**REPORT FOR THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

Following the *List of issues prior to the presentation of Guatemala’s Fourth Periodic Report*, the Girl Boy Network submits this Children’s Rights approach report for the Human Rights Council to take into account:

1. **No discrimination, equal rights between men and women, and violence against women**

The Girl Boy Network reports on girl and adolescent pregnancies, marriage of minors and compliance by the State with its obligations in the area of Sexual and Reproductive Rights:

1. Pregnancies in girls and adolescents between 10 and 14 years of age have dropped slightly between 2014 and 2017: 5,694; 6,493; 5,113; and 4,195pregnancies respectively. 2017’s results are26.3% of 2014. In adolescents (15 to 19 years of age) pregnancies have risen by

14.2% with these numbers per year:75,936; 97,444; 92,875; and 86,704.[[1]](#footnote-2)

1. A related problem is the marriage of persons under age. Despite legislative and judicial efforts (amendment of the Guatemalan Civil Code, Decree-Law 106 enacted through Decree 8-2015 that provides that 18 is the legal age for marriage, and the new amendment that forbids the marriage of children under 16 and eliminates the exception that allowed a girl to marry under the age of 14[[2]](#footnote-3) if it was confirmed that she was pregnant. This was a strategy used to hide rape. De facto marriages and unions continue to be a practice in families that continue to consider their daughters a financial burden. For this reason, we continue to see marriages in 13 to 18 year old adolescents[[3]](#footnote-4) at the following rates: in 2014, 12,163; in2015, 11,346; as of November 2016, 1,440[[4]](#footnote-5) and 236 in 2017.

Both problems are related to the patriarchal and male-dominated culture of a conservative society that historically views and gives women, from an early age, the role of mothers, and which fails to publicly address sexual reproductive education and care, which should be done through compliance with the Bi-Ministerial Agreement *Prevent with Education*, which should be part of the basic national school curriculum.4.7 million girls, boys and adolescents (GBA), most of them in their child-bearing age, are deprived of this information, and this adds to the numbers of pregnancies and childbirths in the country, as we saw in letter a) above.

**Suggested questionsfor the State of Guatemala**

* List the causes that prevent the State of Guatemala from implementing the Bi-Ministerial Agreement *Prevent with Education*through which it commits to institutionalize comprehensive sexual education and to reduce the number of adolescents with access to sexual and reproductive health services.
* What actions have been proposed to overcome this breach?
* Who are the stakeholders (units, departments, bureaus) responsible for the implementation of this agreement at the Ministries of Education and Health?

1. **The right to life, prohibition of torture and other cruel, inhuman or degrading forms of treatment, and the fight against impunity**

Relevant toconsiderations about this right is the number of violent deaths of girls, boys and adolescents, as a very clear violence of their right to life.

From 2015 to 2017, INACIF reports 2,644 violent deaths, the majority (942) of which occurred in 2017, and 2152 of which were of male and female adolescents (81.4%). The age range of 10 to 14 follows in percentage (9%), and this is closely followed by109 girls and boys -GB-under 1 year of age, with 109 deaths, or 4%.

1. The violent death of children is associated with abuse and corporal punishment. The National Institute of Forensic Sciences of Guatemala -INACIF- reports 686 deaths during 2015 due to the following causes: Asphyxia causedbythoracic-abdominal compression, strangulation, suffocation, submersion, hanging suspension, brain hemorrhage, head trauma and burns.
2. According to the ODN /CIPRODENI-, with data from INACIF for 2017, 76% of the 942 cases are linked to deaths by firearm; 10.7% by hanging; and 5% by knife.

In this section, sexual violence against children is also reported.Conceptually, it is considered a form of cruel, inhuman and degrading treatment, mainly against girls and adolescents.

1. In the 2015-2017 period, 13,957 girls and adolescents received medical examinations for sexual violence, with the same trend showing in the three years (4,917 in 2015, 4,483 in 2016, and 4,557 in 2017), although the lastyear marks a slight decrease of 8% compared to 2015. The statistics are cruel since in the three years, 207 examinationswere of girls under 1 year of age, 853 of girls between 5 to 9 years, and 1,813 of girls between 10 and 14 years of age. 4,877 examinations were made of adolescents between 15 and 19 years old.

