Guatemala

Consolidated Joint Submission to the UN Universal Periodic Review

28th Session of the UPR Working Group

Submitted 31 March 2017

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in General Consultative Status with ECOSOC, AND

Red Latinoamericana y del Caribe para la Democracia (RedLad)

CIVICUS: World Alliance for Citizen Participation

CIVICUS UPR Lead, Marianna Belalba B, Email: marianna.belalba@civicus.org
Ms Susan Wilding, Email: Susan.wilding@civicus.org

Tel: +41 22 733 3435
Web: www.civicus.org

Red Latinoamericana y del Caribe para la Democracia

Felipe Caicedo, Email: felipe.caicedo@redlad.org

Tel: +57 13 838 369
Web: www.redlad.org
1. **(A) Introduction**

1.1 CIVICUS is a global alliance of civil society organisations and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the Global South, and have members in more than 170 countries throughout the world.

1.2 Red Latinoamericana para el Caribe y la Democracia (RedLad) is a non-profit organisation with over 400 members, including civil society organisations, networks, academics and social movements from Latin America and the Caribbean. RedLad arduously works to strengthen democratic systems, the protection of human rights, sustainable development, and the social integration of citizens in the region.

1.3 In this document, CIVICUS and RedLad examine the Government of Guatemala’s compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Guatemala’s fulfilment of the rights to freedom of association, assembly, and expression, as well as unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2012. To this end, we assess Guatemala’s implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-oriented follow-up recommendations.

1.4 During the 2nd UPR cycle, the Government of Guatemala received 11 recommendations relating to the above mentioned rights. Of these recommendations, eight were accepted and three were noted. An evaluation of a range of legal sources and human rights documentation, which are addressed in subsequent sections of this submission, demonstrate that the Government of Guatemala has only partially implemented two of the recommendations relating to freedom of expression and not implemented nine of the recommendations relating to civil society space.²

1.5 According to the CIVICUS Monitor,³ civic space in Guatemala is rated as “obstructed”, indicating that “civic space is heavily contested by power holders, who impose a combination of legal and practical constraints on the full enjoyment of

---

¹ The full version of this submission can be found [here](https://monitor.civicus.org/).
² See Annex 1, Matrix of recommendation and implementation status.
³ The CIVICUS Monitor is a research collaboration between CIVICUS, our members and partners which the aim of providing constantly-updated information and analysis on the space for civil society and citizen activism in every country of the world- For more information about CIVICUS Monitor: [https://monitor.civicus.org/](https://monitor.civicus.org/)
fundamental rights.”

1.6 CIVICUS and RedLad are deeply concerned by the lack of implementation of UPR recommendations relating to protection of human rights defenders, many of whom, specifically environmental and land rights defenders, are subject to a range of legal and extra-legal restrictions. We are further concerned by the lack of timely, independent and transparent investigations into the physical attacks against human rights defenders, union workers and civil society activists.

1.7 CIVICUS and RedLad are alarmed by the persecution of journalists and media workers exemplified by high levels of violence committed to silence independent journalists as well as the government’s failure to implement protection mechanisms to safeguard the work of journalists.

2. (B) Freedom of association

2.1 During Guatemala's examination under the 2nd UPR cycle, the government received no recommendations on the right to freedom of association. However, despite the lack of explicit recommendations on freedom of association, as illustrated below, this right is undermined in practice.

2.2 Article 34 of the Constitution of Guatemala guarantees the right to freedom of association. Moreover, Article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which Guatemala is a state party, also guarantees this freedom. However, despite these protections, civil society organisations (CSOs) and unionised workers face many obstacles that have prevented them to operate freely.  

3. (C) Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Guatemala’s previous UPR examination, the government received seven recommendations on the protection of human rights defenders, journalists and civil society representatives. The government committed to several relevant recommendations including to “take steps to ensure a reduction in the attacks on anyone working to promote and protect human rights and to bring the perpetrators

---

4 CIVICUS Monitor, available at: https://monitor.civicus.org/Ratings/

5 CIVICUS Monitor, country description, available at: https://monitor.civicus.org/newsfeed/2016/11/01/association-Guatemala/
of such attacks to justice" and to "seek to protect human rights defenders especially journalists and trade union members." Of the seven recommendations received, the government accepted four and noted three. However, as examined in this section, the government has failed to effectively operationalise these recommendations. Of the seven recommendations on the protection of HRDs, the government has not implemented any of them. As documented below, attacks and criminalisation against human rights defenders with impunity have continued unabated since Guatemala's previous UPR examination.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure the protection of human rights defenders. The ICCPR further guarantees the freedoms of expression, association and assembly. However, in spite of these protections, human rights defenders, activists and union members continue to be the subject of physical attacks, harassment and intimidation by state and non-state actors.

4. (D) Freedom of expression, independence of the media and access to information

4.1 Under the 2nd UPR cycle, the government received three recommendations relating to freedom of expression and access to information. For example, the government pledged to "ensure a safe working environment for journalists and continue to take proactive measures against impunity" and "ensure free access to information for the population of Guatemala through the effective protection of journalists and media as they are occasionally threatened by drug traffickers and organised crime". Of the recommendations received, all three were accepted. However, as discussed below, the government partially implemented two of these recommendations.

