

## **Status of Human Rights in Guatemala for the 42ND Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Guatemala (Guatemala) for the 42nd session of the Universal Periodic Review (UPR).

### **Background**

2. Guatemala is located in Central America with a population of approximately 17.8 million people.<sup>1</sup> Guatemala is a majority Christian nation with 41.7 percent of its citizens identifying as Roman Catholic, 38.8 percent as evangelical, 2.7 percent as other, 0.1 percent as atheist, 13.8 percent as having no religion, and 2.9 percent as unspecified.<sup>2</sup>

3. Guatemala's previous UPR was on November 8, 2017.<sup>3</sup> As a result of the review, Guatemala received 205 recommendations, 150 of which Guatemala supported.<sup>4</sup> In particular, it was recommended by Germany, and supported by Guatemala, that the government "[a]dopt effective measures to address widespread child pregnancy and ensure access to sexual and reproductive health rights, as well as education programmes."<sup>5</sup>

### **Legal Framework**

4. Under Article 3 of the Constitution of Guatemala, "[t]he State guarantees and protects the human life from its conception, as well as the interest and security of the person."<sup>6</sup>

5. Guatemala's protections for the unborn have been extensively codified into its laws..

6. Under Article 6 of the Convention on the Rights of the Child (CRC), to which Guatemala is a party<sup>7</sup>:

#### **Article 6**

1. States Parties recognize that every child has the inherent right to life.

2. States Parties shall ensure to the maximum extent possible the survival and development of the child.<sup>8</sup>

7. Guatemala's laws regarding abortion reflect the principles enshrined within the International Covenant on Civil and Political Rights (ICCPR), to which Guatemala is a party.<sup>9</sup> Under Article 6 of the ICCPR, "[e]very human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."<sup>10</sup> Guatemala also has a responsibility to uphold pro-life principles enshrined in other international agreements such as the UN Charter, Universal Declaration of Human Rights (UDHR) and the 1994 Cairo Conference on Population and Development.

## Protecting Life

8. Guatemala has remained steadfast in protecting the life of the preborn, and on March 9, 2022, Guatemalan President Alejandro Giammattei declared Guatemala to be the “pro-life capital of Latin America.”<sup>11</sup> This declaration was done so at a special event commemorating the day as the Day for Life and Family.<sup>12</sup> This momentous day celebrating Guatemala’s commitment to protecting the life of the unborn was attended by the President of Guatemala along with cabinet officials and approximately 300 other politicians.<sup>13</sup> In addition, this event also brought together religious leaders of Catholic, Muslim, and Jewish faiths emphasizing the importance of coming together to protect human life.<sup>14</sup> The event concluded with the unveiling of a monument further demonstrating Guatemala’s commitment to protecting life.<sup>15</sup> This monument showed a map of the world with a shining light on Guatemala depicting Guatemala as a beacon of light to other nations.<sup>16</sup>

9. On October 12, 2021, President Giammattei signed the Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family.<sup>17</sup> In a statement following the signing, President Giammattei’s declared that “[t]his is a clear message to the international community that there are many countries that recognize that there is a fundamental right, the right to life, which must always be guaranteed and defended . . .”<sup>18</sup> This declaration, among other things, recognizes the importance for countries to work together to:

*Improve and secure* access to health and development gains for women, including sexual and reproductive health, which must always promote optimal health, the highest attainable standard of health, without including abortion;

Reaffirm that there is no international right to abortion, nor any international obligation on the part of States to finance or facilitate abortion, consistent with the long-standing international consensus that each nation has the sovereign right to implement programs and activities consistent with their laws and policies.<sup>19</sup>

10. On July 24, 2021, President Giammattei unveiled the “Public Policy for the Protection of Life and the Institutionality of the Family 2021-2032.”<sup>20</sup> The plan is intended to create:

institutional strengthening and establishing guidelines that help to guarantee the attention to the immediate needs of protection of life from its conception and human rights of the person who is to be born, prenatal stage, early childhood, childhood, adolescence, youth, adulthood and older adulthood, thus protecting the family as the basic unit of society.<sup>21</sup>

