

GUATEMALA CASE STUDY: ADVANCES IN AND CHALLENGES FOR SPECIALIZED JUSTICE

Regional Assessment of Access to Justice as a preventive
mechanism to end violence against women 2011-2015

UN WOMEN



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Acronyms and definitions

ATJ	Access to Justice
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CICIG	International Commission against Impunity in Guatemala
CNSAFJ	National Monitoring and Support Commission for the Strengthening of Justice
CONAPREVI	National Coordinator for the Prevention of Domestic Violence and Violence against Women
CSO	Civil Society Organization
HR	Human Rights
IDDP	Criminal Public Defence Institute
INACIF	National Institute of Forensic Sciences
MAI	Holistic Attention Model
MESECVI	Follow Up Mechanism of the Belém do Pará Convention
MIMPAZ	Interinstitutional Board for Women, Peace and Security
MP	Public Ministry
NAP	National Action Plan
OHCHR	Office of the United Nations High Commissioner for Human Rights
OJ	Judicial Agency
PNC	National Civil Police
SAI	Holistic Attention Model
ToC	Theory of Change
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
UN	United Nations
UNDAF	United Nations Development Assistance Framework
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNICAP	Public Ministry Training Unit
UNICEF	United Nations Children's Fund
UNODC	United Nations Office on Drugs and Crime
UNS	United Nations System
VDW	Violent Deaths of Women
WPS	Women, Peace and Security
WPS-HA	Women, Peace and Security and Security and Humanitarian Action

1. Introduction

This report presents the case study of Guatemala, one of the four studies conducted as part of UN Women's Regional Assessment of Access to Justice as a Preventive Mechanism to End Violence against Women (VAW) 2011-2015.

The objective of the case studies is twofold. Firstly, it is to answer questions raised in the regional assessment, conducting a country-level analysis of interventions and programmes, as well as contributing to the ultimate objective of facilitating access to justice in cases of VAW. Secondly, it is to identify those interventions, programmes or strategies that have been particularly successful and/or paradigmatic, to analyse and understand both the keys to their success and the lessons learned from their implementation with a view to their possible replication in other countries.

To do this, a field visit was carried out from 25 January to 5 February during which the opportunity was taken to interview a total of 46 people through individual and group interviews with key actors from the country's justice sector, public institutions such as civil society organizations (CSOs), United Nations agencies (UN) and international cooperation donors.

This evaluation work would not have been possible without the collaboration and contributions of everyone in the UN Women Guatemala office, who gave very significant support to the conduct of this assessment exercise both in the development of a high level agenda and in the logistic support they gave throughout the field work. Their contributions to the findings and conclusions of this report should also be noted.

Special thanks for their availability and support also go out to everyone interviewed as part of this analysis exercise. From their different perspectives, they have generously shared their opinions and have been of great help, enabling the assessment team to know and understand the country context, progress on access to justice for women victims/survivors of violence and discrimination, and the main contributions made by UN Women Guatemala in this regard. We thank them all for the time they dedicated to the assessment process and for their invaluable opinions.

The Guatemala case study reflects the result of this entire assessment exercise which, principally, analyses the contribution and scope of the work of UN Women Guatemala to the country's justice system and especially to the justice system specialized in crimes of femicide and other forms of VAW. The characteristics of this system and the mechanisms and procedures subsequently conducted have represented a major milestone, not only in the advancement of justice and women's rights in the country and/or region, but also in making visible the obligations of the state to ensure that victims/survivors of gender-based violence have access to justice under equal conditions and with all procedural safeguards.

The specialized justice model launched in Guatemala offers advances, challenges and a suitable framework for the drawing of lessons that can be used as a guide to strengthen both UN Women's work in other countries in the region and UN Women's future efforts in Guatemala.

2. The Guatemalan context with regard to Access to Justice (ATJ) for the victims of violence against women

VAW is a historic problem in Guatemala whose deeper cause is related to a patriarchal culture that has systematically obscured and subordinated women which, in turn, has prevented them from having access and opportunities on equal terms to economic, political and social spheres. To understand, in part, the cruelty and magnitude of the violent deaths of women in the present day, it is essential to start from the country's most recent past, the internal armed conflict where "the rape of women was systematic, large-scale and generalized and was, thus, not only used as part of a war strategy but also became a key instrument of repression and/or persecution."¹ In all cases and as has been shown, it is essential to highlight that patriarchal values are the substrate to VAW, which is exacerbated and intensified in contexts of armed conflict.

Despite the Peace Accords made in 1996 and several initiatives related to the clarification and construction of the historic memory of women, the country has, for the first time, a conviction² that contributes to the fight against impunity for the serious violations of women's human rights perpetrated during the internal armed conflict and which also strengthens the processes of gender justice. In this regard, VAW has become naturalized and internalized in Guatemalan society as one of the cruellest and most extended expressions clearly reflecting the situation of gender inequality and the domination of men over women. In Guatemala, violence is not an isolated event but part of the historic process that has characterized the country as well as being framed in a context of continuum. The notion of continuum provides elements not only to bring to light the permanence and systematic nature of violence in women's lives at the individual level, but also to help understand how it affects them collectively and through history. As already highlighted by women's and feminist organizations as well as by different international and/or regional conventions, it is considered a continuum because every form of violence against women (by armed actors, in the community, or within couple or family relationships) is the fruit of one and the same context: discrimination against women in patriarchal society.

Over the years, Guatemala has made some progress in shaping legal and legislative frameworks that have contributed to addressing this serious problem. Particularly noteworthy are:

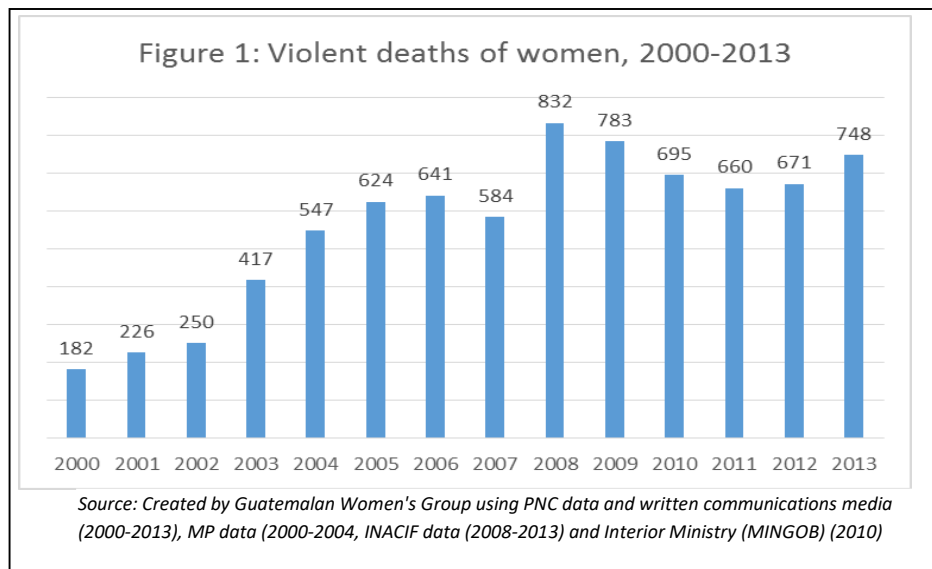
¹ *Impunity Watch* Guatemala, "Where is Justice? Continuum of violence against women" (2015), Guatemala.

