



Human Rights Council

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Universal Periodic Review (UPR) of the Republic of Guatemala

Joint Stakeholders' Submission

Submitted by:

Marist International Solidarity Foundation (FMSI)
(NGO in Special Consultative Status with ECOSOC)

and

Marist Foundation (FUNDAMAR)

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Introduction

1. This submission by the NGO coalition of Marist International Solidarity Foundation (FMSI) and Marist Foundation (FUNDAMAR) aims to promote issues of social justice for children and adolescents in Guatemala. Our report focuses on two main issues: 1) Violence against children, and 2) chronic malnutrition.

2. Guatemala has a total population of 14.4 million¹. Forty one percent of its population comes from three major indigenous groups: *Maya*, *Xinca* and *Garífuna*². Guatemala ranks 131 out of 187 in the 2011 United Nations Human Development Index³ and children (i.e. anyone under the age of 18) comprise 6.7 million (46.5%).

3. Guatemala ratified the Convention on the Rights of the Child in 1990 and its two Optional Protocols in 2002 and is therefore legally bound to ensure every child's full enjoyment of their rights under the Convention and its Protocols.

A. Violence against Children

Background

4. At its first Universal Periodic Review in 2008, the Government of Guatemala accepted a recommendation directly aimed at ameliorating the situation of violence against children. Austria urged the government to "*prohibit explicitly corporal punishment in the home and family*"⁴. However, we are concerned that there is a lack of action undertaken by the government to deter the violation against children's rights.

The Current Situation

5. Violent behavior towards children and adolescents is widespread in Guatemala which highlights a disregard for the protection of children and their rights. The 2011 *Global Peace Index* highlights the degree of violence present in Guatemala; placing the country at 125 out of 153 countries, identifying it as one of the most violent countries in Latin America. In order to end violence and impunity for crimes committed against children the government must apply existing legislation, implement national and local policies on child protection and allocate sufficient resources for their effective implementation.

Physical Abuse

6. Twenty two years after ratifying the Convention on the Rights of the Child, children in Guatemala continue to suffer physical abuse in the family. Article 19 of the CRC obligates the state through legislative, administrative, social and educative measures to protect children from all forms of physical harm and abuse while in the care of parents, legal guardians or others who have the responsibility for their care. Unfortunately too little is being done to ensure children the full enjoyment of their rights under this article. In 2010 the National Commission against Child Mistreatment and Sexual Abuse reported that 11,356 children were victims of sexual abuse, 7,002 of physical abuse and 1,152 children were

¹ World Health Organization, Guatemala, available at <http://www.who.int/countries/gtm/en/> (last visited at 23 March 2012)

² UNICEF, Guatemala, available at <http://www.unicef.org/guatemala/english/overview.html> (last visited 20 March 2012)

³ International Human Development Indicators, Guatemala, available at <http://hdrstats.undp.org/en/countries/profiles/GTM.html>

⁴ Universal Periodic Review. Report of the Working Group on the Universal Periodic Review. Guatemala, A/HRC/8/38 May 2008, page 17, Recommendations n. 17

injured through neglect⁵. These are only the reported cases. Such forms abuse are unacceptable.

7. There is very little awareness nor acceptance of children's rights to survival and development and their right to protection against all forms of violence. Whilst in some quarters parents and relatives who abuse children are prosecuted in the courts, this does not address the underlying lack of awareness of children's rights and that these rights must be respected. Abusive forms of corrective behavior in the education setting and in the home, for instance, must be addressed through public awareness raising campaigns, particularly among parents and teachers.

Violence Among Peers

8. Many children suffer verbal and physical abuse, sexual harassment and kidnapping from other children within Guatemalan society. This is typically linked to the gang environment where groups of teenagers intimidate, assault and harass other children. *Interpeace*, an international peacebuilding alliance has developed 12 strategies to prevent youth-related violence in Guatemala and presented its document containing these strategies to the Deputy Minister for Community Support in March 2011. On reception of the '12 strategies', the Deputy Minister, Mrs Lorena Guerra, said: "We recognize that youth related violence is a major problem in our country, and we're going to take this document very seriously. We understand this is a great contribution to the Vice-Ministry, as it is this institution that is responsible for prevention"⁶. We strongly urge the government to adopt the 12 point strategies to combat youth related violence in Guatemala. (See Appendix)

Recommendations

9. Regarding violence against children we recommend the Government of Guatemala to:

- a. urgently apply existing legislation, implement national and local policies on child protection and allocate sufficient resources to protect children and their rights.
- b. address abusive forms of corrective behavior in the education setting and in the home through awareness raising campaigns directed at the public, particularly parents and teachers.
- c. adopt the 12 point strategies of "Interpeace", an international non-governmental peacebuilding organization, to combat youth-related violence in Guatemala (see appendix).
- d. Strengthen the juvenile justice system within the country, its processes being in compliance with the Convention on the Right of the Child, to guarantee an adequate resolution of cases concerning children and adolescents in conflict with the law.

