



**Convention on the  
Rights of the Child**

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**Committee on the Rights of the Child**  
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**Written replies by the Government of Guatemala  
to the list of issues (CRC/C/GTM/Q/3-4) to be  
taken up in connection with the consideration of  
the third and fourth periodic reports of  
Guatemala (CRC/C/GTM/3-4)\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

## **I. Introduction**

1. The Government of Guatemala submits herewith the following replies to the list of issues in connection with its third and fourth periodic reports to the Committee on the Rights of the Child, submitted in April 2008 at the request of the Committee.
2. The preparation of these replies was a participatory process coordinated by the Presidential Human Rights Commission (COPREDEH) and the Social Welfare Secretariat, the lead agency for children's and adolescents' affairs in Guatemala, with advice and technical support from the United Nations Children's Fund (UNICEF) in Guatemala. The various government institutions that deal with children and adolescents, as well as the judiciary and the Public Prosecutor's Office, were all involved in the drafting process.
3. This process provided an opportunity to assess the situation and to engage in dialogue with the main bodies responsible for guaranteeing the full exercise of and respect for the rights of children and adolescents in Guatemala.

## **II. Methodology for the preparation of the replies**

4. Information was gathered by sending each institution a customized questionnaire based on the Committee's list of issues and adapted to the work of the institution. An initial briefing on the Convention on the Rights of the Child and on the system for evaluating the periodic reports submitted to treaty bodies was held on 16 March 2010 for government institutions and representatives of the judiciary and the Public Prosecutor's Office.
5. Five workshops were held, on 24, 25, 26, 27 and 29 March 2010, to analyse the experiences of the various institutions and identify their strengths and weaknesses in terms of influencing and taking action to assist Guatemalan children and adolescents.
6. The following institutions participated in the activities described above:
  - National Commission on Children and Adolescents
  - Secretariat on Sexual Violence, Exploitation and Trafficking in Persons
  - Social Welfare Secretariat
  - Ministry of Health and Welfare
  - Ministry of Education
  - Presidential Commission on Racism and Discrimination
  - Office for the Defence of Indigenous Women
  - Division for Children and Adolescents, Supreme Court
  - Ministry of the Interior
  - National Civil Police
  - Juveniles unit and human trafficking unit of the Public Prosecutor's Office
  - National Adoption Council
  - Presidential Secretariat for Women
  - National Statistical Institute
  - Ministry of Labour and Social Security
  - Ministry of Finance

### III. Implementation of the Convention on the Rights of the Child

#### A. Part I

##### Reply to paragraph 1 of the list of issues (CRC/C/GTM/Q/3-4)

###### Budget allocation

7. Regarding the budget allocation, Guatemala wishes to stress the importance of the process of establishing the annual budget. Various bodies participate in this process, setting out the guidelines, rules and procedures for the budget year in question.

8. Congress debates, amends and approves or rejects the budget proposal submitted by the executive, which bases the proposal on annual work plans that set out the objectives and activities to be carried out during the year by central, decentralized and autonomous government bodies.

9. Accordingly, the budget allocation corresponds to the specific requests made by each institution in accordance with the annual plans they submit and the results they report.

10. In this context it is important to stress that the budget of the State of Guatemala for 2010 is 49,723,107,632 quetzales, a sum that the Government considers to be insufficient to cover all the needs of the population. For this reason, the Government has submitted various proposals for tax reform that would increase tax receipts, and has set up round tables to promote these proposals. The latest proposal submitted by the executive is currently being debated in Congress; its objective is to raise more funds so that the State can meet all its obligations.

11. The budgets of decentralized, autonomous and municipal bodies are debated and approved by various authorities and are then approved by the executive through a government order prior to their inclusion in the general budget considered by Congress.

12. The Municipal Code (Decree No. 12-2002) is directly applicable to municipalities and defines their organization, governance, administration and operation. Even though the municipalities are autonomous, their financial systems are governed by the guidelines and methodology established by the Ministry of Finance.

13. In view of the above, and in accordance with the specific request made by the Committee, the table below compares the social spending allocations in Guatemala between 2007 and 2009.

Table 1

###### Annual budgets of the principal ministries

(in millions of quetzales)

<i>Institution</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Ministry of Health and Welfare	3 066.90	3 607.40	4 506.00
Ministry of Labour and Social Security	2 837.00	3 278.30	3 754.30
Ministry of Education	7 075.60	8 088.00	10 572.20

*Source:* Ministry of Finance/Budget Office.

Table 2  
**Distribution of the budget by geographic region, 2008**  
 (in quetzales)

<i>Region</i>	<i>Departments</i>	<i>Amount spent</i>	<i>Percentage of total</i>	<i>Population of each region</i>	<i>Per capita expenditure</i>
Region I Metropolitan	Guatemala	11 625 891 234.49	27.25	2 541 581	4 574.28
Region II North	Baja Verapaz, Alta Verapaz	1 085 517 577.66	2.54	992 161	1 094.09
Region III North-east	Izabal, Zacapa, Chiquimula, El Progreso	1 494 552 310.60	3.50	956 448	1 562.61
Region IV South-east	Santa Rosa, Jalapa, Jutiapa	1 387 656 893.07	3.25	933 381	1 486.70
Region V Central	Sacatepéquez, Chimaltenango, Escuintla	1 409 898 419.26	3.30	1 232 898	1 143.56
Region VI South-west	Sololá, Totonicapán, Quetzaltenango, Suchitepéquez, Retalhuleu, San Marcos	3 668 133 215.70	8.60	2 711 938	1 352.59
Region VII North-west	Huehuetenango, Quiché	1 598 663 294.55	3.75	1 502 054	1 064.32
Region VIII Petén	Petén	701 587 123.35	1.64	366 735	1 913.06
Multiregional	Multiregional	13 141 245 515.79	30.80		

*Source:* Practical Guide to Budget Analysis, July 2009. Data reported by the Integrated Accounting System/National Statistical Institute.

(a) *National Commission on Children and Adolescents*

14. The Act on the Comprehensive Protection of Children and Adolescents establishes that the operations of the National Commission on Children and Adolescents must be regulated and are funded from the following sources:

(a) Contributions from the Social Welfare Secretariat to cover the necessary operating costs;

(b) Contributions and regular or supplementary grants from the State and other national and international bodies;

(c) Donations from individuals or corporations.

15. Since it was set up in 2004, the Executive Secretariat of the National Commission has received 55,000 quetzales (Q) annually from the national budget, along with financial contributions from development partners such as UNICEF and World Vision International.

16. In 2008 the Social Welfare Secretariat substantially increased the Commission's budget allocation as a result of lobbying by the Executive Board of the Commission. The Commission's budget allocation for that year was Q465,002.

17. The central Government had planned to increase the budget allocation for 2009 to as much as Q1 million, but because of the country's economic problems and low tax receipts

the same amount of Q465,002 was allocated that year too. Congress did not approve the budget proposal for 2010 submitted by the executive, which means that the 2009 budget allocations will be retained for 2010.

(b) *Secretariat on Sexual Violence, Exploitation and Trafficking in Persons*

18. On 18 February 2009 the Act on Sexual Violence, Exploitation and Trafficking in Persons (Congressional Decree No. 9-2009) was passed, with the aim of preventing, suppressing, punishing and eliminating sexual violence, exploitation and trafficking in persons and providing victims with support, protection and compensation for resulting injury.