² On 25 February 2016, Court A for High Risk Crimes of the Supreme Court of Justice of Guatemala sentenced lieutenant colonel Esteelmer Francisco Reyes Girón and former military commissioner Heriberto Asij to 240 and 120 years in prison respectively for crimes against humanity and forced disappearances during the internal armed conflict.

1. The **Law to Prevent, Sanction and Eradicate Domestic Violence** (Decree 97-1996 of the Congress of the Republic), that had as its main objective that of prevention, prosecution and resolution of allegations. Although this law was limited to criminalizing domestic violence and providing safety measures, it was a major advance at its time. This legislation and ratification of the Belém do Pará Convention (in 1994) also led to the creation of the National Coordinator for the Prevention of Domestic Violence and Violence against Women (CONAPREVI) who was responsible, among other matters, for defining and implementing the National Plan for the Prevention and Eradication of Domestic Violence and Violence against Women (2004-2014).
2. The **Law against Femicide and other Forms of Violence against Women** (Decree 22-2008 of the Congress of the Republic), from which were created the crimes of femicide, of violence against women (physical, sexual and psychological) and economic violence against women. This law not only led to a major paradigm shift compared to the predecessor law with its marked family-based approach, since it was now aligned with international and regional human rights (HR) standards, but also led to the creation of organs of justice that were specialized in this field. There are currently femicide courts in 11 of the 23 departments in the country, three created in 2010 (Guatemala City, Chiquimula and Quetzaltenango), two in 2012 (Huehuetenango and Alta Verapaz), and six more were created between 2013 and 2014 (Escuintla, Izabal, Petén, Sololá, San Marcos and Quiché).
3. The **Law against Sexual Violence, Exploitation and Trafficking in Persons** (Decree 9-2009 of the Congress of the Republic) represented the possibility of addressing other forms of sexual violence of a transnational nature, such as the exploitation of and trafficking in persons, linked to drug trafficking and other crimes).

Even so, despite the legislative frameworks mentioned and the institutional architecture created for this purpose, VAW remains one of the country's main problems, a situation that

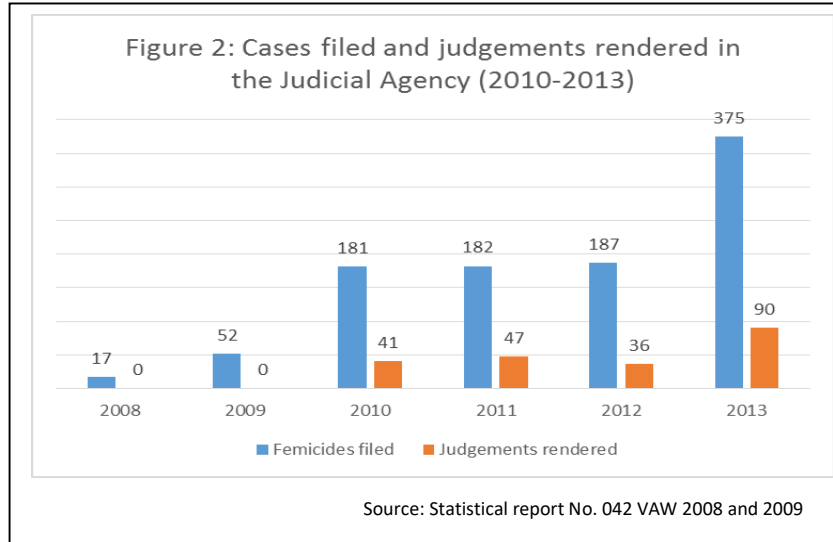
continues to limit the realization and enjoyment of women's rights and to impede democracy, human development and peace in Guatemala. Cases of femicide and reported cases of VAW are the tips of the iceberg of this problem that largely continues without emerging



through the channels of access to justice. It should, however, be noted that as shown in figure

1, from implementation of the Law against Femicide there has been a slight decrease in cases. According to the Public Ministry (MP, from the Spanish), however, VAW remains the most reported crime, outstripping the management and response capacity of state institutions in charge of such cases.

For this reason, justice institutions cannot respond with the required speed and appropriateness which, together with other limitations such as the lack of information and the reproduction of gender stereotypes among others, contributes to the



creation of significant delays in justice and very high rates of impunity in the country (see figure 2).

The institutions that form part of the chain of justice in Guatemala will be detailed next. They all assume different roles and responsibilities in each of the links in the chain but, they are, in every case, key to ensuring a procedural system with every guarantee and independence that fights impunity for any manifestation of VAW:

- The Public Ministry (MP, from the Spanish): Its role is criminal prosecution and response to criminal acts. It acts independently of the government and forms part of the organs of legal and administrative control. On the basis of the Femicide Law, it set up the women's prosecutors' departments in 2010 and in 2012 it established the Holistic Attention Model (MAI, from the Spanish), whose functions are: 1) to optimize criminal prosecution in the investigation of cases of VAW and sexual crimes and 2) to improve care for victims of crime. The MAI is composed of multidisciplinary teams with prosecutors, psychologists, doctors, social workers and interpreters. The MAI is currently present and in operation in 9 of the 23 departments in the country (in Guatemala City there are three MAIs).
- The Ministry of the Interior-National Civil Police (PNC, from the Spanish): this body protects and guarantees the exercise of rights and the liberties of persons, acting on the prevention, investigation and fight against crime. The PNC's Victim Care Department has a presence country-wide.
- The Judicial Agency (OJ, from the Spanish): this specialized agency was created 2010, being the legal bodies that address the special needs of the victims/survivors of violence as well as attempting to prevent the reoccurrence of the violence. These bodies have jurisdiction over offences under the Law against Femicide. Specialized justice has also defined the Holistic Care System (SAI, from the Spanish) whose objective is to provide holistic care and

psychological guidance and support for victims/survivors before, during and after judicial proceedings; the SAI is made up of trained female and male judges and legal support and administrative staff with heightened awareness. It is in existence and operation in 11 of the 23 departments in the country.

