



**INDEPENDENT REPORT FROM NON-GOVERNMENTAL ORGANIZATIONS**

**SUBMISSION TO THE COMMITTEE ON THE RIGHTS OF THE CHILD  
25 May – 11 June 2010**

**By**

**CENTER FOR ECONOMIC AND SOCIAL RIGHTS and  
INSTITUTO CENTROAMERICANO DE ESTUDIOS FISCALES**

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## 1. INTRODUCTION

In light of the presentation of Guatemala's Third and Fourth Periodic State Report to the Committee on the Rights of the Child (CRC/CC/GTM/3-4), the Center for Economic and Social Rights (CESR) and the Instituto Centroamericano de Estudios Fiscales (ICEFI) wish to make this joint submission to the Committee, which summarises key findings of CESR and ICEFI's study "*¿Derechos o Privilegios? El compromiso fiscal con la salud, la educación y la alimentación en Guatemala*", (*Rights or Privileges? Fiscal Commitment to the Rights to Health, Education and Food in Guatemala*), published in November 2009. A copy of the full report is available [here](#), and a complete hard copy has also been sent to the Secretariat of the Committee. This submission also provides relevant data from the Encuesta Nacional de Salud Materno Infantil (*National Survey on Maternal and Child Health, ENSMI*) 2008-2009, as this is the most recent available data and thus updates some of the findings in the November report.

The Center for Economic and Social Rights is an international NGO with ECOSOC accreditation, which works to promote social justice through human rights. In a world where poverty and inequality deprive entire communities of dignity, justice and sometimes life, CESR seeks to uphold the universal human rights of every human being to education, health, food, water, housing, work, and other economic, social and cultural rights essential to human dignity. Together with civil society groups around the world, CESR advocates for changes to economic and social policy at the international, national and local levels so as to ensure these comply with international human rights standards.

The Instituto Centroamericano de Estudios Fiscales undertakes economic research and technical analysis related to fiscal issues in Central America. Founded in 2005, ICEFI is independent from any kind of political, social or governmental group. ICEFI also provides information, training and consultancy about fiscal policy to governments, parliaments, social and political organizations, and private institutions to positively influence the creation of public policies that build thriving, fair, and democratic societies. ICEFI promotes debate and the exchange of information about fiscal issues in Central America, with a long term perspective, providing technical inputs in order to favor political and social consensus on fiscal policy.

## 2. GUATEMALA'S COMPLIANCE WITH CHILDREN'S RIGHTS

Guatemala has the largest economy in Central America, yet its social indicators are much lower than other, far poorer countries in the region. Guatemala is a middle-income country, but it has the worst indicators on children's rights to food, health and education in the region. The data presented in this submission suggest that the dismal state of economic and social rights of the child of this country is not due to a lack of available state resources, but rather to the way in which they are distributed. This suggests serious failures of the Guatemalan state in its efforts to generate and manage the country's resources equitably and in accordance with its human rights obligations.

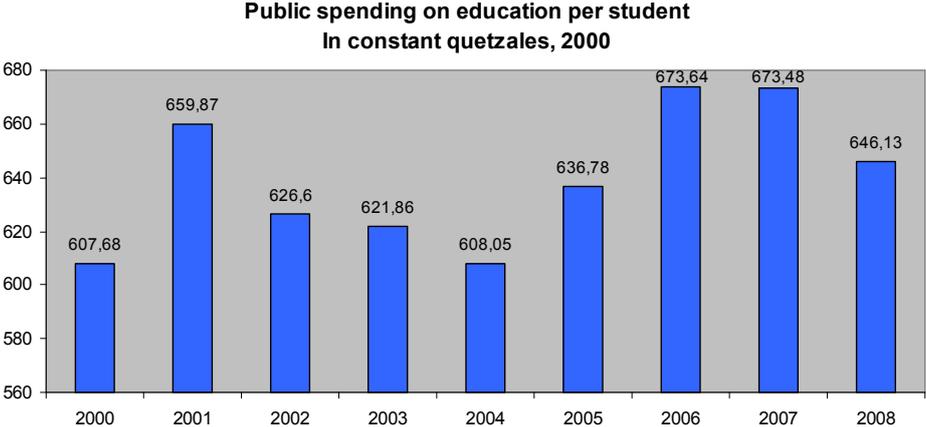
For decades, Guatemala has been one of the countries in the region that invests the least amount of resources in social policies. Because of the resistance of its elites to paying taxes, it has one of the lowest levels of tax collection, curtailing the ability of the government to respond adequately to the needs of the population in general and children in particular through the public budget process. Given that fiscal policy plays a crucial role in putting a state's human rights commitments into effect, particularly those on economic, social and cultural rights (ESCR), it is crucial that Guatemala start to move towards the progressive realization of ESCR by adopting a sound and equitable fiscal policy.