19. The above-mentioned law calls for the establishment and operationalization of the Secretariat on Sexual Violence, Exploitation and Trafficking in Persons within the Office of the Vice-President. Its primary functions include serving as an advisory body on prevention, protection, support and punishment. To that end, it must draw up and implement measures, plans, programmes and initiatives to spread information and raise awareness at the national and local levels. Action must be effective, strategic, continuous and systematic and must take into account gender, cultural and ethnic diversity and the vulnerabilities of each region of the country, as well as the age, culture and language of the target audience and the community concerned.

20. The law entered into force in April 2009, and since the general budget of the State is approved in November each year, the Secretariat on Sexual Violence was not considered in the 2009 budget. Since Congress did not approve the 2010 budget proposal submitted by the executive, the 2009 budget allocations will be retained for 2010. Accordingly, the budget for the Secretariat is under review for the year 2011.

21. The budget allocation for the Secretariat is Q5 million (approximately \$625,000), of which Q2.5 million (approximately \$312,500) is for compensation for victims.

22. The Secretariat on Sexual Violence is currently working to establish a compensation programme for victims, with advice and technical support from UNICEF and Save the Children. The programme focuses on providing victims with an opportunity to build a future for themselves.

23. Another significant contribution of this law is the establishment of commissions in article 6, which reads: "Commissions. The Secretariat is responsible for monitoring and implementing this law and policies and plans related to it. In order to guarantee the implementation of this law, the Secretariat shall establish or recognize commissions whose membership includes State and civil society institutions dealing with the issues of sexual violence, exploitation and trafficking in persons."

24. The Secretariat therefore recognizes as an advisory subcommission the Inter-Institutional Commission to Combat Trafficking in Persons, created in 2004 and coordinated by the Ministry of Foreign Affairs under internal agreement No. 02-2009, and made up of representatives of government institutions, the judiciary and the legislature, as well as representatives of civil society and international organizations. The Commission does not have its own budget, but depends on the support of the Ministry of Foreign Affairs.

25. The objective of the Commission is to act as an inter-institutional body for consultation, management, formulation of proposals and promotion of consensus with a view to combating trafficking in persons in accordance with international and domestic law. Thanks to this coordination, Guatemala has a public policy on combating trafficking in persons and providing comprehensive protection for victims, and a strategic plan (2007–2017) for implementing this policy.

(c) *National Adoption Council*

26. The National Adoption Council focuses on keeping families together whenever possible, ensuring that children’s homes provide adequate conditions for children’s all-round development, and restoring the right to have a family to children declared by a court to be eligible for adoption.

27. The Council has been increasingly successful in its activities, which is a testament to the position it holds in Guatemalan society and to its achievements. The Council provided a far greater number of services in 2009 than in 2008, and is expected to provide even more in 2010.

28. The Council has decided to allow international adoption once again, starting in June 2010; currently 608 children are waiting to be adopted through this process.

29. The Council’s budget allocation for the years 2008, 2009 and 2010 amounts to Q11,340,508 (about \$1.4 million).

(d) *Juvenile justice*

Specialized criminal investigation

30. In terms of inter-institutional cooperation in this area, on 20 January 2010 the Public Prosecutor’s Office signed the Protocol on Inter-Institutional Coordination with the Judiciary and the Office of the National Procurator-General, with technical support from UNICEF in Guatemala. The Protocol seeks to strengthen support for children and adolescents whose human rights are threatened or violated.

31. The Protocol on Inter-Institutional Coordination arose from the need to provide effective support in cases involving children and adolescents whose human rights are threatened or violated and who are also victims of a criminal offence. The protocol aims to minimize secondary victimization by simplifying procedures and applying standard criteria, while at the same time making the justice system more effective in attending to these cases. It also provides for the presence of a special prosecutor to ensure that cases are handled efficiently and a representative of the Children’s Procurator from the Office of the National Procurator-General to provide psychological support to victims of all forms of violence.

32. While the Public Prosecutor’s Office is present in each of the 22 departments of the country — there are prosecutors’ offices in the main town of each department — it has a presence in only 20 per cent of municipalities.

33. Its 2010 budget allocation is Q611 million, while twice this amount is considered necessary if coverage is to include all municipalities.

34. A total of 394 prosecutors currently work for the Public Prosecutor’s Office. They work on investigations and court proceedings.

Table 3  
**Departmental prosecutors’ offices**

<i>Department</i>	<i>Municipalities</i>	<i>Prosecutors’ offices</i>
Alta Verapaz	17	3
Baja Verapaz	8	2
Chimaltenango	16	1
Chiquimula	11	2
El Progreso	8	1
Escuintla	13	4

<i>Department</i>	<i>Municipalities</i>	<i>Prosecutors' offices</i>
Guatemala	17	9
Huehuetenango	32	3
Izabal	5	2
Jalapa	7	1
Jutiapa	17	3
Petén	12	3
Quetzaltenango	24	2
Quiché	21	4
Sacatepéquez	16	1
San Marcos	29	4
Santa Rosa	14	3
Sololá	19	2
Suchitepéquez	20	2
Totonicapán	8	1
Zacapa	10	2
Retalhuleu	9	N/A
<b>Total</b>	<b>333</b>	<b>55</b>

*Source:* Public Prosecutor's Office.

#### Juvenile courts

35. The Act on the Comprehensive Protection of Children and Adolescents adopted in 2003 establishes the commitment to create special courts for children, adolescents and young people in conflict with the law. The three courts established in Guatemala City when the Act came into force are also competent to hear cases from neighbouring departments. So far there are courts in the following 10 of the country's 22 departments: Escuintla, Jutiapa, Petén, Zacapa, Quetzaltenango, Alta Verapaz, San Marcos, Quiché, Huehuetenango and Suchitepéquez (see annex 1).

36. A proposal by the Supreme Court's Appeals Division for Children and Adolescents to establish special courts in 10 more departments is currently being debated by the judicial authorities. The objective of the proposal is to achieve wider coverage and to deal more swiftly with the cases before the courts, which currently have a 10-month backlog.

37. New courts would be established in the following departments:

- (a) Izabal;
- (b) Chiquimula;
- (c) El Progreso;
- (d) Baja Verapaz;
- (e) Jalapa;
- (f) Sololá;
- (g) Totonicapán;
- (h) Santa Rosa;

- (i) Retalhuleu;
- (j) Sacatepéquez.

### **Reply to paragraph 2 of the list of issues**

38. As pointed out in the State party's reports to other treaty bodies, the generation of disaggregated statistical data to clarify the various problems facing the country has only been possible with the support of international partners, civil society and government institutions. The resulting information has been a decisive factor in decisions that have made it possible to reduce inequality by improving the quality of social services, increasing coverage and restoring people's rights.

39. The compendium of statistics created by UNICEF in 2007 entitled *La Niñez Guatemalteca en Cifras* (Guatemalan children in figures) provides statistical data related to the exercise of the rights of children and adolescents in Guatemala. This joint publication of the United Nations Development Programme (UNDP) and UNICEF demonstrates the interest the United Nations system has in cooperating with the Guatemalan State and Guatemalan society to make human rights a reality for the entire population, especially children.