**Suggested questions for the State of Guatemala**

Why do violence reduction strategies for GBA do not work in Guatemala?

In view of the strategies identified, what measures or actions has the State of Guatemala adopted to prevent, reduce, and eradicate violence against GBA?

On whom has the State of Guatemala delegated the responsibility toprevent, reduce, and eradicate violence against GBA?

1. **Persons with disabilities**

a) There are at least 2.4 million children in a population of 16 million inhabitants in Guatemala, and the estimate is that 15% of the world population has some type of disability.

b) Evidence shows that malnutrition, another scourge that affects half of school-age children, directly and severely affects their physical and cognitive development, and is a cause for several disabilities.

c) The inclusion of GB with disabilities is minimal and marginal within the National Education System -NES- and reflects large gaps characterized by greater concentration in the first grades of elementary school with drop-out rates as they move towards middle and high school. The information provided by the Ministry of Education - MINEDUC - shows the lack of care by the State of Guatemala to the school population with disabilities, which represents only 1.7% per year of the entire population within the SEN and where girls are at greater disadvantage.

d) The Integrated Accounting System (SICOIN) of the Ministry of Public Finance -MINFIN- reports that the Special Education Bureau of the Ministry of Education executed a higher portion of the budget in 2015 (90.3%) than in 2012 (43.6%), despite having a lower allocation ($824,621 less). In 2017, out of the current budget of $ 1.3 million, only 77.5% was executed. The allocation represented 0.063% of the MINEDUC budget in 2012, 0.058% in 2015 and 0.034% in 2017. The lack of investment is reflected in the quality of the educational infrastructure, location, lack of adequate resources and lack of services.

**Suggested questions for the State of Guatemala**

* What approach does MINEDUC use to care for GBA with disabilities?
* Why is information on GBA with disabilities served by SEN not publicly available?
* Why more resources are not allocated (financial, professional, technical, etc.) to include GBA with disabilities in the SEN?
* How is the special methodological approach included to give teachers the skills to do real education inclusion work?

1. **Trafficking in persons prohibition**
2. To address this, the Law on Sexual Violence Exploitation and Trafficking in Persons, Decree 9-2009, created the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons -SVET- in 2009. It reported on the following programs and actions: (a) Department-wide networks against sexual violence, exploitation and trafficking in persons; (b) Training program for hospital network personnel; (c) National Information and Awareness Program in Maya languages; (d) Campaign "*A stranger can hurt you*" to promote the complaint, prevention and combat of sexual crimes; (e) Public Policy against Trafficking in Persons and Comprehensive Protection of Victims (2014-2024).
3. However, this Policy faces two main shortcomings: lack of assignment of responsible parties and of a budget to enable its execution. SVET has a budget allocated to it, which has remained more or less stable (increase of 0.68%), fromthe 2015 budget ($2,356,061) and to the 2017 budget ($2,372,046[[5]](#footnote-6)).
4. Faced with this budget deficit, SVET has not been able to implement all the pillars, themes and strategic actions outlined in its policy; for example, the investment in compensation for victims is not reflected, in breach of one of its mandates under the law.[[6]](#footnote-7) This is very important because SVET now has huge regional projection, becauseit holds the Technical Secretariat of the Regional Coalition against Trafficking in Persons and Illegal Trafficking of Migrants.
5. SVET [[7]](#footnote-8)reports the following information for the period 2014 to 2017: 1432 cases of trafficking, for which the Judiciary issued 105 rulings (convictions and acquittals). In 2016 and 2017 the number and type of rulings were: 51 convictions, 25 acquittals and 9unspecified. It should be noted that in 2014, only 5.7% of cases had a sentence, in 2015, this number was 19.5%, and in 2016, 1.8%. For 2017, the relevant data was not available.

E/C.12/GTM/CO/3 (CESCR, 2014) Committee on Economic, Social and Cultural Rights. Despite the reduction in child labor, the Committee reiterates its concern about the continuing economic exploitation of children in the State party, especially in agricultural and domestic services (E/C.12/1/Add.93, paras. 20 and 38). The Committee notes with concern that the poverty of rural households and limited access to secondary education increase the risk of child labor (art. 10).