This submission follows Guatemala's report to the CRC in its structure, highlighting issues that raise concerns about the fulfilment of children's right to health, food and education in Guatemala.

**Section II of Guatemala’s Country Report: *General Measures of Implementation***

In its report the State argued that public expenditure in relation to children and adolescents as a percentage of GDP had risen from 1.3% in 2004 to 2.8% in 2007. However, following a more detailed analysis of the data, it is clear that the investment in key areas relating to children’s economic and social rights is insufficient to enable Guatemala to comply with its human rights obligations.

- **Despite having the highest under-5 chronic malnutrition rate in the region, Guatemala still has the lowest public expenditure on food security when compared to some of its neighbouring countries.** In 2007, expenditure on food security was only 0.66% of GDP, in comparison to El Salvador (1.26%), Nicaragua (1.6%) and Honduras (0.95%). Despite the priority which successive governments claim to have given to ending child malnutrition, the programs put in place have suffered from inadequate resources, hindering the progressive realization of children’s right to food (PDH, 2008).
- **In education, over the last eight years, public spending on education per child has been erratic, with a noticeable regression in 2008** (see figure below). Moreover, when looking at spending on secondary education per quintile, it is possible to observe that nearly 60% of total spending benefits the two richest quintiles, which suggests that public spending benefits richer families more than poorer families.



Source: data taken from Ministerio de Finanzas Públicas, Guatemala and Instituto Nacional de Estadística Guatemala.

- Moreover, according to the latest information presented by the Guatemalan government to the Committee (CRC/C/GTM/Q/3-4/Add.1), the distribution of resources dedicated to child-related programmes in 2008 was spent mostly to meet the needs of the central area of the country, specifically the department of Guatemala, leaving the other areas of the country with amounts of less than half of the budget received by the capital. This raises serious questions about the distribution of resources, suggesting an urban bias in public spending.

**Section IV of Guatemala’s Country Report: *General Principles***

Within the Constitution and the domestic legal framework, Guatemala has recognized and committed to the principle of non-discrimination, as its Country Report suggests. However, the reality of the situation on the ground indicates that Guatemala has not taken sufficient efforts to fully comply with the principle of non-discrimination – particularly in relation to its indigenous population, which makes up over 40% of the current population (according to the 2002 National Census). Paragraph 53 of the Country Report states that in the 1996 Acuerdo Sobre Identidad y Derechos de los Pueblos Indígenas (*Agreement on the Identity and Rights of Indigenous People*, CESR translation), the state recognizes that indigenous people have been constantly discriminated against and subject to exploitation and injustices. While the government has committed to undertaking actions to eliminate this