⁵ Valladares, D 2011, *Child Abuse Starts at Home*, available at <http://www.globalissues.org/news/2011/07/08/10414> (last accessed 4 April 2012)

⁶ "Guatemalan Government confirms positive reception of Interpeace 12 strategies document", http://www.google.ch/webhp?sourceid=toolbar-instant&hl=en&ion=1&qscr=1&nord=1&rlz=1T4LENP_enCH474CH474#hl=en&sugexp=frgbld&gs_nf=1&pg=facts%20and%20figures%20of%20guatemala%2C%202011&cp=24&gs_id=2x&xhr=t&q=Adolecscent%20violence%20in%20Guatemala%2C%202011&pf=p&qscr=1&nord=1&rlz=1T4LENP_enCH474CH474&sclient=psy-ab&oq=Adolecscent+violence+in+Guatemala.+2011&aq=f&aqi=&aql=&gs_l=&pbx=1&bav=on.2,or.r_gc.r_pw.r_qf,.cf.osb&fp=130767ba35d5b92e&ion=1&biw=1184&bih=776

2. Chronic malnutrition among children

Background

10. No recommendations were made about malnutrition to Guatemala during its 2008 UPR, yet the problem of chronic malnutrition⁷ is a critical issue for children around the country. Nonetheless, the announcement earlier this year about President Otto Perez Molina's *Zero Hunger Plan*, aimed at reducing the malnutrition rate by 10% before the end of his term in 2016⁸, is a positive step. However, we note that in 2008 the total expenditure on health as a percentage of GDP was 7.0, which had dropped to 6.9 in 2010⁹. There is a critical need to address the issue of chronic malnutrition among children and make health a budgetary priority. We urge the government to guarantee sufficient allocation of resources to this initiative and ensure adequate collaboration from all government authorities for its success.

The Current Situation

11. Guatemala has the fourth-highest rate of chronic malnutrition in the world, higher than most Sub-Saharan African nations. Guatemala's stunting rate – the measure for when a person's height is drastically shortened because of sustained malnutrition – has stayed relatively the same since at least 1995. More than 50% of the population live in poverty and about half of all Guatemalan children under five suffer from chronic malnutrition¹⁰ – called the "invisible killer" because while these children don't immediately starve to death, their brain capacity is drastically affected.

12. Poverty is a major contributing factor to this state of affairs. The United Nations Special Rapporteur on the Right to Food visited Guatemala in 2009 and expressed grave concern about the high levels of inequality and poverty that exists, saying that "too little is being done to remove the structural obstacles to the full realization to the right to food"¹¹. The current poverty rate stands at 51% and 15% of the population are living in extreme poverty¹².

13. As well, Guatemala's high vulnerability to natural disasters such as the 2009 drought and 2010 floods has been a major impediment to development, leaving 4 out of 10 children chronically malnourished¹³. These consecutive natural disasters have had an extremely detrimental impact on Guatemala's capacity to maintain adequate food production and have led to a tangible level of impoverishment and a sense of hopelessness within the communities. We urge the government to renew its efforts to tackle chronic malnutrition through the implementation of policies aimed at poverty reduction.

Chronic Malnutrition amongst Indigenous Communities

14. Of particular concern is the disparity between Indigenous and non-indigenous communities in relation to chronic malnutrition. The chronic malnutrition rate of 72%¹⁴ amongst indigenous populations in rural areas is indicative of their situation. Addressing

⁷ Definition of chronic malnutrition: the continued inadequate intake of protein, energy and micronutrients, which is essential for growth, maintenance and specific functions, which leads to severe mental and physical developmental problems.

⁸ Danilo Valladres, Guatemala: Zero Hunger Plan Must Focus on Production, Experts Say, *Guatemala Times*, February 2012. Available at <http://ipsnews.net/news.asp?idnews=106839>

⁹ World Health Statistics, Guatemala, available at <http://www.who.int/whosis/whostat/2011/en/index.html> (last visited 20 March 2012)

¹⁰ World Food Program, Guatemala, available at <http://www.wfp.org/countries/guatemala> (last visited 4 April 2012)

¹¹ Human Rights Council, Report of the Special Rapporteur on the right to food- Olivier De Schutter. Guatemala, A/HRC/13/33/Add.4, 26 January 2010

¹² UNICEF, Guatemala, available at <http://www.unicef.org/guatemala/english/overview.html> (last visited 20 March 2012)

¹³ World Health Organization, Guatemala, available at <http://www.who.int/countries/gtm/en/> (last visited at 23 March 2012)

¹⁴ UNICEF, Guatemala, available at <http://www.unicef.org/guatemala/english/overview.html> (last visited 20 March 2012)

chronic malnutrition in Indigenous communities must be a national priority. We urge the government to engage in actions that facilitate the provision of adequate food supply to these people. Inaction by the government in this regard will serve only to sustain the gap between Indigenous and non-indigenous peoples.