- The National Institute of Forensic Sciences (INACIF, from the Spanish): Responsible for providing forensic scientific research services and issuing expert opinions to the justice system. There are INACIF offices in every department of the country (there are three offices in Guatemala City and Petén, and two in Escuintla and San Marcos).
- The Criminal Public Defence Institute (IDPP, from the Spanish): this institute provides free legal criminal defence services, assisting both individuals accused of committing crime and also, since adoption of the Femicide Law, women victims of violence and their families. The IDPP currently has a presence nationwide.

The institutions mentioned above work in a coordinated manner through the National Monitoring and Support Commission for the Strengthening of Justice (CNSAFJ, from the Spanish), whose purpose is to be a space for dialogue, discussion, analysis, consensus and proposal for the strengthening and modernization of the justice system. This commission was created within the framework of the Peace Accords (1996), forming part of the so-called institutionalization of the Peace Process. The CNSAFJ currently consists of the following work groups: 1) Human rights; 2) Professional excellence; 3) Access to justice for Indigenous Peoples; 4) Crime prevention; 5) Monitoring of management; 6) Women's access to justice.

3. The UN Women Guatemala strategy

The UN Women Guatemala office was established as such in the country³ in 2012. Since then it has developed three strategic planning frameworks setting out the priorities and work to be performed for the periods 2011-2013, 2014 and 2015-2019 respectively. Taking the last programme framework as a reference, UN Women Guatemala has stated its institutional goal as being the "...promotion of women's empowerment to guarantee their rights, thus enabling them to participate in and benefit from the development of the country. As such, the office also establishes as a goal, the strengthening of national capacities to meet institutional responsibilities with regard to women's rights under international conventions and standards. It also covers support for coordination and partnerships between the various women's organizations and their dialogue with the State over the adoption of laws and the institutionalization of public policies for gender equality and women's empowerment..." This framework, moreover, contributes to the UN Women overall strategic plan and is in alignment with the United Nations Development Assistance Framework (UNDAF) 2015-2019. Finally, the main programme areas defined are:

³ Presence in the country was previously in the form of the United Nations Development Fund for Women (UNIFEM).

1. Women, peace and security and humanitarian action: supports implementation of gender equality reforms in the security and justice institutions in order to increase the participation of women in decision-making posts.
2. Political and citizen participation: supports civil society advocacy to promote the participation of women in electoral processes. It also strengthens the capacities of the Electoral Institute to work with women on aspects to do with citizenship, democracy and political participation at national and municipal levels.
3. Economic empowerment: develops policies that promote women's economic and employment rights, in particular for domestic workers. It also supports social protection programmes with a gender perspective and conducts small women entrepreneur projects and builds the production capacities of rural women.
4. Prevention of and response to VAW: supports the development and implementation of local and national plans against violence, in line with national policies.
5. Global standards: strengthens national institutions, the women's movement and indigenous women's organizations in intergovernmental processes such as the Commission on the Status of Women, Beijing+20 and the World Conference on Indigenous Peoples, in addition to supporting the dissemination and follow-up to the recommendations of such forums.

From the beginning, approximately between 2002 and 2005,⁴ work on ATJ for women victims/survivors of violence has been placed under the programme area of Women, Peace, Security and Humanitarian Action (WPS-HA); later, in 2014, the VAW area was created. A clear division of roles and responsibilities has been established between the two areas. Thus, while the first focuses on matters related to the various resolutions of the United Nations (UN) Security Council⁵ on Women, Peace and Security (WPS), transitional justice, the global regulatory framework and reforms to the justice sector, the second focuses more on the prevention, treatment and referral of VAW. In particular, this matter is handled from this office by addressing the continuum: initially from a transitional justice approach and later on from its various manifestations criminalized in national legislative frameworks (sexual violence, femicide, violent death, etc.) According to respondents, this approach is in itself a great innovation and conceptual contribution since it specifies and details the systematic nature and underlying context where violence against women takes place.

At planning level, the matter of ATJ for the victims/survivors of violence against women is reflected globally in the UN Women programme frameworks (2011-2013 and 2014-2017 respectively) and in the country programme frameworks (2011-2013, 2014 and 2015-2019) and in the WPS-HA area strategy (2015-2019). This latter strategy takes as a reference global and national standards on women's rights and commitments made in the wake of UN resolutions on WPS while also addressing a key component for the country related to transitional justice for cases of sexual violence in the context of the internal armed conflict. A results matrix is developed from this national strategy, aligned with the UN Women global strategies mentioned above.

⁴ During this period it was UNIFEM that had presence and an office in this country.

⁵ The United Nations Security Council has passed the following resolutions on Women, Peace and Security: 1325 (2000), 1820 (2009), 1888 and 1889 (2009), 1960 (2010), 2106 and 2122 (2013) and 2242 (2015).

Thus, this matrix is fundamentally focused on the axes of WPS and HA rather than on results, actions or indicators related to ATJ-VAW. This absence is due, in part, to the fact that UN Women defined a global strategy on ATJ during 2015⁶ and the national WPS-HA strategy was defined before then, for which reason alignment with it has not yet been possible. In any case, it should also be noted how in the global strategy (2015) women's access to justice is evidenced at a general level and is not a specific strategy for the case of women victims/survivors of violence. This recent adoption is, therefore, too generic, which has possibly also limited the design, planning and alignment of a results framework at national level. Finally, even if monitoring and/or analysis⁷ of gains with regard to the national WPS-HA strategy have been conducted, one also notes a reflection of a limited capacity of systematization (knowledge management strategy) of all the work done as part of WPS-HA.

What is more, at budget level as per the documentation consulted, ATJ work for victims/survivors of violence against women in the WPS-HA area accounted for 22 per cent of the total budget of the office for the period 2012-2015, of which 3 per cent was core funds and 19 per cent non-core funds, reflecting the fact that, basically, this area depends on a clear strategy for the mobilization of external resources. In this regard the UN Women Guatemala strategy on WPS-HA (2015-2019) already stated how *"...while for the period 2012-2013 the Peace and Security area succeeded in raising US\$1,363,400 to cover programme operations from 2013 to 2015 in gradual decline, in 2014 efforts were invested to submit six proposals totalling US\$4,840,200, but we received a confirmation of funds for only US\$100,000, equivalent to 2 per cent. These figures indicate that efforts invested are ever greater with lower chances of raising funds..."* Similarly, the assessment exercise has confirmed that there is a major pressure related to the mobilization of resources to implement, strengthen and deepen those actions or interventions to facilitate ATJ for victims/survivors of VAW, but also that in spite of having limited resources, the WPS-HA area has made significant and crucial gains with regard to facilitating ATJ for the women victims/survivors of violence.

In terms of human resources, this area has continuously had stable, permanent staffing through a team composed, principally, of two people⁸ with experience and expertise on issues related to global and national regulatory frameworks, transitional justice and WPS. UN Women Guatemala also has a group of external consultants with knowledge, expertise and prestige on the gender perspective and women's rights. Significant strengths, capacities and skills on gender justice and the specialized justice system characteristic of the country were identified in this group.