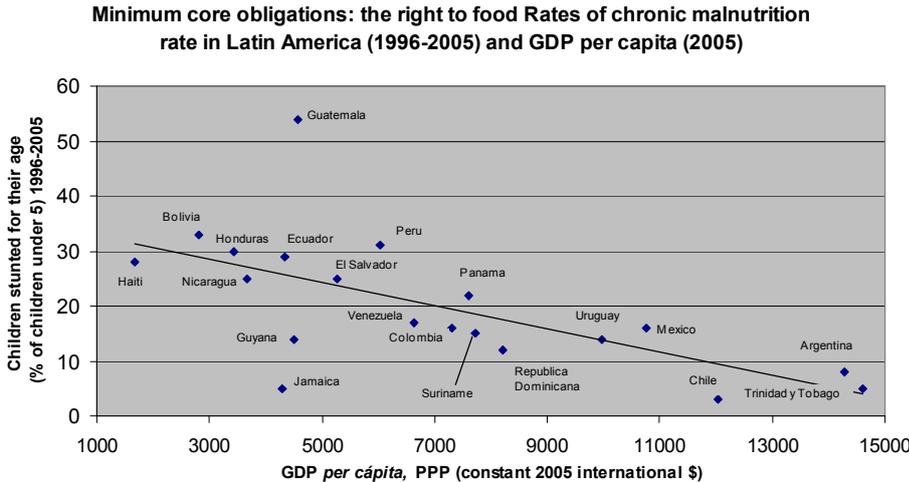
discrimination, current statistical data reveals the persistence of vast disparities between the indigenous and non-indigenous populations in the enjoyment of human rights. In some cases, these disparities have increased over time in recent years, (see below) which raises serious concerns about the government’s efforts to combat discrimination.

**Section VII of Guatemala’s Country Report: *Basic Health and Welfare***

The state’s report affirms that according to article 28 of “Ley de Protección Integral de la Niñez y Adolescencia” *“Full access to health care is guaranteed for boys, girls and adolescents through the country’s public health system, which guarantees universal and equal access to services for the promotion, protection and recuperation of good health.”* (CESR translation). However, the reality of the situation in the country shows that children are not enjoying even the minimum core elements of their rights to health and life on a universal and equal basis:

*(i) Striking levels of chronic malnutrition*

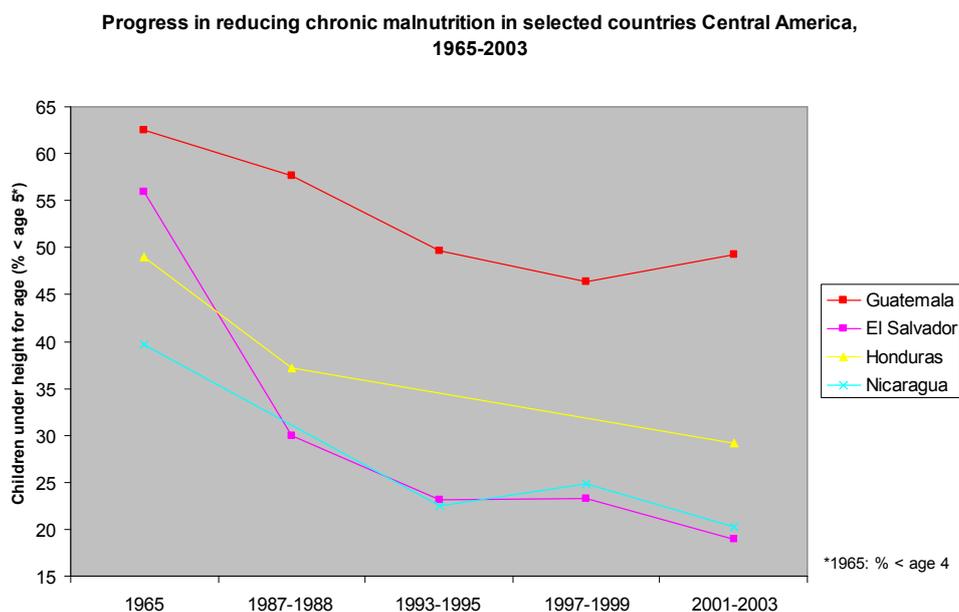
- **Guatemala has one of the highest rates of child chronic malnutrition (under 5) in Latin America.** As the state report recognizes, *“chronic malnutrition is one of the most significant manifestations of food and nutritional insecurity”* (CESR translation). According to 2002 data, 49.3% of children under 5—nearly half of Guatemala’s children—are significantly below average height for their age since they do not receive the necessary minimum nutrition.
- **Chronic malnutrition predominantly affects indigenous people and their children, especially in rural areas and among children whose parents have little or no formal education.** Chronic malnutrition affects up to 70% of indigenous children (ENSMI 2002), almost double the rate for non-indigenous; as mentioned above, it is particularly prevalent in rural areas and among children with parents with no education or only primary education. More recent data from ENSMI 2008-2009 shows that the rate of child malnutrition has gone down to 43.4%. Nevertheless, when this data is disaggregated, significant disparities still exist, although they have diminished slightly.
- **The high rate of chronic malnutrition in middle-income Guatemala is all the more striking when compared to that of other, much poorer countries of the region.** Guatemala is an outlier within the region, as its malnutrition rate is far higher than that of other countries at or below the same level of GDP per capita (see graph).



