide-FACTsheet-2013.pdf> (accessed 21 July 2013).

ILO (2011) *Conditions of Work and Employment Programme Database*, <http://www.ilo.org/dyn/travail/travmain.byCountry2> (accessed 20 July 2013).

IPS (2011) *Ethics and Politics Get Divorced in Guatemala*. Inter Press Service, 21 July 2011, <http://www.ipsnews.net/2011/05/ethics-and-politics-get-divorced-in-guatemala/>.

JICA (Japan International Cooperation Agency) (2006), *Guatemala: Country Gender Profile*, JICA, Tokyo.

Microfinance Information Exchange (2013) *Cross Market Analysis, Percent of Female Borrowers by Country* [database], <http://reports.mixmarket.org/crossmarket> (accessed 21 July 2013).

Minority Rights Group (2008a) Human rights, politics and participation, <http://www.minorityrights.org/2555/guatemala/maya.html> (accessed 30 April 2014).

Minority Rights Group (2008b) Maya: World Directory of Minorities and Indigenous Peoples. Minority Rights Group, <http://www.minorityrights.org/?lid=2555> (accessed 19 July 2013).

Musalo, Karen, Elisabeth Pellegrin and S. Shawn Roberts (2010) Crimes Without Punishment: Violence against Women in Guatemala. *Hastings Women's Law Journal*, 4 (19).

OAS (2012) Second Hemispheric Report on the Implementation of the Belem do Para Convention: Mechanism to Follow Up on the Implementation of the Convention on the Prevention, Punishment and Eradication of Violence against Women. Organization of American States.

Raday, Frances (2012) Decriminalizing Adultery: Eliminating Discrimination and Violence against Women. Oxford Human Rights Hub, 2 November 2012, <http://ohrh.law.ox.ac.uk/?p=475> (accessed 19 July 2013).

The Quota Project (2013) Global Database of Quotas for Women [database], <http://www.quotaproject.org/> (accessed 20 July 2013).

UN DESA (2013), *World Abortion Policies 2013*. United Nations Department of Economic and Social Affairs, New York.

UN Statistics Division (2008) Minimum Legal Age of Marriage Without Consent. United Nations Statistics Division, http://data.un.org/Data.aspx?d=GenderStat&f=inID:19#f_9 (accessed 19 July 2013).

UN Women (2013) Socially-excluded Widows Mobilize for Their Rights. UN Women, 21 June 2013, <http://www.unwomen.org/en/news/stories/2013/6/socially-excluded-widows-mobilize-for-their-rights/> (accessed 19 July 2013).

Vital Voices Guatemala (2012) Report on Women's Access to Finance Released by Vital Voices Guatemala and AGEXPORT. Vital Voices, Washington, D.C., <http://vitalvoices.org/activities/what-we-do/regions/latin-america-and-caribbean/lac-chapters/report-women%E2%80%99s-access-finance> (accessed 21 July 2013).

World Bank (2013a) Global Financial Inclusion Database, <http://databank.worldbank.org/Data/Views/reports/tableview.aspx> (accessed 20 July 2013).

World Bank (2013b) Women, Business, and the Law [database], <http://wbl.worldbank.org/Data/ExploreEconomies/guatemala/2011#using-property> (accessed 20 July 2013).