### **Report on progress towards the Millennium Development Goals**

40. This document is the conceptual basis for the work that the Government will be undertaking in the coming months to prepare Guatemala's third report on progress towards the Millennium Development Goals, which will be presented at the national and international level in the course of 2010. The Government will be reporting to two international forums of particular importance. The first is the Economic and Social Council of the United Nations, at which in June 2010 Guatemala will voluntarily report to the international community on its successes and the challenges it faces in its efforts to achieve gender equity. The second is the General Assembly of the United Nations, at which in September 2010 Guatemala will report on the progress it has made and the challenges it continues to face in the lead-up to the 2015 target date.

41. The purpose of this evaluation is to harmonize and optimize the planning and budget allocation for operational costs and investment at the local level to combat and reduce the high levels of inequality and address the needs of the most vulnerable people in the country. The evaluation will also take into account an analysis of the global economic context and how it affects the likelihood of achieving the Millennium Development Goals on time. The risk is that the effects of the crisis, which have not yet been fully felt, will slow down progress and hamper work in key areas such as poverty reduction and the expansion of education coverage and access to health.

42. At the national level, the National Statistical Institute has produced the documents detailed below. These have helped make it possible to evaluate the situation of Guatemalan children and adolescents in areas such as health, education and nutrition. They have also made it possible to draw up the social cohesion programmes described in part II of these replies to the list of issues.

### **Follow-up to the dissemination of the National Survey of Living Conditions, 2006**

43. The National Survey of Living Conditions is a statistical study that provides relevant, reliable and timely information within the framework of the Integrated Household Survey System. This makes it possible to obtain and analyse comprehensive and detailed socio-economic information on the well-being and poverty level of households in various



regions and in rural and urban areas, and so to gain a fuller understanding of living conditions in the country.

#### **Departmental statistical bulletins**

44. The creation and compilation of statistical bulletins provides immediate, descriptive statistical information on each department. The compendium of these bulletins includes statistics on the following: the department in general, the population census and projections, municipal revenues, agriculture, labour market indicators, births, marriages, divorces, deaths, poverty levels, education, tourism and health.

#### **Document on international statistical standards and recommendations**

45. The overall objective of compiling statistical standards and recommendations is to have a guide to organizing all jobs, activities and classifications in a sector or country into a series of groups of clearly defined tasks. At the same time, this exercise makes it possible to categorize, standardize and conceptualize the variables used in the various administrative registers, surveys and censuses prepared by government institutions. The manual contains various classifications, by industry, individual consumption according to purpose, disease, etc.

#### **Social statistics by sector**

46. Social statistics provide information on different aspects of Guatemalan society. The following types of statistics are generated from this information: vital statistics (births, deaths, stillbirths, marriages and divorces), hospital statistics (private and State health services), sociocultural statistics (on traffic accidents, crime, cinemas, libraries, museums and archaeological sites), and statistics on domestic violence (physical, psychological, verbal, sexual, property-related) and gender.

#### **Publications**

47. The following have been published:

- *Mujeres y Hombres en Cifras de la República de Guatemala* (In figures: Women and men in the Republic of Guatemala), 2008
- *Estadísticas de Violencia Intrafamiliar* (Statistics on domestic violence), 2005 (interactive) and 2006 (print and interactive versions)
- *Trabajo Infantil en Guatemala: Un estudio en Profundidad sobre la Encuesta de Condiciones de Vida (ENCOVI)* (Child labour in Guatemala: In-depth study of the National Survey of Living Conditions), 2006

#### **Governing board of the Mi Familia Progresá programme<sup>1</sup>**

48. The National Statistical Institute established a governing board for the *Mi Familia Progresá* programme in the municipalities given priority by the Council for Social Cohesion. The governing board drew up a socio-economic profile for the beneficiaries of the conditional cash-transfer programme.

<sup>1</sup> See part II of the list of issues, Presidential programmes coordinated by the Council for Social Cohesion.

### **Fifth National Survey on Maternal and Child Health (2008–2009)**

49. Within the framework of the agreement between the National Statistical Institute, the Planning and Programming Secretariat of the Presidency and the Ministry of Health and Welfare, the National Statistical Institute provided advisory assistance in the cartographic processes (training, monitoring and access to updated maps), in the field (supervising the survey) and in follow-up meetings with the Users' Committee and staff of the Ministry of Health and Welfare.

50. The preliminary results of the Fifth National Survey on Maternal and Child Health (2008–2009) show a decrease in infant mortality and an improvement in reproductive health services in comparison with the previous survey in 2002. However, it also shows that significant differences persist in the health of the indigenous and non-indigenous populations and that levels of chronic malnutrition have not changed (see annex 3).

### **Reply to paragraph 3 of the list of issues**

#### **Institution responsible for implementing the Convention and promoting the National Plan of Action for Children (2004)**

##### *Policy on comprehensive protection of children and adolescents in Guatemala*

51. The institution responsible for promoting the policy on comprehensive protection of children and adolescents in Guatemala is the National Commission on Children and Adolescents. In 2009 the Commission evaluated the policy at eight consultation workshops with various groups involved in implementing the policy and held four regional meetings with children and adolescents in the following departments:

- (a) North-western region: Quetzaltenango, Huehuetenango, Quiché, Totonicapán, San Marcos and Sololá;
- (b) Southern region: Mazatenango, the coastal areas of San Marcos, Retalhuleu and Escuintla;
- (c) Eastern region: Jalapa, Jutiapa and Chiquimula;
- (d) Northern region: Alta Verapaz, Baja Verapaz, Izabal, Petén and Zacapa.

Approximately 40 delegates attended these meetings in each region.

52. Four workshops were also held to consult with public officials, individuals directly involved in implementing the public policy and civil society organizations:

- (a) Meeting with individuals directly involved in implementing the Plan of Action;
- (b) Meeting with public officials of the National Protection System;
- (c) Meeting with private organizations working on children's issues;
- (d) Meeting with civil society organizations that have joined forces in the social movement for the rights of children, adolescents and young people in Guatemala.

##### *Follow-up to the Committee's recommendations to the State party and their dissemination*

53. The Presidential Human Rights Commission is responsible for preparing the State party's reports to United Nations treaty bodies and is therefore responsible for disseminating the recommendations of those bodies among the various government institutions so that they may be acted upon, in order to guarantee the implementation within the country of the human rights conventions and covenants ratified by Guatemala.

54. The Presidential Human Rights Commission has set up a system for following up on the recommendations made to Guatemala by treaty bodies and monitoring mechanisms. The system includes a database that compiles the recommendations made by the eight committees that monitor the conventions and covenants to which Guatemala is a party and the recommendations in the universal periodic review, the reports of the United Nations High Commissioner for Human Rights and the reports of the special rapporteurs of the inter-American human rights system. It also includes information on action the State has taken in relation to the various reports submitted from 1994 to the present.

55. The objective of the follow-up system is to contribute to the work carried out by the inter-institutional forum set up to follow up on the recommendations addressed to Guatemala in the field of human rights. The forum comprises government ministries, secretariats and social funds, who evaluate their achievements and challenges in implementing the various international human rights instruments, including the Convention on the Rights of the Child. The Presidential Human Rights Commission uses the forum to encourage each institution to fulfil its role in the implementation of such instruments.

*Role of the Social Welfare Secretariat and the National Commission on Children and Adolescents*

56. The Act on the Comprehensive Protection of Children and Adolescents (Congressional Decree No. 27-2003) describes the roles of the Social Welfare Secretariat and the National Commission on Children and Adolescents in the following articles:

“Article 259. Competent authority on reintegration and social rehabilitation. The Social Welfare Secretariat in the Office of the President of the Republic is the competent authority responsible for carrying out all actions related to the application of the punishments imposed on adolescents and of protective measures.