Source: data taken from Human Development Report 2007/2008. Data for Guatemala is previous to ENSMI 2002

- **Guatemala has made much slower progress in the last decade than poorer countries in the region.** The gap between Guatemala and other Central American countries, including low income countries such as Honduras and Nicaragua, is significantly wider than it was in the 1960s. There was a worrying deterioration in chronic malnutrition between 1998 and 2002 —and Guatemala

was the only country that experienced a retrogression during that period (ENSMI, 2002; PNUD, 2003 – the most recent comparative data available).



Source: ENSMI 2002

- Lack of resources hampers children’s universal access to food programmes.** Although the government’s flagship programme against malnutrition, *Programa de Alimentación Escolar* (PAE), has received more resources than others, the assigned amount accounts only for just over one quetzal (1 quetzal = 0.12 US\$ approximately on April 2010) per day per student. In 2008, the daily amount per student was reduced (from 1.35 in 2007 to 1.18 quetzales in 2008) which is wholly insufficient to provide a balanced nutritional meal. Although the programme’s coverage is intended to be widespread, many schools, especially those located in rural areas still do not have access to this programme. 84% of the total number of children, who do not receive school food, live in rural areas.

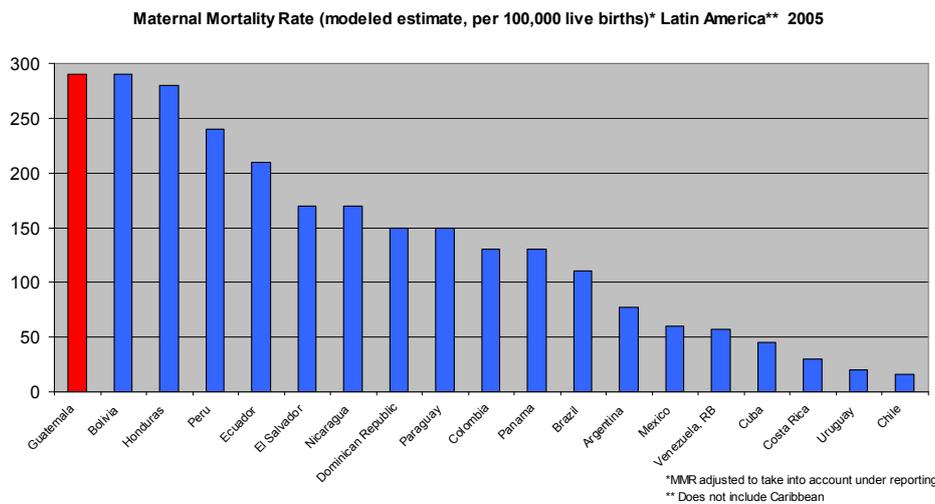
(ii) *High rates of adolescent pregnancy*

