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Presentation

Under the authority granted by the 45th Article of the Convention on the Rights of the Child (CRC), Guatemalan civil society organizations working on behalf of children and youth, represented by the Social Movement for the Rights of the Child, Adolescents and Youth in Guatemala, and the Institutional Coordinator for the Promotion of the Rights of Children and Adolescents in Guatemala (CIPRODENI), have developed the Third Alternative Report as a testimony of the status of the rights of children and adolescents in the country during the period of years 2004-2007.

This period is very important because of significant legislative advances in favor of childhood and adolescence in the country, primarily by means of the Law on Comprehensive Protection of Children and Adolescents (Guatemalan Congressional Decree 27-2003) and the enactment of the Law of Adoptions (Congressional Decree 77-2007)

As such, the report aims not only to make visible the situation of children and adolescents, but also be a critical contribution from the perspective of civil society to enhance the necessary debate and discussion of all social sectors in terms of their responsibility to ensure that the rights of children and adolescents become effective by the state, as stipulated in the CRC.

The report is based on qualitative and quantitative data, which was obtained through nationwide consultations, (in thematic and specific roundtables and individual interviews), which took into account the work undertaken by various civil society organizations. Consultations were also made to government employees and institutions and official and unofficial documents dealing with children and adolescents were observed, all with the purpose of producing an objective and impartial report.

The State of Guatemala has presented two official reports to the Committee since the ratification of the Convention on the Rights of the Child in 1990, being this report the third one to presented, with a significant delay.

In accordance with the general guidelines regarding the form and content of the reports submitted by States parties pursuant to point b) of paragraph 1 of Article 44 in the Convention, this report is divided into 8 chapters:

- I. General measures of implementation;
- II. Definition of Child;
- III. General Principles;
- IV. Law and Civil Liberties;
- V. Family environment and alternative care;
- VI. Basic Health and Welfare;
- VII. Education, recreation and cultural activities;
- VIII. Special Measures for Protection;

Final conclusions and recommendations of general nature.

Introduction

The Social Movement for the Rights of Children, Adolescents and Youth and the Institutional Coordinator for the Advancement of the Rights of the Child, have found that in terms of legislation the country has progressed, however, the results of analysing the situation revealed that the Guatemalan state has great deficiencies in guaranteeing and providing effective implementation of the rights of children and adolescents.

For the organizations that participated in this report, the process provided an opportunity to make a diagnosis of the situation of the rights of children and adolescents, recognizing the advances and obstacles that have occurred since the presentation of the Second Official Report and the related recommendations given by the Committee.

With this report, the Social Movement for the Rights of Children, Adolescents and Youth in Guatemala and the Institutional Coordinator for the Advancement of the Rights of the Child, describe the vulnerabilities affecting children and adolescents in Guatemala as a contribution to enable the Committee on the Rights of the Child to have a clear understanding of the situation of children in the country, and to provide a basis for the Committee's analysis of the 3rd. Official Report.

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GENERAL MEASURES OF IMPLEMENTATION

1.1 Legislation Update

Despite the two recommendations that the Committee on the Rights of the Child made to the State of Guatemala in 1996 (CRC/C/15/Add.58) and 2001 (CRC/C/15/Add.154), the process of adapting national legislation to the requirements of the Convention on the Rights of the Child took 13 years of advocacy and social mobilization on the part of civil society organizations to increase awareness and reach consensus. It is up to June 2003 that Congress approved by Decree No. 27-2003 the LAW ON COMPREHENSIVE PROTECTION OF CHILDREN AND ADOLESCENTS, and entered into force on July 19 of that year.

The Law on Comprehensive Protection of Children and Adolescents, rules in an ordinary law the content and principles of the Convention on the Rights of the Child.

It makes a clear distinction between the judicial procedures for children and adolescents whose rights have been violated and of adolescents in conflict with the penal law.

Currently there are 15 specialized jurisdictional courts on children and adolescents. There are 350 small claims courts in the municipalities of the country to which they extended powers to deal with cases of children and adolescents at the local level.

The civil society organizations recognize the constraints in the implementation of the Law on Comprehensive Protection, given that the 15 courts for children and adolescents are insufficient, as the total of them are regional and are located in major urban centers the country. For the same purpose, there is only 1 court of appeals and 1 for enforcement of measures, both located in the capital city.

In addition to the previous, there are financial and personnel limitations, which cause the accumulation of cases pending in the courts of childhood and adolescence. Another issue that does not allow the implementation and effectiveness of the law is the vision of childhood and adolescence that prevails within the employees working in the courts and in the institutions of the system.

Adoptions act

The Committee on the Rights of the Child made two recommendations to the State of Guatemala, the first in 1996 and the second in 2001. Both request to consider ratification of the Hague Convention on the Protection of Children and Co-operation in respect of Inter-country Adoptions and establish a procedure of adoption in full conformity with the principles and provisions of the Convention. Despite these recommendations, not until May 2007 the Congress of Guatemala ratified the Hague Convention by Decree No. 31-2007, expecting entry into force on December 31 of the same year. Nevertheless, not until December 11th of 2007, due to work of civil society organizations with support from the international cooperation for over 10 years, did Congress passed with Decree Number 77-2007 the Adoptions Law, which regulates the judicial and administrative proceedings for adoptions and creates the National Council for Adoption –CAN– as an autonomous entity of public law, juristic person, its own assets, and the competence to acquire rights and contract obligations. The National Council for Adoption is the Central Authority under the Hague Convention.

During the period of this report (2004-2007), adoption in Guatemala was still governed by the provisions in articles 228 to 251 of the Civil Code, and by the law that regulates handling Notarial Affairs of Voluntary Jurisdictions adopted in 1997, in which the process of adoptions could take place before a lawyer and notary. In adoptions processed through the previous law was not necessary the intervention and resolution of a family judge.

The vast majority of adoptions, (27,400 cases), were processed through extra judicial means or by a notary, with no need for resolution of a competent judge, which facilitated the process, particularly for international adoptions. There was no governing body to monitor the process of adoption or to verify fundamental issues such as identification and certainty of paternity and/or motherhood.

Reforms to the Penal Code

The Penal Code in force since 1973 reflects deficiencies by maintaining norms of exclusion and discrimination towards children and adolescents by not typifying acts or deeds against their dignity and security. The lack of correspondence between the rights guaranteed by national legislation and international conventions and those defined in the Code reflect contradictions that limit adequately punishing individuals or groups that are linked to violations.

Beginning in 2004, civil society organizations with support from UNICEF, ILO / IPEC, have promoted processes and consensus to reform the Criminal Code. The two proposals arising from the process have been submitted to Congress, but have been unsuccessful in achieving a reform.

The Congress of Guatemala by Decree No. 14-2005 approved the amendment to article 194 of the Penal Code in relation to the crime of people trafficking. This crime is defined and establishes punishment, including when is committed against a minor.

Age for completing compulsory education, minimum working age, and age of marriage for girls.

The State of Guatemala has not taken any initiative with regard to the recommendation made in 1996 by the Committee on the Rights of the Child on raising the minimum age for marriage of girls.

Compulsory Education

Compulsory education was not explicitly indicated in national legislation, although there existed a constitutional mandate of the right and obligation to receive education up to basic secondary level, which corresponds to approximately 15 years of age. Article 37 of the recent Law on Protection of Children states that: “Public education must be free, secular and compulsory up to the last grade of secondary education.” This provision extends the coverage of education for two or four years more, depending on the career.

Acceptance of employment:

Article 102 (paragraph I) of the Political Constitution of 1985 stipulates that children under 14 years may not be employed in any kind of work, except as otherwise provided by law. Similarly, in Article 66 of the Law on Protection of Children and Adolescents prohibits any work for children under 14 years, except as otherwise provided in the Labor Code. Article 150 of the Labor Code states: The General Labor Inspectorate can extended, in cases of qualified exception, written authorizations to allow ordinary work

← Reference

See Article 74 of the Constitution of the Republic of Guatemala: “Compulsory Education. The people have the right and obligation to receive education, pre-primary, primary and basic, within the age limits set by law.” According to the Ministry of Education, the initial level of school is for 0-4 years, which is provided in nurseries, kindergartens, child care center, the pre-school is for 5 to 6 years, the primary school 7 to 12 years; basic education for pupils between 13 and 15 years, the level varied depending on the student's chosen career, can be between 2 and 4 years.

of minors under 14 years of age or, where appropriate, to reduce in part or in its totally, the reduction of work-hours imposed in the previous article of the law. To this end, those interested in having extended the respective authorizations should prove.

a) the child is going to be learning at work or needs to cooperate with the family economy due to extreme poverty of the parents or warden.

b) it is light work with a duration and intensity compatible with the physical, mental and moral development of minors, and

c) that in some way meets the requirement of compulsory education.

In each of the authorizations should be recorded clearly the minimum protection conditions in which minors have work.

It is important to note that official census from the National Institute of Statistics on the economically active population records the workforce from 7 years, and in some cases from 10 years of age, which reflects a contradiction with the legal framework that protects children and youth in labour issues.

1.2 Independent human rights institutions specializing in children, ombudspersons or commissioners for children's rights.

Office of Human Rights / Ombudsman for the Rights of the Child.

The Human Rights Ombudsman arises with the last Political Constitution of the Republic of Guatemala enacted in 1985. It is a Commissioner of Congress for the defence of human rights recognized by the Constitution of the Republic of Guatemala, the Universal Declaration of Human Rights, and international treaties and conventions accepted and ratified by Guatemala. The human rights ombudsperson is elected by Congress for a term of 5 years in office.

The human rights ombudsman has jurisdiction to intervene in cases of claims or complaints about human rights violations throughout the country.

By 2007 the Human Rights Ombudsman had 22 auxiliary offices in the country's departments, 7 municipal, 1 regional and 3 mobile human rights offices.

A limitation of the Office of Human Rights is that after an investigation process finds that there was a violation of law, its resolutions are limited to a moral code, not binding, and its recommendations to the officials, who may be private or public, are aimed at changing an objected administrative conduct.

In addition, can promote judicial or administrative actions or processes in the cases of predicted violations, but can not intervene when a case is already known in court.

In 1990, the Human Rights Ombudsman created by an internal agreement the Office of the Rights of the Child. The Law on Protection of Children and Adolescents in Article 90 gives legal strength to the Office by establishing it as a direct dependence of the Human Rights Ombudsman, with jurisdiction in the defence, protection and dissemination of the rights of children and adolescents in society at large, as well as the effective implementation of provisions in this matter in the national law, the Constitution of the Republic and other conventions, treaties, agreements and international instruments on human rights accepted and ratified by Guatemala.

The Ombudsperson for the Rights of the Child is appointed by the Human Rights Ombudsman.

The Office of the Rights of the Child has restricted activities mainly due to a limited budget, insufficient staff, and the centralized location of its headquarters in the capital city.

Municipal Boards for the Protection of Children and Adolescents.

Municipal Boards for the Protection of Children and Adolescents (MBP) started as a pilot scheme in three departments of the country, Huehuetenango, Quetzaltenango, and Quiché. Starting in 1997, they were formally promoted by the Office of the Rights of the Child of the Human Rights Ombudsman. The establishment of the MBP, unique in origin and nature, are designed according to the principles and policies outlined since its inception, based on attending the human rights recognized by the Constitution of the Republic of Guatemala, international conventions on human rights, and the Law on Comprehensive Protection for Children and Adolescents.