“Article 85. National Commission on Children and Adolescents. The National Commission on Children and Adolescents shall be responsible for: drawing up policies for the comprehensive protection of children and adolescents, in accordance with the provisions of article 81 of this Act; transmitting these policies to the system of urban and rural development councils and to government ministries and agencies so that they can be incorporated into their development policies; monitoring the implementation of the policies; and taking appropriate action to make the protection of children and adolescents more effective.”

57. The articles reveal a difference between the nature of the Commission and that of the Secretariat. The Social Welfare Secretariat supports the work of the President in the area of social assistance. It was not established by the Executive Authority Act, however, but rather by government order, in conformity with the powers granted to the President by the aforementioned Act. Moreover, in addition to the secretariats listed in the Act, the President shall also have at his disposal those which are necessary to support his work. The regulation and powers of these secretariats shall be set out in the law establishing them.

58. The National Commission on Children and Adolescents comprises representatives of civil society and government. It is an institution established by the Act on the Comprehensive Protection of Children and Adolescents, which was adopted in order to meet the requirements of the Convention. Therefore, the two institutions have different, complementary roles to play in the work of government.

**Reply to paragraph 4 of the list of issues**

59. The most important proposal in terms of legislative measures taken to harmonize domestic legislation with the Convention and its optional protocols, apart from the law on

comprehensive protection with which the Committee is already familiar, is the Act on Sexual Violence, Exploitation and Trafficking in Persons.

60. This law was introduced specifically to make child pornography and labour exploitation criminal offences, and it also redefines other criminal offences so as to provide due protection to children and adolescents against sexual abuse. The law also directly addresses the need for the State to compensate the victims of these crimes.

61. Another advance is the Act on Femicide and Other Forms of Violence against Women (Decree No. 22-2008). The objective of the Act is to guarantee the life, liberty, integrity, dignity, protection and equality of all women before the law, particularly when, because of their gender, relationships of power or trust in the public and private spheres are used to commit against them discriminatory practices of physical, psychological or economic violence, or to disregard their rights. Its purpose is to promote and implement provisions to eradicate physical, economic, psychological and sexual violence, and any other type of coercion against women, as guaranteed in existing legislation.

#### **Minimum age for marriage**

62. Article 81 of the Civil Code establishes that the age of consent for marriage is the age of legal majority, which in Guatemala is established in article 8 of the same Code. The authorization of early marriage is exceptional and can only be granted with the consent of the parents.

#### *Explicit prohibition of the recruitment of children under the age of 18 years into the armed forces and armed groups, and their direct participation in hostilities*

63. Previously, military service was mostly compulsory, and some minors served in the military, especially during the internal armed conflict. After the signing of the Peace Accords in 1996, particularly the agreement on the strengthening of civilian power and on the role of the armed forces in a democratic society, it was decided that it would be appropriate for the practice of voluntary military recruitment to be continued until the Government of Guatemala adopted the necessary administrative decisions and the Guatemalan Congress approved a civic service law that included military service and community service. Accordingly, Decree No. 20-2003 was adopted.

64. The Guatemalan army thus encouraged the introduction of the regulation on military civic service, which was approved by Government Order No. 731-2003. Article 2 of this regulation establishes that military service is the service that Guatemalan citizens must perform for their country in the Guatemalan army, so that they can be trained in the armed defence of the country, in the context of a military doctrine that is respectful of human rights and civic, political and moral values. Article 6 of the same regulation establishes that military civic service is required of all Guatemalan citizens fit for such service between the ages of 18 and 24.

#### **Reply to paragraph 5 of the list of issues**

65. Regarding investigations, the International Commission against Impunity in Guatemala (CICIG) has provided support to the unit on trafficking in persons and illegal adoptions in the Organized Crime Division of the Public Prosecutor's Office, sometimes in cases involving illegal adoption. This support has primarily been in the form of technical assistance, though the Commission has occasionally been involved in investigations since 2008.

66. In particular, since the end of 2008, CICIG has been a joint plaintiff in the case against Rosalinda Rivera Arleny Estrada and other members of a network accused of

trafficking in persons by means of illegal adoption. CICIG has also asked to be a joint plaintiff in the case against the Asociación Primavera children's home, which is accused of involvement in the sale and theft of children. In so doing, it is seeking to break up a broad network of trafficking in persons for the purpose of illegal adoption.

67. In May 2009 the CICIG Commissioner submitted to Congress a package of legislative proposals, including one for legislation on trafficking in persons. This initiative enjoys the support of the President and is backed up by an agreement that CICIG will support the legislative work. This agreement has made it possible for CICIG to meet with representatives of specific commissions in order to discuss the CICIG proposals.

### **Reply to paragraph 6 of the list of issues**

68. Regarding the cases before the Inter-American Court of Human Rights that involve child victims (for example, the cases of Marco Antonio Molina-Theissen, of 3 July 2004, and Villagrán Morales and others, of 26 May 2001), information on Guatemala's compliance is provided in annex 4.

69. In Guatemala there is currently no commission on the search for disappeared children, although proposals have been submitted to establish a commission on the search for missing persons, which would offer assistance in cases of forced disappearance. Legislative proposal No. 3590, which includes the Bill establishing the National Commission on the Search for Victims of Forced and Other Forms of Disappearance, has been submitted to Congress. The Congressional Commission on Public Finance and Currency has already reviewed the proposal and issued a favourable opinion on it in August 2007.

70. The Presidential Human Rights Commission, in conjunction with civil society organizations, is currently lobbying for the adoption of legislative proposal No. 3590. However, the work carried out with members of parliament in 2007 and 2008 was undermined by the change of congressional commissions for the period 2008–2012, and consequently the bill has not yet been adopted.

### **Reply to paragraph 7 of the list of issues**

#### **Act on Femicide and Other Forms of Violence against Women**

71. The legislative proposal was prepared by non-governmental organizations working on women's and children's issues in Guatemala, with the support of government agencies.

72. The Act reflects the commitments taken on by Guatemala when it ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (the Convention of Belém do Pará). The primary objective of the Act is to bring substantive criminal law into line with those instruments and to eliminate provisions that discriminate against women, as well as to regulate, inter alia, the crimes of domestic violence, commercial sexual exploitation and illegal adoption, taking into account the need to strengthen the institutions that safeguard the rights of women and to create specific offences against women.

73. The Act on Femicide and Other Forms of Violence against Women was adopted by Decree No. 22-2008 of 9 April 2008. The Act designates the Public Defender's Office as the provider of legal assistance to victims of domestic violence or violence against women, providing victims with support in their own language in the department where they live.

**Measures adopted to implement the Act**

74. On 23 July 2008, the Supreme Court issued Order No. 23-2008 defining the powers of the courts to hear cases covered by the Act on Femicide and Other Forms of Violence against Women throughout the country: (a) justices of the peace; (b) the courts of first instance in criminal matters, drug-trafficking and crimes against the environment; (c) the sentencing courts dealing with criminal matters, drug-trafficking and crimes against the environment; (d) the divisions of the Court of Appeals dealing with criminal matters, drug-trafficking and crimes against the environment; (e) the family courts; (f) the civil and family appeal divisions; (g) the criminal and civil chambers of the Supreme Court.

