



**Convention on the Rights  
of Persons with Disabilities**

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**Committee on the Rights of Persons with Disabilities**

**Consideration of reports submitted by States  
parties under article 35 of the Convention**

**Initial reports of States parties due in 2011**

**Guatemala\***

[Date received: 16 October 2013]

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\* The present document is being issued without formal editing.

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## I. Presentation

1. Article 35 of the Convention refers to reports by States parties, which must be submitted to the Committee through the Secretary-General of the United Nations.
2. The State of Guatemala issued Government Order 78-2009, of 17 March 2009, which provides that the National Council for Persons with Disabilities shall be the government agency responsible for matters relating to compliance with and implementation of the Convention on the Rights of Persons with Disabilities, and that it shall submit the reports called for in that Convention.
3. Pursuant to that decision, the National Council for Persons with Disabilities began to seek information on the matter, a process that lasted three years. To prepare the initial country report, information was compiled on progress made in the implementation of the Convention on the Rights of Persons with Disabilities. The methodology entailed researching the available literature, holding coordination meetings, conducting workshops and holding consultations in different regions of the country. The relevant public institutions submitted written reports, and their officials provided information in targeted interviews.
4. This report is divided into two main sections. The first section includes the common core document describing the context and the overall situation of the country during 2010 and 2011, with emphasis on the issue of disability. The second part includes the treaty-specific report showing progress made in the implementation of the Convention. The report was drafted with the participation of organizations representing persons with disabilities nationwide, as well as of public institutions. The Presidential Commission for Coordinating Executive Policy in the Field of Human Rights helped with coordination, and the Office of the United Nations High Commissioner for Human Rights in Guatemala also provided support.

## II. Introduction

5. Over the last few years, Guatemala has made a special effort to take the needs and aspirations of persons with disabilities into account in government policies and programmes. Accordingly, different public institutions are implementing educational, rehabilitation and other services that impact, in a variety of ways, the individual and family lives of persons with disabilities.
6. Given its cultural, economic, social and political characteristics, Guatemala has had to deal with many issues that limit its ability to reach all its citizens who have disabilities. According to the national survey of persons with disabilities that was conducted in 2005, there is considerable exclusion of this population in the different areas of social activity.
7. This is due, among other factors, to the fact that services for persons with disabilities are concentrated in the larger urban areas of the country, as in the case of most public services. It is estimated that before 2000, 80 per cent of such programmes were located in urban centres, and only 20 per cent were in rural areas, and the percentages were similar for services administered by private foundations and organizations. The situation has recently begun to change, and services are now available in rural areas, mainly in educational centres.

8. This report presents an overview of the advances, difficulties and challenges that have arisen in connection with the planning, implementation and execution of programmes and services for persons with disabilities, as required by the Convention. Representatives of public institutions and leaders of organizations representing persons with disabilities and their families have participated in this joint effort which reflects two points of view, namely, how the users of such services perceive them and have access to them, and how the government authority views the management and achievements of the programmes.

9. Although most concerned groups have participated in the preparation of this report, not all their achievements are mentioned. The effort, however, has been worthwhile, inasmuch as it has enabled us to share with other countries the fruit of the efforts being made in Guatemala in the unceasing struggle to ensure respect for and protection of the rights of persons with disabilities.

### **III. Common core document**

#### **A. General information**

##### **1. Geographic location, population data and territorial divisions**

10. The Republic of Guatemala covers an area of 108,889 km<sup>2</sup>. It borders on the west and the north with Mexico, on the east with Belize and the Gulf of Honduras, on the southeast with Honduras and El Salvador and on the south with the Pacific Ocean.

11. According to the National Survey of Living Conditions carried out by the National Institute of Statistics in 2011, the country has a population of 14.6 million, 51.1 per cent female and 48.9 per cent male, and a population growth rate of 2.5 per cent per year. The National Institute of Statistics projects that by 2011, the population will be 14,636,487.

12. A study of Guatemala should take into account certain specific characteristics such as ethnicity, geography and history, as well as the marked divisions between rural and urban areas. According to the 2011 National Survey of Living Conditions, 13.33 per cent of the population (1,951,724 persons) lives in extreme poverty, and an estimated 40.38 per cent (5,909,904 persons) live in non-extreme poverty.

13. The average population density nationwide is 132 inhabitants per km<sup>2</sup>. However, population is distributed unevenly, with a density of 1,460 inhabitants per km<sup>2</sup> in the department of Guatemala and only 17 inhabitants per km<sup>2</sup> in the department of Petén (the northernmost department of the country).

##### *Population and political division*

14. Guatemala is divided into eight well-defined regions (metropolitan, north, northeast, southeast, central, southwest, northwest and Petén). These regions are comprised of 22 administrative departments. The governors of departments represent the executive branch and hence, the president.

15. As a multi-ethnic and pluricultural country, Guatemala has certain unique characteristics. The following table shows the distribution of the four people groups in the country. The information is taken from the National Survey of Living Conditions conducted by the National Institute of Statistics.

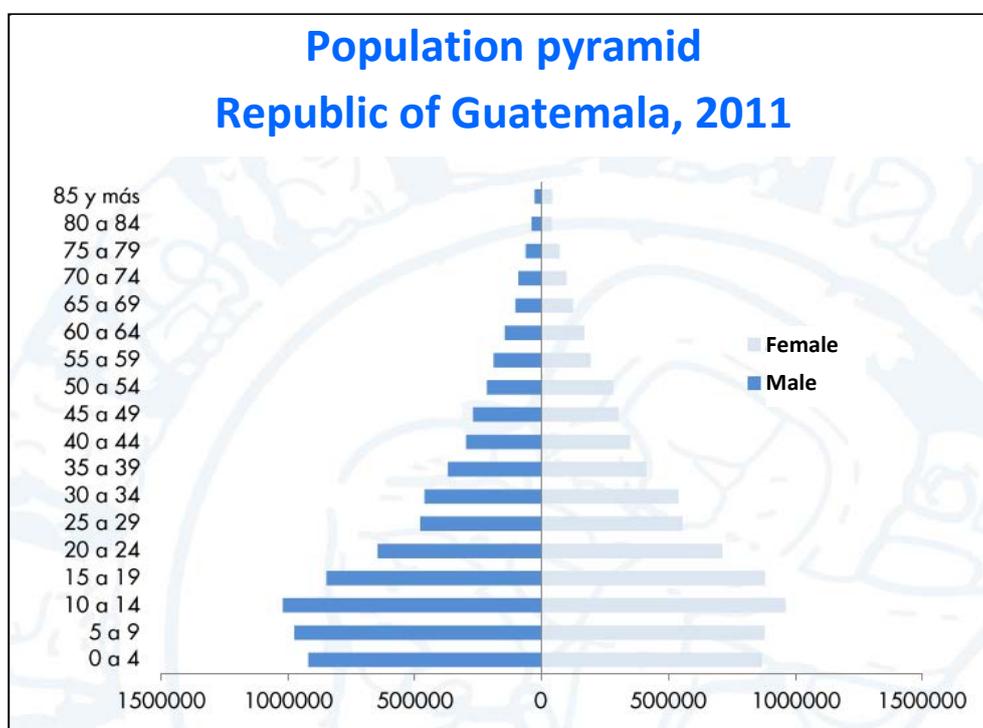
Table 1  
**Peoples and population. National Survey of Living Conditions 2011**

<i>Peoples</i>	<i>Population</i>
Maya	5 666 870
Garífuna	18 802
Xinka	68 427
Ladino	8 761 864
Others	120 524

*Source:* Original tabulation of data from National Survey of Living Conditions 2011.

16. The pyramid shown below illustrates the structure of the population by sex and age.

Figure 1  
**Population pyramid Republic of Guatemala, 2011**



*Source:* National Survey of Living Conditions 2011, National Institute of Statistics.

17. Guatemala has a very young population, as 66.5 per cent of its inhabitants are under 30 years old; persons between the ages of 10 and 14 represent 13.5 per cent of the total population. The departments of Huehuetenango, Baja Verapaz and Petén have the highest percentages of young people (73.2 per cent), and the departments of Guatemala (60.1 per cent), Zacapa (60.4 per cent) and El Progreso (62.7 per cent) have the lowest.

18. According to population projections made by the National Institute of Statistics, by the year 2011, the population will be distributed as follows: males, 7,163,013, and females, 7,473,474, adding up to a total population of 14,636,487. The urban-rural ratio is estimated at 91.4 per cent, meaning that for every 100 persons living in rural areas, 94 live

in urban areas. In total figures, 7,540,106 people (51.5 per cent) live in rural areas, and 7,096,831 (48.5 per cent) live in urban areas.

19. The following table shows mortality rates.

Table 2

**Overall Mortality: Rate per 100 000 inhabitants, by sex. January-November 2011**

<i>Disease</i>	<i>Females</i>	<i>Males</i>
Pneumonia and bronchopneumonia	34.73	42.24
Acute myocardial infarction	17.51	21.48
Cirrhosis of the liver	4.28	11.24
Diabetes mellitus	8.69	5.58
Cerebrovascular accident	7.04	7.25
Acute diarrhoeal diseases	5.78	7.19
Congestive heart failure	4.58	4.66
Wounds from firearms	0.70	7.15
Specific septicaemia	3.33	4.06

*Source:* National Health Study, Ministry of Public Health and Social Welfare, March 2012.

## 2. Administrative and political structure

20. Guatemala is a free, independent and sovereign State, organized to guarantee that its inhabitants can enjoy their rights and freedoms. It has a republican, democratic and representative system of government. The Political Constitution of the Republic of Guatemala, promulgated on 31 May 1985, is its fundamental document. The Constitution contains 281 articles which lay down the obligations of the State, the organization of the country, as well as all the rights and duties of citizens and the three branches of government.

21. Among other important rules, the Constitution establishes municipal autonomy, whereby each municipality is able to plan its own development according to its own needs, geographic location and ethnic composition. The Constitution also establishes the Supreme Electoral Tribunal, which guarantees free elections and prevents fraud. None of this has happened by chance but rather as a result of social, economic and political changes arising from the strengthening of democracy and of progressive sectors of society that lead to a less exclusionary and unfair society.