The MBP are groups ideally formed by six leaders chosen by the community, three members and three alternates, which functions in an organized manner in each municipality. They do not have a judicial jurisdiction and report to the Office of Human Rights. They are attended by the Office of Rights of Children and Youth and supported locally by the Auxiliary Offices of Human Rights.

They aim to ensure that children and adolescents in the municipality do not suffer from violence or violation of their rights and protect them in case of any violation; seeking resources that exist in the community and supporting the child's family.

The MBP's are coordinated by the departmental or municipal assistant of the Office of Human Rights.

Currently 160 MBP are organized throughout the country, which is inadequate considering the amount of 333 municipalities nationwide.

Attorney General's Office

The Attorney General's Office is an institution of constitutional order whose activities are geared to represent the State of Guatemala in all instances that are determined by law, and to serve as a legal advisor to public sector entities. Currently It has 16 departmental headquarters.

The Law on Protection of Children and Adolescents, Article 108, states that the powers of the Attorney General's Office, through the Office of Children and Adolescents are:

- a) legal representation to those children and adolescents who lack it.
- b) Lead, by request or notice of motion or the request of a jurisdictional judge, the investigation of cases of children threatened or violated in their rights, and intervene actively in the processes of judicial protection. To that end, must have at least one attorney for Children and Adolescents in the jurisdiction of each court of Children and Adolescents.
- c) To submit the complaint before the Public Prosecutor of the cases of children or adolescents who have been victims of crime and that lack legal representative, appearing in the criminal process to defend the interests of these.
- d) Call for hearings and issue legal opinion on all court, administrative, and notarial proceedings by law, to assert the rights and guarantees of the Constitution, treaties and conventions accepted and ratified by Guatemala, and the rights recognized in the laws for the protection of childhood and adolescence.

The limitations of this body are summarized in that it has a presence only in the departmental headquarters and do not have expertise to address specific cases of childhood and adolescence.

Another weakness is that requests for intervention are not addressed with the immediacy that children and adolescents require, claiming lack of funds and personnel to fulfil its role.

Public Prosecutor

The national fiscals office is an autonomous body responsible of public prosecutions, promoting criminal prosecution, conducting investigations of crimes of public action, and to ensure strict compliance with the laws of the country. It has an Office of the Women with a Unit for Child and Adolescent victims and Trafficking of Persons. It has no presence in the interior of the country, limiting their actions.

Civil society organizations have publicly complained that the prosecution by the fiscals office does not give an effective response to allegations of violations

of the rights of children and adolescents, does not meet the deadlines established in the law for the investigation process, there is a weak prosecution of those responsible for committing crimes, which is reflected in the few rulings emitted. This has created the need for the civil society organizations to constitute a joint plaintiff as a measure to ensure access to justice and ensure the conviction of persons who have committed crimes against the integrity of children and adolescents, with the limitations that these organizations have to assume the responsibilities of the State.

Prosecutors office for Juveniles or Children

This Prosecutor was created inside the Public Prosecutor's Office in July 2004. It attends exclusively complaints against teenagers in conflict with the law (over 12 years and under 18 years), and has countrywide jurisdiction.

To fulfill its role, it has offices in 6 regional headquarters: Escuintla, Quetzaltenango, Jutiapa, Zacapa, Chimaltenango and Petén.

The activity of this prosecution is materialized in the early implementation of measures, investigation, forms of early termination of proceedings, hearings, debates, resources, measures of coercion and socio-economic studies.

The restrictions outlined in the Public Ministry also apply to this prosecution in the absence of economic resources and a lack of specialized personnel.

Institute for Public Defender. Juvenile Unit of the Institute of Public Defender.

It was created in June 1997, through a project of the Supreme Court-European Union-ILANUD. Has the responsibility to ensure that a public defender is assigned to teenagers accused of having infringed the penal law.

National Civil Police (PNC) / Unit for Children and Adolescents

The Law on Protection of Children and Adolescents in article 96 says, "The Unit for Children and Adolescents of the National Civil Police will have as its main objective the training and advice to all the members of the Institution on the rights and duties of children and adolescents, "stating that it will develop training programs and advisory. The National Civil Police will assist the Public Prosecutor and the courts of adolescents in conflict with the Criminal Law in the detection and scientific verification of the alleged violations and their perpetrators.

As with the other institutions and organizations mentioned above, the limitations of the National Civil Police to comply with the law are insufficient staff, personnel turnover and lack of financial resources.

By way of summary and as indicated by the above information, it can be concluded that the institutions that comprise the system of legal protection to children and adolescents face limitations of human, technical and financial order, which has limited the performance of the functions and powers established by the legal system, causing the violation of the rights of children and adolescents to be a constant.

1.3. National Policy

The process of developing public policy in favour of children and adolescents was launched in year 2002. This process involved both government organizations and NGOs. The process culminated in October 2004, (8 years after the Committee made the recommendation to the State of Guatemala), when the Government of Guatemala through the Government Agreement 333-2004 agreed to assume as state policy the Public Policy for the Protection of Children and Adolescents and approving the National Plan of Action for Children and Adolescents for the period from 2004 to 2015, giving the National Commission on Children and Adolescents the responsibility for promoting its implementation.

It is important to note that there is an unawareness of the provisions of public policy and the National Plan of Action by the institutions of government, and therefore, is not included in their work plans or budgets.

Nor is the public policy been taken as a reference point in the process of drafting the Municipal Public Policy for Children and Adolescents. The above situations will not allow the goals and strategic actions in Public Policy and Plan of Action.

National Action Plan Against Commercial Sexual Exploitation of Children and Adolescents in Guatemala.

In July 2001 the Social Welfare Secretariat of the Presidency of the Republic adopted the National Plan of Action against Commercial Sexual Exploitation of Children and Adolescents in Guatemala, as a public policy, but the necessary financial, technical nor human resources were not allocated for its implementation.

The National Action Plan for Children and Adolescents in Guatemala, 2004-2015, includes the goal “To evaluate by 2005 the results of the National Action Plan Against Commercial Sexual Exploitation of Children and Adolescents, to rethink and adjust the strategic actions to implement” setting as a strategic action “Adapt the National Action Plan Against Commercial Sexual Exploitation of Children and Adolescents according to the results of the evaluation, ensure budget allocations and the institutional responsibility for its implementation.”

To date such goal has not been accomplished since the results of the Action Plan were not evaluated, neither have restated or adjusted the strategic actions to implement. As a result of the previous, the budget allocations has not been secured, disregarding the recommendation of the Committee on the Rights of the Child made to the State of Guatemala on July 9, 2001.

In addition to the above, is compounded by the difficulty of calling for meetings and work of the Coordinating Group (a roundtable for coordinating between government and non-government organizations working on the issue) to be the lead of the National Action Plan, due to lack of commitment from the Presidency Social Welfare Secretariat and later the National Commission on Children and Adolescents, when this group became a sub committee of the previous.

National Plan for Prevention and Eradication of Child Labour and Protection of Working Adolescents

The National Plan was prepared for the period 2002 - 2004 and it was conceived as a national policy document setting out policies on child labour and protecting adolescent workers with specific goals.

In the National Action Plan for Children and Adolescents in Guatemala (2004-2015) includes the target to reduce by 15% the use of infant boys and girls under 13 years by year 2007, to 30% by 2011, and by 50% in year 2015.

Both the Plan for the Eradication of Child Labor as well as the proposed targets in this issue in the National Plan have not been met because they have not been given a budget. The institutions that have to implement the plan are often unaware of its content or are not interested in reaching its goals.

Policy Against Trafficking in Persons:

One significant achievement is that in July 12, 2007, the Government established by decree the Inter-institutional Commission to Combat Trafficking of Persons. The committee is headed by the Ministry of Foreign Affairs and includes representatives of the executive, legislative and judicial branches. The civil society organizations and international agencies may participate as observers without the right to vote.

The Commission developed public policy against trafficking of persons and comprehensive protection to victims and their National Strategic Action Plan 2007-2017.

The civil society organizations working on children's rights issues and implementing projects against human trafficking have been a very valuable driving force to boost the national agenda to combat trafficking in Guatemala.

Municipal Policy for Children and Adolescents

Since 1997, the Bureau of Local Municipal Governments was set as an inter-agency coordination instance which converge non-governmental, national, and international institutions that aim to promote the implementation of the CRC at the municipal level and promote municipal action plans, projects and public policy on behalf of children and adolescents in the country.

At present 12 national and international organizations make up the Bureau.

In late 2008, the institutions that conform the Bureau have promoted actions in 16% of the country's municipalities to include in the Municipal Development Plans a focus on the Rights of Children and Adolescents and that their budgets include actions and programs in favour of the Rights of Children and Adolescents. In addition, 55 public policy considerations on behalf of children have been approved.

The monitoring of investment in 2006 by the Bureau of Local Municipal Governments established that up to that year there was an investment of 10 million dollars in local municipal policies on behalf of children and adolescents.

The Bureau has also promoted and strengthened a network of Mayors where they joined 60 municipalities. Forty five mayors are participating directly and actively, and are committed to working on behalf of children and adolescents.

Eighteen municipal public policies on behalf of children have been approved.

Thanks to the work of the Bureau there is a strong local organization for the protection of children: 70 Municipal Committees for Children within the Municipal Development Councils supported by the National Commission on Children and Adolescents, 75 organizations of children and adolescents, 40 Councils for Children and Adolescents, and 35 organizations or networks of adolescents.

1.4. Existing mechanisms at national or local level to coordinate policies relating to children and monitor the implementation of the Convention.

The Law on Comprehensive Protection of Children and Adolescents, established with Article number 85 the National Commission on Children and Adolescents, which is responsible for: (1) formulating policies for the protection of children and adolescents, (2) transfer them to the system of Urban and Rural Development Councils, Ministries, and other government agencies for incorporation in their development policies, (3) coordinate and monitor the implementation of these policies, and (4) divulge the rights of children and adolescents.

The National Commission has a joint nature given that is composed equally of representatives of the State and the same number of representatives of nongovernmental organizations that perform and develop programs for children and adolescents.

One limitation of the National Commission is that the representatives appointed by government institutions do not have the decision power within the government. Furthermore it has no political recognition or support from the Secretariat of Social Welfare or the institutions of government on the importance this National Commission as a governing instance on the rights of children and adolescents.

For the implementation of its duties, the National Commission receives from the Social Welfare Secretariat an annual contribution of \$7,800, which is insufficient to allow having the human and technical resources necessary to accomplish the responsibilities given by the Law of Comprehensive Protection of Children and Adolescents and the implementation of their work plans. In addition to the previous, the administration of funds by the Social Welfare Secretariat is inefficient, bureaucratic and slow, which represents an obstacle to the development of their activities.

The previous has been a determining cause for the comprehensive public policy for children and adolescents not to be known or assumed as a state policy or transferred to the executive branch planning and implementation system of Urban and Rural Development Councils.

1.5. And multidisciplinary mechanism for coordinating and implementing the Convention at the national and local levels in urban and rural areas.

Although the Committee on the Rights of the Child recommended to the State of Guatemala, on two occasions, creating a permanent and multidisciplinary organization for coordination and implementation of the Convention at the national and local levels and in urban and rural areas in 7 June 1996, and to establish a permanent and multidisciplinary coordination and implementation of the Convention at national and local levels as well as a number of mechanisms at all levels to ensure an effective decentralization of the implementation of the Convention and to promote close cooperation with NGOs in July 9, 2001, the State has not integrated the organization to pursue the responsibilities in the Convention.