75. The judiciary, in coordination with the Public Prosecutor's Office, has implemented a pilot project consisting of a "management model" for primary assistance in cases of violence against women, domestic violence and sex crimes in the metropolitan area. This project is intended to streamline procedures for granting protective measures to women and their children in cases of threats and attacks against them.

76. Currently, protective measures can be requested from justices of the peace, circuit court judges, mobile justices of the peace, family court judges, and the Office of Comprehensive Care for Victims, which is part of the Public Prosecutor's Office.

77. The judiciary's alternative dispute-settlement unit issued a decision, on the instructions of the Supreme Court, requiring that cases of violence reported to mediation centres should not be submitted to the conciliation procedure but referred to the courts for consideration and possible prosecution.

78. Guatemala has begun establishing comprehensive support centres for women survivors of violence. So far these have been set up in the departments of Escuintla, Alta Verapaz and Baja Verapaz.<sup>2</sup>

79. The Act designates the Public Defender's Office as the provider of legal assistance to victims of domestic violence or violence against women, providing victims with support in their own language in the department where they live.

**Reply to paragraph 8 of the list of issues**

80. Within the framework of the food and nutrition security policy and pursuant to the Act on the Food and Nutrition Security System, the institutions from the executive branch of government that make up that system are responsible for guaranteeing food security and food production in the country. The system is coordinated by the Food and Nutrition Security Secretariat and is supported by civil society organizations, private-sector bodies and international cooperation agencies.

81. As coordinator of the policy, the Secretariat has drawn up a national strategy to reduce chronic malnutrition, in order to break the intergenerational cycle of chronic malnutrition affecting half the population of Guatemala.

82. The strategy is currently being implemented in 110 municipalities located in 13 of the 22 departments of Guatemala. For the period 2008–2009, the strategy provides support for children between the ages of 6 months and 3 years, pregnant women and breastfeeding mothers by providing basic health services and education in food and nutrition, as well as food supplements.

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<sup>2</sup> Reply to the list of issues on the seventh periodic report submitted to the Committee on the Elimination of Discrimination against Women (CEDAW/C/GUA/Q/7/Add.1).

83. On average, approximately 100,000 children and 50,000 pregnant women and breastfeeding mothers benefit from the programme each month (see part II, Council for Social Cohesion).

84. During the recent crisis (2008–2009), nutritional supplements such as VitaCereal, Plumpy'nut (both commercial brands) and ready-to-use food (a food supplement for severe malnutrition where there are no complications) were provided to families with one or more cases of acute malnutrition. The same level of emergency care will be maintained in 2010.

85. The Food and Nutrition Security Secretariat is currently promoting the Strategy for a Healthy and Productive Guatemala, which seeks to harmonize the work being done by institutions and presidential programmes around the country, in order to combine efforts to minimize the effects of crop losses due to global warming. The effects of this problem are being felt worldwide, and on a national level it is affecting levels of malnutrition and extreme poverty.

86. The Secretariat has set up working groups that are now in the process of identifying the tasks to be carried out by each institution, which can then be coordinated at the local level.

## **Reply to paragraph 9 of the list of issues**

### **Alternative care programmes for children**

87. The Social Welfare Secretariat provides assistance to children and adolescents through 12 substantive programmes run by three administrative implementation units focused on, respectively, prevention, strengthening and reintegration.

### **Undersecretariat for Family and Community Support**

88. The Undersecretariat provides assistance to socially vulnerable children through five programmes.

#### *Comprehensive care centres*

89. These centres offer comprehensive care for children aged between 8 months and 12 years whose parents are working and living on a low income. They provide specialist assistance, education, food and leisure activities. For children aged between 7 and 12 whose parents are working and living on a low income, the centres provide extra tuition and food and ensure that the children spend their time usefully.

90. This assistance is available nationwide through a network of 37 centres, 13 of them located in the urban conglomeration of Guatemala City and 24 in the country's principal departments and municipalities. Their location is determined by the degree of poverty and extreme poverty in the vicinity and by the level of urban development. At present, 3,000 children are receiving assistance in these centres. The Government has plans to open additional comprehensive care centres in the departments and municipalities.

91. In parallel with this initiative, the Government is operating a programme of parenting classes, at which parents learn, inter alia, to recognize that children and adolescents have specific rights, as set forth in the Act on the Comprehensive Protection of Children and Adolescents.

#### *Care centres for persons with disabilities*

92. These centres provide specialist care for children and adolescents with disabilities and are located in Guatemala City. Assistance is available at two levels: firstly, assistance

for children and adolescents with mild to moderate disabilities; and, secondly, care for children and adolescents with severe and profound disabilities. At present, 732 children and adolescents are receiving training and assistance in these centres. Although the centres are all located in Guatemala City, regional offices arrange access to the services they provide for people living outside the capital.

*Family Allowance Programme*

93. Under this programme, short-term psychosocial and financial support is provided to children and adolescents left vulnerable by a natural disaster or a serious disability or illness. Financial and psychosocial assistance is extended to 1,000 families who have been left in situations of poverty or need by natural disasters, preventing or interrupting the education of their children. This support allows these families to keep their children in school, covering part of their expenses and food. The programme is nationwide in scope.

*Open Schools Programme*

94. Under this programme, children, adolescents and young people receive guidance on the use of their free time that is aimed at fostering a violence-free environment at home and in the community. Around 135,000 children, adolescents and young people have followed cultural, sports and science courses in a motivating environment in urban areas classified as particularly violent in both Guatemala City and the departments. A total of 192 schools operated at weekends in 2009, and the programme will be extended to include more than 300 in the course of 2010. As a result, it is hoped that the number of children, adolescents and young people benefiting will be increased to more than 300,000.

**Undersecretariat for Protection and Shelter**

95. The Undersecretariat provides short-term protection for children and adolescents through protection, education, training, rehabilitation and family reintegration programmes designed to ensure the restitution of their rights and the provision of comprehensive care.

*Temporary protection and shelter programme*

96. Under this programme, short-term shelter is offered to vulnerable children and adolescents, providing comprehensive support to restore their rights and help them either return to their families or start an independent life. The programme is run through shelters equipped to the basic standard necessary to provide care in an appropriate and healthy environment, and staffed by personnel specialized in child care, education, nutrition, health and leisure. To achieve the programme's objectives, five shelters have been set up in Guatemala City, plus three in the departments of Zacapa, Quetzaltenango and Sacatepéquez, providing cover for the north-east, south-east and central regions of the country.

*Social risk programme*

97. This programme offers protection, shelter and family rehabilitation for children, adolescents and mothers deprived of their liberty, educating them in the risks associated with life on the streets and providing skills-training in occupational or product-oriented workshops that help them to become economically active.

*Street children and children at risk of ending up on the street*

98. This programme offers protection, shelter and family rehabilitation for children, adolescents and mothers deprived of their liberty, educating them in the risks associated



with life on the streets and providing skills-training in occupational or product-oriented workshops that help them to become economically active.