22. As a State, Guatemala guarantees the security and life of all citizens through their civil and political rights, as well as their social and cultural rights, thanks to which, over time, there have been better opportunities for the more vulnerable sectors of society. Having recognized these rights, the country has signed international instruments pertaining to specific legislation and to human rights that provide protection for women, children and persons with disabilities.

23. To ensure respect for the human rights of all Guatemalans, article 274 of the Political Constitution creates the Office of the Human Rights Advocate, who is mandated by the Congress of the Republic to protect the human rights enshrined in the Constitution.

## 3. Services to persons with disabilities and existing legislation

24. Assistance for persons with disabilities through education began between 1945 and 1969. Private institutions concerned with sensory disabilities were the pioneers of special

education in the country. Their efforts began with the founding of the Santa Lucía schools for blind children and Fray Pedro Ponce de León schools for deaf children, under the auspices of the Benemérito Comité Pro Ciegos y Sordos de Guatemala (Committee for the Blind and the Deaf). The privately funded Neurological Institute of Guatemala, which provides services for children and young people with intellectual disabilities, was established in 1962.

25. The Organic Act on Education, Decree 317, was enacted in 1969; article 33 of the Act establishes the Directorate for Student Welfare and Special Education. In 1974, the Directorate for Rehabilitation of Subnormal Children (the name used at that time for persons with disabilities) was set up, by Government Order, as a unit of the Secretariat for Social Affairs of the Office of the President of the Republic. In 1976, it became the Directorate for Special Educational Assistance. In the late 1970s, other special education initiatives were developed; in particular, some universities began to offer courses for technical-level degrees in special education.

26. In 1985, the Department of Special Education was set up under the Directorate for Student Welfare and Special Education of the Ministry of Education to implement the Integrated Classrooms Programme in the regular primary schools of the capital city. Around the 1990s, the parents of children and young people with disabilities began to mobilize and promote the creation of special education schools or centres in the interior of the country.

27. The National Education Act was adopted in 1991 by Decree 12-91. Chapter III of the Act deals with special education. The first posts for special education teachers were created in 1995. The following year, the Congress of the Republic adopted the Assistance to Persons with Disabilities Act (Decree 135-96), and the National Council for Persons with Disabilities was created. Since 1996, the Association for Technical Training in Education and Disabilities has been working for the benefit of persons with disabilities, offering training (diplomate for community facilitators), orientation and monitoring of special education centres.

28. The Multisectoral Commission on School Integration was created in 1997 to address the need for special education. With the elimination of the Directorate for Student Welfare and Special Education, the Department of Special Education was integrated into the Teacher Improvement and Curriculum Accommodation System, which is charged with setting standards, providing coordination and advising the Ministry of Education.

29. The Ministry established the educational access policy and set standards for people with special educational needs in 2000. Implementation of this policy and the government modernization process led to administrative deconcentration, including the creation of departmental special education coordination offices.

30. Several articles of the Political Constitution embody the principle of non-discrimination. On 11 September 2002, the Congress of the Republic issued Decree 57-2002, adding an article 202 *bis* to the Criminal Code, which reads as follows:

Discrimination: Discrimination shall be understood as any distinction, exclusion, restriction or preference based on gender, race, ethnicity, civil status or any other grounds, reason or circumstance, that might prevent or hinder a person, groups of persons or associations from exercising a legally established right, including under customary law, in accordance with the Political Constitution of the Republic and international human rights treaties. Anyone who by action or omission incurs in the behaviour described in the preceding paragraph shall be liable to from one to three years imprisonment and a fine of 500 to 3,000 quetzals.

31. On 15 November 2003, at the twelfth Ibero-American Summit, held in the Republic of Bolivia, the States agreed to declare 2004 as the Ibero-American Year of Persons with Disabilities. Consequently, the Congress of the Republic issued Decree 31-04, declaring that Guatemala would observe the Ibero-American Year of Persons with Disabilities in 2004, and the National Year of Persons with Disabilities in 2005, with the aim of highlighting the importance of enabling this group to participate in the economic, political and social development of the nation and to become productive persons with a strong commitment to their country. Decree 31-04 instructs the executive branch to create a Coordinating Commission for the Ibero-American Year of Persons with Disabilities comprised of representatives of public agencies, to prepare for the observance of 2005 as National Year of Persons with Disabilities. On 12 April 2005, the Office of the President of the Republic issued Government Order 118-2005, creating the aforementioned commission, which includes representatives of the ministries of education, public health and social welfare, labour and social security, culture and sports, as well as the Social Welfare Secretariat of the Office of the First Lady, the Secretariat for Peace, the National Peace Fund, the Social Investment Fund and the National Council for Persons with Disabilities. Later on, the executive branch laid down the commitments to be met by the agencies that belong to the Commission, in the context of the National Year of Persons with Disabilities.

32. The Act on Special Education for Persons with Special Capacities, Decree 58-2007, was adopted in 2007. This Act provides for the creation of the Directorate of Special Education within the Ministry of Education.

33. The National Council for Persons with Disabilities drew up the National Disability Policy in the context of the National Year of Persons with Disabilities. The policy was approved by Government Order 91-2007 and by Legislative Decree 16-2008. This policy guarantees services and care for persons who have some type of disability.

34. The Policy on Inclusive Education for Persons with Special Educational Needs, with and without Disabilities was established by Ministerial Order 34-2008.

35. The human rights of persons with disabilities are protected by laws, decrees and/or orders enacted at the national level, as well as by international human rights treaties relating to disabilities that have been ratified by Guatemala, including the following:

- United Nations Standard Rules on the Equalization of Opportunities for Persons with Disabilities. Resolution 48/96, of 20 December 1993.
- Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities of the Organization of American States. Adopted by the Congress of the Republic by Decree 59-2008.
- United Nations Convention on the Rights of Persons with Disabilities and the Optional Protocol thereto. Adopted by the Congress of the Republic by Decree 59-2008.

36. The Population Census conducted by the National Institute of Statistics does not show important data on persons with disabilities such as health, education and jobs. As a result, the first National Survey on Disabilities was conducted in 2005; it shows that four out of every 100 persons in Guatemala have some type of disability, indicating a nationwide disability prevalence rate, in that year, of 3.74 per cent.

37. Using the International Classification of Diseases (ICD-10), the National Survey on Disabilities 2005 shows which disabilities were prevalent in Guatemala at that time. In quantitative terms, it was estimated that 110,689 individuals, or 27.5 per cent, had visual disabilities; musculoskeletal deficiencies: 91,819 individuals, or 22.8 per cent; auditory disabilities: 72,685, or 18.1 per cent; intellectual disabilities: 50,787, or 12.6 per cent; deficiencies of the nervous system: 46,862, or 11.7 per cent; persons with language

problems: 25,034, or 6 per cent; and visceral deficiencies, 4,095 persons, or 1 per cent of the total population.

38. According to the Office of the Office for the Defence of Persons with Disabilities in the Office of the Human Rights Advocate, no systematized information on these issues is available. Between January and October 2011, the Office of the Human Rights Advocate received 58 complaints of potential violations of the rights of persons with disabilities caused by different types of violence; most cases of violence against women and girls with disabilities occurred in urban areas.

Table 3

**Women with Disabilities who are victims, in rural or urban areas of Guatemala  
January-October 2011**

<i>Area of Residence</i>	<i>Number of Victims</i>	<i>%</i>
No data	31	53.45
Urban	25	43.10
Rural	2	3.45
<b>Total</b>	<b>58</b>	<b>100.00</b>

*Source:* Author's compilation, based on data from the Office for the Defence of Persons with Disabilities of the Office of the Human Rights Advocate.

39. As regards employment, the Ministry of Labour reports that in 2011, an effort was made to include persons with some type of disability in civil service posts. The effort was fruitless, however, and very few data on this subject are available. It is therefore difficult to carry out a statistical analysis of the employment situation of persons with disabilities.

40. The only information available was on persons with disabilities who work for the Ministry of Labour and Social Security, which as of this date, totalled 16 individuals.<sup>1</sup> This marked the beginning of inclusive employment policies in the different ministries.

#### **4. Economic aspects**

41. In 2011, the Gross Domestic Product (GDP), defined as the value of all goods and services produced by the country, showed a growth rate of 3.8 per cent, which was higher than the 2.8 per cent of 2010.<sup>2</sup> According to the World Bank, the per capita GDP was US\$ 3,178 in 2011.

42. According to data from the Bank of Guatemala, agriculture was the main economic activity; it generated 25 per cent of GDP and provided jobs for 36 per cent of the country's workers. It is followed by trade, industry and services; however, the services sector has gained ground and is gradually displacing agriculture. Exports were dominated by traditional agricultural commodities such as coffee, sugar and bananas, followed by non-traditional products, such as berries, fruits and vegetables.

43. In the case of coffee production, despite the drop in international prices, coffee is one of the main sources of income from exports. Export crops play a significant role in the economy because they generate a large number of temporary jobs, especially during the harvest. Subsistence agriculture is based mainly on maize and beans.

<sup>1</sup> Interview at the Department of Assistance to Workers with Disabilities of the Ministry of Labour and Social Security.

<sup>2</sup> *Source:* CIA World Factbook, January 2012.

44. According to the Bank of Guatemala, as of 28 February 2011, the gross domestic debt stood at 38.896 billion quetzals; as of 31 December 2007, the debt was 24.191 billion. In other words, in three years and two months, it rose by 14.705 billion, or 61 per cent.

45. Data from the Bank of Guatemala also show the public external debt at US\$ 5,539,700,000 as of 28 February 2011, while on 31 December 2007, it stood at US\$ 4,226 million. In other words, in three years and two months, it rose by US\$ 1,313,700,000, or 31 per cent. In addition, it is estimated that the floating public debt, made up of mature and pending short-term liabilities in the non-registered public sector (hence, illegal), might be around 13 billion quetzals. Thus, the actual public domestic debt is 51.896 billion quetzals, meaning that it has grown by 115 per cent since 31 December 2007.<sup>3</sup>

#### *Employment*

46. According to the Ministry of Labour, unemployment rose dramatically in 2008, with 235,000 persons of working age unemployed. The Economically Active Population (EAP) totalled 4.9 million persons; 75 per cent of them were in the informal sector, meaning that only one million had formal jobs.