**Suggested questions for the State of Guatemala**

* Why is public policy not an instrument for budget management by SVET to address trafficking in persons in Guatemala?
* Why are public policy and SVET itself not instruments to coordinate actions against trafficking in persons in the country?
* Why is there no relationship between the number of trafficking in person cases, the number of criminal prosecution cases by the appropriate agencies and the number of rulings by Judges, particularly the ratification of convictions?

1. **The right to freedom and personal safety, the rights of prisoners, to a fair trial and to procedural guarantees**
2. According to information from the Social Welfare Secretariat of the Presidency of the Republic-SBS-. provided to the ODN /CIPRODENI-, during 2017[[8]](#footnote-9), 2,432 adolescents 1119 men and 1,313 women were reported to be criminal law transgressors.
3. Out of this number, 689 are men who are detained in Special Centers for criminal law transgressor adolescents; 157 are women. Ages range from 13 to 14 years (24 men y 13 women); 15 to 17 years (388 men and 78 women), over 18 years of age (255 men and 66 women). This shows that adolescence is the time when boys and girls are at greatest risk of being lured by organized crime networks into committing crimes. Of these numbers, 535 adolescents,men andwomen,are completing sanctions by order of the Judge for Children and Adolescents. 311 are waiting for a ruling.
4. The SBS has a Detention Program under the Sub-secretary for the Reintegration and Re-socialization of Criminal Law Transgressor Youths. The Program is intended for the care of these adolescents, men and women in 4 centers: Juvenile Provisional Detention Center (DEJUDEP), Juvenile Detainee Center for Men (CEJUPLIV), Detention Center for Men (CEJUPLIV II) and Juvenile Detention Center for Women (CEJUPLIM).
5. Thesecenters which are intended to serve criminal law transgressor adolescentsdo not meet the minimum requirements for their care. It is worth mentioning in this report that on March 19, 2017, a riot began in one of these centers for criminal law transgressor adolescents, also under the administration and management of the SBS.
6. The complaints of detained adolescents were: lack of services and overcrowded conditions. During this riot four monitors were killed and three others were injured. As background information, in October 2016, the Court that Monitors the Enforcement of Measures for Criminal Law Transgressor Adolescents had already given the order to temporarily close the area of adolescents who are not criminal law transgressors, due to the infrahuman conditions in which they live. In these types of centers the latent risk of new confrontations persists.

**Suggested questions for the State of Guatemala**

* What is the real focus of attention by the State of Guatemala regarding adolescents who are transgressors? What actions result from that focus?
* Why does the State of Guatemala not have a reliable Information and Registration System which is updated regarding adolescents who are transgressors and are in their centers?
* Does the State of Guatemala have an assessment of resources (personnel, programs, financial, infrastructure) available in each center to care for criminal law transgressor youths?
* How has this assessment been acted on?
* Why has the State of Guatemala not implemented the recommendations of competent national and international agencies intended to de-institutionalize criminal law transgressor youths?