*Prevention of sexual and commercial exploitation*

99. The aim of this programme is to educate and inform children, adolescents, young people and adults about the risk of sexual exploitation, and to teach them how to avoid and prevent this illegal activity. In pursuit of this objective, the programme encompasses the following activities:

- Identifying possible victims of sexual exploitation so that they may be placed in a comprehensive rehabilitation programme
- Assessing and caring for possible victims of sexual exploitation
- Monitoring cases identified
- Locating victims' families and studying their socio-economic circumstances
- Educating and sensitizing children, adolescents, young people and adults in the prevention of sexual exploitation
- Carrying out awareness-raising and prevention workshops and disseminating information in printed form

*Foster family programme (temporary placement with a family)*

100. Through this programme, the Social Welfare Secretariat aims to redress the institutionalization of children temporarily housed in homes and shelters. The programme seeks to identify and encourage families willing to foster children who have been placed under temporary care in homes and shelters. These activities contribute to the achievement of two important objectives:

- To redress the institutionalization of children so that, as part of their all-round development, they become familiar with parent figures and a family environment
- To allow children to adapt and prepare, as a transitional stage leading to their acceptance for permanent adoption by a family

*Emergency food programme (Bolsas Solidarias)*

101. Under this programme, food packages are regularly distributed to impoverished families to supplement their diet. Although this aid is not provided directly to children and adolescents, indirectly it contributes to their well-being and helps restore their right to an adequate diet.

102. In 2009 a total of 404,813 emergency food packages were distributed. Each package contains:

- 10 pounds of beans
- 10 pounds of rice
- 5 pounds of nixtamalized cornflour (for making tortillas)
- 5 pounds of *atol* (a milky beverage made from cornflour)
- Half a gallon of vegetable cooking oil

103. Given that families living in poverty or extreme poverty have an average of 4 children, it may be inferred that around 1,600,000 children, adolescents and young people are benefiting from this programme, in addition to approximately 1,200,000 adults.

104. A twofold increase in the number of packages distributed is planned for 2010. The authorities hope that this increase will improve the academic performance of children, adolescents and young people, reduce levels of malnutrition, contribute to the reduction and eradication of the worst forms of child labour and help keep family units intact, the stress that arises when families lack the financial resources to cover basic sustenance being a major cause of their breakdown.

#### **Undersecretariat for Reintegration and Social Rehabilitation**

105. The Undersecretariat's role is to support social reintegration through two specific programmes designed to ensure compliance with penalties imposed, as well as rehabilitation and training for life, productive work and the prevention of violence.

##### *Special detention centres for adolescents in conflict with the law*

106. These centres:

- Provide psychosocial, educational and therapeutic assistance and occupational training to support the social reintegration of adolescents
- Run parenting workshops for mothers and fathers to promote harmonious family and community life

##### *Social and educational measures for adolescents in conflict with the law*

107. The aim of these measures is to:

- Reintegrate the adolescent in their family, community and society in general
- Foster a sense of responsibility and respect for the law and the fundamental rights of others
- Promote the acquisition of skills and know-how that will contribute to the adolescent's personal, social and professional development
- Detention centres programme
- Social and educational measures programme

##### *Ciudad de los Niños/Hogar Solidario project*

108. To cater for the needs of the central region of the country, and in particular Guatemala City, a new type of home has been introduced (the *hogar solidario*, or "solidarity home"), which initially brings together three existing homes — Hogar Elisa Martínez, the Hogar Casita Alegría and its annex — and cares for an average of 800 children each year.

109. The aim of the project is to guarantee a better standard of care for vulnerable and at-risk children and adolescents.

110. The idea behind the Ciudad de los Niños/Hogar Solidario project is to create a complex able to provide shelter for more than 900 children and adolescents who, for various reasons, are living in State-run homes. The basic idea is to build optimal facilities encompassing a home, a school, services, a natural environment and green spaces.

111. As a result of preparing these replies to the list of issues, the Government of Guatemala identified a need to review the protocols and methodologies applied in Ciudad de los Niños in order to ensure they meet international standards. The review will be carried out by the Presidential Human Rights Commission and the Social Welfare Secretariat, with technical assistance from UNICEF. The decision to conduct a review reflects the

importance accorded to the application of the Guidelines for the Alternative Care of Children contained in General Assembly resolution 64/142.

### **Reply to paragraph 10 of the list of issues**

112. In 2008, the Multisectoral National Commission on AIDS (CONASIDA) proposed a series of reforms to Decree No. 27/2000 to allow for the development of a legal framework that reflects the needs of persons living with or affected by HIV and high-risk groups.

113. The National Programme for the Control and Prevention of Sexually Transmitted Infections and HIV/AIDS run by the Ministry of Health and Welfare, in conjunction with other organizations, formed part of the review board that considered the proposed reforms submitted to the Congressional Commission on Health.

114. The reforms envisaged include an amendment of article 23 of Decree No. 27-2000, which currently reads as follows: "HIV-testing of minors. The blood tests necessary to determine HIV/AIDS status are not available to minors without the agreement of their parents or legal guardians, who must give written, informed consent for the extraction of blood, except where otherwise provided for in this Act."

115. The proposed amendment is incorporated in the legislative proposal identified as congressional record No. 3947, amending article 23 of Decree No. 27/2000 to read as follows:

"Article 19. Article 23 of Congressional Decree No. 27-2000 is hereby amended to read as follows: Article 23. HIV-testing of minors. In the event that blood testing is necessary to establish the HIV/AIDS status of a minor, parental agreement or consent for the extraction of blood must first be sought, except where the minor concerned has the capacity to form their own views and to freely express those views, in which case their age and maturity must be taken into consideration. If, for cultural or religious reasons, parents, guardians or other persons responsible for the child refuse to consent to the extraction of blood, the attending physician shall be authorized to take the blood sample, provided that the aim of such action is to protect the child's life or integrity."

116. The proposed amendment has drawn a range of comments from all sectors working in the field of sexually transmitted infections and HIV/AIDS, the general view being that the amended text continues to deny the human rights of Guatemalan children and adolescents, since the exercise of those rights remains dependent on parents giving their consent in exercise of parental authority. However, the National Programme believes that the proposed amendment represents an improvement on the current situation since the new article does correspond to specific cases. Moreover, epidemiological data indicate that 62 per cent of people living with AIDS in Guatemala are aged between 20 and 39.

117. The National Programme for the Control and Prevention of Sexually Transmitted Infections and HIV/AIDS requested technical assistance from the human rights advisers of the Pan American Health Organization, seeking a technical opinion that would give it some insight into the provisions of international and regional human rights law regarding, in particular, obligatory testing and the consent of minors. The technical opinion was incorporated into the proposed amendment submitted to the Congressional Commission on Health for analysis.

118. With regard to the consistency between the General Act on Combating HIV/AIDS and the Defence of Human Rights in the Context of HIV/AIDS and the Act on Universal and Equitable Access to Family Planning Services and their Integration in the Reproductive Health Programme (Decree No. 87-2005), providing, inter alia, for education on sexual and

reproductive health and the provision of family planning services, it should be noted that, while both laws include provisions aimed at prevention and at changing behavioural patterns among adolescents, neither provides for the possibility of HIV-testing being made available to children and adolescents.

### **Reply to paragraph 11 of the list of issues**

119. Violence is one of the main problems affecting the Guatemalan population that has consequences for children and adolescents.

120. Issues of paramount concern to the Guatemalan Government in this context include trafficking for the purposes of exploitation and sexual abuse, and domestic violence. The Government views these issues as requiring special attention, and considers it necessary to build on the work already done by strengthening the institutions created for this purpose.