47. On the issue of poverty,<sup>4</sup> the economic crisis resulting from the local and global crises of 2009 and 2010 had an alarming effect on the people of Guatemala, as reflected in the increase in maternal and infant mortality. This made it difficult to meet the Millennium Development Goals. According to the National Survey of Living Conditions 2011, the poverty line was set at a total expenditure for food of 4,380 quetzals per capita per year. The overall poverty line was established as a total expenditure of 9,030.93 quetzals per capita per year at the national level. Extreme poverty is the percentage ratio between the population that is below the level of consumption of the extreme poverty line and the total population; non-extreme poverty is the percentage ratio between the population that is above the extreme poverty line but below the overall poverty line and the total population. Non-poverty is the percentage ratio between the population that is above the overall poverty line and the total population. Overall poverty is the sum of extreme poverty and non-extreme poverty.

48. Worldwide, people with disabilities have generally poorer health, lower education achievements, fewer economic opportunities and higher rates of poverty than people without disabilities. This is largely due to the lack of services available to them, such as health, education, jobs, transportation or information. These difficulties are exacerbated among lower-income communities.<sup>5</sup>

#### *National Council for Persons with Disabilities*

49. The Political Constitution of 1985 stipulates the following, in article 53: “[The] Disabled [*Minusválidos*]. The State guarantees the protection of the disabled and of those persons who suffer from physical, psychic, or sensory limitations. Their medical-social care, as well as the promotion of the policies and services that make their rehabilitation and their full reincorporation into society possible, are declared to be of national interest. The law shall regulate this matter and shall create the necessary technical

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<sup>3</sup> Bank of Guatemala 2011.

<sup>4</sup> Pobreza y Desarrollo: Un enfoque departamental. National Survey of Living Conditions 2011. Guatemala. November 2011.

<sup>5</sup> World Report on Disability 2011.

and implementation agencies.” Consequently, the State is required to protect the disabled<sup>6</sup> and those persons who suffer from physical, psychic or sensory limitations; accordingly, they should not be forced to lose a legally acquired right on the grounds that they do not meet certain requirements.

50. Even after the signing of the Agreement on a Firm and Lasting Peace, Guatemala still faces human rights challenges that must be addressed in order to achieve further development. One of those challenges is the one facing persons with disabilities, who for a long time have been ignored. Progress has been made, however, in particular with the adoption, by Decree 135-96, of the Assistance to Persons with Disabilities Act, which led to the creation of the National Council for Persons with Disabilities. Before that, there were other agencies such as the National Commission on the Disabled and the National Council for Comprehensive Services for Minors with Disabilities, both of which were discontinued, and the Guatemalan Social Welfare Council, which is still active.

51. The creation of the National Council for Persons with Disabilities involved the participation of organizations that work with and advocate for persons with disabilities. This meant that the Council had to be well organized and that the participation of seven subsectors had to be distributed in such a way as to ensure that each one was represented and allowed to participate on a fair and equal footing.

52. The National Council for Persons with Disabilities is an autonomous entity charged with strengthening and promoting the inclusion of persons with disabilities in the different spheres of Guatemalan society, with equal conditions and opportunities.

53. The National Disability Policy was developed in five stages, namely, formulation, implementation, management, monitoring and evaluation. It covers seven thematic areas so as to ensure the involvement of different public entities and non-governmental organizations (NGOs), as well as persons with disabilities, through the national system of urban and rural development councils.

54. To fulfil its mandate, the National Council for Persons with Disabilities has a budget of only 10 million quetzals, the amount established by the Congress of the Republic in the Act on the General Budget of Income and Expenditures of the State for fiscal year 2011, Decree 54-2010. The National Council for Persons with Disabilities has worked to improve the living conditions of persons with disabilities and has signed a number of important agreements, such as the following:

*Letter of Understanding with the National Literacy Committee*

55. To promote literacy among different groups of persons with disabilities, the National Council for Persons with Disabilities, as the agency responsible for coordinating, advising on and promoting national disability policies, and the National Literacy Committee, as the lead agency for promoting literacy, undertook, in early 2010, to coordinate their work in the context of ratification of the Convention on the Rights of Persons with Disabilities. Thus, in order to help improve the quality of life of persons with disabilities who did not know how to read or write, a letter of understanding between the two agencies was signed on 27 December 2010.

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<sup>6</sup> At that time, the term “disabled” was used to refer to persons with disabilities. One of the challenges currently faced by the organizations that make up the National Council for Persons with Disabilities is to bring the legislation into line with the current reality.

*Agreement with the National Registry of Persons*

56. To promote support for and identification of persons with disabilities, the National Council for Persons with Disabilities and the National Registry of Persons signed a cooperation agreement on 15 December 2011.

57. The purpose of the agreement is to promote the identification of persons with disabilities, to train Registry personnel to assist persons with different types of disability (visual, auditory, physical, intellectual, cerebral palsy and others) and to help improve quality of life for these individuals so that they can develop the necessary skills to ensure their effective inclusion in society.

58. Staff training on national and international legislation on behalf of persons with disabilities was begun in July 2011.

**B. Preparation of the initial country report**

59. Pursuant to the mandate on preparation and submission to the Committee of initial country reports, the State of Guatemala issued Government Order 78-2009, of 17 March 2009, entrusting the National Council for Persons with Disabilities with responsibility for compliance with and implementation of the Convention on the Rights of Persons with Disabilities, as well as with preparing the reports called for in the Convention.

60. The relevant documentation was reviewed, and work began on preparation of the initial country report. A participatory method was followed which involved discussions and consultations with organized civil society at the national level.

61. A national meeting with government agencies and civil society organizations was held towards the end of 2010 for the purpose of discussing the drafting of the initial country report on compliance with the Convention.

**1. Participation of organized civil society**

62. Bearing in mind that Guatemala is a pluricultural and multilingual country, three regional meetings were held in 2011 in Guatemala, Cobán, Alta Verapaz and Quetzaltenango. Men and women of all ages belonging to the Maya, Garífuna, Xinca and Ladino people groups, took part in those meetings, the purpose of which was to discuss the country report outlining the progress made in implementation of the Convention on the Rights of Persons with Disabilities.

63. The participants, who were persons with disabilities, shared their own experiences with the assistance offered by government institutions, offering their perspective on the quality of services and actions undertaken by the State through its institutions. This target group also made recommendations for improvements in the existing services, as well as for institutional actions that would improve the living conditions of people with disabilities and minimize the factors that cause disability.

**2. Participation of public institutions**

64. To continue with the consultations and coordination efforts, two information-gathering meetings were held with government agencies. They were presented with the guidelines issued by the Secretary-General of the United Nations, as well as with guidelines for review and evaluation of the work plans of individual institutions. The idea was to draw up a report on the programmes of these institutions, which would then be included in the first draft of the initial country report.

65. A map of key actors was drawn up for the purpose of planning visits and interviews with representatives of public institutions concerned with disability issues and obtaining official information to develop an overall picture of how the issue is addressed.

66. The reports on the government agencies were compiled, and work on the first draft of the report to the Committee was begun. During 2012, the first draft was reviewed and discussed, and after further consultations with the agencies, through structured interviews, the available information was completed, and the full report was drafted. This draft was discussed and submitted to review and validation, after which the final report was prepared for submission to the Secretary-General of the United Nations for transmission to the Committee, pursuant to article 35 of the Convention.

## IV. Specific document

### A. Articles 1–4

#### **Purpose, Definitions, General principles and General obligations**

67. The National Survey on Disabilities includes data on the situation regarding disability in the country; however, the challenge for the State is to conduct a national census that will provide reliable data on the number and the geographic distribution of people with disabilities who live in the country.

68. Some of the people groups in Guatemala are more vulnerable than others; for instance, children and older adults are more likely to suffer disability. Older adults are especially vulnerable, not only because of their age but also because of the indifference of society. A measure intended to benefit older adults is included in the articles of the Political Constitution mentioned below, as well as in laws and decrees enacted on behalf of the population with disabilities. Article 51 of the Constitution reads as follows: “Protection of Minors and the Elderly. The State shall protect the physical, mental, and moral health of minors and of the elderly. It shall guarantee their right to food, health, education, and security and social security.” This led to the enactment of the Act on Protection of the Elderly, Decree 80-96, as amended by Decrees 2-97 and 51-98, and the regulations to the Act, by Government Order 135-2002, further affirming the State’s obligations with regard to that segment of the population.

69. Decree 85-2005, Act on the Programme on Economic Support for Older Adults and the amendments thereto in Decree 39-2006 and Decree 25-2009, and regulations to the Act, contained in Government Order 86-2007. This Act is aimed at providing a pension for older adults who have no social welfare benefits, amounting to 400 quetzals (equivalent to US\$ 50), so as to enable them to fulfil their minimum basic needs for food, health and clothing. Implementation of the Act is the responsibility of the Ministry of Labour and Social Security, which set up the Services for Older Adults Programme. Priority in processing the pension is given to requests from older adults with disabilities.

70. Article 2 of the Act on Prevention, Punishment and Eradication of Domestic Violence, Decree 97-96, provides special protection for the elderly and for persons with disabilities. Like the Act on Protection of the Elderly (Decree 80-96), it provides punishment for families that practice violence, or rob from or abandon the elderly and persons with disabilities.

71. The State provides protection for workers through the Labour Code, Decree 1441, which deals with old age and disability compensation, as well as pension obligations to be covered by the Guatemalan Social Security Institute. Article 317, paragraph 2 of the Civil Code, Decree 106, excuses persons aged 65 from exercising *tutela* (guardianship) and

*protutela* (curatorship). Article 48 of the Criminal Code, Decree 17-73, stipulates that prisoners over 60 years old are not required to work.

72. The Civil Service Act, Decree 1748, provides retirement for persons over age 50 who have served for ten years.

73. In absolute terms,<sup>7</sup> up to 2005, there were 401,971 individuals with disabilities in Guatemala, including 205,930 men and 196,041 women. The National Survey on Disabilities shows, with a fair degree of accuracy, a prevalence of disability in Guatemala that appears to be lower than previously estimated by international agencies such as the Pan American Health Organization (PAHO) and the World Health Organization (WHO), which placed it at around 10 per cent. The prevalence of disability according to ethnicity (classified only as indigenous and non-indigenous persons) is markedly higher among the non-indigenous group; 66 per cent of all persons with disabilities belong to that group, whereas only 34 per cent of persons with disabilities belong to an indigenous group.