1.6. Measures to publicize the principles and provisions of the Convention to adults and children alike.

From the institutions of national government, the Human Rights Office has been the most active in outreach and dissemination of the CRC. From Civil Society, organizations in the Inter-institutional Coordination for the Promotion of the Rights of the Child (CIPRODENI), the Human Rights Office of the Archdiocese of Guatemala (ODHAG), and institutions that comprise the Social Movement for the Rights of Children , Adolescence and Youth, have implemented training processes on the Convention and developed materials for support and awareness.

Although the indigenous population is approximately 41% of the population of Guatemala, the Convention has not been translated into the Mayan languages. It should be noted that the Committee has made two recommendations to the State in relation to this point.

In the school curriculum it has been incorporated the theme of Human and Children's Rights and training of teacher in the public education system, however there is no evaluation of the results achieved.

In some state institutions there are isolated activities considering that the CRC is not an institutionalised theme.

Since 2002 a Masters program in Human Rights have been implemented at the national and a private university, but has not been included as a specific course or seminar in other higher education careers.

The civil society organizations with the support of international cooperation have implemented training processes on the content and principles of the Convention aimed at technical, field, and professional personnel of both, governmental and non-governmental organizations in the country .

1.7. Measures taken or planned to give wide diffusion to their reports in their respective countries.

On July 7 1996, the Committee recommended to the State of Guatemala to disseminate the report, the summary records of the examination of that report and the Committee's concluding observations. Once more, in July 9, 2001 the Committee recommended that the Guatemalan State to disclose its second periodic report and written responses, and to consider the publication of the report with the relevant summary records and concluding observations adopted by the Committee.

Despite the two recommendations, the contents of official reports, the contents of the summary and the Committee's concluding observations have not been publicly disseminated.

1.8. The allocation of budgetary resources

In July 2001 the Committee on the Rights of the Child recommended that the State party determine the amount and proportion of the national and local budgets intended for children to evaluate the results and effects of these expenditures on children.

The Social Spending implemented in Guatemala is one of the lowest in Latin America, accounting for 5.3% of Gross Domestic Product (GDP) in 2004 and 5.4% in 2005. Public investment expenditure fell from 4.5% of GDP in 2003 to 4% in 2005.

The report on the Status of Economic, Social and Cultural Rights in Guatemala, written by the International Center for Research in Human Rights, CONGCOOP, and DESCGUA in November 2006 concluded that: "The increase in poverty is reinforced by a weak state that reproduces inequality because it does not encourage any re-distribution mechanism; taxes are low and unfair (less than 10% of GDP), and the expenditure and social investment are insufficient (about 5.3% of GDP)."

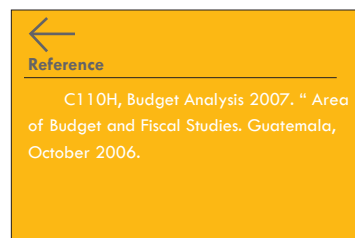
This study points out that health spending remains stagnant at 1% of GDP in the 2000-2005 period, suffering a severe reduction equivalent in real terms to Q.237 million from 2001 (Q1,522 million) to 2005 (Q1,284.9 million). In both government budgets for 2006 and the draft for 2007, health expenditure corresponds to 1.2% of GDP, placing the country as the lowest spending on health in Central America.

In addition, the study states that "The budget implemented in education decreased from 2.5% of GDP in 2001 to 2.3% in 2005, while the approved budget for 2006 and 2007 show an allocation of 2.5% of GDP. The Ministry of Education has a 15% increase in its budget, which is insufficient to meet the major setbacks in education and teaching demands. It is important to note that despite the budget increase in general, the Ministry of Education have been limiting social programs of greater outreach. "

The levels of investment and public spending are insufficient to meet the large gaps of inequality and extreme poverty.

1.9. Data collection

The Committee, after reviewing the second periodic report of Guatemala, in 2001 recommended that the State party continue to develop a system for collecting data and indicators disaggregated by sex, age, indigenous and



minority groups, and by urban or rural population, which takes into account the provisions of the Convention. Such a system should include all children under 18 years and pay special attention to particularly vulnerable children, including indigenous groups; child victims of abuse, neglect or abuse, children with disabilities, displaced children, children in conflict with the law, working children, child victims of sexual exploitation for commercial purposes; adopted children, and children living on the streets and in rural areas. It encourages the State party to use these indicators and data to formulate policies and programs for the effective implementation of the Convention. “

The National Institute of Statistics (INE), during the XI National Census of Population and VI Housing Census conducted in late 2002, for the first time collected information disaggregated by ethnic group: Maya, Xinca, Garifuna or others, based on self-identification of the population. It also collected information on households who reported one or more cases of disability.

In 2005, the INE implemented the First National Survey on Disability (ENDIS) as an effort to collect, order and analyse disability in Guatemala, which provides more specific data concerning both: the people and the households with members suffering from disabilities.

The National Survey of Living Conditions-ENCOVI was implemented in 2006, showing among other indicators, poverty levels at the national, regional and departmental scales, and the incidence and determinants of poverty. It also presents other social and demographic indicators related to the living conditions of the Guatemalan population.

Other reports such as the Ministry of Education annual statistics, and the annual reports of the status of children by the Human Rights Office of the Archbishop, are valuable sources for the efforts of advocacy of the rights of children.

An important initiative has been the design and installation of databases with a focus on human rights in some municipalities, which have generated information that underlie the municipal public policy proposals on behalf of children.

There are deficiencies in the collection of data on the situation of children and adolescents at risk, vulnerable or who have suffered violations of their rights, since every government institution uses different formats and recording systems, producing unreliable official data.

Civil society organizations have made efforts to build reliable indicators to measure the degree of compliance with the rights of children and adolescents. However, it should be noted that despite the progress in this area, there is much to improve considering that most data available is the product of isolated efforts. This situation creates difficulties to collect data for statistics and to make visible the situation involving children and adolescents and the magnitude of the violation of their rights.

2

DEFINITION OF CHILD

The Law on Comprehensive Protection of Children and Adolescents (LCPCA) in its Article number 2 defines a child to be any person since conception until it meets thirteen years old, and adolescents those from thirteenth year until they reach eighteen years of age. In this sense, in contrast with the Convention the law provides for the protection of children from conception and not from birth, and introduces the concept of “adolescence” as a stage in the development towards adulthood.

After approval of the LCPCA, some government institutions have taken administrative measures to change the name of the units responsible for the actions aimed at children and adolescents, such as the Ministry of Labour and Social Welfare that updated to the Unit of Juvenile Worker and the Unit for the Protection of Working Adolescents. Despite the efforts realized, Congress has not yet taken the administrative decision of changing the name of the Commission for Children and the Family.

Despite efforts from civil society organizations it remains in the country an idea of childhood as an object of protection due to the persistence of a patriarchal structure and discrimination based on age and sex.



Reference

Decree No. 27-2003 approved by Congress on June 4, 2003 and entered into force as of July 19 the same year.

Is consistent with the provisions of Article 3 of the Constitution of the Republic of Guatemala in 1985 which reads: “The State guarantees and protects human life from conception.”

2.1. Number and proportion of children under 18 years

To value the demographic importance of children and adolescents in Guatemala it is important to quantify this group.

According to estimates and projections of total population by age as simple calendar years, the National Statistical Institute period 2000-2020, the population of 0 to 18 years for 2007 was 6 million (5,588,163), of which 3 million 330,943 are male and 3 million 257,255 were female.

The data are broken down as follows:

Population	Male	Female	Total
Population 0 -3 years	860,833	828,716	1,640,549
Population 4 -6 years	601,866	583,647	1,185,513
Population 0 -6 years	1,462,698	1,412,364	2,875,062
Population 7 -12 years	1,090,525	1,068,354	2,158,879
Population 13 <18 years	777,720	776,502	1,554,222

3

GENERAL PRINCIPLES

A) Non-discrimination

Article 10 of the LCPCA dictates the right to equality in the application of rights under the law: “...any child or adolescent without discrimination ... to children and adolescents belonging to ethnic and or of indigenous origin, are entitled to live and develop in the forms of social organization that correspond to their historical and cultural traditions, while they are not contrary to public order and respect for human dignity. “

In Guatemala discrimination is based on ethnic and gender differences. Social indicators demonstrate enough to realize that despite the efforts to create a legal framework governing discrimination, the vast majority of children, indigenous children and adolescents, are excluded from basic services necessary for their development.

Discrimination on grounds of age, gender and ethnicity, against minors, women and indigenous peoples have a historical and structural origin, which are rooted in the culture and practice of the society .

According to latest census data from the National Institute of Statistics (INE) the population recognized as indigenous reach more than 40%, equivalent to 4.4 million people of a total of 11.2 million inhabitants in the country.

Seventy four percent of indigenous people live within the poverty line, and 24.3% within extreme poverty(ENCOVI, 2006).

The Permanent National Commission on Education Reform presented in 2006 the report “Portrait of Injustice”, in which noted that “the low coverage and quality of education for indigenous children and youth is an evidence of discrimination in the education system.”

According to UNICEF, the situation in terms of malnutrition is more complicated in indigenous children, due to chronic malnutrition levels reaching 70% of this population, twice as much as the non-indigenous children.

B) The best interests of the child

The Law on Protection of Children and Adolescents, in Article 5, regarding the interest of children and families, states: “The best interests of the child is a guarantee which will be implemented in any decision regarding childhood and adolescence, which must ensure the exercise and enjoyment of their rights ...”.

B.1 Importance of the Principle in the Courts of Justice, administrative authorities, legislative bodies, public and private agencies.

Regarding the courts, in order to protect their rights of the child the LCPCA in Article 116 contains a series of procedural safeguards for children and adolescents whose rights have been threatened or violated.

In the case of adolescents in conflict with the law, Article 138 of the LCPCA provides the following guiding principles: the protection of adolescents, their best interests, respect for their rights, comprehensive training and reintegration into their family and society.

In the family environment there is a tendency of predominance of the notion the father or mother considers best for the upbringing and development of the child, and not necessarily the best interests of the child. The children are considered “property” of parents, subject to parental authority. In a similar way, the teacher in the classroom and the educational authorities are those that define the desired profile of the learner, which may or not coincide with what could be the best interests of the child.

In social life, there is a tendency to reduce the matters related to the child to a private issue of the family, which limits the social consideration of the superior interests of the child.

There are no budgetary provisions based on the application of this principle.

But thanks to the work of members of the Bureau of Local Municipal Government, in some municipalities budgets have already been included for the implementation of municipal policies for children and adolescents.

The principle of the best interest of the child is in the LCPCA, within the principles established for the formulation, implementation and monitoring of policies of protection for children and adolescents (Article 84, paragraph k). It is a principle of the Comprehensive Public Policy for the Protection of Children and its Plan of Action 2004-2015. Non-governmental organizations that participate in the Bureau of Local Municipal Governments have succeeded in incorporating the principle in Municipal Public Policy on behalf of children and adolescents.

C) The right to life, survival and development

Various indicators show that the measures taken to ensure the right to life and development of children have not been enough, requiring more efforts by the state and society. These indicators are: the prevalence of high rates of infant mortality and childhood malnutrition and preventable diseases, the high percentage of children living in poverty, deficiencies in housing and basic services, and the high percentage of children who are excluded from the education system.