121. In the area of economic, social and cultural rights, one of the Government's priorities is to combat the chronic malnutrition suffered by Guatemalan children. This requires the immediate implementation and institutionalization of the National Strategy for the Reduction of Chronic Malnutrition, in conjunction with the Government's social cohesion programmes.

122. Guaranteeing the right to education is another of the Government's key priorities. The availability of free education in State schools has allowed for an unprecedented rise in school enrolment that, in 2010, took the number of children and young people in education in Guatemala to above 4 million. This increase has created a need to review the country's educational institutions and improve the quality of education they provide, in order to ensure that education is not only accessible but also of an adequate quality for the development of the Guatemalan people.

123. Significant achievements in the area of health care include wider access to free, decentralized, round-the-clock medical care, although improving the conditions and level of care provided remains on the Government's list of priorities.

124. In order to ensure due respect for the economic and social rights of children, the Government is currently increasing the amounts earmarked in the national budget for social investment, recognizing that investments to ensure respect for rights of this kind are an investment in the development of the Guatemalan people.

125. The Government has submitted a tax reform proposal to Congress that should help secure the funds necessary to bring the aforementioned plans to fruition, the main difficulty facing the Government so far having been a lack of adequate resources to enable it to respond to the country's needs.

## **B. Part II**

### **Reply to part II of the list of issues**

#### **(a) Current legislation**

##### *Law on the prevention of sexual violence*

126. An update on the Act on Sexual Violence, Exploitation and Trafficking in Persons, which establishes severe penalties for the perpetrators of such offences, is provided in part I of this report.

*Policy on trafficking in persons*

127. The Government launched its policy on trafficking in persons and comprehensive victim protection and its National Strategic Action Plan for 2007–2017 on 5 August 2009.

128. These documents set out the Guatemalan Government's strategy for tackling the scourge of trafficking in persons in a comprehensive manner. The strategy encompasses the prevention of trafficking, its investigation and effective punishment, and the provision of care for victims.

*Establishment of the National Commission on the Elimination of Child Labour*

129. The mandate of the Commission is to reduce the number of child workers in Guatemala, and ultimately to eliminate such practices, drawing on the support of government authorities nationwide. The Commission has the backing of national civil society organizations and representatives of international bodies, who advise the Commission on its work.

130. The National Survey of Living Conditions conducted in 2006 revealed that around 528,000 children aged between 7 and 14 were engaged in some form of work, while the equivalent figure for 2000 was 507,000. The main types of work carried out by Guatemalan children are quarrying (chipping and hauling stones), making fireworks, selling snacks and sweets, and domestic labour.

131. With funding from the Inter-American Development Bank, the Spanish International Cooperation Agency for Development and the International Programme on the Elimination of Child Labour of the International Labour Organization (ILO-IPEC), the Government has rolled out a plan to promote a culture of compliance in labour matters. This initiative entails the development of a road map for making Central America and the Dominican Republic a child labour-free zone. Guatemala is an active participant in this project, having already drawn up its own national road map.

**(b) Creation of new administrative bodies***Secretariat on Sexual Violence*

132. The Secretariat on Sexual Violence, Exploitation and Trafficking in Persons, attached to the Office of the Vice-President, was established by Decree No. 09-2009 and officially launched on 5 August 2009.

*National Adoption Council*

133. The Adoption Act approved by Decree No. 77-2007 establishes the National Adoption Council as a parastatal organization with legal personality, its own assets and full capacity to acquire rights and assume obligations. The Council perform the functions of the central authority referred to in the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

**(c) Creation of special programmes***Presidential programmes coordinated by the Council for Social Cohesion*

134. The Council for Social Cohesion was established by Government Order No. 79-2008 as part of the Government's strategy to enhance institutional action and focus on the country's most impoverished municipalities, with the aim of minimizing poverty and exclusion.

135. The Council for Social Cohesion oversees three of the four components of the government plan:

- Solidarity: providing comprehensive guidance and coordination of social and municipal development initiatives
- Governance: promoting maximum security and the rule of law, democratic development and the legislation and intervention necessary to satisfy the needs of the majority of people
- Productivity: enhancing the economic development of all Guatemalans

136. Action within the framework of one of the principal programmes overseen by the Council for Social Cohesion, the Mi Familia Progresá programme of conditional cash transfers, was concentrated initially on the country's 45 poorest municipalities, before being extended to the 89 poorest in 2008.

137. The main areas of inter-institutional cooperation of relevance for children are:

- Education: the Council for Social Cohesion coordinates action prioritizing the quality of schooling in target municipalities, through improvements to school infrastructure including the provision of drinking water, lavatories and roofs, the extension of existing classrooms and the construction of new ones, based on the needs identified in each locality
- Health: extending opening hours of health centres and clinics to 24 hours a day, providing ambulances and procuring staff and equipment for health centres and clinics
- Food and nutrition security: food and nutrition education, with an emphasis on the benefits of exclusive breastfeeding for the first six months of life and continued breastfeeding until the age of 2; advice on child nutrition and hygiene; food supplements containing VitaCereal for children aged between 6 months and 3 years, and micronutrient "sprinkles" for children aged between 1 and 5

138. Two years after its launch, the presidential programme Mi Familia Progresá has surpassed the goals and objectives established at the outset. It has benefited 477,746 families living in extreme poverty in 177 municipalities and 20 departments across the country. It has also helped to ensure that 1,400,000 children continue to attend preschool or primary school, an increase on the 2008 figure.

139. With regard to the provision of health care, there has been an increase in the number of new patients attending health centres and clinics. In 2009 alone, new patients accounted for 3,809,959 out of a total of 12,342,731 medical consultations, a 26.6 per cent increase on the number of new patients in 2008.

140. The mothers and families who have benefited are now aware of the importance of their children attending school and receiving regular health checks. Accordingly, compliance with the programme's conditions was in line with the goals established, at 87 per cent in education, 91 per cent in health care and 89 per cent in nutrition.

141. A key figure to note is that 64.4 per cent of beneficiary families in rural areas are basically dependent on conditional cash transfers. This dependence has imposed a responsibility on the families to spend the money appropriately. According to research conducted for the programme, 94.8 per cent of beneficiaries spend it on food, 67.4 per cent on clothes, 54.5 per cent on shoes, 55.5 per cent on medicines and 47.1 per cent on school materials. Another notable fact is that 18.7 per cent of families manage to accumulate a small amount of savings.

## C. Part III

### Reply to paragraph 1 of part III of the list of issues

142. Information on children living in homes operated by the Social Welfare Secretariat is provided below.<sup>3</sup>

#### **Elisa Martínez children's home**

143. This home cares for children and adolescents whose rights have been threatened or violated, including abandoned or lost children, child victims of trafficking, orphans, deported children, victims of violence or physical, psychological or sexual abuse, children who have been exploited for sexual purposes, children with mild disabilities, children at risk of ending up on the street and children with drug problems.

144. The home has capacity for 30 children and adolescents but currently cares for a total of 68, aged between 12 and 18. It is located in San Juan Sacatepéquez, 18.5 kilometres from Guatemala City.

#### **Zacapa temporary shelter**

145. This shelter houses children up to the age of 12 whose rights have been violated and who, for their protection and safety, have been placed in the home by order of a judge because they have been physically or emotionally abused, abandoned or neglected, orphaned or sexually abused, or because they are in danger of ending up on the street, have had disciplinary problems or have been trafficked and exploited for sexual, labour or economic purposes. The shelter has the capacity to house 70 children but currently accommodates around 128. It is located opposite the Regional Hospital in the Cementerio Nuevo district of Zacapa, the main town in the eastern department of the same name.