This plan involves the cooperation of eleven governmental ministries and creates ninety-nine programs designed to “strengthen the family, combat sexual abuse, and fight malnutrition, among other goals.”<sup>22</sup>

11. In contrast, many countries in Central and South America have begun expanding access to abortion and restricting the right of the preborn to live, which explains Guatemala’s commendable actions to the contrary.<sup>23</sup> For example:

[I]n early 2021, Argentina’s government legalized abortion in the first 14 weeks of pregnancy, and in September 2021, Mexico’s Supreme Court struck down pro-life laws in two states. Most recently, in a February 21 ruling,

Colombia's high court legalized abortion through the first 24 weeks of pregnancy.<sup>24</sup>

12. The citizens of Guatemala are also committed to upholding protections for the unborn and have demonstrated that they will fight back against attempts to expand access to abortion. We saw this on September 2, 2018, when tens of thousands of Guatemalans participated in the “Great Guatemala National March for Life and the Family” to protest a proposed bill that would permit abortion up until 12 weeks for victims of rape.<sup>25</sup> As a result of public pressure, lawmakers dropped the proposed provision.<sup>26</sup>

13. Guatemala's efforts to protect innocent human life are to be applauded and supported. Indeed, there is no international right to abortion, a fact that can be seen when looking at each country's abortion legislation. Currently, a majority of the world has strict limitations when it comes to taking the life of a preborn baby. Out of the 193 member states of the U.N., an overwhelming majority (112) of them have strict limits on abortion: twenty countries prohibit abortion altogether; forty-two countries only permit abortion where the mother's life is at risk; and fifty only allow abortion to preserve the health of the mother. Even in the sixty-two countries that have varying gestational limits for on-demand abortions, the majority of these (53) have a gestational limit of twelve weeks or less, while some allow only up to fourteen weeks, or somewhere in-between. Only eleven countries allow abortion throughout pregnancy for social and economic grounds, including for rape, incest, or fetal impairment. Only two countries broadly allow pre-viability abortion. And finally, there are only six extreme outliers among the nations, including China and North Korea, which do not have a law indicating any gestational limit on abortion, though their regulatory mechanisms vary.<sup>27</sup>

14. While abortion laws and regulations vary across nations, what most countries do agree on is that the state has an interest, not only in protecting women and girls, but also in protecting the lives of all their citizens – including the unborn.<sup>28</sup> This interest is enshrined in national and international documents alike, as well as in the legislation of individual countries.

15. For instance, the Universal Declaration of Human Rights (UDHR) states that “recognition of the inherent dignity and of the equal and inalienable rights of *all* members of the human family is the foundation of freedom, justice and peace in the world,” and that “[e]veryone has the right to life . . . .”<sup>29</sup> Again, Article 6 of the ICCPR likewise states that “[e]very human being has the inherent right to life. This right shall be protected by law.”<sup>30</sup> And the preamble of the United Nations Charter states that “the peoples of the United Nations determined . . . to reaffirm faith in fundamental human rights, in the dignity and worth of the human person . . . .”<sup>31</sup> It is important to note that, while virtually all international treaties contain provisions for the protection and promotion of the right to life, not one contains a “right to abortion.” Furthermore, since the 1994 Cairo Conference on Population and Development, U.N. Member States have had an affirmative commitment to “reduce the recourse to abortion”<sup>32</sup> and to “take appropriate steps to help women avoid abortion, *which in no case should be promoted as a method of family planning.*”<sup>33</sup>

16. Guatemala understands that abortion is one of the gravest of all offenses against human life and justice because it entails the deliberate killing of an innocent human being. Any justification of abortion (aside from the extremely rare life vs. life situations where a mother is at risk of dying from continuing the pregnancy) fundamentally rests on the proposition that some members of the human race do not have even the most basic of human rights, i.e., the right to life. That proposition is incompatible with international law, as

discussed above. Moreover, the value of human life is not dependent upon the nature in which it begins, and the life of a preborn baby conceived by rape or incest is no less valuable and deserving of life than any other. Furthermore, babies born with disabilities, such as Down syndrome, are no less deserving of life than otherwise completely healthy babies. In fact, babies born with Down syndrome are capable of living long and otherwise healthy lives.<sup>34</sup> Additionally, the tests used to detect these abnormalities are not consistently reliable.<sup>35</sup> As prenatal screenings are becoming more common, companies are trying to screen for more and more diseases and abnormalities. For example, studies found that a prenatal screening for Prader-Willi syndrome, a genetic multisystem disorder, returned an incorrect positive result 90% of the time.<sup>36</sup>