Based on calculations of the National Epidemiology Center of the Ministry of Public Health and Welfare and the National Institute of Statistics, in 2005 it was established that 55 of every 1,000 children under 4 years of age die from preventable causes in Guatemala.

The rate of chronic malnutrition (48%) is the highest compared with other countries of Central America. (Key Statistics on Early Childhood in Guatemala in April 2007. UNICEF). Although the risk faced by a severely malnourished child (more than -4 standard deviations from the reference value, is 8 times higher than well-nourished children, and children with mild and moderate deficit is a risk of 4 and 2 times more of death, respectively, than children with normal nutritional status).

Children get sick and die of preventable diseases in Guatemala, and the state fails to provide adequate health services.

There is a backwardness and lack of accurate records, especially in rural areas. The register of deaths of children and adolescents at the national level is done through the civil registrar in each municipality, which compiled the information is sent to the National Institute of Statistics.

Extra judicial, summary or arbitrary executions

The report of Mr. Philip Alston, Special Rapporteur of the United Nations on extra judicial, summary or arbitrary executions, submitted in Guatemala on

August 22, 2006, stated that “Despite such extensive legislation, in recent years violent deaths have been increasing significantly, and within them the murder of women, children and youth. Social inequality and poverty, a prevailing impunity, organized crime and the aftermath of the internal armed conflict, are among the factors that facilitate this situation “

The crime of extra judicial execution is regulated specifically in the Guatemalan Penal Code, article 132 bis.

The document of the World Organization Against Torture (WOAT) denounced in 2006 social cleansing policies and the killing of street children in marginal areas in Guatemala. The victims described by the WOAT are of low socio-economic status, indigenous and low education levels.

Violent deaths

In 2004 the National Civil Police (PNC) and the Forensic Medical Service reported a total of 757 violent deaths of children and adolescents. The PNC reported that from a total of 305 violent deaths of children and adolescents, 89% of the victims were between 12 and 17 years old, and the Forensic Medical Service of the Judicial branch reported that of a total of 452 deaths, 268 were caused by firearms and 165 from skull trauma.

The quantitative records of deaths in children and adolescents in 2004 from the Forensic Medical Service of the Judiciary Branch and those of the National Civil Police, vary because the two institutions have different jurisdictions. While the first records all deaths, the second records only when they are called to lift corpses.

The data on violent deaths of children and adolescents in the capital city and the country on 2005, provided by the Division of Criminal Investigation, Analysis Section, National Civil Police, Guatemala; and the Office of Human Rights, Children and Youth Section were 182 deaths in the capital city and 236 in the countryside.

Of the total violent deaths registered in the capital city, 83% (the highest percentage) involves citizens in the range of 13 to 17 years of age and were perpetrated with firearms.

Inside the countryside, 82% of the victims were teenagers and 73% of the deaths were caused by firearms.

In 2006, just as in 2005, in the capital city 85% of the victims were teenagers between 13 and 18 years old and deaths by firearms accounted for 84%. Inside the country, 70% of the deaths were by firearm and total 91% of the victims were teenagers between 13 and 18 years old.

The Report on the Situation of Children and Adolescents in Guatemala of the Human Rights Office of the Archbishopric of Guatemala in 2006, noted that “The year 2006 has been nominated by all public institutions, private and non-governmental organizations, the most violent in recent times. “

In the same report, and according to various sources of information consulted, the data regarding the number of homicides against children and adolescents were:

National Civil Police	Judiciary Branch	Human Rights Ombudsman (January to October 2006)	Forensic Medical Service
461	254	395	457

Of the 461 deaths of children and adolescents, as reported by the National Civil Police, 367 were with a firearms.

By 2007, the National Civil Police reported a total of 764 criminal acts against the integrity of persons underage (less than 18 years), and of these 81.5% were injured with firearms.

The Human Rights Ombudsman, in the report on the Situation of Human Rights in Guatemala in 2007 reported 346 murders of children and adolescents. 266 cases, or 76.8%.

Poor processing the crime scene, the lack of coordination between the Public Prosecution Ministry and the National Civil Police to conduct investigations, poor training of investigators, the almost exclusive use of witnesses to support the cases, the weakness in the system of protection of witnesses and victims, poor case management systems, lack of credibility and mistrust of the justice system, are all factors that affect the impunity that persists in such cases.

In May 2005, by Congressional decree 37-2005 Congress approved the law that commemorates in March 13 of each year the National Day of No Violence Against Children. This initiative was motivated by the civil society organizations.

Despite that decree has been effective since 2005 and that it states that the date should be commemorated in decentralized and autonomous institutions, educational establishments and public and private offices, in a way that best honors the memory of children victims of violence, only Casa Alianza Association with the support of civil society organizations has complied with the provisions of this decree.

- **The application of the death penalty .**
is ruled by article 43 of the Criminal Code and Article 18 of the Constitution of the Republic, which indicates that it does not apply to minors.

- **Suicide.**

The lack of statistics disaggregated by sex and age does not reveal the magnitude of the problem.

According to official data, in Guatemala this cause of death tends to increase. In 2006 alone, the suicide of at least 564 people were reported, and in 2007 were 734 cases. In 2008 there was an average of two suicides per day.

D) Respect for the views of the child

In LCPCA there is no specific provision on this right. However, Article 12 on right to freedom states: “Children and adolescents have the right to freedom accorded to them by the Constitution of the Republic, treaties, covenants, agreements and other international instruments accepted and ratified by Guatemala and domestic law “and as the Convention on the Rights of the Child has been ratified by Guatemala, this right has legal backing.

The precarious situation of the vast majority of families in Guatemala, and the authoritarian and male chauvinist dominant culture has limited the full exercise of rights by children, including the right to express their opinion on family matters.

At present, the involvement of children in decision making is limited to organizations or associations, student organizations and other sporting and entertainment groups, which are often under the supervision of adults. The participation of children and adolescents in decision-making in conjunction with adults is almost non-existent, although there are some opportunities for consultation and opinion.

Non-governmental organizations that integrate the Bureau of Local Municipal Governments have been promoting the participation of organizations representing children and youth at the community and municipal level to establish a dialogue with the Municipal and Community Councils of Development. This participation has been in the development of diagnostics of the status of municipalities, development and production of local public policies, and the approach of their demands to the candidates for mayors, or in any forum with presidential candidates.

NGOs have promoted projects for the expression of childhood and adolescence, such as painting murals, drawing competitions, cultural evenings and festivals, marches and radio programs among others, which contribute to the awareness of adults of childhood rights.

4

CIVIL RIGHTS AND FREEDOMS

The name and nationality



See: Innocenti Research Center, Birth registration: the right to have rights, Innocenti Digest No. 9, 2002, and the study of the Institute of Children and Plan International, Executive Summary Diagnosis of Birth Registration in El Salvador, Guatemala, Haiti, Honduras, Nicaragua and the Dominican Republic, 2002.

In Guatemala 10% or less of births are not registered and may be higher among the poor, rural, indigenous, and among women that were affected by the armed conflict.

Lack of registration in the civil registers is greater in the country because the majority of births are attended by midwives, or with no assistance. Relatives take longer to go to the municipality or do not go to the civil registration office due to the distance or lack of resources. In addition, a factor to consider is the impact of high infant mortality rates, because in the rural communities parents delay registration to an age when the child is expect to survive before signing up.

Importantly, the lack of registration limits the access of boys and girls to public services such as education and health among others.

Minimal efforts have been made by the civil registration offices, especially in the rural areas, to inform parents and the general public on the arrangements for the registration of children, despite the recommendation that the CRC

made the State of Guatemala in raising the awareness of the importance of birth registration and improve the registration system so that all people can have access to it, especially in rural areas.

Access to appropriate information

The production and dissemination of literature for children in Guatemala is still limited.

Notably, as part of an assessment of the indigenous culture of Guatemala, different linguistic communities have collected the oral tradition of legends and produced publications, stories, fables.

But access to them is difficult given the economic situation of the majority of Guatemalan families.

Regarding the dissemination in the media, such as by radio, television and cinema, all are dominated by imported programs of commercial interests, being reduced the percentage of educational materials that are transmitted or have content related to national culture.

The right not to be subjected to torture or other cruel, inhuman or degrading treatment, including corporal punishment.

The State of Guatemala has not responded to repeated UN recommendations, or that made by the Committee on the Rights of the Child (2001) as to give top priority to taking all necessary measures to prevent these serious violations of child rights and to ensure that violations are properly investigated and those responsible brought to justice. In response to the dispute under Article 39, the Committee also invites to take all appropriate measures to ensure the physical and psychological recovery and social integration of children who are victims of torture or ill-treatment, and they get pay an adequate compensation. The same for the concerns of the NGOs in relation to the persistence of impunity and lack of redress for victims of torture and cruel, inhuman and degrading treatment in the country.

Its important to mention that the UN Committee against Torture after consideration of the report submitted by Guatemala in May 2006 reiterated its concern over the fact that Guatemala has not adjusted the definition of the crime of torture contained in the Penal Code to the provisions of the Convention against Torture and Other Cruel, Inhuman or Degrading acts. To date there is no initiative to adjust the definition of this crime in the Criminal Code.

5

FAMILY ENVIRONMENT AND ALTERNATIVE CARE

In the ECLAC document, *“Families and Public Policy in Latin America: a history of disagreements”* of October 2007, concludes that in Guatemala the family welfare scheme is the “informal dual supplier”, with weak state and market. In addition to some shortcomings arising from the change in the constitution of the traditional family, which in the case of Guatemala, put women at a disadvantage with respect to the man, who in many cases doesn’t even want to recognize their children. Only 37 per cent cohabiting with a partner, hoping to evade liability. Noted in this study is that *“What we found, in general and in the case of Guatemala, was a lack of updated diagnostics needed to propose and design good policies on the family issue.”*

There are laws in relation to the family, the Constitution of the Republic, the Civil Code, the Law on Family Courts and the Law on Protection of Children and Adolescents: Article 5: Interests of Children and Family; Article 18. Right to family, and Article 19. Family stability. But despite this, the State of Guatemala has failed to implement economic measures that allow the strengthening of families to fulfil their function.

Proof of this is that in Guatemala on the basis of official data, 51% of Guatemalans live in poverty, and of these, 15.20% live in extreme poverty. Monitoring of the Millennium Development Goals (MDGs) recorded that 21.5% live on less than \$ 1 daily, predominantly in rural and indigenous areas. (Summary of the Strategy for Cooperation, World Health Organization, based

in the Second Progress Report of the Millennium Goals 2006, SEGEPLAN, Government of Guatemala).

The reality shows that in Guatemala it is not enough to have specific legislation governing an issue to ensure effectiveness.

Parental responsibilities

The obligations arising from family relationships or that occur as a result of kinship, are regulated by the Guatemalan Civil Code which states that “Both spouses have an obligation to respond and take care of their children during the age of a minor of these.”

The Law on Protection of Children and Adolescents in Article 78 states that “ In order to guarantee the enjoyment of their rights, it is the duty of parents, guardians or persons responsible for children and adolescents to: a) give affection and devotion; b) provide the necessary material resources for their development, according to their economic potential,” among others.