6 In 2015, UN Women developed the global "Flagships" programme initiative, specifying five priority areas: 1) Political empowerment of women; 2) Economic empowerment of women; 3) Elimination of VAW; 4) Peace, security and HA; 5) Planning and budgets. Work on access to justice for women is specified under the first priority area; in any case, in the display of the results and products chain this focus only has a specific output related to VAW.

7 The planning and monitoring system has mainly been implemented through the "Annual Work Plans" prepared and reported quarterly and annually to the agency's head office in the USA by the UN Women Guatemala office.

8 For a limited period of time, the WPS-HA team was composed of three people.

On a different matter, when UN Women established itself in the country in 2012, other agencies of the UN system were already in place, working in the area of security and justice, as was the case for the United Nations Development Programme (UNDP) or through interventions related to sexual violence, as was the case for the United Nations Population Fund (UNFPA). The appearance of UN Women as a new agency led to considerable efforts of accommodation and coordination with the other agencies that had previously been addressing related issues, work that continues today to generate constant readjustments and reorganizations with a view to facilitating the complementarities of the respective mandates among UN System agencies.

UN Women Guatemala's work on ATJ for victims/survivors of violence against women has mostly been conducted within the framework of joint programmes⁹ that are defined, coordinated and implemented with other UN system agencies such as UNDP, UNFPA, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Office on Drugs and Crime (UNODC) and the International Commission against Impunity in Guatemala (CICIG, from the Spanish). All the actors consulted highlighted the great contribution and major impact of work within the framework of joint programmes, although they also pointed to some weaknesses in inter-agency coordination, all the more so when thematic and/or sectoral boundaries are frequently difficult to delimit. The joint programmes conducted during the period 2011-2015 are detailed below:

⁹ Joint programmes have been mainly financed by the United Nations Peacebuilding Fund (PBF).

Joint programme	Year	Main theme	UN System agencies involved
1325- Reaffirming the rights of women survivors of sexual violence in conflict and post-conflict situations	2013-2015	Sexual violence in post-conflict situations and strengthening national public institutions and civil society organizations (CSOs), related to WPS	UNFPA, UNDP, UN Women
Strengthening national criminal investigation capacities	2011-2013	Strengthening criminal investigation capacity-building with women's prosecutors' departments (MP)	UNDP, UNODC, UN Women and CICIG
Strengthening national capacities for victim care	2012-2014	Holistic victim care through strengthening MAI-MP. Capacity-building for justice staff of MP and OJ	UNICEF, UNFPA, UN Women, CICIG and OHCHR
Strengthening institutional capacities of the Ministry of the Interior to guarantee security and promote a culture of peace	2013-2015	Strengthening capacities of PNC and information technology platform (electronic bracelets)	UNDP, UNESCO, UN Women, UNODC, CICIG and OHCHR
Strengthening criminal investigation capacities of Public Ministry	2011-2014	Strengthening criminal investigation. Strengthening women's prosecutors' departments	UNDP, UNODC and UN Women
Indigenous women and girls Access to comprehensive justice ¹⁰	2014-2016	Linking ancestral and ordinary justice in Totonicapán and Chiquimula	-----

Thus, the analysis conducted has found that the the approach adopted by UN Women Guatemala has been focused, fundamentally, on the promotion and establishment of bridges for dialogue and spaces for coordination between the institutions of the state and CSOs involved in the justice system, as well as seeking to strengthen processes and structures in both directions. Turning to the work done with public institutions, this has principally been:

- MP: 1) support for the design and development of its Policy for Equality between Men and Women (adopted in 2014); 2) the implementation of various capacity-building and training processes in different women's prosecutors' departments; 3) development of the curriculum for public prosecutors' courses and incorporation of the gender perspective and human rights (HR) in coordination with the Institutional Capacity-building Unit (UNICAP); 4) support for definition of a protocol for care and investigation; 5) support and technical assistance for proceedings for sexual violence in the context of the internal armed conflict, through the recruitment of and consultancy by experts in the field.
- PNC: work with the Office of Police Reform, the Victim Care Office and with the 110 telephone number (general crime reporting and emergency number) call handling staff, where support has focused on 1) the design and development of the Policy on Gender Equality between Men and Women (adopted in 2014); 2) the launch of various

¹⁰ Although this project was not part of the joint programmes designed and implemented with the UN System, it is included in this table to facilitate the reading and understanding of all the work done by UN Women Guatemala in the area to be assessed. In this case, the project was wholly funded by UN Women through the US Department of State.

capacity-building and training processes with different staff groups within the institution; 3) the geo-referencing of information on free care services for women survivors of violence.

- OJ: 1) strengthening the Control, Monitoring and Evaluation Unit for bodies specialized in crimes of femicide; 2) support for design and development of the Gender Equality and Promotion of Women's Human Rights Policy (adopted in February 2016); 3) implementation of various capacity-building and training processes for specialized justice staff; 4) support for the creation of the first cohort of the Master's in Gender and Justice at the Mariano Gálvez University.

There has been very little work done with the other actors involved in the justice sector, INACIF and IDPP and, finally, a political dialogue has been maintained with the CNSAFJ, strengthening coordination between the actors involved, but no specific work.

It is also important to note that the assessment exercise has not revealed substantive actions to meet the specific needs of indigenous women to facilitate their specific and differentiated access to the justice system. According to the documentation and people consulted, this has only been addressed through a recent initiative¹¹ whose objective is focused on finding links and bringing the vision of traditional justice closer to that of its ancestral counterpart, but is not a specific examination of how to claim the rights of indigenous women. In this line, no staff expert in indigenous issues was identified in the UN Women Guatemala office in question.

With regard to CSOs, work has centred on the prevention and treatment of VAW, especially through the "Lands Free from Violence against Women" initiative whereby, through a dynamic of dialogue, collaboration and mutual learning between the public, local authorities and security and justice bodies in the area, the rights of women, girls and adolescents to a life free from violence are promoted. The initiative has also incorporated recovery of the right to recreation, using sport and artistic expression to develop skills in equal relations between men and women and teamwork between women in such a way as to strengthen notions of gender equality and solidarity among peers. Work has also been done with some women's organizations through grants and/or subcontracts so that it is they who train or build the capacities of the country's justice staff. Finally, at transitional justice level, an alliance of three women's organizations has been supported¹² to advance and/or strengthen the proposal of third party complainants in the proceedings for the Sepur Zarco case, where Guatemala has been the first country in the world¹³ to try, in a national court, the crimes of rape and sexual slavery in the context of internal armed conflict.

¹¹ "Indigenous Women and Girls. Access to Comprehensive Justice" project (2014-2016).

