



**Safeguarding the rights of the Maya Ch'orti' communities of Guatemala through  
the United Nations Universal Periodic Review (UPR)  
42<sup>nd</sup> Session of the UPR Working Group  
January – February 2023  
Civil Society Report for the UPR of Guatemala**

## **Introduction**

1. The Lutheran World Federation (LWF) is a global communion of 148 churches in the Lutheran tradition, representing over 75 million Christians in 99 countries. The LWF acts on behalf of its member churches in areas of ecumenical and interfaith relations, theology, human rights, ecological justice, humanitarian assistance, communication and the various aspects of mission and development.

2. The Iglesia Luterana Del Guatemala (ILUGUA) was established in 1984 as an Independent Lutheran Church of Guatemala. It is an autonomous, ecumenical, prophetic, and diaconal church working with needy peasant and indigenous communities in the Zacapa and Chiquimula departments of Guatemala. Its main headquarters is the "Casa Campesina", a space for meeting and exchanging experiences between member communities on issues related to agricultural production, environmental aspects, human rights, and socioeconomic reality.

3. ILUGUA coordinates and collaborates with UDEFEGUA, the Center for Legal Action on Rights (CALDH), the Social and Popular Assembly of Guatemala, the Association of Community Health Services, the Office of the United Nations High Commissioner for Human Rights, the Christian Ecumenical Council of Guatemala, Center for Pastoral Studies of Central America (CEDEPCA), the Madre Selva Ecologist Collective, Articulation of Women Weaving Forces for Good Living (ASOMTEVI), Women's Sector, SERJUS, Association of Women for the Just (JASS) and in the LEYDEM Platform, in pursuit of environmental protection and socioeconomic development of the Maya Ch'orti' communities in the region.

### **I. Report methodology**

4. The report is based on the collection of primary data through consultation processes with Maya Ch'orti' ancestral authorities and community men and women leaders representing 20 communities. A total of 30 Maya Ch'orti' inhabitants were consulted, women and men, all natives from Zacapa and Chiquimula. In addition, documents from official State sources and international organizations in the country that follow up on the priority issues of human rights violations in Guatemala were reviewed.

5. The report follows the guidelines for the preparation of UPR contributions, particularly in highlighting the main human rights concerns regarding the Maya Ch'orti' indigenous people, linking the findings with the review of the third UPR cycle, evaluating the effective progress of the implementation of accepted recommendations, and including issues that have not been addressed in previous reviews.



6. The recommendations proposed by the Maya Ch'orti' people abide to the use of the SMART tool. Observations are included regarding good practices that have been identified and can be scaled-up to obtain greater positive results.

## II. Context

7. The Peace Accords in Guatemala put an end to a 36-year internal armed conflict. However, the causes that triggered the conflict are still present, such as political, social, and cultural exclusion, as well as excessive socioeconomic inequality. This is particularly true for the country's indigenous population who represent 43.8 percent, of which 79.2 percent suffer from poverty and 39.8 percent from extreme poverty<sup>i</sup>. In 2020, the Human Development Index (HDI) reached 0.663. Guatemala ranks 127th among 189 countries, only ahead of Nicaragua, Honduras, and Haiti.

8. Problems related to governance and the use of natural resources have been chronic. Disregard for the rights of indigenous peoples to their ancestral lands and territories has provoked repeated episodes of social conflict in the country. These processes show a culture of impunity, corruption, and institutional weakness to address grievances and adequately resolve disputes<sup>ii</sup>. In 2018, a total of 2,196 land conflicts were confirmed<sup>iii</sup>. Social conflict has been marked by patterns of violence and repression like those evidenced during the internal armed conflict, particularly attacks, intimidation, racist attacks, and murders, among others. Simultaneously, indigenous human rights defenders have been criminalized and criminally prosecuted. This same pattern has become evident with the persecution of anti-corruption judges and prosecutors, who are now in exile in the United States. The "Engel List" that contains people classified as corrupt by the United States, refers to numerous public officials in Guatemala.

9. At present, the indigenous peoples of Guatemala continue to be victims of a historical structural violence, racism and discrimination that cuts across all sociocultural, political, and economic spheres. This is particularly true for the Mayan Ch'orti' people in the eastern region of the country, which is besieged by a predominantly racist, classist and macho ladino culture associated with the use of firearms and the resolution of social disputes through violence rather than constructive dialogue. The same discriminatory pattern extends to women, especially Maya Ch'orti' women. Similarly, the Maya Ch'orti' population resides in an area of high food insecurity due to the existence of the "Dry Corridor", which causes prolonged droughts that affect the crops of small indigenous farmers, causing severe food insecurity and directly affecting the physical and intellectual development of children who lack appropriate nourishment.