According to the National Survey of Living Conditions (ENCOVI, 2006), of the National Institute of Statistics (INE), from the total population of the country, 2,652,999 are heads of a household. Of the total male heads of household (2,052,720), 47.2% are poor and 11.4% are extremely poor. Of all women heads of households (600,279), 30.8% are poor and 5.5% are extremely poor, being in a situation that prevents or hinders them from meeting their obligations towards children.

Another important dimension of analysis in relation to the family in Guatemala is related to international migration, especially to the United States, and the impact on the structure and functioning of the family. Most migrants are young and adult men, leaving wives and children in Guatemala. There are cases in which both parents migrate, leaving the children to the care of grandparents or other family members.

The payment of alimony for child support



Reference

“They are bound to be another food, spouses, ascendants, descendants and siblings. When the father, for his personal and pecuniary, was not able to provide food for their children and the mother could not do so, this would correspond to the paternal grandparents of food throughout the duration of the inability of the father them.” Article 283 of the Civil Code.

The Guatemalan Civil Code stipulates in article 278 that “The term alimony includes all what is essential for sustenance, food, housing, clothing, medical care and education and training when the food is for a minor..” Therefore, together with any child there is an obligation to ensure their food within the above, which may be the father and mother, jointly or separately, as well as those where none exist, by law, will also attend this obligation.

The crime of denial of economic assistance is of public action.

The report of Guatemala on domestic violence produced by the Network of Non-Violence Against Women, prepared for the hearing of the DIDH in July 2006 reported that “In 2005 the courts of the Republic received a total 2,746 demands for payment of alimony and only 1,705 cases settled.

Another constraint facing the payment of alimony is related to the verification of paternity. The reform to the Civil Code passed in 2007 states that paternity is established by evidence of DNA (deoxyribonucleic acid) analysis, and paternity is required for the implementation of a pension.

The paternity test should be ordered by a Family Judge to any public or private institution in the country or abroad. This represents another setback for the plaintiff, because for the test to be free charges, it must be done at the National Institute of Forensic Sciences (INACIF), which still has no laboratory for such tests.

Children deprived of family environment

A study conducted in 2007 by the Social Welfare Secretariat of the Presidency, Holt International suggests that of 5600 children in institutions of protection distributed in 127 centers, (of which 55% are female (3066) and 45% of male (2534), 1846 have been declared permanent population, thus violating their right to have a family.

With regards to the nature of institution, 95% are private and only 5% of the public sector.

As for the age of children deprived of parental care and who are institutionalised, the study says that “the majority of children and adolescents are institutionalised within the ages of 7 to 16 years, the second group represent those in age from 1 to 6 years.”

Adoption

Adoptions in Guatemala, especially those overseas, have increased significantly from 2004 to 2007, becoming a lucrative business for involved lawyers and adoption agencies, and in which the interests of the adoptive families abroad have prevailed over the best interest of adopted children. According to the document: “Adoptions in Guatemala, protection or market?”, published in 2007 and drafted by Casa Alianza Association, Presidential Commission on Human Rights - COPREDEH, Myrna Mack Foundation, Survivors Foundation, Social



Reference

Op. Cit. Pág. 34.



Reference

Secretaría de Bienestar Social de la
Presidencia de la República. Op. Cit.
Pág. 50.

Movement for the Rights of Children and Adolescents, the Office Human Rights of the Archbishop of Guatemala -ODHAG-, and the Secretary of Social Welfare of the Presidency, state that the price paid for the process of adoption ranges between 13 and 40 thousand U.S. dollars.

The organizations of civil society, announced that situation, emphasizing the breach of the principle of best interests of the child, failure to comply with the commitments made by the State when ratifying the Convention on the Rights of the Child, the failure of the recommendations given by the Committee on the Rights of the Child, and the charge of crimes such as theft of children, the replacement of maternity, and falsification of documents, without finding an effective response by the state.

During the period from 2003 to 2006, they were adopted a total of 27,140 Guatemalan children, of whom 26,483 (97.6%) were international adoptions. Of this total, the United States received 87% of the children. “For the year 2007, of 3,494 adoption cases, only 5% were for Guatemalan parents, 93% for the U.S., and 2% for the rest of countries” (Adoptions in Guatemala, protection or market?, published by the Social Welfare Secretariat of the Presidency of the Republic, et. al.,2007).

Before the Adoption Act Decree No. 787-2007 entered into force on December 31, 2007, the Attorney General’s Office would have to resolve at least 1,900 cases of adoption that are pending.

Abuse and neglect, including physical and psychological recovery and social reintegration

The mistreatment and abuse of children and adolescents is a serious phenomenon in the country, especially because there is a large sub-register of cases, and an authoritarian culture and customs to justify the abuse of children as a form of punishment and to instil discipline. In general, they receive few complaints, especially with regard to sexual abuse and incest, which is still remaining unmentionable.

For 2006, the Network for Prevention and Treatment of Child Abuse and Sexual Abuse of Children and Adolescents in Guatemala reported that “from the 5,243 complaints received in various institutions of justice and health, the allegations of physical abuse were the most common (2,579) followed by sexual abuse (1,632) and neglect (1,033). As for the sex of the victims, male children are abused physically to a larger percentage, particularly the smaller ones, while girls are more vulnerable to sexual abuse.

Up until November 2007 the headquarters of the Office of Human Rights located in the capital city reported receiving 1,084 cases of child abuse.

The Network for Prevention and Treatment of Child Abuse and Sexual Abuse of Children and Adolescents in Guatemala make information and awareness campaigns in the capital city and in rural areas of the country, although coverage was limited due to limited funding.

The Report on the Situation of Children and Adolescents, developed by the National Association Against Child Abuse –CONACMI, noted that during 2007 they were attended 350 cases of mistreatment and sexual abuse in institutions and hospitals located in the capital city.

Children and adolescents who suffer abuse in all its manifestations are unprotected because in the country's criminal law abuse is not a criminal offence and there is no direct prohibition of corporal punishment.

Despite the efforts and initiatives taken by civil society, have failed to implement systems for recording cases in the government institutions responsible for addressing them.

Few services exist to give psychological and social attention to children mistreated and sexually abused and they are all concentrated in the capital city.

The periodic review of placement

The Report Monitoring Homes for Children and Adolescents, 2003-2005 prepared by the Office of Children and Youth of the Office of Human Rights, noted that “one of the problems with the current system of protection of children and adolescence is that there is no official register of sites where you can know in advance the number of refuge homes that exist throughout the republic. “

In the same report, the Ombudsman for Children and Youth of the Office of Human Rights, reports the result of monitoring carried out from August 2003 to August 2005 to a total of 49 refuge homes for children (of which 10 belong to the Secretariat Social Welfare and 40 are in private homes). It stated that “all households monitored are a limited sample of all households, which constitute a first step in monitoring in a constant institutional work. One of the problems of the current system for protecting children and adolescents is that there is no official register of sites where you can know in advance the number of homes that exist throughout the republic. “

Among the findings included in this report, the following is indicated:

- Children and youth in a position of vulnerability are being attended in shelter homes under the responsibility of the private sector, with little requirements from the state on the satisfaction of minimum conditions for installation and operation.

- The shelter homes are not specialized in the care of different situations of vulnerability. According to the data contained in this report, the same home addresses different types of problem situations, with no institutional capacity and professional staff required to do so, all of which affect the care in precarious situations of vulnerability that are confronted by children and adolescents.
- Refuge homes, both State and private, with limited staff to properly care for those who shelter, as well as the lack of training for much of the staff favours situations that violate the rights of children and adolescents.

In 2005 the Chamber of the Court of Appeal for Children and Adolescents, which is part of the jurisdiction of the courts of Children and Adolescents and adolescents in conflict with the law, based on the results of the inter-institutional surveys, implemented during that year, found that the vast majority of the centres do not work according to the principles of protection of children. The main cause is a legislation that omits the authorization, regulation, supervision, and training of institutions dedicated to the care of children under protection. Thus it encourages the development of a draft Law to Regulate the Centers for the Protection and Shelter, which to the end of 2007 was not reviewed by Congress

6

BASIC HEALTH AND WELFARE

The Guatemalan State has delegated to the Ministry of Public Health and Social Welfare the organization and delivery of health services to the population, but has no system of universal health coverage.

The Yearly Work Report 2006 of the Ministry of Public Health and Social Welfare (MSPAS) noted that the target population for the year corresponds to 1,300,000 children under 6 years and 500,000 women 15 to 49 years.

On the subject of coverage of health services, the Ministry of Public Health and Social Welfare program invokes extended coverage (PEC) and that provides services to more than 4 million inhabitants. The extended coverage (PEC) is based on giving the delivery of health care to NGOs that are responsible for bringing basic services through a care package. The population is ordered in “jurisdictions” of 10,000 inhabitants and the sum of all the jurisdictions covered the amount of 4 million people referred by the official information.

However, the PEC is not for the whole country, first it focuses on rural communities, then the poor, to those who are in extreme poverty, then the populations of women between 15 and 49 years and children under 5 years who were suffering from diarrhea, respiratory infections, or pregnant women and those who need palliative care, including: oral serum (to prevent children with diarrhea do not die of dehydration), or cough syrups to improve those with a flu.

The services are provided by “volunteers” from the community and are supported by a doctor who visits the community once a month.

This extreme targeting shows how from the 4 million, only a part are taken care of when they have problems that are considered in the basic package and serviced by low-skilled staff.

Mortality rates of infants and children under 5 years

The causes of infant mortality in Guatemala are many and complex and are related to the exclusion in all its dimensions (gender, age, ethnicity, culture), conditions of poverty and extreme poverty, deplorable living conditions of a large proportion of Guatemalan households where there is no water, basic sanitation, adequate housing, among others.

Data from the Ministry of Public Health and Welfare revealed that children continue to die, as 10 years ago, from preventable causes. Deaths caused by acute respiratory infections, intestinal parasites, urinary tract infections and anemia. Girls are the most affected.

According to calculations of the National Epidemiological Center of the Ministry of Public Health and Welfare and the National Institute of Statistics, in 2005, the neonatal mortality rate was 10.68, post neo-natal 15.90, the child 26.59 per thousand live births in children aged 1 to 4, a mortality rate of 2.75 per thousand live births.

A report by the United Nations Population Fund, UNFPA, introduced in November 2008, indicates that infant mortality in Guatemala is 29 deaths per thousand.

While there has been a significant vaccination coverage (98% and 93% BCG antipolio), low coverage in DTP (55% 9) and pentavalent (38%) persist in the country. (information and epidemiological surveillance report, Ministry of Health 2005).

According to the 2005 Human Development Report of the UNDP, 2,2000 households (74.6%) have piped water access and 25.4% of households do not have this resource. The people most excluded from this service is the rural population. 2.2% of families are buying supplies water barrels, and 4.8% consumed water from the river or lake, and 15.3% from a well.

Maternal mortality

Maternal mortality in Guatemala is the highest in Central America and the fourth among the highest in Latin America and the Caribbean. Has strong geographical differences, and is three times higher among the indigenous than the non-indigenous population.

The maternal mortality rate in 2005 was 121 deaths per 100,000 live births, according to the Second Progress Report of the Millennium Goals of the United Nations Program for Development (UNDP).

It occurs almost entirely in women with low levels or no education, and it's greater in the age group 10 to 19 and more than 30 years.