17. Abortion can also cause physical harm to the mother, beyond the harm (i.e., death) to the preborn child. This can result directly from the procedure itself (e.g., perforation of the uterus, laceration of the cervix), from the deprivation of the health benefits of continuing pregnancy (e.g., eliminating the protective effect of a full-term pregnancy against breast cancer),<sup>37</sup> or by masking other dangerous symptoms (e.g., a woman with an infection or an ectopic pregnancy may believe her symptoms are merely normal after-effects of abortion, leading her to delay seeking medical help).<sup>38</sup> Remarkably, although completely partisan and lacking in legal authority, the World Health Organization's newly published 2022 "Abortion care guideline,"<sup>39</sup> also acknowledges the complications of abortion.

18. In addition, post-abortive women experience a host of negative side-effects, from shame, to drug abuse and suicidal thoughts.<sup>40</sup> All of these factors contribute to the negative and even devastating effects abortion has on women and girls and are further evidence of why Guatemala has every right to protect women and preborn children from the devastation of abortion.

## Recommendations

19. Guatemala has remained steadfast and committed to promoting life and upholding protections for the unborn. It is unavoidable that Guatemala will face outside pressure to expand access to abortion, but we want to encourage Guatemala that it is in the majority, as clearly outlined above, and should continue to protect life at all stages and continue to resist efforts to undo these protections in the future. Guatemala is a leader in its pro-life position, a position that a majority of UN member states have taken to protect the life of the unborn, as a vast majority are honoring their Cairo Conference commitment, implementing strict abortion limitations

---

<sup>1</sup> *Guatemala*, THE WORLD FACTBOOK (May 26, 2022), <https://www.cia.gov/the-world-factbook/countries/guatemala/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review—Guatemala*, UNHRC, <https://www.ohchr.org/en/hr-bodies/upr/gt-index>.

<sup>4</sup> *UPR of Guatemala—Thematic List of Recommendations*, UNHRC, <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww.ohchr.org%2Fsites%2Fdefault%2Ffiles%2Flibdocs%2FHRBodies%2FUPR%2FDocuments%2FSession28%2FGT%2FMatriceRecommendations%2FGuatemala.docx&wdOrigin=BROWSELINK>.

<sup>5</sup> *Id.* at A/HRC/37/9.

<sup>6</sup> Constitution of Guatemala art. 3, [https://www.constituteproject.org/constitution/Guatemala\\_1993.pdf?lang=en](https://www.constituteproject.org/constitution/Guatemala_1993.pdf?lang=en).

<sup>7</sup> *Guatemala Status of Ratification*, UNHRC, <https://indicators.ohchr.org>.

<sup>8</sup> Convention on the Rights of the Child art. 6, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>9</sup> *Guatemala Status of Ratification*, *supra* note 7.

<sup>10</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, S. Treaty Doc. 95-20, 6. I.L.M. 368 (1976), 999 U.N.T.S. 171, art. 6 [hereinafter ICCPR].