74. The data presented provide information on the prevalence of disabilities among the people of Guatemala, as well as on actions being taken at present. The challenge is to decide how to implement measures to provide comprehensive care of this sector of the population and to promote the full enjoyment of the rights enshrined in the Convention, without discrimination on basis of disability.

75. Prior to the entry into force of the Convention on the Rights of Persons with Disabilities, Guatemala took steps within the framework of its domestic legislation, and pursuant to the provisions of the Political Constitution, through the Assistance to Persons with Disabilities Act, Decree 135-96; the Executive Branch Act, Decree 114-97; the Social Development Act, Decree 42-2001 and the Act on Urban and Rural Development Councils, Decree 11-2002, which provide for the participation of representatives of civil entities, including organizations of persons with disabilities, in decision making at the municipal level; the Municipal Code, Decree 12-2002; and the General Act on Decentralization, Decree 14-2002, which provides for the participation of the general public (understood to include persons with disabilities) in local administration. In terms of legislation in favour of persons with disabilities relating to implementation of the Convention, the Congress of the Republic adopted the National Disability Policy, embodied in Legislative Decree 16-2008, which provides for an allocation of 5 million quetzals, equivalent to approximately US\$ 500,000. The State realizes that the budget initially provided for the Policy is inadequate; bearing in mind the importance of having a document establishing lines of action, the executive branch had previously approved the policy by Government Order 91-2007. The challenge for Guatemala is to increase the budget for implementation of the Policy and to carry it out through the institutions that comprise the administrative apparatus of the State.

76. The National Disability Policy<sup>8</sup> was formulated bearing in mind the abovementioned legislation, as well as the Health Code, the Labour Code and the General Education Act, thus making it possible to cover different sectors. In terms of international law, the Policy takes into consideration International Labour Organization (ILO) Convention 159 and ILO Recommendation 168, Vocational Rehabilitation and Employment (Disabled Persons); the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities and the Standard Rules on the Equalization of Opportunities for Persons with Disabilities adopted by the United Nations Commission for Social Development.

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<sup>7</sup> National Survey on Disabilities.

<sup>8</sup> National Disability Policy, National Council for Persons with Disabilities, 2012.

77. Despite the existence of legislation aimed at improving living conditions for persons with disabilities, the monitoring and evaluation mechanisms are not reliable enough to ensure compliance and produce a noticeable impact. This remains an issue that must be addressed by the State and the different sectors of society.

## **B. Analysis of the legal context for implementation of the National Disability Policy as the operational framework for the Convention**

78. Article 53 of the Political Constitution reads as follows: “[The] Disabled [*Minusválidos*]. The State guarantees the protection of the disabled and of those persons who suffer from physical, psychic, or sensory limitations. Their medical-social care, as well as the promotion of the policies and services that make their rehabilitation and their full reincorporation into society possible, are declared to be of national interest...”<sup>9</sup> The Assistance to Persons with Disabilities Act (Decree 135-96) is based on the idea that this population group should have equal opportunities for achieving comprehensive development through participation in the economic, social, cultural and political development of the country<sup>10</sup> and accordingly, the Act provides the legal basis for enabling persons with disabilities to achieve their maximum development, to participate in society and to exercise the rights and duties established in the legal system.<sup>11</sup>

79. Article 53 of the Political Constitution is reflected in legislation that promotes citizen participation, inclusion in society and respect for the human rights of persons with disabilities. Laws such as the Development Councils Act are aimed at building an inclusive society, in other words, promoting an inclusive State that establishes obligations but also facilitates rights. That is the aim of the Assistance to Persons with Disabilities Act, although at present it has become a panacea for persons with disabilities who invoke it when seeking action to improve their living conditions. These laws can serve as a good parameter for following up on and evaluating efforts to improve the quality of life of persons with disabilities.

80. This Assistance to Persons with Disabilities Act also includes very specific objectives and goals for guaranteeing the development of persons with disabilities in communities, such as providing universal coverage, improving the quality of services and giving the relevant institutions the necessary resources.<sup>12</sup> It establishes priorities<sup>13</sup> which persons with disabilities may also claim under the Constitution, for benefits relating to education, health and social welfare, citizen security, environment and natural resources, agriculture, communications, infrastructure and housing, the economy and recreation and sports, among others.

81. In 2005, the National Council for Persons with Disabilities began promoting the participation of organizations representing persons with disabilities in the departmental development councils in the departments of Izabal, Alta Verapaz, Baja Verapaz, El Progreso, Quetzaltenango and Totonicapán; steps are being taken to include them also in the departments of Sololá, Jutiapa and Jalapa.

82. In addition, as an advocacy strategy for implementing the Convention, the National Council for Persons with Disabilities participates in the Socio-Environmental Cabinet, which is presided over by the Vice-President of the Republic and is made up of

<sup>9</sup> Political Constitution of the Republic of Guatemala. Chapter II, Section One, Article 53.

<sup>10</sup> *Ibid.* Chapter I. General Principles. Article 1.

<sup>11</sup> *Ibid.*, Chapter I. General Principles. Article 2 (a).

<sup>12</sup> *Ibid.*, Article 5.

<sup>13</sup> *Ibid.*, Article 7.

representatives of agencies in the executive branch, including the Ministry of the Environment and Natural Resources, the Planning and Programming Secretariat of the Office of the President, the Ministry of Agriculture, Livestock and Food and the Ministry of Public Health and Social Welfare. It receives support from the Food and Agriculture Organization of the United Nations (FAO), the United Nations Children's Fund (UNICEF) and the United Nations Development Programme (UNDP). The Socio-Environmental Cabinet makes decisions that make it possible to carry out programmes in compliance with the laws and administrative regulations of the country.

83. Since January 2011, the National Council for Persons with Disabilities has carried out programmes, in the 22 departmental capitals and in some municipalities, aimed at complying with the Convention on the Rights of Persons with Disabilities and the National Disability Policy. These programmes have been implemented through a process of consultations, dissemination and implementation, with the general objective of creating opportunities for the integration and participation of persons with disabilities in Guatemalan society, and the following strategic objectives:

- To promote prevention of disabilities, access to health care, empowerment and comprehensive rehabilitation for persons with disabilities;
- To promote access to formal and non-formal education, culture, recreation and sports for persons with disabilities, at the public and private levels;
- To promote educational and training programmes and jobs, as well as activities that generate income and occupations, for persons with disabilities;
- To promote equality of opportunities for access to physical spaces, housing and means of transport for persons with disabilities and their families;
- To promote access to information and the media for persons with disabilities and their families, through systems that are adapted to their needs;
- To promote access to the courts, citizen security and human rights for persons with disabilities and their families;
- To promote and strengthen organizations of and for persons with disabilities, as well as parents' organizations.

84. As part of the implementation strategy and in line with the objectives of the National Disability Policy, the National Council for Persons with Disabilities has set up 18 departmental disability commissions, which represent organizations of persons with disabilities in each department. The commissions work to facilitate the inclusion of all persons with disabilities in development activities and to establish linkages with local government so that they can be actively involved in decision making. Departmental disability commissions will also be set up in the remaining four departments of the country. Some commissions are represented in their respective departmental, municipal and community development councils.

85. An effort is also being made to promote the creation of units on disability in government institutions, with a view to promoting the inclusion and social integration of persons with disabilities. The Congress of the Republic is expected to approve the creation of a legislative disability commission in order to ensure that proposals and requests of people with disabilities are addressed and included in national development agendas.

86. The Congress of the Republic has allocated funds for organizations such as the Fundación Pro Bienestar del Minusválido (Disabled Persons Welfare Foundation) which work to provide comprehensive rehabilitation, especially for children with physical disabilities, and the Margarita Tejada Foundation, which provides services for children, youth and adults with Down syndrome.

87. Another important action was the adoption, by Decree 5-2011, of amendments to articles 1 and 3 of the Assistance to Persons with Disabilities Act. These amendments are designed to include coverage for persons with disabilities related to size and genetic weight, either congenital or acquired, among persons with disabilities. Enabling individuals with these disabilities to attain full development and to participate on an equal footing with others in the educational, economic, social and political development of the country, was declared to be of social benefit.

88. The Supreme Electoral Tribunal produced ballots in Braille so that persons with visual disabilities or impairment could vote in the general elections of September and November 2011. Voting centres throughout the country were revamped, as ramps were installed to facilitate access for persons with reduced mobility, and polling booths were placed at a height of 70 cm for use by voters with achondroplasia or in wheelchairs. The National Council for Persons with Disabilities and the Electoral Institute of the Supreme Electoral Tribunal organized a team of volunteers to assist persons with disabilities so that they could exercise their right to vote.

89. During the 2008–2011 term, supplementary support mechanisms were implemented through policies and programmes such as Mi Familia Progresiva (My Family Progresses), which provided for conditional transfers of 300 quetzals, equivalent to US\$ 38, to 887,000 low-income families with school-age children, some of them with disabilities. Another programme, Bolsa Solidaria (Solidarity Fund), provides foodstuffs to help families improve their children's nutrition; some of the beneficiary families also have children with disabilities.

## **C. Section of the report on specific rights**

### **Article 5**

#### **Equality and non-discrimination**

90. In Guatemala, persons with disabilities have the same rights as persons without disabilities, in terms of respect for and compliance with the Universal Declaration of Human Rights, the Convention on the Rights of Persons with Disabilities, the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, article 4 of the Political Constitution of the Republic and the existing legislation.

91. The State guarantees that all existing legislation is designed to provide care for all vulnerable groups on equal terms and without exceptions. Special laws have been adopted in the areas of education, health, protection and care, in order to address the concerns of persons with disabilities, as outlined below. The Congress is currently considering a bill that would make sign language an official language.

92. Nevertheless, persons with disabilities have found it difficult to exercise their rights for several reasons, in particular, the internal armed conflict that lasted for over 36 years and increased the number of person with disabilities. The Agreement on a Firm and Lasting Peace, however, promotes respect for human rights and improvements in the living conditions of the population that was affected, as action was taken to compensate victims.