Children with disabilities

According to the results of the First National Survey on Disability (ENDIS) of 2005, 1.9% of the population under 18 years had some impairment or disability, with a higher incidence (2.2%) in children and teenagers from 7 to 17 years of age, than those under the age of 7 years (1.5%). In addition, 7.5% of the cases of disabilities in children and adolescents were related to problems during pregnancy.

The most frequent impairments are mental (22.9%), and physical disabilities affecting hearing reaches 17.9% and visual impairments 14.2%. Only 53.1% of disabled youth and children received some type of medical treatment.

The ENDIS 2005 survey presents separately the results in relation to children under 6 years of age. The most significant data is presented:

- At the national level, 24,850 children under 6 years have some type of disability. Male children suffer from disabilities at a higher percentage (59%) than female.
- Nationwide, of all children under 6 years with disabilities, 11,037 are indigenous, of which 4,167 are girls.
- The disabilities that affect children under six years the most are: first, mobility and physical impairments; second, language disorders, and third, disabilities related to the nervous system.

Most institutions that are geared to serving disabled children are concentrated in urban centres, and are under the responsibility of civil society.

State and private programs for children and adolescents with problems of disability are insufficient, so there is a high percentage of disabled children that is not being attended properly.

Although there is a national policy for the disabled and the State of Guatemala ratified the Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities, a lack of knowledge of both prevails.

HIV / AIDS

Official information provided by the National AIDS Program reported registering 10,756 cases of AIDS between January 1984 and December 2007, of which 3,248 are female and 7,497 males.

According to age ranges, the report indicates that:
From 0 to 4 years there are 525 cases;
from 5 to 9, there are 67 cases;
from 10 to 14, recorded 41 cases;
and from 15 to 19 years, recorded 335 cases.

The Ministry of Health (MSPAS) believes that for every reported case, there are five others without reporting. Estimates are that for every 10,000 inhabitants, 6 children under 15 years have lost their mother or both parents to the disease.

There is no research on the incidence of childhood and adolescence, or the situation of the rights of children and adolescents who are orphaned.

Adolescent health

Reproductive health experts agree that the high fertility rate in Guatemala is a combination of traditional and cultural restrictions on access to information and appropriate means to promote a responsible management of sexuality and reproduction.

The national hospitals reported that in 2006, five babies were born from mothers of 10 years of age, 10,000 from teenagers of 17 years old, and 14,732 born from mothers with 19 years.

The summary data on sexual and reproductive health of youth in Guatemala, developed by the Guttmacher Institute states that: “The proportions of young adults who married during adolescence, are much higher among women of lower education (66%) of indigenous groups (64%) and rural residence (57%) than among women in higher education (26%) of non-indigenous groups (45%) and urban residence (41%). “

Likewise, the rate of adolescent fertility in Guatemala -114 births per 1000 women aged between 15 and 19 years, is one of the highest in Latin America and the Caribbean, where the regional average is 80 births per 1000 women.

7

EDUCATION, RECREATION AND CULTURAL ACTIVITIES

State obligations in education for boys and girls are quite extensive as legislated in the Constitution of the Republic of Guatemala, but there are major gaps and deficiencies, which urgently must be given due importance implementing enforcement measures to meet the national commitment to achieve education for all.

The report EDUCATION A RIGHT ON DOUBT questioned the state of education in Guatemala, which was prepared and presented in 2008 by a group of organizations and institutions of civil society to the United Nations Special Rapporteur for the Right to Education, Mr . Vernor Muñoz, stated that “The strategies of access to education in recent times have been based on a concept of focus on primary education, which has helped to elevate their coverage rapidly, but at the same time it has limited coverage in other levels and has left them lagging. Similarly, “The increase in coverage of primary education has been achieved through one of the most challenged models, the National Program for Self-Management Education (PRONADE). Most schools of self-management start their work with inadequate infrastructure; in some cases located in the bushes; it has been the management of the community which has led to obtain the land, building materials, and labor during a period of six months to a year without any form of compensation. “

1.2 million children and young people between 5 and 18 years are not in the school system, accounting for 26.5% of the population of that age. (More and



Reference

- a. Community in the municipality of Chimaltenango.
- b. Contributed by the municipality or the community itself.
- c. Social Investment Fund.

A) Literacy rates among children and adults

The illiteracy rate in Guatemala is currently 25%, which is mainly due to the low coverage of primary education that the country experienced in previous years, so that Guatemala has the highest adult illiteracy rate in Central America. (Equity in Education in Guatemala, Dialogue for Social Investment in Guatemala, USAID Guatemala, pp. 9 January 2007.)

B) Rates of enrolment and attendance in primary schools and secondary vocational schools

Pre Primary level (children aged 5 and 6 years old)

In the Statistical Yearbook of the Ministry of Education 2007, is reported for that year a net enrolment rate for this level of 48.21%, compared to the total population of 5 and 6 years according to information provided by the National Statistics Institute -INE (XI National Census of Population and VI Housing Census, 2002).

Compared to the previous year (2006), which according to data given by the Ministry of Education in its Statistical Yearbook, the net enrolment rate was 48.14% compared to the total population of 5 and 6 years. According to information provided by the National Statistics Institute, INE, (XI National Census of Population and VI Housing Census, 2002) the increase in the enrolment rate for this level in 2007 was 0.17%.

It can be inferred based on these data that 51.99% of the population aged 5 and 6 is not covered in the pre-primary level.

Primary level (children aged 7 to 12 years)

It is at the primary level where there is a major educational improvement effort in Guatemala and that offers the highest rates of coverage.

According to data from the Statistical Yearbook of the Ministry -MINEDUC (2006 and 2007) the net rate of coverage for the primary level in 2006 was 94.32% and for 2007 was 95.02%, which meant an increase of 1.30%.

In the National Report on the Republic of Guatemala. Ministry of Education -MINEDUC, October 2008, states that “only 41% of children complete primary education.”

Of the total number of students enrolled in the year 2007, 12.44% are registered to repeat a grade in that year.

Secondary Basic Level:

In the Statistical Yearbook 2007 of the Ministry, reported that this year covered the 36.36% of the total population between 13 and 15 years, leaving unattended 63.64%. In 2006 the data reported on coverage was 34.71%. The increase was a bare minimum of 1.65%.

The repetition rate, (students who enroll to repeat the school year), was 2.96%.

Secondary Diversified level:

La situación de cobertura educativa para el nivel diversificado ha tenido poco avance, pues para este nivel la cobertura es del 20.67% (Anuario Estadístico del MINEDUC del año 2007. Un 1.42% de los alumnos y alumnas inscritas están repitiendo el ciclo.

C) Rates of retention and dropout rate of primary and secondary schools and vocational schools

Level	Retention rate	Dropout Rate
Pre primary	93.71%	6.29%
Primary	94.11%	5.89%
Basic	92.91 %	7.09%
Diversified	92.90%	7.10%

Its important to point out that the Ministry of Education reported in its Statistical Yearbook 2007 that at primary level the retention rate is 94.11%, but in the National Report of the Republic of Guatemala. MINEDUC, Ministry of Education, October 2008, states that “only 41% of children complete primary education.”

D) Average number of pupils per teacher

The percentages reported in the 2007 Statistical Yearbook of the Ministry of Education, as the average pupil-teacher ratios for the different levels are the following:

Level	Total	Urban	Rural
Pre-primary	24.21	33.32	24.83
Primary	30.45	27.53	31.83
Basic	17.05	16.92	17.37
Diversified	14.48	14.81	10.92

The largest number of students per teacher is at the primary level, as is the level where there is greater coverage of education.

Bilingual Education:



In the report “Education a Right on Doubt” - Report of Civil Society of Guatemala for the United Nations Special Rapporteur for the Right to Education produced by a set of organizations and institutions of civil society in Guatemala to be presented to the United Nations Special Rapporteur for the Right to Education in June 2008 stated: “In Guatemala there are over 900,000 Maya speaking children from 6 to 12 years of age, but advances in intercultural bilingual education have been minimal and the General Directorate of Bilingual Education (DIGEBI) has great constraints to attend this population. From the total primary education establishments nationwide, only 16% is covered by DIGEBI and bilingual teachers represent only 12% of the teachers in the country. “

D) Education Budget

Although the National Education Act of 1991 stipulates that Guatemala must invest the equivalent of 7% of its Gross Domestic Product (GDP) in education, the budget of the Ministry in 2006 was Q5.2 million, representing 2.02% of the GDP (Source: Ministry of Education). The budget used in 2007 was equal to 2006.

In 2007, investment in education reached 3.1% of GDP; investment through the Ministry-MINEDUC represented only 2.1% of GDP. (National Report. Republic of Guatemala. MINEDUC Ministry of Education-October 2008. Page 9). The same report notes that the bulk of public spending on education is at the level of primary education.

8

SPECIAL PROTECTION MEASURES

Children Missing During the Armed Conflict

The missing children is one of the most painful problems remaining from the internal armed conflict in Guatemala. More than 20 years later, it remains a hidden problem for hundreds of Guatemalans. Many of these missing children have not been found by their relatives. These children have disappeared in the midst of the Cold War when they were on average eight years of age, and at present they are adults of about 30 years of age.

Although the Truth Commission of Guatemala (CEH), recommend to the Government of Guatemala the establishment of a National Commission for the Search for Disappeared Children, the government response was negative, for which 11 civil society institutions were merged to form the National Commission of Search for Disappeared Children.

The body is composed of the ODHAG, the Ombudsman Office of Children, the Association Casa Alianza Guatemala, the Guatemalan Mental Hygiene League, the Monsignor Romero Group, the Center for Legal Action on Human Rights, the National Coordination of Widows of Guatemala, the Mutual Support Group, Rigoberta Menchú Foundation, the association Where are the boys and girls, and the Center for International Human Rights.

The Guatemalan League of Mental Hygiene in its bulletin “All for the Reunion” of December 2006, reported: “For the struggle of the families that the subject has not been forgotten. It is thanks to their work and confidence that nearly 100 family reunions have taken place in these years. “

In the same bulletin stated that “In Guatemala we are still taken by the lack of support in the area of investigation by the government in power. This means that lack of interest to facilitate access to more information and resources could be a key source for finding the whereabouts of missing children that so far is unknown where they are”. In addition, a weak point for research is the poor information we have on those boys and girls who were taken to other countries, or after the conflict, stayed living outside of Guatemala. “

In 2007 the same Guatemalan League of Mental Hygiene reported in a statement that the eight years of this search process has allowed the reunion of 120 families, while others 600 families seek out for their relatives.

In November 2008 the Community Association for All for the Reunion was organized bringing together families who struggle to know the truth of their children who disappeared during the armed conflict.

A) The Compensation to Victims of Conflict

In July 2004, Guatemala established a National Compensations Commission (NRC) to coordinate with the National Compensation Program. This Commission is the highest authority of political and strategic direction of the program.

The members of this commission has changed. When it was created in 2004 with 13 members composed of six representatives of government and seven representatives of civil society organizations. In 2005 under a agreement of that year, it was reduced to only five members, all representatives of the Government.

In the report of the Human Rights Ombudsman on substantive aspects of the policy of repairs performed by the National Compensation Program, in October 2006 stated:

In September 2006 the program had a budget of 295 million 830 thousand Quetzal's, of which only 8% were spent. The funds used in operating costs were higher than those for the payment to the victims. Only 623 applicants had received financial compensation of more than 10 thousand cases registered so far.