¹² The Breaking the Silence and Impunity Alliance, made up of feminist and HR organizations committed to justice for women was formed in 2009 to support Guatemalan women who had been victims of sexual violence during the internal armed conflict in their journey towards justice. The Alliance is made up of the National Union of Guatemalan Women (UNAMG, from the Spanish), the Community and Psychosocial Action Team (ECAP, from the Spanish) and Women Transforming the World (MTM, from the Spanish).

¹³ All previous cases were heard and tried in international courts.

At regional level, there has been collaboration with a study by the Supreme Court of Justice of Central America on the VAW situation in the northern triangle using statistics and gauging compliance with international and regional commitments in El Salvador, Honduras and Guatemala. Exchanges have also taken place with such other countries as Honduras, El Salvador, Paraguay and Nicaragua, especially with regard to specialized justice and OJ staff.

Finally, and for a general understanding of UN Women Guatemala's working logic, it is important to note that, and according to the persons consulted, limited efforts have been made for coordination and/or joint working of actions with the Economic Empowerment and Political and Citizen Participation programme areas.

4. UN Women Guatemala's main contributions to access to justice (ATJ) for victims of violence against women

In general terms and at the public institution level, UN Women Guatemala has on the one hand contributed to establishing the institutionalization of gender through the design and development of three equality policies in MP, PNC and OJ and has, on the other hand, promoted work with a gender focus (care and treatment of victims, court decisions, etc.) through the design of an investigation and/or action protocol with MP. Both contributions represent significant advances for the judicial system to address issues from a gender perspective. At the transitional justice level, its main contribution has been the creation and establishment of the Interinstitutional Board for Women, Peace and Security (MIMPAZ, from the Spanish)¹⁴ and also development of the Guatemala NAP 1325 project, which has also included a monitoring and evaluation system. Finally, it should be noted how support at both the highest political level and with CSOs has ensured that the legal proceedings in the Sepur Zarco case have been conducted with every procedural guarantee and from a focus of demanding victims' rights to justice, truth and reparation.



In particular and taking as a reference point the components identified in the Theory of Change,¹⁵ (ToC - see figure 3) designed by the evaluation team, it is evident that the main contributions of UN Women Guatemala have been:

¹⁴ An interinstitutional board with the objective of coordinating and facilitating implementation of the United Nations Security Council resolutions on Women, Peace and Security. Among some of the bodies making up MIMPAZ are the Presidential Secretariat for Women (SEPREM, from the Spanish), the Ministry of Foreign Affairs, the National Civil Police Department of Gender Equality, the Presidential Social Communication Secretariat, the Judicial Agency, the Ministry of Defence and, more recently, the Ministry of the Interior and the Public Ministry.

¹⁵ The ToC reflects the evaluation team's vision and interpretation that was, in turn, approved by UN Women. This ToC took as a reference the General Recommendations (GR33) of the CEDAW Committee on women's access to justice (recommendations on justiciability, availability, accessibility, quality, reparation and accountability). Based on these, a chain of medium- and long-term results was defined, that any intervention in this area should cover and/or take into account.

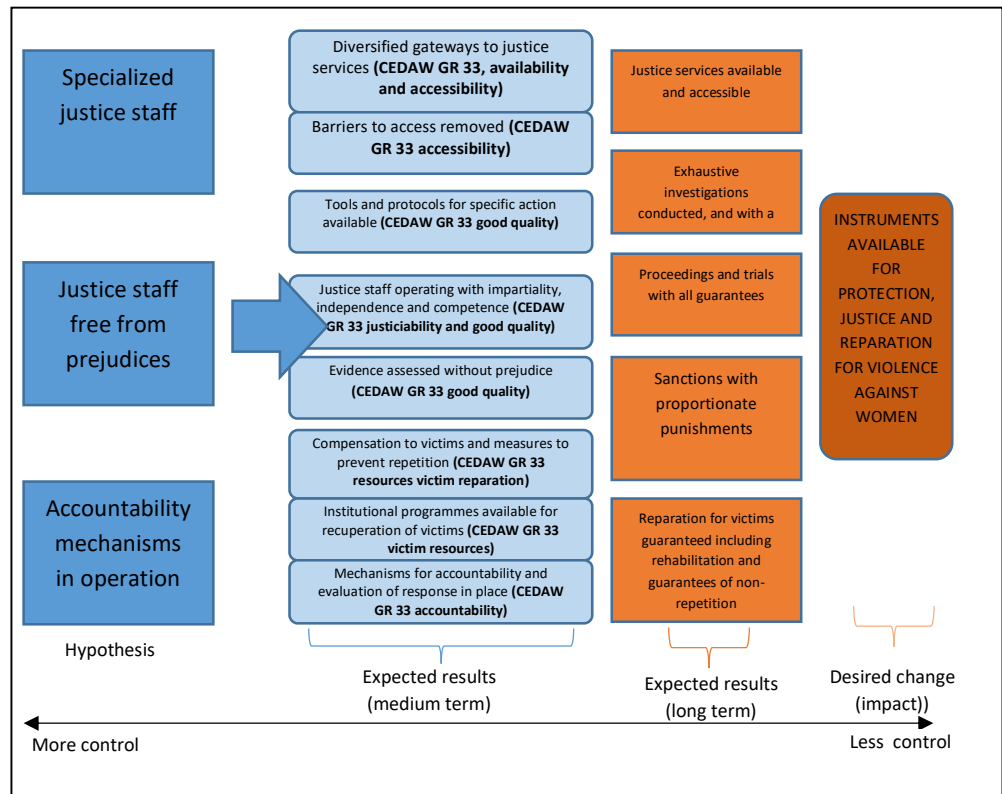
- Contribution to the design and development of protocols and tools for specific action (related to the quality of system of justice component) through the definition of a series of gender equality policies, fundamentally when these were linked to the design of action instructions, as in the case of MP.

These policies represent a response to gender inequality and are established as key instruments for achieving equality in the institutions, especially in those cases that involve concrete strategies, results and objectives.

There is

evidence, thus, of the importance of continuing with support for the implementation and launch of these policies in order to achieve a genuine transformation of power relations between the genders (the transformational aspect of policies), both within institutions and in their external action. Note should also be taken of support for the development of a joint MP-OJ strategy that, undoubtedly, constitutes a joint response and effort to interinstitutionally coordinate the broadening of ATJ for women from the perspective of the victim.

- Contribution for justice staff to work with impartiality, independence and competence (with regard to the components of justiciability and quality of the justice system) through the conduct of a series of specific capacity-building and/or training processes with PNC, OJ and MP. Particularly noteworthy in this regard is the work on the definition of the curriculum for judicial courses with UNICAP and the OJ Master's in Gender and Justice since in this way the gender and women's rights perspectives are consolidated as an already institutionalized approach with guarantees of sustainability over time. Some resistance to and/or difficulties with carrying out this same exercise with the PNC through the Police Academy or the OJ School of Judicial Studies were also identified. At the detail level, several levels of specialized justice chain staff have been trained, always using thematic consultants with experience in the subject and also through CSOs engaged for this purpose. Both the PNC and the MP highlighted the work done in the workshops on self-care techniques conducted in both institutions and the workshops focused on masculinities with the PNC, since these perspectives were considered as innovative and contributed both to improving the professional practice of male and female members of staff and to transforming some gender stereotypes characteristic of these institutions. Finally,



the assessment exercise also confirmed the need to include auxiliary justice staff from both the OJ and the MP in these training processes, since they are the people who attend to the victims/survivors of violence against women in the first instance and who are, therefore a crucial gateway into the country's chain of justice.