1. **Measures to protect minors**
2. Protecting GBA is a challenge for Guatemala. The terrible incident occurred on March 8, 2017 at Hogar Seguro Virgen de la Asunción is an example of the incapacity of the State. 56 girls and adolescents who were sheltered there for their protection were locked under the custody of the National Civil Police (PNC); 41 lost their lives.
3. Several government officials were arrested for this sad event: the until then Secretary of SBS, the Sub-Secretary for Children and Adolescent Protection and Shelter of SBS, the Director ofthe Hogar Seguro Virgen de la Asunciónof SBS, The Defender of children and Adolescents of the Human Rights Ombudsman’s Office (PDH), the Head of the Solicitor General’s Office (PGN) for the Protection of Children and Adolescents; the Head of the Special Protection Department against Abuse in all its Forms of PGN, the Deputy Commissioner of the National Civil Police (PNC) and the Deputy Inspector of the PNC.
4. The tragedy has been even qualified as negligence: Mrs. Sara Oviedo Fierro, then Vice President of the Committee for the Rights of Children verified *in situ*, on October 2016, the conditions of the shelter and made the same recommendation: the immediate closure of the Hogar Seguro. This opinion was shared by the Latin American Network of Family Shelter (RELAF) that same year.
5. In follow-up to the institutionalization practice by the State through the SBS, the ODN/ CIPRODENI, with information from that agency, states that in 2017 the shelters received 121 girls and 172 boys, for a total of 293, who would surely be at risk for non-compliance with the de-institutionalization recommendation issued by competent bodies.
6. 72% of the children and adolescents are in those sheltersfor: drug use, flight from their homes, abuse, the need for protection and shelter, rebellion and social risk. This is information provided to the ODN /CIPRODENI by the SBS.
7. The Shelters program, according to the SBS, "*provides temporary residential protection to children and adolescents aged 0 to 18 who have been separated from their parents or guardians as a result of the violation of their rights, referred by order of the Judge for Children and Adolescents.”*[[9]](#footnote-10)
8. According to its website, "*each shelter has a multidisciplinary team to provide comprehensive care for the problems they face and periodic approaches are made through specialized individual and group therapies, to help them overcome traumatic experiences, and for the immediate restitution of their rights; this is all in addition to educational and recreational activities, vocational guidance and timely stimulation. Parallel to special care begins the search for a family resource to reunite children and adolescents*."
9. The shelters are: Hogar Seguro Virgen de la Asunción[[10]](#footnote-11); Hogar Temporal deQuetzaltenango y Zacapa[[11]](#footnote-12); andCentro de Abrigo y Bienestar Integral[[12]](#footnote-13).
10. In spite of the above, the risks of a new incident such as that of March 8 remain latent, while the State has not taken any action to guarantee child protection in favor of the children and adolescents it houses.

**Suggested questions for the State of Guatemala**

* What is the real approach by the State of Guatemala to guarantee the rights of GBA in shelters? What actions are taken as a result?
* Has the Guatemalan State done an assessment of it resources (personnel, programs, financial, infrastructure) available in each shelter to care for GBA in need of protection and shelter?What action has said assessment led to?
* Why does the State of Guatemala not have a reliable, up-to-date Information and Registration System on GBA who are sheltered in their centers?
* Why has the State of Guatemala not implemented the recommendations issued by national and international agencies to de-institutionalize sheltered GBA?

1. **Corruption**
2. There is no other study that systematizes the impact of corruption on the Rights of Children like that of the Central American Institute for Fiscal Studies (ICEFI) of 2017, which highlights the actions of criminal prosecution undertaken by the Prosecution -MP- and the International Commission against Impunity in Guatemala -CICIG- that had a clear impact and that wasa cited source for the purposes of this report.
3. ICEFI identified the items of the general income and expenditure budget of the country that were considered at greater risk and more vulnerable to corruption. These items are three: 1) Capital expenditure: the geographical list of works; 2) spending on public procurement; and 3) public spending through trusts. *"In that work, it was estimated that, on average, 20% of the amounts evaluated are not used for their intended purpose due to corruption"*[[13]](#footnote-14)
4. Then, basedonthe premise of this percentage (20%), when applied to the $1,551.7 million (Q11,514 million) allocated to the first item line, the vulnerability is equivalent to: 2.6 million boys and girlsin the Pre-school and Primary Education levels who do not receive food or school supplies; 2.9 million in cash transfers intended for families with boys and girls under 5 years of age, pregnant or lactating women, or entitled to health vouchers that does not reach them; more than 400,000 boys and girls between the ages of 1 to 5 who do not receive vaccination reinforcement; the growth of 1.4 million boys and girls under 5 years of age that is not monitored; 1.2 million girls and boys under 5 years of age who do not receive medical care for acute respiratory infections.
5. If that same 20% is applied to the $793.9 million (Q5.881 million) allocated in 2015 to the second item line, the vulnerability is reflected in: 22,000 Middle School students that are no longer served by the SEN; close to 1 million students in Pre-schoolwho do not receive workbooks for the school year; more than 500,000 women who do not receive timely prenatal care; more than 300,000 women who stop receiving childbirth care by qualified personnel; about 20,000 boys and girls,infants included, who are not diagnosedor receive treatment for acute malnutrition; 1.2 million boys and girls under fivewho do not receive micronutrient supplements; supplementary feeding with Vitacereal340 stops for more than 700,000 boys and girlsover 6 months but under 24, nursing mothers and pregnant women; and more than 700,000 boys and girls over 2 years but under 5 do not have deworming treatment.
6. It also means that more than 5,000 middle school scholarships are not given to youths (boys and girls) who are at risk and are socially vulnerable; that informal education and workshops for youths at risk and socially vulnerable youths are no longer offered; that close to one million food rations are no longer distributed to poor and extremely poor families or people who face emergencies, crises or social conflicts; that 1.7 million education vouchers for families with children from 6 to 15 years of age are not distributed; that comprehensive care in community shelters is no longer provided to 17,000 poor and extremely boys and girls from 0 to 6 years; and, that 11.2 million people no longer benefit from extra-curricular, non-federated and recreational sports activities, among whichchildren and adolescentsare mostly affected.
7. If this 20% is applied to the Q3,409 million allocated in 2015 to the third item line it means that close to 300,000 school books for the primary bilingual inter-cultural education program are not produced and distributed; over 100,000 middle school students are no longer served by the Tele-secondary teaching modality ofSEN; that over 100,000 pre-school and elementary school teachers lack teaching materials; and that over 3,000 youths no longer receive high-school scholarships, jobs and “Trade-relatedScholarships”. It also means that over one million 0 to 1 year of age boys and girls are no longer vaccinated under the vaccination scheme in place; that counseling is no longer provided to 1.3 million mothers of infants on childcare, and that 1.2 million persons lack access to family planning methods. It also means that more than 80,000 youths no longer participate in violence prevention activities.
8. ICEFI states that tis 20% is a ***“… hard blow for the most vulnerable social groups and for guaranteeing full enforcement of human rights in this country.”***