#### **Quetzaltenango children's home**

146. This home cares for children up to the age of 12 whose rights have been violated, including victims of sexual abuse, physical and psychological abuse or commercial sexual exploitation, minors involved in minor offences such as robbery and theft, victims of trafficking and the economic exploitation of children with physical disabilities, and children with addiction problems. The home has capacity for 80 children and currently houses 131. It is located at 4a Avenida 3-45, Zona 1, in Quetzaltenango, the main town in the western department of the same name.

#### **Casa Alegría children's home**

147. This home provides comprehensive care for children up to the age of 6 who have suffered some form of abuse, including physical, emotional and sexual abuse, neglect or negligent treatment, abandonment, or economic and sexual commercial exploitation, as well as orphaned children and socially vulnerable children in general whose personal safety could be at risk. It also cares for children who have been victims of illegal adoptions. The home has capacity for 50 children but currently cares for 156. It is located at 3a Avenida 17-52, Zona 14, in Guatemala City.

<sup>3</sup> Social audit of centres for the protection and shelter of adolescents operated by the Social Welfare Secretariat of the Office of the President (final report), Guatemala, January 2010.

#### **Psychiatric and Neurological Residential Centre**

148. This centre provides care for children and adolescents aged between 7 and 18 who have severe or profound disabilities who have been abandoned or orphaned and who have been referred to the home by the relevant courts. The centre has capacity for 50 children and adolescents and currently houses 56. The centre is located at 17 Calle "A" 7-04, Zona 13, Colonia la Aurora, Guatemala City.

#### **San Gabriel boys' home**

149. This home accommodates boys aged between 12 and 18 whose rights have been threatened or violated, including boys who have been abandoned, lost, commercially exploited, orphaned or deported, boys who have suffered physical, psychological or sexual abuse, drug users, street children, victims of sexual exploitation, boys with disabilities and boys in a socially vulnerable situation in general. The home has capacity for 80 boys and is currently caring for approximately 55. It is located in Aldea el Platanar, Finca San Antonio, San José Pinula, not far from Guatemala City.

#### **Mi Hogar residence for girls (Manchén)**

150. This residence accommodates girls and young women aged between 13 and 18, including victims of ill-treatment, sexual abuse, rape or sexual commercial exploitation, orphaned or abandoned girls, teenage mothers, and girls and young women with mild to moderate disabilities. It has capacity for 100 girls but currently houses 194. The residence provides shelter for pregnant teenagers and teenage mothers, and thus also for their newborn children, who are either born at the centre or arrive there with their mother. It is located on 6a Avenida, Lote Final, Casa No. 11, Calle Manchén, in Antigua Guatemala, near to Guatemala City.

#### **Reply to paragraph 2 of the list of issues**

151. Since 2008, only domestic adoptions have been approved in Guatemala. A moratorium has been called on intercountry adoptions to give the National Adoption Council time to become fully operational and adequately resourced. A pilot project is currently under way that aims to extend the National Adoption Council's operational capacities to other countries, which should make it possible to find families for children who the Council has been unable to place through domestic adoption.

152. There were 54 adoptions in 2008 and 184 in 2009. In 2010, 57 adoptions had been registered as at 19 February.

#### **Reply to paragraph 3 of the list of issues**

153. The information on victims of child abuse has been provided by the National Civil Police, while the information on offences committed against minors was provided by the Public Prosecutor's Office (see annex 2).

154. The information on juvenile justice and decisions issued in the various special juvenile courts was provided by the Division for Children and Adolescents (see annex 2).

#### **Reply to paragraph 4 of the list of issues**

155. The Fifth National Survey on Maternal and Child Health carried out by the Government of Guatemala, relating to 2008–2009, reveals that the child mortality rate in



Guatemala has fallen in the past six years from 39 to 30 for every 100,000 live births, and that the chronic malnutrition index for children under the age of 5 has fallen from 49 per cent to 43 per cent in the same period (see annex 4).

156. Data provided by the Ministry of Health and Welfare in this connection are set out below.

Table 4  
**Indicators of maternal care at national level, 2007–2009**

<i>Indicator</i>	<i>2007</i>	<i>2008</i>	<i>Oct. 2009</i>	<i>2009 estimate</i>
First antenatal check-up	236 622	229 399	221 191	222 176
First post-natal check-up	118 311	119 515	105 291	120 719
Hospital births				
Assisted deliveries	81 466	100 375	77 121	92 545
Caesarean deliveries	26 622	31 779	27 747	33 296
<b>Total hospital births</b>	<b>108 088</b>	<b>132 154</b>	<b>104 868</b>	<b>125 545</b>

*Source:* Ministry of Health and Welfare.

Table 5  
**Cases of infant and maternal mortality at national level, 2007–2009**

<i>Indicator</i>	<i>2007</i>	<i>2008</i>	<i>Oct. 2009</i>
Cases of infant mortality	5 972	5 317	3 708
Cases of maternal mortality	326	276	229

*Source:* Ministry of Health and Welfare (partial data).

### Reply to paragraph 5 of the list of issues

157. According to data provided by the National Statistical Institute, 56.19 per cent of the total population of Guatemala live in poverty and 15.59 per cent in extreme poverty. Some 74 per cent of the indigenous population, and 38 per cent of the Ladino population, live in poverty. The indigenous community accounts for 24.3 per cent and the Ladino community for 6.5 per cent of the total population classified as extremely poor.

158. Most Guatemalans (54 per cent) live in rural areas. Of the 46 per cent that live in urban areas, 68 per cent are indigenous and 44 per cent Ladino.

159. The severity of the problem of poverty is compounded by the uneven distribution of the most impoverished groups and the limited resources that the country has at its disposal. To address this situation, Government policymakers are having to design tools to identify the most vulnerable population groups and thus enable the authorities to target the benefits of poverty reduction and alleviation programmes and strategies on these groups.

160. The Government of Guatemala uses a poverty map to guide the allocation of social public expenditure, factoring in health and welfare, education, housing, employment and social security, culture and sport, science and technology, water and sanitation, urban and rural development, the environment and other social services.

161. Social expenditure accounts for 57 per cent of total State expenditure. The Government's efforts to keep raising social investment are a reflection, firstly, of its policy

of solidarity, which gives priority to the most disadvantaged sectors of society, and, secondly, of the need to cushion the impact of the global crisis.

162. As a result of these efforts, essential expenditure has continued to rise steadily, outstripping the 2008 level. Health and welfare expenditure, for example, has risen by 14.6 per cent this year, while spending on education, housing and the environment is up by 22.2 per cent, 26 per cent and 2.7 per cent, respectively. In addition, investment in urban and rural development has grown by 14.6 per cent, investment in employment and social security is up 7.6 per cent, and investment in other social services has increased by 58.6 per cent.

163. The Government of Guatemala has also tabled a reform of the tax system, on which various sectors have been consulted. The reform has been submitted to Congress and is currently awaiting congressional approval.

### **Reply to paragraph 6 of the list of issues**

164. The Social Welfare Secretariat indicates that no deaths were reported among adolescents deprived of their liberty in the period in question.