- Guatemala has the highest fertility rate in Latin America and one of the highest adolescent pregnancy rates in the region.** Although the country’s total fertility rate (TFR: a synthetic measure of the fertility rate in order to facilitate comparisons) decreased from 4.4 (ENSMI 2002) to 3.6 (ENSMI 2008/2009), huge discrepancies can be seen between the urban population (2.9) and the rural population (4.2) which points to the lack of adequate reproductive health services, especially in rural areas.
- There appears to have been little progress in improving access to sexual and reproductive health services, including family planning services for adolescent women.** Adolescent girls still have little access to the information and services needed to exercise their right to decide freely whether to have children, how many they might have and the time between having each child. Guatemala ranks among the countries in Latin America with the worst indicators of unmet contraceptive need. According to the latest data (ENSMI 2008-2009) unmet contraceptive need is particularly high in rural areas (25.4%) and among indigenous women (29.6%), in comparison with urban areas (14.7%) and non indigenous women (15.1%).
- Legal reforms relating to sexual and reproductive health have yet to be implemented.** In May 2006 Guatemala passed the *Ley de acceso universal y equitativo de servicios de planificación*

familiar (*Law on Universal and Equal Access to Family Planning Services*, CESR translation). Among other issues, this law requires the coordination of strategies among the ministries involved to ensure that, during the last two years of primary education, sex education is incorporated into the curriculum with contents such as rights and responsibilities to promote information on health care, sexuality and early pregnancy. Nevertheless, a series of legal challenges from organizations linked to the Catholic Church have delayed the law's implementation (CLADEM, 2008). The failure to implement the law and address the lack of access to contraceptive services contributes to the high number of adolescent pregnancies. Where these pregnancies are unwanted, women face very restrictive abortion laws which prevent them from accessing safe and legal abortion services should they wish to do so. Unsafe abortion is a significant cause of maternal death and disability, including among adolescent girls. Data suggests that one fifth of the women who have to be hospitalized due to complications arising from unsafe abortion are adolescents aged between 15 and 19.

(iii) High rates of maternal mortality including adolescent girls

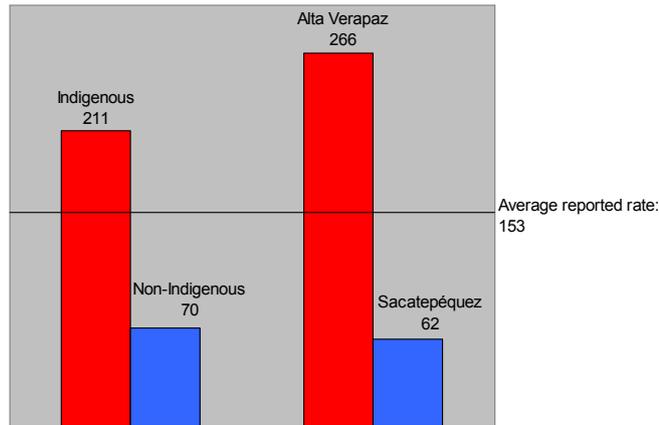
- **Although national level data indicates that the rate of maternal mortality has declined in the last 15 years, UN data adjusted for under-reporting indicates that the rate is the joint highest in the region.** As the country report states, “the mortality rate decreased from 219 deaths per 100,000 live births in 1989 to 153 deaths in 2000 and 121 deaths in 2005”.( p. 31, CESR translation). Nevertheless, when comparing data at an international level (adjusted), maternal mortality rate is higher in Guatemala and Bolivia (290 per 100,000 live births) than any other Latin America country (see graph) (OMS/Unicef/FNUAP y Banco Mundial, 2007).