### III. Main human rights concerns of the Maya Ch'orti' people

10. In the third cycle of the Universal Periodic Review (UPR), Guatemala supported a total of 150 recommendations. Up to date, little progress has been made in effective implementation of the accepted recommendations, including the establishment of mechanisms for monitoring and consulting the application of the same recommendations issued in the UPR (111.1 and 111.2). This clearly shows the lack of political will on the part of the State of Guatemala to implement the accepted recommendations, including those pertaining to issues affecting the indigenous communities of Maya Ch'orti'. On the contrary, there have been significant setbacks in the promotion of the protection of the rights of these communities.

### IV. Rights of indigenous peoples

#### *a. Right to community consultation and free, prior and informed consent of the Maya Ch'orti' people*

11. The State of Guatemala faces great challenges in fulfilling its international obligation to adequately consult indigenous peoples to obtain prior, free, and informed consent in the face of any legislative and administrative measure that directly affects them. A lack of protection of the collective property rights of indigenous peoples persists, in particular the lack of legal security and guarantees for the titling, delimitation, demarcation and restitution of lands and territories that have traditionally been occupied by indigenous peoples. In the case of the Maya Ch'orti' people, the State of Guatemala has approved and issued 41 licenses for mining exploration and exploitation, three licenses for the installation of hydroelectric plants and four licenses for forest exploitation in Sierra el Merendón and Montaña Las Granadillas. Previously, the State of Guatemala also made efforts to create the “Interoceanic Corridor” that would cut cross the Maya Ch'orti' territory. All these actions have been carried out without community consultations and free, prior, and informed of the Maya Ch'orti' people who legitimately own their territories. Although the Constitutional Court has issued rulings that oblige the government to consult the native peoples of Guatemala, these consultations have simply not been carried out, violating the legitimate rights of the Maya Ch'orti' people.



***b. Right of the Maya Ch'orti' people to their lands, territories and natural assets***

11. The Constitutional Court has recognized the right of indigenous peoples to collective ownership of their territories based on international standards and following an intercultural interpretation. The cases of the Mayan Ch'orti' people of the Camotán municipality regarding the registration of several villages as "Indigenous Communities of Ch'orti' Mayan Ascendancy" and their recognition and registration as Administration Councils for the Administration of Lands and Natural Resources of their respective towns is positive. However, the municipal authorities persist in declaring the community lands as municipal, and not as community and ancestral land, breeding conflict and social division in the territory. At the same time, State and municipal authorities have granted and made possible communal land concessions to mining companies, hydroelectric companies and forest exploitation, aggravating the situation of violation of the rights of the Maya Ch'orti' people. For their part, the companies have sued settlers for usurpation and aggravated usurpation in an effort to undermine rights over the land, which has also led to evictions of Maya Ch'orti' settlers.

12. The National Forests Institute (INAB) has granted forestry licenses to individuals and companies that have enabled massive deforestation processes of the forests belonging to and adjacent to the Maya Ch'orti' people, particularly in the Sierra El Merendón and Montaña Las Granadillas in Zacapa and Chiquimula. In turn, individuals and companies have resorted to the practice of causing forest fires to monopolize communal lands of the Maya Ch'orti' people, causing great damage to the unique biodiversity of their territories and native species.

**Recommendations to the State of Guatemala**

- Fully implement recommendations 111.10, 111.12, 111.20 - 111.24 regarding the rights of indigenous peoples issued by the member states and accepted in the third cycle of the UPR, considering that its implementation from 2018 to date has been partial.
- Promptly, firmly and indefinitely cancel all mining, hydroelectric, and forest exploitation licenses granted to individuals and companies without the following legal procedure of land acquisition, including community consultations, and free, prior and informed consent of the Maya Ch'orti' people in their territory.
- Approve bill 5193 for the declaration of Sierra el Merendón and Montaña Las Granadillas as Protected Spring Reserves.