Continuing with the ToC, the components related to guaranteeing 1) the diversification of gateways to justice services; 2) the unbiased analysis of evidence and 3) compensation and reparation for victims, including rehabilitation, recovery and guarantees of non-repetition have not concentrated so much effort, for which reason their contribution has been much more tentative. Even so, note should be taken of a series of recently commissioned consultancies¹⁶ that will possibly analyse, in some cases, the state of these components. With regard to the component of accountability, UN Women Guatemala has supported the state to prepare monitoring reports against some international and/or regional conventions or treaties, principally the Follow-Up Mechanism to the Belém do Pará Convention (MESECVI, from the Spanish) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

In short, the focus of work on ATJ for the victims/survivors of violence against women has been on strengthening the system of specialized justice set up in the country. According to the sources consulted, this strengthening is already, in itself, a strategy that is not only innovative but also very necessary when the country context is taken into account. Thus, the introduction and implementation of specialized justice and prosecutors in Guatemala is identified as a major achievement of the system, even though this does not cover the whole country, for which reason this strengthening has focused solely on those institutions that are already established and operational. Even so, it was also found that it has not contributed to strengthening the rest of the justice system (ordinary courts), even though they are an important entry point that also require a gender perspective and a rights-based approach to women victims/survivors. Both the absence of institutions in part of the country and the need to also work with ordinary justice requires, therefore, that strengthening work should continue in order to thus guarantee specialized justice with a gender perspective in all its components, institutional architecture and staff working in it; it must also address the ordinary courts, especially in those areas not covered by specialized justice.

A key chapter of UN Women Guatemala's work has been support for strategic court cases in terms of technical assistance, with CSOs and public institutions with responsibilities and obligation in this field, for the judicial advancement of these cases, especially those related to sexual violence in context of the armed conflict (strengthening transitional justice processes). In this regard, we could not fail to mention the guilty verdict handed down on 27 January 2016 against two members of the military accused of war crimes occurring in 1982 and 1983, crimes of sexual slavery, rape, forced disappearances, ill-treatment and discrimination against 11 women victims who were living around the Sepur Zarco detachment in the department of Izabal. This verdict was an achievement after many years of struggle, in which forces and synergies from many and diverse areas were joined and mutually complemented. UN Women

¹⁶ The topics addressed in these consultancies were: 1) Proposed eligibility criteria for the use of electronic bracelets; 2) Reforming the provision of victim services in PNC, MP, OJ and IDPP; 3) Empowerment/autonomy of women victims of violence from a holistic approach; 4) Rehabilitation of offenders in cases of VAW; 5) Sustainability of electronic bracelet programmes; 6) Analysis of guilty verdicts for femicide where prior security measures had been in place.

Guatemala was part of this sum of efforts, the result of which not only set a precedent at global and historical levels, it being the first time that sexual violence was tried as a war crime in a national court, but also, even more importantly, strengthened the rule of law, generated advances in guarantees of non-repetition and repaired the dignity of women in the country.

5. Identification of good practices and lessons learned

Specialized justice requires significant efforts to institutionalize training processes based on the gender and human rights perspective.

The deployment of a specialized justice system in Guatemala has marked an unprecedented milestone in the functioning of the administration of justice in the country. To date, an institutional architecture has been created that, although it does not cover the whole of the country, recognizes that VAW is a complex and historical problem based in discrimination and with very particular characteristics that need to be addressed through a specialized vision and that also highlights the need to facilitate women's access to justice. Nevertheless, this specialized vision can only be approached from a change in the imaginaries, attitudes and knowledge of justice staff, where analysis and subsequent action are focused on a gender and human rights perspective. Only after this analysis will it be possible for genuine specialization to exist behind the concept of specialized justice.

In this regard, the importance is noted of creating continuous and consolidated training processes in the institutions that form part of the justice system. This training has been partly institutionalized within the two actors making up this system, on the one hand in MP through the judicial training curriculum with UNICAP and on the other hand with the addition of the Master's in Gender and Justice in the OJ as part of the judicial career training path. Only in this way will it be possible to guarantee that the chain of justice understands the significance of eradicating impunity for acts of VAW, basing itself for this on the analysis of gender inequality and treating acts of VAW as serious breaches of women's rights. The institutionalization of gender and human rights based training processes enables everyone working in the areas of administration of justice to understand from the beginning and throughout their careers the change that a specialized perspective brings, with knowledge and awareness of the causes underlying the issue of VAW and its various manifestations in the daily lives of women.

Specialized justice also needs to cater for and meet the specific needs of indigenous, migrant and rural women

While it is true that the Guatemalan justice system has advanced in the specialization of a system that responds, albeit with limitations, to VAW, femicide and violent deaths of women (VDW) in a way that is differentiated from other crimes, it is also true that there are groups of women whose needs are not yet adequately addressed, as in the case of indigenous, migrant and rural women. The analysis exercise conducted has revealed serious gaps in specialized justice and the actors involved in the understanding and response to the sociocultural contexts in which cases of VAW occur. Guatemala is a country that, among other aspects, is characterized by being 1) a transit zone on the migrant route to the United States; 2) having a

rural population of approximately 54 per cent¹⁷ and 3) having great ethnic and cultural diversity.¹⁸

Nonetheless, the system of specialized justice and the actors involved in its strengthening have made still overly timid efforts to facilitate access to justice for women with different and diverse needs and characteristics; neither did the assessment exercise find significant initiatives that take account of this specific reality, for which reason it would be urgent and necessary to join forces between CSOs, the UN System, the donor community and/or public institutions to enable understanding of how VAW works and is manifested in sociocultural contexts that are diverse but are always part of present-day Guatemalan society, thus proposing mechanisms and procedures for action that are socioculturally relevant and appropriate for the reality in which they occur.