4.2 Article 19 of the ICCPR guarantees the right to freedom of expression and opinion. Article 35 of the Constitution of Guatemala also guarantees the right to freedom of expression. However, in policy and practice the government has imposed restrictions on the exercise of this right.

5. (F) Freedom of peaceful assembly

---

6 Recommendation 99.53
7 Recommendation 99.76
8 Recommendation 99.74
9 Recommendation 99.75
During Guatemala’s examination under the 2nd UPR cycle, the government received one recommendation on the right to freedom of assembly. Guatemala supported this recommendation by committing to “educate the national security forces to effectively uphold law and order particularly when policing demonstrations and large crowds”. However, as evidenced by police response to peaceful protests, the government has not implemented this recommendation.

6.1 Regarding freedom of association

- Take measures to foster a safe, respectful, enabling environment for civil society, including through the removal of legal and policy measures which unwarrantedly limit the right to association.

- Promote a meaningful political dialogue that allows and embraces diverging views, including those of human rights defenders, CSOs, journalists, political activists and indigenous population representatives.

- Guarantee the effective and independent functioning of autonomous trade unions and foster a safe and enabling environment for unionised workers and punish the perpetrators of attacks against them.

6.2 Regarding the protection of human rights defenders

- Civil society members, journalists and human rights defenders should be provided a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment, and intimidation against them and bring perpetrators of such offences to justice.

- Ensure that human rights defenders are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.

- All human rights defenders including journalists and bloggers detained for exercising their right to fundamental rights to freedom of expression, association, and assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

- Senior government officials should publicly condemn instances of harassment.

10 Recommendation 99.79
and intimidation of civil society activists and organisations.

- The Government should apply, systematically, legal provisions that promote and protect human rights and establish mechanisms that protect human rights activists by adopting a specific law on the protection of human rights activists in accordance with Council Resolution 27/31 of the Human Rights Council.

### 6.3 Regarding freedom of expression, independence of the media and access to information

- Ensure freedom of expression and media freedom by bringing all national legislation into line with international standards.

- Approved Community Radio legislation in order to ensure that historically excluded groups have effective access to radio and other means of communication.

- All radio programs unwarrantedly closed should be reinstated.

- The authorities must cease the practice of confiscating radio equipment.

- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the Government may find sensitive.

- Take adequate steps to lift restrictions on freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.

- Develop an action plan ensuring that Internet laws comply with the government’s commitment to guarantee freedom of expression and information, so as to ensure free access to electronic media, liberalise electronic media ownership rules and allow national bloggers, journalists, other Internet users to play a full and active role in promoting and protecting human rights.

- Implement positive measures regarding access to information legislation and establish mechanisms to facilitate public access in line with best practices.

- Organise inclusive consultations with journalists and community leaders in
order to resolve disputes that exist concerning the telecommunications law.

- Refrain from adopting any laws providing for censorship or undue control over the content of the media.

- Refrain from censoring social and conventional media and ensure that freedom of expression is safeguarded in all forms, including the arts.

6.4 Regarding freedom of assembly

- Best practices on freedom of peaceful assembly should be adopted, as put forward by the UN Special Rapporteur on the Right to Peaceful Assembly and Association in his annual report (2012).

- The Traffic Circulation and Obstruction of Roads Act should be amended in order to fully guarantee the right to freedom of assembly.

- All demonstrators, journalists and human rights defenders detained for exercising their right to freedom of peaceful assembly should be unconditionally and immediately released. Their cases should be reviewed to prevent further harassment.

- All instances of extra-judicial killing and excessive force committed by security forces while monitoring protests and demonstrations should be immediately and impartially investigated.

- Review and, if necessary, update existing human rights training for police and security forces with the assistance of independent nongovernmental organizations to foster more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.

- Senior government officials should publically condemn the use of excessive and brutal force by security forces in the dispersal of protests. A formal investigation into such instances should be launched, and perpetrators should be brought to justice.

- Recourse for judicial review and effective remedy should be provided including compensation in cases of unlawful denial of the right to freedom of assembly by state authorities.
6.5 Regarding access to UN Special Procedures mandate holders

- In 2001 the Government of Guatemala extended a standing invitation to all UN Special Procedure mandate holders and therefore should prioritise official visits with the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; 3) Special Rapporteur on the rights to freedom of peaceful assembly and of association; 4) Special Rapporteur on the Independence of Judges and Lawyers; 5) Special Rapporteur on extrajudicial, summary or arbitrary executions; 6) Special Rapporteur on the rights of indigenous peoples; and 7) Working Group on Arbitrary Detention.

6.6 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with civil society organizations on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.

- Systematically consult with civil society and NGOs on the implementation of UPR including by holding periodical comprehensive consultations with a diverse range of civil society stakeholders.

- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.