93. Another factor that has made it difficult for people with disabilities to fully enjoy their rights is the architectural design of buildings and structures, which makes it difficult for them to move around and make use of institutional services. Special measures have been taken to standardize and provide equal access for everyone. The idea is to ensure that reasonable adjustments are made and that legislation serves the political purpose of including persons with disabilities in the community through programmes aimed at promoting, protecting and ensuring the full enjoyment of their rights. Although little

progress has been made, it is nevertheless significant. The Office for the Defence of Persons with Disabilities was set up within the Office of the Human Rights Advocate to serve as the public entity in charge of ensuring the protection and promotion of the rights of people with disabilities.

94. The Office of the Human Rights Advocate drew up a national agenda for the period 2012–2016. Thanks to the joint efforts of the Human Rights Advocate and the human rights organizations throughout the country, a broad and diverse participatory process was carried out during the electoral campaign with the aim of highlighting social concerns at the local, municipal, departmental, regional and national levels. The Advocate's agenda included cross-cutting issues, especially security and justice, so as to ensure full equality for persons with disabilities and respect for their rights.

95. On the matter of adoptions, the State promotes equal opportunities for all children through the National Adoptions Council, which is implementing the CREERE Adoption Programme for Children with Special Needs. The purpose of the programme is to encourage families to adopt orphans with disabilities and to ensure that they are cared for without discrimination and on an equal footing with children who do not have disabilities.

96. The Ministry of Culture and Sports is carrying out a cultural plan designed to promote and disseminate programmes and projects to ensure respect for cultural diversity and ethnic and gender equality, including for older adults and persons with disabilities in dance schools, in order to promote their participation in social and cultural activities on an equal footing with others.

97. Equality and non-discrimination are also addressed by the Counsel-General's Office, which represents the State in court cases. Accordingly, Order 90-2009, of 2 September 2009, expands the powers of the Unit on Women, Older Persons and Persons with Disabilities, so as to offer legal assistance to persons with disabilities and ensure that they have equal access to the courts, as well as to ensure coordination with public and private institutions to safeguard and protect persons with disabilities who are declared abandoned by a competent court.

## **Article 6**

### **Women with disabilities**

98. The National Survey on Disabilities shows that 49 per cent of the 401,971 persons living with disabilities in Guatemala are women. In absolute figures, that means that 196,000 women have disabilities, mostly muscular-skeletal, visual and auditory disabilities. Thirty-seven per cent of the female population live in rural areas, and 18 per cent are between the ages of 18 and 59.

99. The State has taken steps to establish institutions to address women's concerns; in particular, the Act against Femicide and Other Forms of Violence against Women, Decree 22-2008, applies when there are violations of the right of women to a life free of violence in any of its manifestations, both in the public and the private spheres.

100. The Congress of the Republic adopted the Act on Prevention, Punishment and Eradication of Domestic Violence, Decree 07-96, and the regulations thereto (Government Order 831-2000), with the aim of putting an end to violence between men and women in the home. The Congress also adopted the Act on the Dignity and Full Promotion of Women (Decree 7-99), to comply with article 4 of the Political Constitution and create a legal framework for guaranteeing true equality and enabling women to enjoy their human rights.

101. To ensure women's right to health, the Congress of the Republic passed the Act on Universal and Equitable Access to Family Planning Services and their Integration into the National Health Programme, Decree 87-2005. It also adopted the Act on Healthy Maternity,

Decree 32-2010, to offer women universal, timely and free access to timely, truthful and complete information on quality services during pregnancy, childbirth and the post-partum period, so as to prevent and gradually eradicate maternal and neonatal mortality and prevent disabilities.

102. The Secretariat for Women in the Office of the President of the Republic was created by Government Order 200-2000 on 17 May 2000, as a mechanism for institutionalizing the existing legislation on equality and protection for women and promoting comprehensive development for maya, garífuna, xinca and mestiza women in the economic, social, political and cultural spheres. A unit on disabilities was also set up within this Secretariat. In its capacity as coordinator for public policies on women and as advisor to agencies in the executive branch responsible for implementing the National Policy on Promotion and Comprehensive Development of Women and the Equal Opportunities Plan 2008–2023, the Secretariat for Women coordinated the efforts of different ministries to ensure that the highest authorities implement measures to protect the rights of women, as a result of which inter-agency agreements were signed.

103. The Office for the Defence of Indigenous Women was created by Government Order 525-99, of 19 July 1999, to mainstream the work on indigenous women's issues, equity and gender. This Office is responsible for monitoring situations in which indigenous women are vulnerable, unprotected and discriminated. To promote respect for and observance of their rights the agenda for maya, garífuna and xinca women includes component 2, on Comprehensive health care from the standpoint of cultural identity, in which line of action 1.7 focuses on programmes to provide professional support for the improvement of the overall health of women with disabilities and their families. The main point is that indigenous women, including those with disabilities, must be able to participate in the social, economic and political spheres on an equal footing with everyone else.

104. Guatemala recognizes that efforts to guarantee the right to education for persons with disabilities have been inadequate, and it is concerned about the high rate of illiteracy among women. The Directorate-General of Special Education has therefore begun to implement accommodations for girls with disabilities, and since 2010, the National Literacy Committee's literacy programme for persons with disabilities has focused on teaching women to read and write.

105. The Ministry of Education guarantees the equality of women and girls with disabilities. The Directorate-General of Special Education is working in coordination with the Gender Equity Unit for Ethnic Groups on a ministerial declaration on prevention through education and is carrying out a project on implementation of the strategy on comprehensive sex education for students in the 46 special education schools at the national level.

106. The labour laws do not include regulations designed specifically for women with disabilities; however, the Ministry of Labour and Social Security created the National Office for Women's Affairs and the Office for Working Women. In 2011, the National Council for Persons with Disabilities and the Technical Training Institute, working through the Assistance to Persons with Disabilities Office of the Ministry of Labour, launched a training and labour insertion project focusing on women; this project helps set up micro-enterprises with the aim of training women with disabilities, promoting their inclusion in the labour force and helping them become micro-entrepreneurs.

107. In order to ensure that State institutions include the gender component in their work plans, the Planning and Programming Secretariat created the Directorate of Ethnic and Gender Equity. This Directorate highlights social issues in its annual progress reports on policy tools, laws and other regulations, which have been included since 2010 in the

President's reports in a section on sectors of society that receive special attention. This has provided an overview of the current situation of people with disabilities and the programmes and activities being implemented to help them.

108. The Women's Affairs and Gender Analysis Unit of the judiciary was established in 2006 by Order 67/06 to monitor compliance with treaties and international or national commitments on women's human rights. Special courts were also set up to combat femicide and other forms of violence against women, and the Office of Free Legal Assistance for Women Victims of Violence and their Families was set up in the Public Criminal Defence Institute.

## **Article 7**

### **Children with disabilities**

109. Understanding that this article aims to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children, the State has taken measures to improve services to and recognition of the rights of these children. The Congress of the Republic has passed legislation aimed at ensuring respect for and participation by children.

110. The Ministry of Education has taken steps to ensure the full enjoyment by children with disabilities of all human rights. Thus, the Directorate-General of Curriculum Development is implementing educational reform under its thematic area entitled "Life under Democracy and a Culture of Peace". Its curriculum on gender, ethnic and social equity is tailored to the special characteristics and needs of children with disabilities, especially those who have been deprived of the benefits of education and of social services in general.

111. The description of the component on social equity specifies that special attention must be paid to children who need to overcome some form of disability. The Mi Familia Progresá programme was created to identify students with disabilities in municipalities that have priority based on the prevalence of extreme poverty. The cases of approximately 700 children were identified, and in coordination with programme staff and special education personnel of the departmental directorates of education, some of those children were enrolled in regular schools.

112. Under the National Youth Policy and with its approach to inter-cultural issues, children and young people are viewed as holders of rights, especially as regards the interaction between different peoples and cultures, without the imposition of power or superiority over others but rather promoting Integration, peaceful coexistence among cultures and mutual enrichment as a means for achieving equity and respect for ethnic and cultural differences among children and youth.

113. On 12 August 2003, the Office of the Children's Advocate was set up in the Counsel-General's Office with the aim of guaranteeing due process, the right to counsel and security and the best interests of the child. Children are given age-appropriate assistance, and children with disabilities receive assistance that is appropriate for the type of disability they have.

114. The Social Welfare Secretariat of the Office of the President revamped the *Álida España* Comprehensive Services Centre to expand coverage and improve services for children and young people with intellectual deficiencies and add coverage for children with auditory or visual disabilities. The Disabled Persons Welfare Foundation provides rehabilitation through physical, occupational and language therapy for children.

115. The Social Welfare Secretariat of the Office of the President is responsible for formulating, coordinating and implementing public policies on comprehensive protection of

children and adolescents. It works in the following three areas: prevention, protection and reinsertion. The Office of the Under-Secretary for Family and Community Support works to prevent risks that could jeopardize the rights of children, adolescents and families by promoting the preservation of the family unit and community ties through the following programmes: Comprehensive Care Centres, Programme for the Prevention and Elimination of Domestic Violence, Programme on Special and Occupational Assistance for Children and Adolescents with Disabilities, and Family Subsidies. The Social Welfare Secretariat also includes the Office of the Under-Secretary for Protection and Shelter and Family Rehabilitation and the Office of the Under-Secretary for Reintegration and Social Rehabilitation of Adolescents in Conflict with the Law.

116. Children with disabilities receive differential treatment through educational assistance to special education centres. Under Government Order 226-2008, a policy of free education was adopted whereby students with disabilities have access free of charge to all levels of public education.

117. The National Adoption Council treats all child adoption cases equally, without discrimination, including cases of children with disabilities, who have the same rights as children without disabilities. The National Adoption Council gives preferential treatment to children with disabilities; since they are institutionalized for longer periods of time, they are given priority.

118. In processing adoptions of children with disabilities, the National Adoption Council takes into account the Political Constitution; the Adoptions Act, Decree 77-2007; the Act on Comprehensive Protection of Children and Adolescents, Decree 27-2003; the Act against Sexual Violence, Exploitation and Human Trafficking, Decree 9-2009; the Convention on the Rights of the Child; the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption; the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime; and the Convention on the Rights of Persons with Disabilities.