In November 2007 the National Compensation Program presented the report “Life has no Price” in which indicated that financial compensation have been delivered to more than 10 thousand recipients, in cases of forced

disappearances, extra judicial executions, rape and torture victims; besides contributing to the dignity of victims of internal armed conflict, exhumations and monuments in communities.

B) Children in conflict with the law:

The administration of juvenile justice.

The problem of adolescents in conflict with the law stems from poverty, lack of opportunity to study, work and recreation, and family breakdown, which are factors that cause hundreds of people to be expelled into the streets at very early age. Hunger, lack of controls and the family association with criminal groups, encourages young people to commit acts that go against the law.

Article 133 of the LCPCA establishes that adolescents in conflict with the law, who are between thirteen and under eighteen years of age at the time of engaging in an action in conflict with the law or special laws. Other articles dealing with adolescents in conflict with the law, are mentioned in Section II (Definition of the Child) of this document.

Upon entry into force of the LCPCA in mid-2003 the various operators of the justice sector, the judiciary, the Public Prosecutor, the Institute of Public Defense, Attorney General's Office, National Civil Police, and the Social Welfare Secretariat, initiated efforts to make the law operational.

The Judiciary Branch established the Board of Children and Adolescents, the Court for Implementation of Measures and assigned the new functions to the Courts for Children and Youth and the Courts of Adolescents in Conflict with the Law. Besides it remodeled the headquarters building of the Courts of Children and Adolescents in the capital, and the buildings of the regional headquarters of such courts, as part of the actions required by law. In addition, as new responsibilities were assigned to the Community Peace minor Courts in the LCPCA, the Judiciary branch and UNICEF in a joint project implemented an extensive training to update these officers throughout the country, which also includes guidance for Fiscal Public Prosecutor's Office, Public Defenders, Commissioners of the National Civil Police, officers and employees of the SBS and the Attorney General's Office.

Currently there are only courts competent to hear cases of adolescents in conflict with the law in eight of the twenty-two departments of the country and most have double powers, this means that they oversee processes of adolescents in conflict with the law and children and adolescence threatened or violated in their human rights.

According to the National Civil Police during 2007, they were referred for different causes a total of 1,098 adolescents to the specialized jurisdiction. Of these, 900 were male (81.9%) and 198 women (18%). The most common cause



Reference

a. ODHAG, Informe 1997, Derechos de la Niñez, Guatemala 1998, pp. 18

b. Ibid.



Reference

The Law on Protection of Children and Adolescents: An approach to its principles, rights and guarantees, Guatemala, 2004, p. 1.

arrest were the offences against property, with a total of 312, represented by 28%.

From information gathered at the Public Prosecutor, the most frequent crimes committed by adolescents were those against property with 747 cases, adding to 41%, confirming the proportion of the type of crime for which teenagers are detained, according to the reports presented by the National Civil Police.

The Public Prosecutor also reported that during 2007 were convicted 37 adolescents and acquitted 15, making a total of 52 who were taken to debate and suffered a sentence.

The Institute for Public Defence reported that during 2007 were attended by that institution 1,533 teenagers. Most belong to the metropolitan area, namely the concentration of crimes committed by persons below 18 years is located in the capital and municipalities in the department of Guatemala.

It was until March 2007 when the implementation phase begins in trial of adolescents in conflict with the law and those of children and adolescents, respectively, of special regulations for the treatment of children and adolescents in the courts, which provides the legality of oral hearings.

In each court of five for teenagers in conflict with the law, according to the judge president of the Chamber of the Court of Appeal for Children and Adolescents, Rosana Morales. However, the demand exceeded the capacity of the staff, so the process “didn’t proceed.”

The report Analysis of the criminal justice system for youth in Guatemala of the program “Regional Youth Alliance USAID-SICA, Guatemala, October 2008, states that there is one judge for hearing the cases of adolescents in conflict with the law for every 539,013 persons under eighteen years old and a single judge to supervise the implementation of the sanctions imposed on teenagers in conflict with the law throughout the country, to this must be added the existence of a single Chamber of the Court of Appeal on Children and Adolescence, which means that if a young person or his counsel or the parties to make use of the appeal hearing should go to Guatemala City, headquarter of said Court of Appeals, a factor that can affect the activity recursively.

According to data from the Judiciary Branch, in 2006, they acknowledge 2,010 processes of adolescents in conflict with the law, of whom 450 were women and 1560 men, and in 2007 acknowledged 1757 crimes committed by adolescents, including 372 were women and 1385 men. These data correspond to the Courts of Adolescents in conflict with the law, and relate to teenagers or young people prosecuted in trial courts, not showing the processes developed and solved by a Community Peace Judge, that in accordance with Article 103 of the Law on Protection of Children and Adolescents.

Although the Law on Protection of Children and Adolescents, provides that

imprisonment is an exceptional punishment, also divided into six patterns, however, the currently in Guatemala favours imprisonment in closed regime and during weekends, developing both cases in the same centres.

Youth Gangs (Maras):

The phenomenon of gangs is not new to Guatemala. These gangs were initiated in 1985, when the deportation of immigrants proliferated to Central America, following the tightening of immigration laws in the United States.

The paper prepared under the State of the Region Sustainable Human Development in 2008, gangs and illegal gangs as actors in the region, San Salvador, 2008 reported that “in Guatemala, El Salvador and Honduras, the Mara Salvatrucha and District 18 managed through a dynamic of expansion and domination, to absorb and neutralize many of the traditional gangs, to the extent that today, there is a presence of minority groups such as the Mao-Mao or Machine in El Salvador, Breakers (BKS) or Wifers (WF) in Guatemala and the Vatos Locos and Cholos in Honduras, which have a limited level of operation and a smaller number of members (Argueta y otras, in Cruz, 2005; Andino, 2006 y Ranum, 2006). “

The Mara Salvatrucha and the Mara 18 according to the authorities, they are vicious and problematic, they are willing to do any harm, for achieving its mission. One factor of concern is that increasingly, children and women are involved in criminal activities

The Guatemalan National Civil Police handles a figure of between eight thousand and 10 thousand active gang members, which must be added approximately 30 thousand followers. Some university research amounted to 14 thousand the number of active gang members.

Civil society organizations have development programs for adolescents involved in gangs, by which seeks the withdrawal of them, through training programs.

Children deprived of liberty, including any form of arrest, imprisonment or placement in custodial settings.

The report Analysis of the criminal justice system for youth in Guatemala of the program “Regional Youth Alliance USAID-SICA, Guatemala, October 2008, registers that: “ Although the Law on Protection of Children and Adolescents provides that deprivation of freedom is an exceptional punishment, also divided into six patterns, however, currently Guatemala favours imprisonment in closed regime and during weekends, developing both cases in the same centres.

There are currently four places of detention throughout the country, which are centralized in the department of Guatemala.



Data provided by Oscar Lopez,
Undersecretary of Reinsertion and
Resocialization of the Social Welfare
Department of the Presidency of the
Republic, in the workshop of
September 5, 2008

Among the four add to a current average of 170 prisoners, among adolescents and young people who have a provisional measure of coercion and adolescents and youths who were punished.

Being centralized facilities in the department of Guatemala, causing the uprooting of those adolescents who are inside the country, and in some cases to prevent their relatives to visit or provide support at the hearings, contradicting the Beijing Rules, which prescribes that “no child can be removed in whole or in part, to the supervision of their parents.” And hampering the social and family insertion of the teenager.

The largest legal problem that currently exists in places of deprivation of liberty is the separation in age groups. The Law on Protection of Children and Adolescents, in Article 261 stipulates that if a teenager in custody turns eighteen years during his imprisonment, needs to be located separately from the teens or be transferred to a special centre for this purpose. The State has not complied with this mandate and does not have a specialized centre.

The violation of this rule by the Social Welfare Secretariat of the Presidency of the Republic, has distorted the process of socializing and education process for adolescents and young people, as currently they are divided by gangs and mixed with young adults, as well as deprivation of probation, causing by the continuing disputes between gangs, and the argument to defend the lives of young people deprived of freedom and focus attention on the insurance and punitive measures, leaving aside the educational model of liability as a first result of these measures has been breaking the coordination with other entities involved in the juvenile criminal justice system (judges, Institute of Public Defender and the Public Prosecutor), and the constant criticism for the lack of programs and skilled technicians.

So far this year 2008 there are approximately 200 adolescents and young people subject to social-educational sanctions of Assisted Probation and Servicing the Community. One of the biggest problems encountered in relation to this penalty is the avoidance of compliance, as adolescents and young people left at liberty fail to assist with the technical teams or change address which prevents a follow-up.

The control of the social-educational sanctions imposed on adolescents in conflict with the law, as well as custodial sanctions, is through the competent trial court, which hears the sentences in the entire republic.

The problems again is carried by the punished teenager, first because if it resides in the countryside, access to the oversight hearing of the sanction imposed will mean spending time and economic, treated earlier when talking about access to justice, this produces not only the mobilization of adolescents to Guatemala City, but also the social worker accompanying him, especially in cases of rehabilitative measures.

The death penalty and life imprisonment is not covered by national legislation for adolescents in conflict with the law

C) Children subjected to exploitation, including physical and psychological recovery and social reintegration

Economic exploitation of children, including child labour

Despite the agreements signed and enacted legislation that prohibits the employment of children under 14 years, with certain exceptions provided by law, boys and girls from Guatemala are still harvesting coffee, breaking stone, manipulating gunpowder or making tortillas in front of the fire just the same as seven years ago, when government decreed the existence and preventing of the worst forms of child labour.

Children and adolescents are still doing dangerous work without monitoring or punishment of those responsible, although the law says so.

After seven years, not one of the worst forms of child labor has been eradicated or prevented by the authorities, despite the fact that Guatemala is a signatory to the International Convention on the Rights of the Child and the ILO Convention 182 on the Elimination of the Worst Forms of Child Labor.

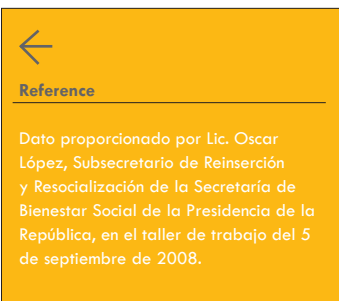
In the information of the National Institute of Statistics considers the economically active population from 7 years, in some cases from 10 years and in others from the 15, however, according to national legislation work is prohibited for children under 14 years.

According to the National Survey of Living Conditions 2006, some 528,000 children, between 7 and 14 years old, do different jobs and more than half of working children live in poor and extremely poor conditions.

The document “Figures on Guatemalan children,” UNICEF, noted that the girls work 13 hours a day and earn \$50 a month for washing, ironing, cooking, cleaning and caring for children.

UNICEF Guatemala, said: “Guatemala is the Central American country in which most children and adolescents work. The latest statistics reveal that about 507,000 girls and Guatemalan children from seven to fourteen years work. If you include adolescent labor, which is going from 14 to 18 years, this figure rises to one million. A good percentage of these children go to school, but the problem is the permanence. Many leave school and go to work. In the case of teenagers only 3% stay in high school.

For their part NGOs such as the Children of Hope Foundation, Childhope, Ecumenical Center for Pastoral Integration –CEIPA, Center for Research and Support for Local Development - CEADEL. Program for Care, Mobilization and



Advocacy for Children and Adolescents, PAMI and Education Program of Children and Young Workers PENNAT, implement programs to this population for the restitution of their rights, especially the right to education, health, the organization and participation from their status as workers.