- Provide land titles through the corresponding State institutions for the effective restitution of the lands and territory to the Maya Ch'orti' people in accordance with the ruling of the Constitutional Court.
- Create venues for dialogue and agreement between the Maya Ch'orti' people, State authorities and organized civil society to determine and carry out the corresponding community consultations and free, prior and informed consent processes on the mining, hydroelectric and forest exploitation licenses granted.
- Take decisive administrative and political measures to ensure that the municipal authorities on duty in the municipalities of Camotán, Jocotán, La Unión, Zacapa, Olopa, Quezaltepeque, San Juan Ermita and Chiquimula respect the legal status of the Maya Ch'orti' people and their ancestral rights over their lands and territories to prevent confrontation and social division among the inhabitants.
- Carry out effective actions for the adoption of the guiding principles of business and human rights by companies operating in Guatemala according to international standards and due diligence and swiftly develop a comprehensive National Action Plan on Business and Human Rights, prioritizing the mining and forestry sectors, which are of strong concern to the indigenous communities.

## V. Attacks and criminalization of Maya Ch'orti' human rights defenders

13. During the last four years, the attacks and criminalization practices against human rights defenders, journalists and justice officials have greatly increased, contrary to the commitments assumed by the State of Guatemala in the third UPR cycle where the Ministry of the Interior indicated that: “The government was determined to continue taking measures to protect the life and physical integrity of human rights defenders and journalists” (A/HRC/37/9, paragraph 105). The abusive use of criminal law against human rights defenders to prevent or punish them for the legitimate exercise of their work has been a recurring and widespread practice in the country. Similarly, physical, verbal, and psychological attacks through threats, intimidation, surveillance, stigmatization, defamation, misdemeanor accusations, sexual and gender based violence, among others continue to be rampant<sup>iv</sup>.

14. In the case of the Maya Ch'orti' people, from 2018 to 2022 there have been a total of 133 cases of attacks against human rights defenders in Zacapa and Chiquimula<sup>v</sup>. The attacks include murders, attempted murders, direct physical attacks, threats, intimidations, raids, defamation and surveillance, as well as multiple actions to incite social confrontation led by municipal authorities. Regarding the latter, the Community Development Councils (Cocodes) and community leaders have been instrumentalized by the municipal authorities of Camotán and Jocotán to generate division and violence.

15. This tends to be done by intentionally appointing leaders in the Cocodes and organizing women's groups to gain support and encourage them to carry out direct actions against ancestral indigenous authorities (not recognizing, disqualifying, and antagonizing). The buyout of wills by the municipal authorities has been carried out with handouts of cash, the delivery of bags of food, fertilizers, and tools, among others. In addition, the municipal authorities tend to instrumentalize the aid coming from the international cooperation organizations for political ends. This is done by excluding people or communities linked to the ancestral authorities from the benefits. These actions derive from the decisions taken in the municipal council where cooperating organizations participate.

16. Likewise, the municipal authorities and the companies operating in the area have made countless false accusations and defamations against the Maya Ch'orti' ancestral authorities, which are subsequently adopted and repeated by members of the same communities, calling them "guerrillas", "communists", "criminals", "terrorists" and "opponents of development", as well as various offenses of a racist nature. To date, numerous complaints and criminal actions have been registered against community leaders. Several arrest and imprisonment orders have been carried out against human rights defenders. The cooptation of public institutions of the judicial body by companies and municipal authorities that participate as joint plaintiffs, has been evident.

### **Recommendations to the State of Guatemala**

- Accelerate the full implementation of recommendations 111.40, 111.42, 111.43, 111.45, 111.48, 111.49, 111.50, 111.52, 111.54 - 111.65, and 111.67 regarding the protection of human rights defenders issued by member States and accepted in the third cycle of the UPR, considering that its implementation from 2018 to date has been partial.
- Accelerate the full implementation of recommendations 111.26, 111.128, 111.68-111.70, 111.72-111.77 regarding the administration of justice, combating impunity and organized crime issued by the member States and accepted in the third cycle of the UPR, considering that its implementation since 2018 to date has been partial.
- Carry out immediate comprehensive protection actions (physical and psychological) through State agencies for human rights defenders under attack or threat, as well as conduct the corresponding investigations in a timely, independent, impartial, and effective manner and bring perpetrators to book.
- Take decisive administrative and political measures to ensure that the municipal authorities on duty in the municipalities of Camotán, Jocotán, La Unión, Zacapa, Olopa, Quezaltepeque, San Juan Ermita and Chiquimula respect and guarantee the physical and psychological integrity of the leaders of ancestral authorities,



avoiding confrontation and social division among the inhabitants.

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- Prepare and implement the public policy for the protection of human rights defenders.
- Provide necessary resources to Specialized Unit of the Ministry of Interior to swiftly respond and investigate attacks against Human Rights Defenders to provide justice and accountability.
- Continue strengthening the Specialized Unit for Human Rights Defenders and Journalists of the Human Rights Ombudsman, providing the necessary financial resources and technical support.