## **Article 8**

### **Awareness-raising**

119. The Ministry of Education has taken steps to raise awareness about the rights of persons with disabilities. This is reflected in the school system in textbooks for primary students published by the Ministry, which include positive images of children with disabilities. The offices of special education in the 25 departmental directorates of education conduct ongoing awareness-raising activities to publicize the Convention through workshops for parents, in which they are taught how to care for their children who have special educational needs and they are informed of their right to receive quality education at school.

120. The Ministry of Culture and Sports, the Directorate-General of Physical Education of the Ministry of Education and the Guatemalan Olympic Committee support the Guatemalan Paralympic Committee, a NGO that promotes the participation of high-performing athletes with disabilities. Guatemala was represented at the Paralympic Games in Athens 2004, Beijing 2008 and London 2012, as well as in the Parapan American Games held in Mexico 1999, Brazil 2007 and Colombia 2009.

121. As specified in the Convention, Guatemala is committed to raising awareness among the Guatemalan public in order to eliminate stereotypes, prejudices and practices that are harmful to persons with disabilities. In 2004, the Ministry of Public Health and Social Welfare created modules to raise awareness about disabilities and generate information on the issue; these programmes have been expanded and strengthened so as to promote greater

understanding of disabilities. In 2010, handbooks were developed for use in training for the diplomate in comprehensive health care standards, with emphasis on adolescents.

122. To publicize the Convention and promote the participation of families of persons with disabilities, organizations representing persons with disabilities are receiving training on the subject of community-based rehabilitation (CBR). Work was begun on building a CBR network throughout the country through organizations that are receiving training in this area. Vocational training on care of persons with disabilities is being offered, and the National Reproductive Health Programme has organized quarterly refresher courses in prevention, detection and referral of disabilities for 17,575 *comadronas*<sup>14</sup> (midwives),

## **Article 9**

### **Accessibility**

123. The Assistance to Persons with Disabilities Act (Decree 135-96) stipulates, in article 54, that new constructions, applications for or remodelling of public buildings, parks, sidewalks, plazas, roadways, toilet facilities and other public spaces must be built according to technical specifications designed to allow for easy access and movement of persons with disabilities to the places they visit. Article 55 further stipulates that private buildings where large numbers of people are likely to gather and where services are provided for the public, as well as multifamily housing projects... shall have the same characteristics described in the preceding article.

124. To guarantee access, ease of movement and safety in public transport, the Act provides, in article 59, that technical measures must be adopted to meet the needs of persons with disabilities; likewise, appropriate signage and orientation must be provided in physical spaces. The means of public transport must be fully accessible and adequate for the needs of all persons.

125. The Municipal Transport Company of the Municipality of Guatemala provides the Transmetro service, which is accessible to persons with disabilities. Access ramps have been built in the outdoor areas of 32 stations in the metropolitan area and in basements of buildings, and stairs at building entrances have bannisters. Assistance is also provided so that persons with disabilities can use the transport service to do errands.

126. The Assistance to Persons with Disabilities Act, Decree 135-96, devotes an entire chapter (chap. VIII) to the matter of access to information and communications for persons with disabilities. Article 61 stipulates that public and private institutions must guarantee that public information on disabilities is accessible to everyone.

127. Decree 135-96 also provides that informational programmes broadcast on television channels, either public or private, must include support services such as sign language interpretation, written texts and other means necessary to ensure that the communication reaches most of the population. It also provides that telephone companies must guarantee that everyone has access to telephones. Telecommunication companies offer telephones with programmes that are adapted for persons with visual disabilities and text messaging systems for persons with auditory disabilities.

128. To guarantee access to information, the Act requires public or private libraries that are open to the public to have appropriate equipment and furniture that can be used with ease by persons with disabilities. The National Library has had materials in Braille and sound formats for persons with visual disabilities since 1992. The Central Library of the

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<sup>14</sup> *Comadrona* or *partera* (midwife): A woman without formal training or degrees who assists women in childbirth in rural areas.

University of San Carlos (a public university) has set up an area with three computers that have JAWS screen readers for use by university students with visual disabilities.

129. Article 65 of the Act governs physical spaces in general and specifies that spaces where cultural, sporting or recreational activities are to be held must be accessible to persons with disabilities. Denying participation in cultural, sporting and recreational activities to persons with disabilities is considered an act of discrimination (art. 66).

130. In 2008, the Congress of the Republic adopted the Access to Public Information Act, Legislative Decree 57-2008, in order to guarantee for all persons concerned, without discrimination, the right to request and to have access to public information that is in the possession of authorities and individuals who have the duty..., as well as to guarantee for every individual person the right to know and to protect the personal data concerning him or her in government archives, as well as updates of such data. Certain basic principles are followed in applying the Act, e.g., the procedure must receive maximum publicity and be transparent, free of charge, simple and expeditious. The State is required to take such measures as may be necessary to enable persons with disabilities to make effective use of the Act.

*Measures taken to guarantee accessibility*

131. In 2005, the National Council for Persons with Disabilities developed guidelines for ensuring accessibility in the form of a handbook entitled *Manual Técnico de Accesibilidad de las Personas con Discapacidad al espacio físico y medios de transporte en Guatemala* (Technical Manual on Accessibility for Persons with Disabilities to Physical Spaces and Means of Transport in Guatemala). This manual provides orientation for both public and private institutions as they strive to make their facilities and means of transport accessible, as in the case with Transmetro. The fourth sphere of action of the National Disability Policy is to guarantee access to physical spaces, dwellings and transport for persons with disabilities.

132. In order to ensure order and efficiency in public investment, the Planning and Programming Secretariat developed the Standards for the National Public Investment System. There are both general and specific standards which must be met by agencies involved in public investment that need budgetary resources for the fiscal year. Under these standards, when formulating projects, public agencies must comply with the accessibility requirements of the Assistance to Persons with Disabilities Act, Decree 135-96.

133. The Ministry of Education has set standards for architectural design that include providing for adequate pedestrian access in order to provide a safe space that is free of obstacles, where pedestrians can move about freely, with emphasis on the space required for wheelchairs, crutches, walkers or canes. These spaces must have adequate signage and texturizing from the lower floors of buildings and access to the different sections of educational centres.

134. The Directorate of Physical Education of the Ministry of Education, the Ministry of Labour, the Office of the Superintendent of Banks, the Guatemalan Social Security Institute and the outdoor areas of the central campus of the University of San Carlos de Guatemala (the only public university) have all revamped their facilities in order to guarantee access for persons with disabilities. The Directorate of Physical Education has offered courses on accessibility to the staff of the Infrastructure Unit so that they will have the necessary information and training to implement measures for guaranteeing access to persons with disabilities.

**Article 10**  
**Right to life**

135. The State guarantees the right to life through the Political Constitution, which stipulates in article 3 that the State shall guarantee and protect human life from conception, as well as the integrity and security of the individual.

136. Article 46 of the Political Constitution establishes the general principle that in matters of human rights, the treaties and conventions that have been accepted and ratified by Guatemala take precedence over domestic legislation. Therefore, pursuant to article 6 of the International Covenant on Civil and Political Rights, the State reiterates its obligation to protect the right to life, which is inherent to every human being, and no one shall be arbitrarily deprived of his or her life. The State does not take any type of measures intended to arbitrarily deprive persons with disabilities of their life.

137. In accordance with the existing legislation, the laws, public policies and rules in force are aimed at achieving improvements in the quality of life, inclusion and recognition of the population, so as to guarantee the effective enjoyment of health, education, justice and work for persons with disabilities on an equal footing with others.<sup>15</sup>

**Article 11**  
**Situations of risk and humanitarian emergencies**

138. With regard to the rights and dignity of persons with disabilities, the United Nations raises the point that if equality and human rights are to be guaranteed for everyone, the issue of disabilities must be taken into account in planning emergency preparedness and response measures. International plans of action and policies must pay special attention to the needs of persons with disabilities.

139. Bearing in mind that Guatemala is especially vulnerable to disasters, both natural and intentional, the executive branch created the National Coordinating Office for Disaster Reduction, by Decree Law 109-96, as the lead agency for services to persons in situations of risk and humanitarian emergencies. The Coordinating Office is made up of representatives of public institutions, private humanitarian assistance agencies, relief agencies and civil society organizations.<sup>16</sup>

140. Guatemala applies international instruments such as the Millennium Declaration, the Johannesburg Declaration, the Yokohama Strategy and the Hyogo Framework for Action, which were the basis for the international strategy for disaster reduction. In March 2009, Guatemala established the National Round Table on Management for Disaster Reduction as a mechanism for strengthening sectoral efforts in this area. The National Round Table brings together public institutions, NGOs, civil society organizations, the private sector, the academic sector and international cooperation agencies.

141. As an accommodation for persons who are deprived of their liberty, the prison system has put in place an emergency response protocol which establishes priorities for rescue and for special care of persons with disabilities.

142. In addition to the prevention programmes developed by the National Coordinating Office for Disaster Reduction, other programmes are carried out through the Ministry of the Environment and Natural Resources in cooperation with the Ministry of Education and the National Seismological, Vulcanological, Meteorological and Hydrological Institute, which

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<sup>15</sup> The National Council for Persons with Disabilities was founded to ensure respect for human rights and access for people with disabilities to education, work and health, as well as to physical spaces, means of transport and communication, recreation and culture.

<sup>16</sup> Information provided by the National Coordinating Office for Disaster Reduction.

have set up an early warning system that helps expedite decision making on natural phenomena and weather events.

## **Article 12**

### **Equal recognition before the law**

#### *Measures taken to ensure the exercise of legal capacity*

143. Article 1 of the Civil Code, Decree 106, provides that legal status begins with birth and ends with death; however, the unborn are considered born for all purposes that work in their favour, provided they are viable when born.

144. The National Registry Office was created by the Congress of the Republic by Decree 90-2005. The municipal civil registries were replaced by the National Registry Office, which is responsible for organizing and maintaining the single registry for identification of natural persons, recording the facts and acts relating to their civil status, civil capacity and other identifying data from birth to death, and for issuing their personal identification documents. To promote support for and identification of persons with disabilities, the National Council for Persons with Disabilities and the National Registry Office signed an inter-agency cooperation agreement on 15 December 2011, to expedite processing of identification for persons with disabilities, train the Registry staff to help persons with different types of disabilities (visual, auditory, physical, intellectual, cerebral paralysis and others), and work to improve the quality of life of this group so that they can develop the skills necessary to ensure their inclusion in society.