Source: World Bank 2008

- **Disaggregated information shows that indigenous women and those living in certain areas of the country have higher rates of maternal mortality.** An indigenous woman is three times more likely to die during childbirth or pregnancy than a non-indigenous woman: the maternal mortality rate (per 100,000 live births) among indigenous women is 211, in comparison to 70 among non-indigenous women (MSPAS, 2003). The regions with the highest maternal mortality rate are the north, northwest, and southwest of the country, which are also the regions with higher concentration of indigenous, rural and poor population (Segeplan, 2006). In Alta Verapaz, of the poorest departments, the maternal mortality rate is four times higher than in Sacatepéquez, a department located closer to de capital city (MSPAS, 2003).

**Maternal Mortality Rate (per 100,000 live births)  
By ethnicity and selected departments**



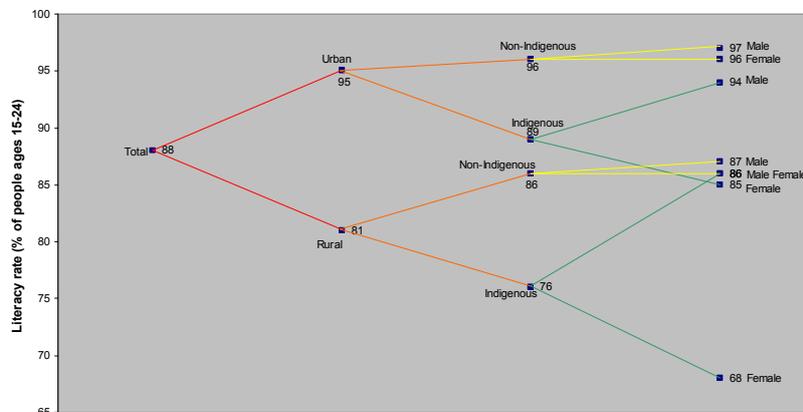
Source: MSPAS 2003

- Qualified personnel (doctors or nurses) attending births still do not reach the whole population.** The State report says that human medical resources have been enhanced through training (para. 172, p. 31). Nevertheless, access to skilled attendance in childbirth – a critical intervention to prevent maternal death - is still far from universal. ENSMI 2002 reported that only 41% of births were attended by qualified personnel, highlighting the disparities between women living in urban areas (66%) and rural areas (33%). Rates of maternal death are higher in those areas where there are fewer births in public health centres. More updated data (ENSMI 2008-2009) shows that the total percentage of births attended by qualified personnel is now 51.3%. However, the disparity between the urban population (77.0%) and rural population (36.5%) has widened further.

**Section VIII of the Guatemala’s Country Report: Education, Leisure and Cultural Activities**

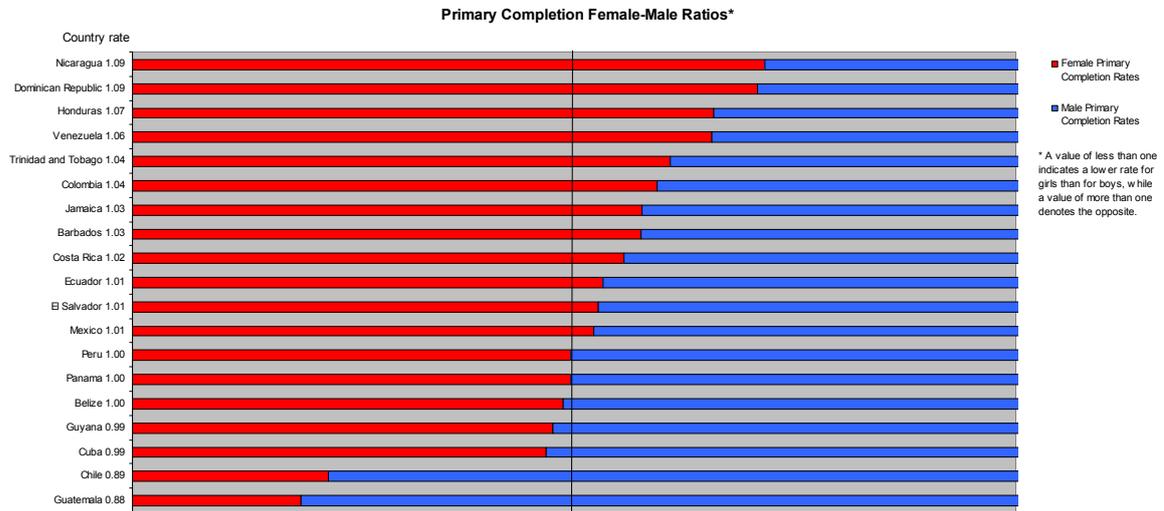
- Guatemala has the highest youth illiteracy in the region.** The literacy rate is substantially different among Guatemala’s ethnic and gender groups, with disaggregated data on literacy showing wide disparities. For instance, the rate of youth literacy among males who live in urban areas is 97%, while among young indigenous women who live in rural areas it is only 68% (see graph below).