Legislative measures in relation to Child Labour

Guatemalan legislation norms regarding child labour in the Labour Code in Articles 81, 147, 149, 152 and 161 in the LCPCA, Articles 51, 63-65 and 94.

Guatemala ratified the Conventions 138 and 182 of the International Labour Organization, ILO .

Although the law provides protection for workers older than 14 years, this is only possible with those who work in the formal sector of the economy, but the vast majority of children and adolescents who work do so in the informal sector of the economy which makes them more vulnerable to exploitation.

In October 2003 the Ministry of Labour and Social Security ,through the Ministerial Agreement 435 “B” –2003, establishes the Special Unit of labour inspectors for the care and supervision of the law enforcement in all those places and workplaces where there is knowledge that they are children and adolescent workers.

In 2006, the Social Movement for the Rights of Children, Adolescents and Youth in Guatemala, conducted a social audit of the Child Workers Protection Unit, to be called unit of Protection of Working Adolescents, drawing on the findings that only Unit staff knew of the existence of the Ministerial Agreement number 435 “B” -2003.

Likewise, and in the coordination that must exist between the Unit for the Protection of Working Adolescents and the General Labour Inspectorate, concluded that there is no clarity regarding the mechanisms that allow for effective coordination in favour of working teenagers.

In March 2006 (2 years and 8 months after the entry into force of the Law on Protection of Children and Adolescents) is approved by Government Order Number 112 - 2006, the Regulation of Labour Protection of Children and Adolescents Workers and in May 18, 2006 by Government Decision No. 250-2006, approves the Regulations for the Implementation of the Convention 182 of the International Labour Organization on the Worst Forms of Child Labour and Immediate Action for the elimination.

Drug abuse

A study conducted in Guatemala by the Executive Secretary of the Commission Against Drug Abuse and Drug Trafficking SECCATID in 2002 in collaboration with the U.S. Embassy, which established the age of onset of drug use in Guatemala

is among 12 and 13 years, mainly the consumption of alcohol, tabbacco and inhalants: snuff-glue and thinner. It was also established that a year later it is likely that these people have access to crack cocaine and amphetamines. According to that study, the use of marijuana, cocaine and ecstasy start at 14 or 15 years, starting girls 6 to 12 months earlier than boys.

The Head of Operations of the 13 commissioner of the National Civil Police in the capital city, claimed in October 2006, that it is not possible to account for statistics on drug use in children and detention of minors, because the majority of parents of detained juveniles leads to three lawyers so they are criminally responsible for illegal acts of their children.

The sexual exploitation and abuse

The weakness of the justice system, the existing legal loopholes for the proper protection of children and adolescents to commercial sexual exploitation, the lack of institutional clarity to address the problems, the lack of skilled human resources and little enforcement of existing laws, cause children to be unprotected from sexual exploitation and the operators are acting with impunity.

The civil society organizations consider that the problem of commercial sexual exploitation of children and adolescents, despite the efforts made, continue hidden due to economic interests, because there are people who have made a huge business of sexual exploitation of Minors, and even have been favoured by government institutions.

As for statistical data, weak systems of registration and the sub-registration does not allow to quantify how accurate the number and percentage of children and adolescents are victims of commercial sexual exploitation.

Civil society organizations such as Casa Alianza and the Association for the Elimination of Prostitution, Pornography, Tourism, Sex Trafficking of Children and Adolescents in Guatemala. ECPAT - Guatemala, who have made efforts to record data on the problem.

In 2004 a bulletin of Casa Alianza noted that at least 668 girls and teenagers of Central American origin were victims of commercial sexual exploitation in 284 establishments like bars, brothels and massage parlors in different cities of Guatemala.

In January 2006, the Association for the Elimination of Prostitution, Pornography, Tourism, Sex Trafficking of Children and Adolescents in Guatemala. ECPAT - Guatemala reported that in the database driven by ILO-IPEC and implemented by ECPAT were a total of 108 cases observed in My Home (Shelter Home run by the Social Welfare Sectretariat of the Presidency of the Republic) of which 96 were women and 12 men. It is important to note that these are children who are at high risk of ESC and / or reasonable suspicion

(relatives or siblings of the victims met in My Home).

The Office of Children and Adolescents of the Attorney General's Office reported that in 2005 rescued 11 children and adolescents from Sexual Exploitation and realizes that in 2007, served 5 cases of commercial sexual exploitation.

The Social Welfare Secretariat of the Presidency has a Sub-secretariat for Family Strengthening, which has a Directorate of Social Risk, with a unit against Sexual Exploitation (ESC). The unit's work is conducted by a single person, not a group of multidisciplinary support, does not have a program or a method of how it should really work.

From the civil society organizations, Casa Alianza Association and the Association for the Elimination of Prostitution, Pornography, Tourism, Sex Trafficking of Children and Adolescents in Guatemala. ECPAT – Guatemala, has been established and developed a direct-care programs for children and adolescents victims of commercial sexual exploitation.

The sale and trafficking

Guatemala is a country of transit and destination for Guatemalans and Central Americans who are trafficked for commercial sexual exploitation and forced labour. Human trafficking is a significant and growing problem in the country. Guatemala has ratified and acceded to the major protocols, treaties and memoranda of understanding, international and regional that norm the matter in the Annual Report on Trafficking in Persons (Guatemala section) 2007, published by the State Department of the United States, points out that Guatemala is located at Level 2 of the Watch List for failure to prove it has undertaken new efforts to combat trafficking of persons, particularly in regard to prosecutions resulting in conviction and sentencing of traffickers for their crimes. The government failed to convictions or penalties in cases of trafficking during the year. Thirty-two cases involving human trafficking were reported to the Public Prosecutor, of which 28 investigations remain open, no convictions were reported. This represents a significant decline compared with the previous year, which began 50 processes and achieved 15 convictions.

While Article 194 of the Guatemalan Penal Code criminalizes trafficking of persons, it must be reformed so that human trafficking is a crime of wider action to combat impunity in many forms that lie outside the definition of current offence.

Another of the shortcomings of the previous is that it does not regulate the criminal responsibility of organizations, corporations or businesses that have mediated or participated in acts that constitute trafficking of humans.

The Congress of the Republic approved in July 2007, the Law against Organized Crime, including human trafficking as a crime of this nature.

In November 2007, the Public Prosecutor's Office formed a unit of 12 people (3 Tax Agents, 7 assistants, an administrator and a pilot) devoted to investigating and prosecuting cases of trafficking for all purposes. During 2007 the Public Prosecutor's Office received 126 cases nationwide.

The PNC has a Traffic Unit whose work is coordinated through the Public Prosecutor instructions, but when victims are minors, is also the Attorney General's Office, but this unit does not have a specific budget. In addition, the high turnover and mobility of staff limited their performance.

The Secretary of Social Welfare (SBS), who is responsible for mandated protection and shelter to child victims, has 3 regional centers in Sacatepequez, Zacapa and Quetzaltenango, however, most victims of trafficking are referred to by the Judges of Children and Adolescents to Casa Alianza (NGO), as at the Centers for protection and shelter of the SBS does not have specialized care.

The government provides limited assistance to victims of trafficking and depend on NGOs and international organizations to provide services to most of the victims that are minors.

Kidnapping

In accordance with the high demand of children for adoption, Guatemala is facing an increase in robbery and abduction of children for the adoption market.

The Office of Human Rights in Guatemala (PDH), reported that more than 915 children were stolen from January 2006 to May 2007.

In Guatemala, the statistics do not reflect reality, the majority of families who suffer kidnappings distrust the security forces and the institutions of criminal investigation, and almost never file complaints. As of April 2008 were reported 58 complaints of abductions in the Public Prosecutors Ministry.

The children belonging to minorities or indigenous groups

The last census conducted in 2002 found that 41% of the nearly 13 million people in Guatemala are indigenous, of which about 2,352,518 are children under 17 years.

Census data found that indigenous people in poverty reaches 74% of the population, and 24.3% extremely poor, represents the indigenous population. From the (46%) of Guatemalans that live in rural areas, 68% are indigenous

Guatemala is the Latin American country with the highest rate of malnutrition, the problem is worse in indigenous communities, where rates reached 69% among children under 5 years, reaching 80% in some municipalities.

The study “Equity of Education in Guatemala”, presented by the Agency for International Development -USAID, indicates that girls, indigenous people, and those living in rural areas are the most marginalized in educational coverage in the country.

The children living on the street

The report of baseline data collection project of the National Police Training in the Civil Rights of the Child and child protection implemented in coordination by the Consortium for Street Children, CONACMI and the National Civil Police, in October 2005 stated that “ According to the institutions involved in care of street children, a total of 2, 475 children from the street that are served by them and an estimated 35,20 who are not served by these institutions. This total is distributed only in 9 departments of the republic, as the remaining 13 departments, there are no institutions to report their presence. Of all the street children served by the institutions, 75.6% are in the department of Guatemala, located between the remaining 24.4% the remaining 8 departments reported the presence of the same. There is no current data on the issue.



CONCLUSIONS

The creation of bodies and institutions in recent years has not necessarily meant the strengthening of institutions for children and adolescents. The attempt to strengthen the institutions through the establishment of the National Commission on Children and Adolescents-CNNA has been only a statement of good intentions, since recent government actions show the contrary by freezing its budget, weaken its technical team and neutralize his political action.

The institutions that comprise the system of legal protection to children and adolescents face limitations of human, technical and financial types, which has constrained the performance of the functions and powers established by the country's legal system, making the violation of rights of children and adolescents a constant.

Although the political will to inform the Committee on progress in implementing the Convention has improved, the contents of the reports has not been disseminated to the public in a comprehensive manner, but has been restricted to organizations interested in the subject, although an opening in terms of information sharing is recognized. Nor has existed an extensive process of consultation with civil society organizations for their preparation, but their contribution is included in the implementation of the CRC. Nor has the disclosure of summary records and observations of the Committee on the Rights of the Child.

However there has been some progress, there is still a misunderstanding in relation to the principles established by the Convention, notably with regard to the child's best interests and therefore do not always take decisions to benefit children and some judges continue to implement measures at their discretion and not according to what the law of protection states.

The State has not prompted any reform to the national legislation so that the minimum age for boys and girls for marriage is the same. Maintaining the provisions of the Civil Code of 16 years for males and 14 years for women, with the consent of their parents

Guatemala is still a culture that does not recognize children and adolescents as subjects of social rights, which is manifested in the mistreatment and sexual abuse and in legitimising abusive forms of disciplinary actions and education, not only in the family, but in institutions and the community.



RECOMMENDATIONS

To entrust the Guatemalan State, the wide dissemination of official reports and recommendations made during the reports rendered by the Guatemalan state.

Recommend to the State of Guatemala to strengthen the institutional system of the National Protection of children and adolescents, providing the financial and technical resources that are required in accordance with Article 4 of the CRC.

Recommend to the state to implement effective measures to ensure full access to justice in a prompt and complete manner, both for children and adolescents whose rights have been violated and for adolescents in conflict with the law.

Recommend to the Guatemalan state the urgent integration of the organization responsible of implementing and monitoring the implementation of the Convention.

Recommend the support of the office of UNICEF-Guatemala in the development of the independent reports of the implementation of the Convention.