145. With regard to persons with disabilities who are in an establishment providing social assistance, article 308 of the Civil Code stipulates that the directors of social assistance establishments that provide shelter for minors or disabled persons are the guardians and legal representatives of those persons from the moment they enter the establishment, and that no court order (*discernimiento*) is needed for their appointment as such.

## **Article 13**

### **Access to justice**

#### *Measures taken to ensure access to justice*

146. Article 29 of the Political Constitution provides that everyone has free access to the courts, agencies and offices of the State, in order to exercise their actions and enforce their rights in accordance with the law. Furthermore, article 12 establishes the right to a defence, as follows: “The defence of the person and his or her rights are inviolable. No one may be sentenced or deprived of his or her rights without being summoned, heard and defeated in legal proceedings before a competent and pre-established judge and tribunal.”

147. The Public Criminal Defence Institute was created by Decree 129-97 with the mandate to be the administrating agency of the public criminal defence service to provide assistance free of charge to persons with low incomes. It is also responsible for managing, administering and monitoring lawyers in private practice when they perform public defence duties. This service is provided with no discrimination whatsoever; however, the service does not have a separate office devoted to the defence of persons with disabilities. The Counsel General’s Office, however, has a Unit on Women, Older Persons and Persons with Disabilities, which serves people who request legal assistance, as well as children with disabilities who have been abandoned. In some situations, it represents the State in legal proceedings relating to persons with disabilities and older adults.

*Measures taken to train those responsible for the administration of justice*

148. The judiciary includes the Institutional Training Unit, as well as the School of Judicial Studies of Guatemala, which carried out a distance education programme that included courses on the enforcement of human rights by the courts. The School of Judicial Studies offers continuing education, including on-site courses in human rights for court officials.

149. The School has a Master's degree programme in court management, in which the module entitled "Human Rights and Access to Justice" is offered during the first quarter, and a course on the Inter-American system for protection of human rights, during the second quarter.

**Article 14****Liberty and security of person**

150. The Political Constitution stipulates, in article 2, that it is the duty of the State to guarantee to the inhabitants of the Republic life, freedom, justice, security, peace and full personal development. Article 4 refers to freedom and equality, and article 5, to freedom of action.

151. In Guatemala, people with disabilities must struggle against discrimination on a daily basis. This situation limits their ability to enjoy fundamental freedoms and rights, such as equality before the law, freedom of movement and the right to vote, to education and to health, among others.

152. One of the actions promoted by the National Council for Persons with Disabilities is the National Disability Policy, the aim of which is to create opportunities for integration and participation of persons with disabilities.<sup>17</sup> Although this policy represents a qualitative step, there are no mechanisms for implementing programmes to contribute towards ensuring the liberty and security of persons with disabilities.

153. The National Disability Policy is implemented through the different public institutions with the aim of going beyond mere public security and ensuring full security for everyone, including people with disabilities.

**Article 15****Freedom from torture or cruel, inhuman or degrading treatment or punishment**

154. Guatemala is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the Optional Protocol thereto. The Ministry of Public Health and Social Welfare has taken preventive measures and set up an Ethics and Research Commission to regulate and monitor all research done in the area of health, so as to protect everyone, with or without disabilities. Bearing in mind the internal armed conflict, strategies for preventing torture of victims were taken into account.

155. The government prison system and the medical services of the Directorate-General of the Prison System have set up procedures based on ethical principles to ensure that no experiments are conducted on persons who have been deprived of their liberty. Article 10 of the Prisons Act, Decree 33-2006, is also applied; that article reads as follows: "Article 10. Principle of humane treatment. All inmates shall be treated with the respect arising from the inherent dignity of all human beings. Inmates shall not be subjected to physical, psychological or moral torture; coercion or work that is incompatible with their physical condition; demeaning activities or exaction, or scientific experimentation." The strategic plan for the prison system provides for staff of multidisciplinary teams to be

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<sup>17</sup> National Security Policy, National Council for Persons with Disabilities, art. 2, May 2012.

trained on prevention of torture and maltreatment, with the approval of the team in charge of community studies and psychosocial action.

156. All research studies conducted by the Guatemalan Social Security Institute follow bioethical guidelines. Patients are informed, and if they wish to collaborate in the research, they sign or place their fingerprint on the “Informed Consent” document; otherwise they are not included in the study. The Guatemalan Social Security Institute has developed institutional strategies taking into account the needs of individual patients, with special emphasis on those who have disabilities, in order to ensure that they are treated with dignity and respect for their disability and their human rights.

#### *National preventive mechanism*

157. A national mechanism and an organic structure for prevention of torture and other cruel, inhuman or degrading treatment were established pursuant to articles 1 and 7 of the Act on the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Decree 40-2010.

158. With the adoption of the aforementioned legislative decree, the State complied with the terms of the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

159. The Ethics, Assistance and Research Commission of the Ministry of Health regulates and monitors all research conducted in the area of health, thus protecting everyone, whether or not they have a disability. Bearing in mind the internal armed conflict, strategies for preventing torture take into account the organizations that represent persons who have disabilities as a result of that conflict.

160. The actions of the State of Guatemala are consistent with the decision of the Inter-American Court of Human Rights to the effect that it is not enough for States to abstain from violating rights, but rather it is imperative that they adopt positive measures, which shall be determined in the light of the special needs for protection of the subject of law, either because of his or her personal situation or because of the specific situation in which he or she finds him or herself, such as disability. It proposes the aforementioned mechanisms to prevent torture, placing special emphasis on persons with disabilities.

### **Article 16**

#### **Freedom from exploitation, violence and abuse**

161. The State has taken protective measures such as the Act on Sexual Violence, Exploitation and Trafficking in Persons, Decree 9-2009, the purpose of which is to prevent, suppress, punish and eradicate sexual violence, exploitation and trafficking in persons, to provide care and protection for victims and to provide compensation for damages suffered. The Act creates the Secretariat against Sexual Violence, Exploitation and Trafficking in Persons. This Secretariat includes the Inter-Agency Commission against Trafficking in Persons, which was set up by Government Order 246-2007. The Commission reports directly to the Secretariat and is convened by the Ministry for Foreign Affairs. Its main role is to serve as an inter-agency body for consultation, management and formulation of initiatives and consensus building for combatting trafficking in persons, in accordance with domestic law and in harmony with international law, with no discrimination whatsoever.

162. Decree 9-2009 also provides that, without detriment to international commitments on the free movement of persons, the migration authorities must strengthen border controls so as to prevent and detect trafficking in persons and to verify identity documents, travel documents and documents pertaining to the means of transport to ensure that they are not false, among other actions.

*Regulating the offence of trafficking in persons*

163. Article 194 of the Criminal Code regulated the offence of trafficking in persons. It was repealed, however, by the Act on Sexual Violence, Exploitation and Trafficking in Persons, Decree 9-2009. The same decree adds articles 202 *ter* and 202 *quater*, which establish the offence of trafficking in persons and the offence of remuneration for trafficking in persons.

164. The Inter-Agency Commission drew up the State Policy on Trafficking in Persons and Comprehensive Protection for Victims, as well as the Strategic Plan of Action 2007–2017. The guiding principles of the policy are respect for and protection of human rights; the best interests of the child; presumption of minority, non-discrimination, immediate and full protection of victims; family reintegration into the family, medical and psychological care and reintegration into society.

165. The State Policy on Trafficking in Persons envisages five lines of action, namely, institutional strengthening, prevention, comprehensive care for victims of trafficking, protection and enforcement, and external policy and international cooperation.

166. The State of Guatemala has a number of tools for providing protection against exploitation, violence and abuse. Although the Criminal Code and other legislation refer to the subject, they do not specifically state that assistance to persons with disabilities should be consistent with their physical and mental condition. The Congress recently hired a person who is specifically assigned to advise the Board of Directors on disability issues. Although other government agencies have been concerned with the issue, they have not yet dealt adequately with the challenges faced by persons with disabilities.

**Article 17****Protecting the integrity of the person**

167. The National Adoption Council supervises children's shelters in order to ensure that their programmes provide the necessary care and to inform them of the requirements they must meet for the wellbeing of the children, on an equal basis with others.

168. Legal standards adopted by the Board of Directors of the Guatemalan Social Security Institute (Order 410 and Order 1002) promote respect for the physical and mental integrity of all persons with disabilities who receive services from the Institute; accordingly, no medical procedures are practiced without the consent of the patient and/or a relative of the patient with disabilities. These standards are applied for services provided by the following network of hospitals: the Rehabilitation Hospital, which provides full services for patients with physical disabilities; the Centre for Comprehensive Mental Health Services, which serves patients with emotional problems; the Hospital of Gynaecology and Obstetrics, which has programmes for pre- and post-pregnancy care and for normal, high- and medium-risk pregnancies; care for newborns with disabilities is provided in conjunction with the Rehabilitation Hospital; and the General Hospital for Accidents, which provides care during the acute stage and for complications after accidents, as well as physical medicine and rehabilitation.

169. In addition, the General Hospital for Common Illnesses provides acute and chronic care; the Dr. Juan José Arévalo Bermejo General Hospital offers care for illness, accidents, maternity and child care and physical therapy; the Centre for Comprehensive Medical Care for Pensioners serves retirees, older adults and persons with disabilities; as well as several hospitals and medical centres in the interior of the country that work with the Guatemalan Social Security Institute.

**Article 18****Liberty of movement and nationality**

170. Article 1 of the Act on the National Registry Office, Decree 90-2005 creates the National Registry Office as an autonomous entity under public law, with legal standing, with its own assets and with full capacity for acquiring rights and undertaking obligations, to be responsible for registering all Guatemalans born in the territory and children of Guatemalans residing in another country, pursuant to article 72, according to which births abroad shall be recorded at the request of the party concerned to the respective consular agent. Article 85 provides that consular agents of the Republic accredited abroad shall keep a record of births, marriages, changes of nationality and deaths of Guatemalans residing in or in transit through the countries in which those consular agents are posted.

171. As of 2011, the National Registry Office must be notified of all births, deaths, marriages or changes of nationality. In coordination with the National Council for Persons with Disabilities, the National Registry Office began keeping a record of persons with disabilities from birth. The Single Identification Document now includes information on the bearer's disability. The Ministry of Health guarantees that all newborns with disabilities will be registered immediately after their birth and that they will have a name and a nationality. All newborns receive a birth certificate when they are discharged from the health centre where they were born.