Addressing transitional justice as a key component of Guatemalan specialized justice

In Guatemala it is recognized that in addition to being a complex and extremely widespread problem, VAW forms part of a culturally supported continuum based on gender inequality and significant links with a phenomenon of social violence that is the product of, among other things, an unfinished peace process. In addition, the VAW continuum is understood from a historical perspective whose origins date back to the internal armed conflict. UN Women Guatemala has taken on this historical continuum and has, therefore, defined its approach to work to facilitate ATJ for women who have been victims/survivors of violence. In this regard it has deployed dual efforts, not only in supporting public institutions and CSOs in judicial proceedings for cases of VAW in the context of the internal armed conflict, but also in contributing to addressing the manifestations of VAW today, trying to reverse the high rates of impunity that are characteristic of the country. This double viewpoint is not only important and relevant on account of its innovative nature and contribution to understanding the systematic nature of the acts of violence, but it is also necessary and urgent to generate systems of justice that understand reality and the historical context within which these crimes and violations of women's rights occur and also promote progress in the country's agenda for peace and development.

Facilitating ATJ for VAW requires vision, strategy, specific capacities and resources

There can be no doubt that the system of specialized justice has made significant achievements and that now, some of the women victims/survivors of violence in Guatemala have specific, differentiated judicial spaces and administrations. As mentioned above, the work of UN Women in the country has contributed to levering up some of these advances and achievements. Even so, the need has also been highlighted to work under a specific programme framework that sets horizons and results from the VAW continuum, taking account of the links between transitional justice, ordinary justice, the system of specialized justice and ancestral justice, all systems that coexist and that are characteristic of the reality and context of the country. Planning ATJ for women victims/survivors of violence from a logic

¹⁷ According to the Secretariat of Planning and Programming of the Presidency of the Government of the Republic of Guatemala (http://www.segeplan.gob.gt/index2.php?option=com_content&do_pdf=1&id=85).

¹⁸ According to the Ministry of Education of the Government of the Republic of Guatemala, there coexist more than 22 different linguistic communities. (<http://www.mineduc.gob.gt/digebi/mapaLinguistico.html>)

of change and with concrete results makes it possible not only to analyse, define and prioritize interventions in strategic terms but also to facilitate understanding of the intersections of the efforts of UN Women Guatemala with those of the other actors working in the justice system, be these part of the UN System, the donor community, CSOs and/or public institutions. But a planning exercise does not solve every problem; for the ATJ strategy for women victims/survivors of violence to be effective, it must also have a clear commitment on the part of UN Women, be this at global or regional levels, in order to have own resources that are not subject to the mobilization of funds for specific projects. If ATJ interventions are conditional on the ability to mobilize and secure specific funds, this entails too high a risk with the potential to undermine efforts as well as also meaning that it makes them highly dependent on external factors. If one wants to work with and facilitate ATJ for women victims/survivors of violence and transform the high levels of impunity in the country, clear and strong positions are needed in this respect. Similarly, and taking account of the multi-pronged approach that gender justice in Guatemala warrants (ordinary, specialized, transitional and ancestral) the exercise of planning and subsequent implementation, monitoring and evaluation will have to include incorporation of specialist people with specific capacities, knowledge and expertise in the various systems of justice mentioned.

6. Recommendations and future opportunities

The opportunities for future work presented below are intended to contribute to the design, planning and management of future initiatives related to ATJ for women victims/survivors of violence. In order to facilitate this exercise to design future actions, it is considered indispensable, first of all, to share the results of this analysis exercise and thus provide the opportunity for reflection on them with the individuals, work teams and/or external consultants involved in the UN Women Guatemala mandate.

Recommendation 1:

Dual approach to work on ATJ for women victims/survivors of violence

As mentioned previously and given the characteristics of Guatemala with its very widespread institutional architecture and manifestations of historic, systematic violence, work to facilitate ATJ for women victims/survivors of violence requires multiple efforts with a great diversity of actors and public institutions, in several directions. It is, therefore, important to analyse, plan and above all, prioritize the actions to be taken, at all times taking account of capacities, prior experience and organizational mandates. In this line and considering UN Women's track record in the country, its capacities, its position as a key actor and the added value it offers in its actions, it is recommended to conduct a thematic prioritization exercise on its approach to work to facilitate ATJ for women victims/survivors of violence. Thus, two strategic areas have been considered where UN Women could really facilitate changes:

- (1) Promoting the diversification and quality of gateways to the specialized justice system and the justice system in general. To do this it would be necessary to identify the staff in the PNC, OJ and MP who provide first line response to women victims/survivors of violence and from there to promote continuing, systematic work. This work could focus on: 1) continuous training processes; 2) the design of specific tools and protocols; 3) the development of a system of accountability for the evaluation and improvement of performance of professional practice. Finally, it would also be necessary to include, as far as possible, health system staff, since they are a key entry point for facilitating the pathway to the justice system.
- (2) Strengthening and complementing high level political dialogue with the main public institutions involved in the justice system, mainly through political advocacy work. In this line, it would be advisable to continue with the work that has already begun with the MP and OJ and to start it with the PNC, as well as also identifying good practice that could be transferable.

To sum up, the dual focus of work to facilitate ATJ for women victims/survivors of violence should be based on working primarily on two areas, one focused on persons with political responsibility and decision making powers in public institutions, and a second representing the first level of the chain of justice, the base level, the entry point, that will provide a clear opportunity to improve unhindered access to the justice systems, thus achieving legal and real equality.

Recommendation 2:

Continuity of the approach linked to transitional justice

Violence against women in Guatemala cannot be detached from the historical path of the country and cannot be disassociated from the peace processes and transitional justice that are finally seeming to start to bear fruit. UN Women has always based its work from the continuum and it would be advisable to continue with this perspective. All the work done to date has been focused on this line and everything indicates that it has indeed united efforts in the processes of reparation, justice and truth that the country is carrying out. In short, the approach of promoting transitional justice processes should not be separated from work done to facilitate ATJ for women victims/survivors of violence, as entry points to a single system. In this regard, it would be necessary to continue with support and technical assistance through staff and/or specialized consultants in the field. In this line, it would be possible to assess the possibility of supporting these efforts with expert reports or *amici curiae* to support and/or back up respective claims, providing information on the context in which the violation in question occurred. The current situation of the country, and the windows of opportunity this offers, requires the further strengthening of such processes.

Recommendation 3:

Strengthening the institutionalization of training processes

Training and/or capacity-building processes with a gender focus and based on human rights are a key element in the strengthening of gender justice. It would, however, be necessary to focus efforts on units responsible for the continuous training of the main institutions involved in the justice system. That is why, with UNICAP in the MP and with the OJ, this perspective has already been partly incorporated. On the basis of this experience, it is recommended to lobby the responsible units within the PNC and/or, to a lesser extent, the IDPP and INACIF. Only in those cases where this work identifies clear sustainability issues would it be possible to suggest more ad hoc training, but this would always be from a focus of training of trainers and/or peer training.