**Suggested questions for the State of Guatemala**

* Why do government authorities insist on discrediting the work done by the Prosecution and CICIG thus weakening the system of justice and the fight against corruption undertaken by these agencies with specific fruits and outcomes?
* Are they aware of the impact of corruption on children and adolescents, whom they are responsible for protecting?

1. For2014 to 2016, with information of the Health Information Management System of the Ministry of Health and social Welfare - SIGSA /MINSALUD – and for 2017, informationof the Children’s Rights Observatory –ODN- of the Institutional Coordinator for the Promotion of the Rights of Children –CIPRODENI-, with information from the Ministry of Health. [↑](#footnote-ref-2)
2. See also Decree Law 13-2017 that eliminates this exception to authorize the marriage of adolescents. [↑](#footnote-ref-3)
3. Information of the Vital Statistics Registry –RENAP- and the Sexual and Reproductive Health Observatory –OSAR- [↑](#footnote-ref-4)
4. With data from the National Statistics Institute -INE-, of the Vital Statistics Registry -RENAP- and the Supreme Court of Justice [↑](#footnote-ref-5)
5. Calculated at a rate of $1 x Q7.42 [↑](#footnote-ref-6)
6. Balance of the implementation of anti-trafficking policies in Bolivia, Colombia and Guatemala. GuatemalaBalance. Guatemala: ECPAT, GAATW and Alternative CHS, 2016. [↑](#footnote-ref-7)
7. <http://www.svet.gob.gt/estadistica> [↑](#footnote-ref-8)
8. Information for 2014-2016 was not available. [↑](#footnote-ref-9)
9. <http://www.sbs.gob.gt/hogares-de-proteccion-y-abrigo/> [↑](#footnote-ref-10)
10. Serves 0 to 18 year-old children and adolescents who are victims of physical, psychological and sexual violence, with mild disabilities, victims of abandonment, street children, children with addiction problems, victims of trafficking for commercial sexual, labor or financial exploitation, and illegal adoptions. [↑](#footnote-ref-11)
11. Serves 0 to 12 year-old children and adolescents, victims of physical, psychological and sexual violence, with mild disabilities, victims of abandonment, street children, children with addiction problems, victims of trafficking for commercial sexual, labor or financial exploitation, and illegal adoptions. [↑](#footnote-ref-12)
12. Serves 5 to 18 year-old children and adolescents with moderate, high, severe and profound mental disabilities who are abandoned and orphans. [↑](#footnote-ref-13)
13. <http://icefi.org/sites/default/files/resumen_ejecutivo_la_corrupcion_sus_caminos_e_impacto_en_la_sociedad_y_una_agenda_para_enfrentarla_en_el_triangulo_norte_centroamericano.pdf> [↑](#footnote-ref-14)