## VI. Equality and non-discrimination of the Maya Ch'orti' people

### *a. Racism*

17. Structural and historical racism in Guatemala cuts across all sociocultural, political, and economic spheres of society. Proof of this is the insignificant representation of indigenous and Afro-descendant peoples in the country's political life, as well as the marked socioeconomic inequality that prevails. In the legal field, acts of racism are classified as not serious, leading complaints to be simply resolved in local peace courts without major consequences or repercussions.

18. This situation is particularly worrying for the Maya Ch'orti' people in the eastern region of the country, which is besieged by the predominant ladino culture that is strongly racist, classist and sexist, inclined to use firearms on a daily basis, particularly to settle personal disputes and intimidate others. The willingness to use weapons and violence is exacerbated by the presence of organized crime and drug trafficking, which have direct links with municipal authorities in the border municipalities of Jocotán and Camotán. Certainly, these links influence decisions in municipal affairs, as well as the approach of municipal authorities towards indigenous authorities who claim rights over their ancestral lands. Thus, the efforts of the municipal mayors - particularly those of the municipalities of Camotán and Jocotán - have been characterized by carrying out actions that affect the indigenous territories without considering and consulting the indigenous communities and their ancestral authorities. These actions include the granting of communal lands to individuals and companies in violation of existing laws. In public speeches, municipal mayors have denied and diminished the ancestral authorities and the Maya Ch'orti' culture, arguing that “the Ch'orti' culture does not exist”, “It is already dead”. Correspondingly, there is little recognition of the ancestral authorities. Publicly, municipal authorities have questioned the use of the traditional cane of authority carried by the ancestral Maya Ch'orti' authorities, provocatively asking: “And what does that mean?”.



19. Discriminatory offenses are also evident from other public instances, such as the National Registry of Persons (RENAP), which has denied registering in personal identification documents (DPI) self-identification as Maya. In the private sector, acts of racism have also been evidenced, such as the denial of access to jobs due to physical features and surnames of the Maya Ch'orti' people who apply.

#### ***b. Gender discrimination***

20. The same discriminatory pattern described above extends to women, especially Maya Ch'orti' women who suffer from intersectional discrimination. In other words, Maya Ch'orti' women tend to be discriminated in multiple ways. Women who participated in the workshops recounted how they have been physically and verbally attacked on a daily basis because of their status as women, ethnicity, social class, and role in the defense of the Maya Ch'orti' territory; a common, recurrent, and chronic practice in the area.

21. In the broader national context, gender discrimination and inequality are not encouraging either. In the 2020 gender inequality index, Guatemala obtained an indicator of 0.479, ranking 119th out of a total of 162 weighted countries<sup>vi</sup>. This result sheds light on the scarce public positions held by indigenous women, as well as the prevailing statistics of domestic violence and pregnancies in girls and adolescents in the country<sup>vii</sup>.

#### **Recommendations to the State of Guatemala**

- Accelerate the full implementation of recommendations 111.8, 111.9, 111.12, 111.14 -111.16, 111.18, 111.19 regarding racial discrimination and indigenous peoples issued by the member States and accepted in the third cycle of the UPR, considering that its implementation from 2018 to date has been partial.
- Accelerate the full implementation of recommendations 111.100, 111.101, 111.104-111.127, 111.129-111.135 and 111.71 regarding discrimination and violence against women issued by member States and accepted in the third cycle of the UPR, considering that its implementation from 2018 to date has been partial.
- Carry out immediate comprehensive protection actions (physical and psychological) through specialized State agencies of adult women, young people, adolescents, and girls who suffer acts of gender discrimination, physical or sexual violence, and swiftly investigate corresponding allegations in a timely, independent, impartial, and effective manner.





## VII. Right to an adequate standard of living of the Maya Ch'orti' people

22. The Peace Accords signed in 1996 between the State of Guatemala and the Guatemalan National Revolutionary Unity (URNG) comprised the Agreement on Socioeconomic Aspects and Agrarian Situation (ASESA), aimed at promoting socioeconomic development of the Guatemalan population with social justice, including comprehensive strategies aimed at rural farmers to guarantee the economic and environmental sustainability of households and communities. In 2017, more than 20 years after the signing of the Peace Accords, only 71 of the 207 ASESA commitments have been fulfilled<sup>viii</sup>. This denotes a significant social debt with the most affected populations by the conflict in the country, particularly the indigenous peoples.

