



Index: AMR 34/0314/2019
May 6, 2019

SUBJECT: OPEN LETTER TO THE PRESIDENTIAL CANDIDATES IN THE REPUBLIC OF GUATEMALA

Dear presidential candidates,

Greetings from Amnesty International, an international non-governmental movement that defends and promotes human rights in the world with 7 million supporters.

With a little over a month to go before the presidential elections, Amnesty International is writing to draw your attention to what the organization believes are the most worrying human rights issues facing the country and to ask you to recognize and make a public commitment that, if elected president, you will take action to promote human rights and those who defend them. It is crucial and necessary for your government programme to prioritize human rights, including the following issues and recommendations:

THE FIGHT AGAINST IMPUNITY

Amnesty International has welcomed the historic progress made in the fight against impunity in recent years with the support of the International Commission Against Impunity (CICIG), such as the progress in criminal justice system procedures and the conviction of individuals responsible for grave human rights violations and crimes against international law during the armed conflict and in prominent cases of corruption with implications for the exercise of human rights. This progress, unimaginable a decade ago because of the levels of impunity prevailing in the country, show that appropriate efforts and measures can open the way to truth, justice and reparations in Guatemala.

However, Amnesty International notes with concern the denunciations of attacks against justice officials and threats to judicial independence, the persistence of structural obstacles in the criminal justice system and the recent strategies adopted by some authorities to undermine the fight against impunity. This situation endangers the consolidation of an effective justice system that guarantees rights to victims. It is the duty of the authorities to ensure that human rights violations do not go unpunished and Amnesty International therefore calls on you to:

- Reiterate your commitment to continuing the fight against impunity, strengthening the technical capacities of investigative bodies throughout the country and providing the financial resources, tools, training and working conditions required to ensure that judicial officials are able to do their job properly.
- Ensure the immediate, impartial, independent and effective investigation of all crimes against international law and human rights violations committed during the armed conflict, including the participation of commanding officers, and of cases of corruption and human rights violations committed in the post-conflict period by members of criminal networks and pursued by the CICIG.
- Reject the adoption of amnesties incompatible with Guatemala's duty to investigate and punish grave human rights violations and crimes against international law, such as those proposed by law 5377.
- Allocate suitable and sufficient resources to guarantee the security of prosecutors, judges and magistrates, particularly those dealing with human rights violations and other high impact cases and refrain from promoting measures that might interfere with judicial independence.



A SAFE ENVIRONMENT FAVOURABLE TO THE DEFENCE OF HUMAN RIGHTS

In Guatemala, human rights defenders conduct their work in a hostile and dangerous environment. They are frequently the victims of campaigns to stigmatize and smear them. They receive threats and may even be killed for their activities, particularly those who defend land, territorial and environmental rights. Most of these attacks go unpunished. Human rights defenders also face unfounded judicial proceedings initiated with the intention of harassing them and hindering their legitimate work. Amnesty International therefore calls on you to:

- Guarantee an immediate, thorough, independent and impartial investigation into all attacks, threats and aggression against human rights defenders and bring to justice the perpetrators and intellectual authors.
- Put an end to the misuse of the justice system to intimidate, harass and discredit human rights defenders by opening unfounded judicial proceedings.
- Ensure the effective protection of human rights defenders at risk, through the adoption and implementation of a public policy in accordance with the criteria established by the Inter-American Court of Human Rights in the judgement *Human rights defender et al. v Guatemala*¹.
- Refrain from adopting and proposing legislation that restricts the work of human rights defenders and unduly limits the rights to freedom of expression and association, such as Law 5257, and guarantee the right to peaceful protest.
- Publicly recognize, in the form of a national campaign, the legitimate work carried out by human rights defenders, including those who defend land, territorial and environmental rights.
- Address the structural causes of social conflicts provoked by the exploration for and exploitation of natural resources, on the basis of full respect for the human rights of indigenous peoples and Afro-descendants, particularly the right to prior, free and informed consultation regarding their territorial rights and a healthy environment.

GENDER VIOLENCE

Violence against women and girls remains alarmingly common in Guatemala. Violence includes killings for gender-based reasons, called “femicides” in Guatemalan legislation, as well as sexual and other forms of violence. The figures for teenage pregnancies show the need for adequate institutional measures to prevent sexual violence and guarantee access to adequate health services, including the right to legal and safe abortion, information and sex education. Amnesty International therefore calls on you to:

- Introduce effective and coordinated measures to prevent violence against women, especially against young women and girls; and intensify efforts to conduct immediate, impartial and effective investigations into all forms of violence against women.
- Guarantee the right to life and health of girls and women, ensuring their effective access to educational programmes and sexual and reproductive health services.

Violence against lesbian, gay, bisexual, transgender and intersex (LGBTI) individuals also persists. These people are frequently the target for discrimination and attacks on the basis of their sexual orientation and/or gender identity, which in the overwhelming majority of cases remain unpunished. Instead of guaranteeing their rights, the Guatemalan Congress has promoted the adoption of legislation that strengthens discrimination and stigmatization of them as in Law 5272. Amnesty International therefore calls on you to:

¹ Inter-American Court of Human Rights. Case of Human Rights Defender et al. V. Guatemala. Preliminary Objections, Merits, Reparations and Costs. Judgment of 28 August 2014. Series C No. 283, para 263.



- Adopt and implement policies to promote respect for the rights of LGBTI persons and prevent all forms of violence and discrimination against them.
- Ensure immediate, thorough, independent and impartial investigation into all crimes and human rights violations committed against LGBTI persons because of their sexual orientation or gender identity.

DEATH PENALTY

The abolition and suspension of the application of the death penalty for common crimes as a consequence of the Constitutional Court decision in 2017 was an important step in ensuring that Guatemala complies with its international human rights obligations. Amnesty International calls on you to:

- Immediately abolish the death penalty for all crimes.

The respect, promotion, protection and effective exercise of the human rights of all people is the cornerstone on which the rule of law is built. It is also an essential tool with which states can guarantee that all people under its jurisdiction can live with dignity and free from discrimination, irrespective of their gender, race, ethnic origin, sexual orientation, gender identity or any other condition. That is why it is so important for governments and all presidential candidates to clearly show their commitment to creating and strengthening a fair, free and equal society.

Amnesty International hopes you are able to give an explicit, clear and emphatic commitment to each and every one of the points listed above before election day.

Yours sincerely,

Erika Guevara Rosas
Americas Director
Amnesty International