Physical and Mental implications

15. We call on the government to give priority to the most vulnerable of its citizens; the children. The benefits of proper nutrition for children are illustrated in the child's ability to become a contributor to society whilst in contrast, chronic malnutrition has devastating physical and mental effects on the child's development. Beyond the age of 2-3 years the effects of chronic malnourishment are irreversible and thus children at risk must be reached during this period in order to ensure that they receive the variety of foods essential for proper growth.

16. During pregnancy and the first two to three years of life, children who are continually malnourished have limited brain development and severe health problems. Stunting is the primary manifestation of malnutrition and concerns the reduced growth rate of the child due to insufficient nutrients in their regular diet. Stunting in the long term contributes to a reduced physical capacity as adults, lower IQ and there is a greater risk of infection. The child's ability to learn and to successfully participate in the school environment is negatively affected and their mental wellbeing is at risk by not being able to keep up with their peers.

17. In her report to the Human Rights Council in May 2011 the UN High Commissioner for Human Rights stressed that the "true measure of a nation's standing was assessed by how much it invested in children and how well it fulfilled children's human rights"¹⁵. Malnutrition is the consequence of poverty, inequality and misplaced priorities of government spending. Its very existence is contrary to the Convention on the Rights of the Child, which promotes the highest attainable standard of health for children. A commitment by the Government of Guatemala to address and mitigate the situation of malnutrition is essential.

Recommendations

18. We urge the Government of Guatemala to:

- a. Implement the *Zero Hunger Plan* to address chronic malnutrition and ensure adequate budget allocation to ensure its effectiveness
- b. Carry out data collection on the situation of the children, disaggregated by sex, age, rural and urban areas, ethnicity and disabilities and make the data publicly available
- c. Implement programmes directly targeted at pregnant mothers and children up to the age of 2 to provide them with nutritional support and services
- d. Increase the total expenditure of the GDP for health up to 9%
- e. Prioritize access to adequate nutritional food and health services for all Indigenous communities, especially those in remote areas.

¹⁵ A/HRC/17/46

Appendix:

Interpeace's 12 point strategies to prevent youth related violence in Guatemala:

The 12 clear strategies and associated objectives and actions to combat youth related violence approach the issue from three angles - primary, secondary and tertiary prevention:

Primary prevention: refers to general social and economic development measures with attention on the wellbeing of children, adolescents and youth.

Strategy 1: To promote programmes to prevent and eradicate violence against children, adolescents and youth.

Strategy 2: For those adolescents and youth that find themselves outside the school system, encouraging them to stay in schools or alternative education.

Strategy 3: To promote art, culture and sports as means of personal development and methods of preventing violence.

Strategy 4: To create opportunities for vocational training and employment experience especially for adolescents and youth-at-risk.

Strategy 5: To promote access for adolescents and youth to preventative health services and holistic care.

Strategy 6: To promote the participation and the voice of youth in spaces of community, municipal and national organizations.

Secondary prevention: refers to measures to protect and improve the quality of life of vulnerable groups and groups-at-risk, e.g. abandoned youth, children living in the street, youngsters already showing a tendency to violent behaviour, but also communities and neighbourhoods that are marginalized and show a higher incidence of violence and insecurity.

Strategy 7: To promote the social integration or reintegration of people who are or were members of gangs ('maras'/ 'pandillas'), to prevent them from getting involved in violent activities.

Strategy 8: To increase and improve the services for victims of violence and promote the use of alternative methods to manage and transform conflicts.

Strategy 9: To promote the prevention of delinquency and improve citizen security within the framework of respect for human rights.

Tertiary prevention: refers to measures focusing on the socialization and reintegration of those who have already been convicted as delinquents, in order to prevent them from relapsing.

Strategy 10: To speed up the legal process and prioritize measures and sanctions other than imprisonment.

Strategy 11: To promote programmes that provide holistic care to adolescents and youth who are kept in confinement in order to enable constructive socialization.

Strategy 12: To broaden the reach and scope, and improve the quality of programmes to facilitate the social reintegration of youth that have been in prison.

Interpeace, an international peacebuilding organization, has been working with organizations in the Central American states of El Salvador, Honduras, Guatemala, Belize, Costa Rica, Panama, and Nicaragua to address the growing problem of adolescent and youth violence, as well as the youth gang phenomenon in the region. The proposals are being used to influence policy development with the Government of Guatemala taking the findings on board.