23. The consequences of the lack of compliance with the established commitments are reflected in the current level of poverty and extreme poverty, which amount to 79.2 and 39.8 percent, correspondingly<sup>ix</sup>. Although Guatemala maintains a stable economic growth of 3.7 percent of GDP, there are no mechanisms for the redistribution of economic gains, increasing the gaps in socioeconomic inequality in the country.

24. This economic disparity aggravates the food insecurity situation of hundreds of thousands of rural families. In 2017 it was estimated that around 900,000 people faced moderate to severe food insecurity<sup>x</sup>. This has caused a drastic rise in cases of severe acute malnutrition, mainly in children under two years of age<sup>xi</sup>. This is even more worrying in the Maya Ch'orti' region that forms part of the "Dry Corridor" of Guatemala, with prolonged droughts intensified by climate change that affect the crops of small indigenous farmers and family food security. Maya Ch'orti' peasant agriculture needs to be strengthened to be more resilient to the effects of climate change, as well as protected from the incursion of transgenic seeds that threaten it.

25. According to data from the 2018 Census, women represent only 29.5 percent of the country's economically active population, despite making up more than half of the total population<sup>xii</sup>. This indicates that women are at a significant socioeconomic disadvantage compared to men, which subsumes them into relationships of economic dependency, making them even more vulnerable.

### **Recommendations to the State of Guatemala**

- Accelerate the full implementation of recommendations 111.25, 111.83 and 111.88 regarding the right to an adequate standard of living issued by the member States and accepted in the third cycle of the UPR, considering that its



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implementation from 2018 to date has been partial.



- Accelerate the full implementation of recommendations 111.80-111.89 regarding child malnutrition issued by member States and accepted in the third cycle of the UPR, considering that its implementation from 2018 to date has been partial.
- Swiftly implement the long overdue Agreement on Socioeconomic Aspects and Agrarian Situation (ASESA) included in the Peace Accords.
- Create regulations and mechanisms with the participation of indigenous peoples for the special protection of native seeds, fruit trees, medicinal and food plants and genetic resources belonging to indigenous peoples to guarantee their indefinite protection and food security and sovereignty.
- Pass the proposed bill 4084 for Integral rural development into law and enforce it.
- Pass the proposed bill 5452 on Women's Economic Development (LEYDEM) into law for the socioeconomic development of women.



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<sup>i</sup> INE (2014) National Survey of Living Conditions – ENCOVI.

<sup>ii</sup> According to the State Fragility Index, in 2019 Guatemala had a score of 81.4/120 (where zero is the best score). This places Guatemala in position 57/178, the second worst rated in Latin America (<https://fragilestatesindex.org/country-data/>). Guatemala's Transparency International Corruption Perceptions Index fell from 33 to 27 points between 2012 and 2018. In this measurement, 0 is equivalent to a highly corrupt country and 100 to a highly clean one (TI 2012, 2018).

<sup>iii</sup> According to what is registered in the Secretariat of Agrarian Affairs and in the Presidential Human Rights Commission (SAA 2018; COPREDEH 2018)

<sup>iv</sup> PDH and OACHUDH (2019) Situation of human rights defenders in Guatemala: Between commitment and adversity. Joint report of the Office of the Human Rights Ombudsman and the Office of the United Nations High Commissioner for Human Rights in Guatemala. Cholsamaj: Guatemala.

<sup>v</sup> UDEFEGUA 2022. See table in the annex to this report with a detailed description of the cases of aggression against human rights defenders in the departments of Zacapa and Chiquimula.

<sup>vi</sup> UNDP (2020) Global Human Development Report, data for Guatemala. UNDP: New York.

<sup>vii</sup> <https://osarguatemala.org/pregnancy/>

<sup>viii</sup> SEPAZ (2017) Political Agenda for Peace 2017-2026. Commitments to fulfill. Sepaz: Guatemala.

<sup>ix</sup> INE (2014) National Survey of Living Conditions – ENCOVI.

<sup>x</sup> United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA), Humanitarian Needs Overview: Guatemala 2017 (Guatemala: UNOCHA, 2017), <https://reliefweb.int/sites/reliefweb.int/files/resources/20180221%20-%20PA%20-%20HNO%20GUATEMALA%20-%20ENG%281%29%20con%201.6%20P%20in%20need%20%281%29.pdf>

<sup>xi</sup> “Children aged <5 years stunted”, Global Health Observatory Data Repository <http://apps.who.int/gho/data/view.main.CHILDSTUNTEDv>

<sup>xii</sup> INE (2019) XII National Population Census and VII Housing. INE: Guatemala.