Recommendation 4:

Promote the deployment of gender equality policies developed in the respective public justice institutions

Currently, the MP, PNC and OJ already have gender policies. In this regard, it would be advisable to support these institutions to roll out their respective operational and budgetary frameworks in order to thereby guarantee that these are not policies at risk of evaporating. Setting annual operational plans will ensure their sustainability in the respective institutions, in addition to promoting real strategies for gender mainstreaming. Finally, it would be necessary to link these internally focused policies with incorporation of a gender perspective into the actions and work of the respective institutions. In other words, incorporation of the intraorganizational gender perspective needs to bring with it or have linked with it a strategy to use this perspective to look at the externally-directed actions of the institution (related to care and treatment of victims, legal proceedings, etc.)

Recommendation 5:

Drive to facilitate indigenous women's right to the justice system

The assessment exercise has found that a major limitation of the institutions involved in the justice system is their still very weak response with regard to facilitating access to justice for indigenous women. It would, therefore, be necessary to stimulate its improvement on several fronts. For example, the recent initiative that is being undertaken by UN Women to foster links between ordinary and ancestral justice may offer a window of opportunity for defining stable and continuous work in this area. It is recommended that UN Women should consider, in its various operational plans (strategic note), at least one project or programme that addresses the rights of indigenous women to access the justice system. Some of the topics could be:

- Promoting coordination and dialogue between state justice institutions and the systems of indigenous justice.
- Supporting innovative practices to fight discrimination and various forms of violence, within both the state and the systems of indigenous justice. The support of some indigenous men and non-indigenous actors, including social movements, state institutions and international agencies, could be a key resource in these processes.
- Coordinating with the Political Participation Area of UN Women Guatemala with the aim of promoting the political and community participation of indigenous women, and from the indigenous world view, challenging discrimination, violence and gender-based exclusion in general.
- Identifying and forming specific entry points for indigenous women.
- Developing dialogues between ordinary and ancestral justice with the aim of generating knowledge and respect in order to thus understand how ATJ is being addressed in both systems and to identify barriers, complementarities, synergies, etc.

Recommendation 6:

Design of a knowledge management strategy

The assessment exercise has identified significant weaknesses in the work of UN Women Guatemala to systematize all the efforts made to date in the area related to ATJ for women victims/survivors of violence; this situation has not limited the possibility of making visible all the achievements to which this office has contributed in the area. For this reason, it would be necessary to define a knowledge strategy that systematized, analysed and documented all the lessons learned and best practices acquired. To do this, taking into account budgetary constraints, specific items could be included for knowledge management in the respective projects and programmes for the ATJ of women victims/survivors of violence.

Recommendation 7:

Strengthen the links and coordinated work between programme areas

Structural violence, discrimination, marginalization and poverty are the root causes of women's lack of access to justice. For this reason, facilitating ATJ for women victims/survivors of violence requires multiple and coordinated work and efforts from the different fields working for gender equality and the empowerment of women. In this regard, the establishment of more coordinated work that better complements other UN Women Guatemala programme areas is seen as a clear window of opportunity, especially in the area of Economic Empowerment since women's lack of economic empowerment is one of the main external factors hindering ATJ for women victims/survivors of violence. One key aspect to facilitate women's access to justice is directly related to economic empowerment processes, thus eliminating the economic dependence that is in many cases a key element behind the cycle of violence. Therefore, it is suggested that specific clauses or positive actions should be designed in economic empowerment programmes, such as self-employment or re-employment workshops, publicly targeted at women victims/survivors of violence.

Recommendation 8:

Development and design of a strategy and programme framework on ATJ-VAW

Given the high rates of violence and impunity not only in Guatemala but worldwide also, it has already been shown that work to facilitate ATJ for women victims/survivors of violence is priority, necessary and effective as well as being one of the key aspects for the promotion of gender equality and women's empowerment and rights in general. In this regard it would be highly advisable to define a regional strategy to act as a guide and roadmap for the respective work areas nationwide. UN Women is now in an undisputed position in terms of recognition and prestige to address this matter since it currently exercises a privileged and specific role that connects different spaces of public institutions and between these and civil society.

ANNEXES

Annex 1. Key informants consulted

Position	Institution
Country representative	UN Women
National Programme Manager	UN Women
Coordinator, WPS-HA programme	UN Women
Coordinator, VAW programme	UN Women
Technical assistant, WPS-HA programme	UN Women
Member of CSAG group and coordinator of gender studies and feminisms	UN Women CSAG Latin American Faculty of Social Sciences (FLACSO, from the Spanish)
Security measures consultancy manager	UN Women access to justice consultancy team
Roster and Deployment Manager	Justice Rapid Response
Senior International Criminal Law and Gender Expert	Justice Rapid Response
Lawyer specializing in international HR law	Independent expert
Executive Director	National Monitoring and Support Commission for the Strengthening of Justice
National Coordinator of Free Legal Assistance for Victims and their Families	IDPP
Police Commissioner, prevention of crime and VAW	PNC reform
Police Reform Adviser on gender issues	PNC reform
International Cooperation Coordinator	PNC reform
President of Supreme Court of Justice (CSJ, from the Spanish)	Supreme Court of Justice
Member, ninth Gender Commission	Supreme Court of Justice
President of 2nd Court for trafficking, femicide and sexual violence	Judicial Agency
President of Pluripersonal Court for crimes of femicide and other forms of VAW (Group A)	Judicial Agency
President of Pluripersonal Court for crimes of femicide and other forms of VAW (Group B)	Judicial Agency
President of Association of Femicide Magistrates	Judicial Agency
President of Pluripersonal Court for crimes of femicide and other forms of VAW (Group C)	Judicial Agency
Coordinator, Control, Monitoring and Evaluation Unit of agencies specializing in crimes of femicide	Judicial Agency
Coordinator, Indigenous Affairs Unit	Judicial Agency

International Cooperation and Affairs Secretary	Public Ministry
Cooperation and International Affairs Technician	Public Ministry
Head of Victim Care	Public Ministry
Coordinator, Women's Office	Guatemala City Municipality
Coordinator	Centre for Women's Research, Capacity-building and Support (CICAM, from the Spanish)
Coordinator, Citizen Participation Area	Myrna Mack Foundation
Institutional delegate	Myrna Mack Foundation
Institutional delegate	Myrna Mack Foundation
Coordinator	Artisan collective
Member, Guatemalan Women's Group	CONAPREVI
Member, New Horizons	CONAPREVI
Network member	Network of Non-Violence against Women in Guatemala Network (REDNOVI, from the Spanish)
Leader, Gender Justice	OXFAM America
Secretary of Management Board	National Guatemalan Widows' Coordination Group (CONAVIGUA, from the Spanish)
Head of Country Office	UNODC
Programme Officer	UNFPA
Programme Officer	OHCHR
Technical Advisor, Justice and Public Safety	UNDP
Deputy Commissioner	CICIG
Special Personal Assistant Commissioner	CICIG
Leader, Governance Programme	Spanish Agency for International Cooperation for Development (AECID, from the Spanish)
Technical Assistant, Governance Programme	AECID

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