**Youth Literacy Rates (ages 15-24)  
Disaggregated by geographic area, ethnicity and gender**



Source: ENCOVI 2006

- **Many children never finish primary school, especially indigenous children.** The proportion of children completing school (primary gross completion rate) has improved from 39% in 1991 to 72.5% in 2006 (SNU, 2008). However, Guatemala is lagging behind other countries in the region, even those with significantly lower GDPs. Additionally, children living in areas such as Quiché and Alta Verapaz, which have a high proportion of indigenous people, are far less likely to finish school than children living the department of Guatemala in 2006. In addition, girls are less likely to finish school than boys. Guatemala is the country with highest gap in school completion rates between girls and boys in Latin America and the Caribbean (see graph below).



Source: World Bank 2008

- **Bilingual education is not yet available or accessible to most indigenous children, notwithstanding the high proportion of indigenous population.** In 2006 74% of children between 7 and 12 years enrolled in the educational system had lessons in only one language, Spanish, while only 13% received lessons in Spanish and one of the countries Mayan languages (ICEFI, 2007a). Therefore, the quality and adequacy of education, especially for indigenous people is certainly questionable.

### 3. RECOMMENDATIONS

CESR and ICEFI urge the Committee to raise questions to the government about the adequacy of government efforts in policies and programmes and in the fiscal commitments it has developed in order to progressively realize children's rights to food, health and education. In particular it should urge the State of Guatemala:

1. To urgently address the situation of chronic child malnutrition, ensuring that the government allocates resources to the National Food Security and Nutrition Policy (PSAN by its acronym in Spanish) that are consistent with principles of universality, progressive realization, and equality/non-discrimination and in accordance with its obligations under the right to food.
2. To ensure access to health services, including reproductive health services for the whole population, including indigenous peoples, through the creation of an integrated system of healthcare with universal coverage which guarantees access to quality and culturally-appropriate services to all people, without discrimination in accordance with its obligations under the right to health. On maternal mortality, to ensure adequate fund for the interventions and policies needed to ensure the availability, accessibility, quality and appropriateness of Emergency Obstetric Care (EOC), skilled childbirth attendance and referral networks.
3. To urgently address problems of illiteracy and school drop out and to fully realize the right to education by creating strategies that will ensure appropriate education for all, including children and

young people who have been traditionally excluded from the education system, such as indigenous children, girls and those living in poverty, based on the principles of multiculturalism, gender equity and educational quality.

4. To urgently address the low levels of government expenditure on the social sector, by overcoming elite resistance to tax reform and adopting a sound fiscal policy that brings tax collection to levels in line with the needs of the country, in order to progressively realize the economic and social rights of Guatemala's children. In particular, fiscal reforms currently being considered should comply with the principles of equity transparency and non discrimination, and should enable the state to use the maximum of its available resources to the full and prompt realization of economic and social rights.

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