- 
- <sup>11</sup> David Clossen, *Guatemala Declared Pro-Life Capital of Latin America*, FAMILY RESEARCH COUNCIL (Mar. 11, 2021), <https://www.frc.org/updatearticle/20220311/guatemala-pro-life>.
- <sup>12</sup> “*Smile, You Are in Guatemala, Pro-Life Capital of Latin America*”, EVANGELICAL FOCUS (11 Mar. 2022), <https://evangelicalfocus.com/world/15830/smile-you-are-in-guatemala-pro-life-capital-of-latin-america>.
- <sup>13</sup> *Id.*
- <sup>14</sup> *Id.*
- <sup>15</sup> *Id.*
- <sup>16</sup> *Id.*
- <sup>17</sup> *Guatemala Joins the Geneva Consensus. 35 Countries Have Already Signed it*, POLITICAL NETWORK FOR VALUES (14 Oct. 2021), <https://politicalnetworkforvalues.org/en/2021/10/guatemala-joins-the-geneva-consensus-35-countries-have-already-signed-it/>.
- <sup>18</sup> *Id.*
- <sup>19</sup> Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family, <https://aul.org/wp-content/uploads/2021/06/geneva-consensus-declaration-english.pdf>.
- <sup>20</sup> John Burger, *Guatemala Initiates Wide-Ranging Policy Protecting Life and Family*, ALETEIA (Aug. 4, 2021), <https://aleteia.org/2021/08/04/guatemala-initiates-wide-ranging-policy-protecting-life-and-family/>.
- <sup>21</sup> *Id.*
- <sup>22</sup> *Id.*
- <sup>23</sup> David Clossen, *supra* note 12.
- <sup>24</sup> *Id.*
- <sup>25</sup> *Tens of Thousands March for Life and Family in Guatemala*, CATHOLIC NEWS AGENCY (Sep. 5, 2018), <https://www.catholicnewsagency.com/news/39301/tens-of-thousands-march-for-life-and-family-in-guatemala-%C2%A0>.
- <sup>26</sup> Jonathan Van Maren, *Massive Pro-Life Rally in Guatemala Forces Politicians to Back Away from Plans to Legalize some Abortions*, THE BRIDGEHEAD (Sep. 5, 2018), <https://thebridgehead.ca/2018/09/05/massive-pro-life-rally-in-guatemala-forces-politicians-to-back-away-from-plans-to-legalize-some-abortions/>.
- <sup>27</sup> *The World’s Abortion Laws*, CTR. FOR REPROD. RTS. (Feb. 23, 2021), [https://reproductiverights.org/sites/default/files/WALM\\_2021update\\_V1.pdf](https://reproductiverights.org/sites/default/files/WALM_2021update_V1.pdf).
- <sup>28</sup> *Id.*
- <sup>29</sup> G.A. Res. 217 (III) A, Universal Declaration of Human Rights, preamble, art. 3 (Dec. 10, 1948) (emphasis added).
- <sup>30</sup> ICCPR, *supra* note 10 (emphasis added).
- <sup>31</sup> U.N. Charter preamble.
- <sup>32</sup> Report of the International Conference on Population and Development, Cairo A/CONF/F.171/13/Rev.1 at 58 (5-13 Sept. 1994), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N95/231/26/IMG/N9523126.pdf?OpenElement>.
- <sup>33</sup> *Id.* at 46 (emphasis added).
- <sup>34</sup> *Data and Statistics on Down Syndrome*, CDC, <https://www.cdc.gov/ncbddd/birthdefects/downsyndrome/data.html> (last visited May 12, 2022).
- <sup>35</sup> *When They Warn of Rare Disorders, These Prenatal Tests Are Usually Wrong*, NEW YORK TIMES (Jan. 1, 2022), <https://www.nytimes.com/2022/01/01/upshot/pregnancy-birth-genetic-testing.html>.
- <sup>36</sup> *Id.*
- <sup>37</sup> See Justin D. Heminger, Big Abortion: What the Antiabortion Movement Can Learn from Big Tobacco, 54 CATH. U.L. REV. 1273, 1288-89 & nn.119 & 121 (2005).
- <sup>38</sup> See generally Physical Effects of Abortion: Fact Sheets, News, Articles, Links to Published Studies and More, UNCHOICE, [www.theunchoice.com/physical.htm](http://www.theunchoice.com/physical.htm) (listing sequelae and referencing sources).
- <sup>39</sup> *Abortion Care Guideline*, WORLD HEALTH ORGANIZATION & HUMAN REPRODUCTION PROGRAMME 79 (Mar. 8, 2022), <https://www.who.int/publications/i/item/9789240039483>.
- <sup>40</sup> Priscilla K. Coleman, Ph.D., et al., *Women Who Suffered Emotionally from Abortion: A Qualitative Synthesis of Their Experiences*, JOURNAL OF AMERICAN PHYSICIANS & SURGEONS, Vol. 22 No. 4, p. 115, 116-17 (2017), available at <https://www.jpands.org/vol22no4/coleman.pdf>.