172. Article 26 of the Political Constitution stipulates that everyone is free to enter, remain in, pass through and exit the national territory and to change their domicile or residence, with no limitations other than those established by law.

**Article 19****Right to live independently and be included in the community**

173. The State believes it is important to promote the participation of persons with disabilities in society, so that they can know their rights and live independently and in harmony with others. The Ministry of Education has taken action to promote the inclusion of persons with disabilities in the national educational system, and the Government has taken steps in the area of education so as to enable persons with disabilities to be independent by acquiring knowledge and information. The following legal measures have been adopted in this regard: Ministerial Order 1961, of 25 November 2005, authorizing the adoption of a basic national curriculum for preschool education, and Ministerial Order 004-2007, approving initial training for primary school teachers which includes the area of psychology and a subarea on special educational needs; Government Order 226-2008, on the policy of free access to education so as to allow students with disabilities to enrol and receive attention at all levels of public education.

174. The Ministry of Culture and Sports promotes the participation of persons with disabilities in cultural activities and sports. The Special Capacities Programme, which promotes participation by persons with disabilities, was created by Ministerial Order 883-2009, of 20 November 2009.

175. The National Council for Persons with Disabilities provides financial support, on a yearly basis, for projects carried out by organizations representing persons with different types of disability. Funding was granted for 28 organizations in 2010 and for 23 in 2011. This support has provided persons with disabilities with resources that enable them to promote their own development and participation at the local level.

176. The Federation of Parents and Friends of Persons with Disabilities and the Ministry of Health have implemented the Community-based Rehabilitation Strategy, which allows persons with disabilities and their families to go through a process of rehabilitation that can enable them to live independently in their own community. The National Council for

Persons with Disabilities has supported the Vida Independiente (Independent Life) movement that is made up of persons with different types of disability, in order to promote their participation in social, cultural and political activities.

177. With the support of the Ministry of Culture and Sports and the National Sport System, the Guatemalan Paralympic Committee promotes the participation of athletes with disabilities in national, regional and international competitions, with a view to promoting their participation organized and power sports.

## **Article 20**

### **Personal mobility**

178. To address the issue of mobility of persons with disabilities, two centres produce prostheses and orthoses to improve mobility for persons with disabilities. The National Infectious Disease and Rehabilitation Hospital makes free prostheses for hospital patients or patients referred by other health services; although the prostheses are free, if any of the materials required are not available, they must be purchased by the patient.<sup>18</sup> The Guatemalan Social Security Institute's Rehabilitation Hospital only provides services for patients who are enrolled in its system.<sup>19</sup> Nationwide, the National Infectious Disease and Rehabilitation Hospital is the only publicly funded producer of prostheses and orthoses.

179. Different types of architectural barriers hinder the mobility of persons with disabilities, although Guatemala City has made some progress in the area of architectural design and access to transport.

180. The Ministry of Education has made adjustments in order to achieve mobility for students with physical disabilities. The departmental offices of special education work in coordination with institutions and organizations to obtain donations of hearing aids for students with auditory disabilities.<sup>20</sup>

## **Article 21**

### **Freedom of expression and opinion, and access to information**

181. Freedom of expression and opinion is enshrined in article 35 of the Political Constitution, as follows: "Freedom of expression of thought. Expression of thought by any means of dissemination, without censorship or prior permission, is free. This constitutional right shall not be restricted by law or by government order of any kind. Anyone who in using this freedom fails to respect private life or morals will be held responsible under the law. Anyone who feels offended has the right to publish his or her defence, clarification and rectification."

182. The Congress adopted the Access to Information Act, which requires all centralized and decentralized public institutions to create and set up information offices in every institution. People have the right to information without any discrimination whatsoever; however, no provision was made for making available accessible formats, such as Braille for persons with visual disabilities and sign language interpretation for persons with auditory disabilities.

183. With support from the National Council for Persons with Disabilities, civil society sectors such as the Guatemalan Association of the Deaf submitted to Congress a bill that

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<sup>18</sup> Interview with Dr. Helga Luna, Outpatient Care, National Infectious Disease and Rehabilitation Hospital.

<sup>19</sup> Interview with Dr. Juan Carlos Lorenti, Director of the Guatemalan Social Security Institute's Rehabilitation Hospital.

<sup>20</sup> Progress report on compliance with and implementation of the Convention on the Rights of Persons with Disabilities, Ministry of Education, 2011.

would give institutional status to sign language. In addition, by its Order 90-95, the Supreme Electoral Tribunal has ordered that ballots for presidential elections should be issued in Braille for persons with visual disabilities. The Media Secretariat of the Office of the President facilitates access to the media (*Diario de Centroamérica*, TGW national radio station and Agencia Guatemalteca de Noticias, AGN) for persons with disabilities; when appropriate, communiqués and news reports are issued for persons with disabilities. Both the Ministry of Education and the Guatemalan Social Security Institute have prepared teaching materials as resources for special education, such as banners, posters, invitations, press releases, brochures and pamphlets, in formats that are accessible to persons with disabilities. In addition, informational e-bulletins on special education have been issued to inform the public on the topic of disabilities.

## **Article 22**

### **Respect for privacy**

184. Article 44 of the Political Constitution stipulates the following: “Rights inherent to the human person. The rights and guarantees granted by the Constitution do not exclude others which, even if not expressly mentioned in it, are inherent to the human person.” Accordingly, the right to privacy is inherent to persons with disabilities and may not be infringed.

185. Several government offices, such as the Counsel-General’s Office, have taken steps to safeguard confidentiality in regard to services and procedures involving persons with disabilities. In the area of health, both the Guatemalan Social Security Institute and the Ministry of Public Health and Social Welfare have adopted internal regulations to protect confidentiality between patients, their doctors and their families, as the case may be, taking into account the patient’s views, in order to protect the confidentiality of information on sicknesses, treatment and clinical diagnoses made within the health system, especially in regard to HIV-AIDS, as established in article 55 of the Health Code currently in force.

## **Article 23**

### **Respect for home and the family**

186. The Political Constitution recognizes the family as the basis of society, and family unity is protected and promoted, as follows: “Article 47. Protection of the family. The State guarantees the social, economic and juridical protection of the family. It shall promote its organization on the legal basis of marriage, the equal rights of the spouses, responsible paternity and the right of persons to decide freely the number and the spacing of their children.” This article tacitly guarantees the right of persons with disabilities to marry and start their own family; it should also be noted that it seeks to prevent concealment, abandonment, neglect or segregation of children with disabilities.

187. Both the Ministry of Education and the Ministry of Health and Social Welfare have taken steps to improve the living conditions of persons with disabilities. The departmental offices of special education conduct workshops for parents in order to provide information on their children’s right to education. Communication workshops are held to promote childrearing with love for children with disabilities, and to inform participants about disabilities in general. Although there is no law about forced sterilization of persons with disabilities, the Ministry of Health advocates it when necessary, with a court order and the consent of the person exercising parental authority or the guardian of the girl or woman with disabilities.

188. In regard to legal issues, the Counsel-General’s Office promotes action to protect both girls and boys through the Alba-Keneth Alert, which is intended to ensure that no child with or without disabilities is separated from his or her parents. The National Adoption Council has a programme entitled “Madres en Conflicto con su Maternidad”

(Mothers in Conflict with their Maternity), which is based on the idea that a child should stay with his or her biological family so as to preserve family integration, especially when the child has a disability.

#### **Article 24** **Education**

189. Article 71 of the Political Constitution guarantees the right to education: “Right to education. Freedom of education and of educational discretion is guaranteed. The State has the obligation to provide and facilitate education for its inhabitants without any discrimination whatsoever. The establishment and maintenance of educational and cultural centres and museums is declared to be of public utility and necessity.” On the basis of this article, Ministerial Order 34-2008, of 11 January 2008, was adopted. This measure endorses the Policy on Inclusive Education, which aims to ensure access to quality education for children and young people with special educational needs, with or without disabilities, in a context of equal opportunities and the same conditions as those available to the rest of the population, so as to facilitate the development of their physical and intellectual capacities, abilities and skills, and enable them to participate fully in society. Scholarships for persons with disabilities who attend public establishments are facilitated by Ministerial Order 2539-2007, as amended by Ministerial Order 428-2009, of 6 March 2009. Another legal tool is Ministerial Order 826-2009, of 8 May 2009, on Regulations for the Scholarship Programme for students with disabilities, which allows for budgetary funds to be earmarked for 1,528 scholarships throughout the country for students with physical, intellectual, auditory and visual disabilities in official establishments.<sup>21</sup>

190. An important legislative measure was the adoption of the Act on Special Education for Persons with Special Capacities, Decree 58-2007, which makes it obligatory for public or private educational centres to accept persons with disabilities. In 2008, the Ministry of Education established the Directorate-General of Special Education, which is charged with promoting equitable and inclusive programmes and services of excellent quality, in the formal and non-formal educational system, for children and young people with disabilities.<sup>22</sup>

191. Another measure on the subject was Ministerial Order 952-2009, of 1 June 2009, on Internal Regulations for the Directorate-General of Special Education of the Ministry of Education, which is responsible for monitoring implementation of the Act on Special Education for Persons with Special Capacities, Decree 58-2007.

192. Articles 40 to 45 of Chapter XIV, on Special Educational Needs, of the Regulations for Evaluation of Learning Processes (Ministerial Order 1171-2010, of 15 July 2010) refer to curriculum accommodations, evaluation, promotion records, certificates and diplomas for students with special educational needs. The Directorate-General of Special Education has created 25 posts for departmental coordinators of special education in the departmental directorates of education. These teams are supplemented by 51 itinerant pedagogical advisors, who assist in working with students with disabilities in regular schools.

193. Training has been given in the use of Braille and sign language, using the sign language course developed by the Guatemalan Association of the Deaf. With the support of the Japanese Embassy, the Association’s book, *Lengua de Señas de Guatemala* (Guatemalan Sign Language), was distributed to the public schools, in coordination with the departmental special-education teams. The Fundación Sonrisas que Escuchan (Smiles

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<sup>21</sup> Progress report on compliance with and implementation of the Convention on the Rights of Persons with Disabilities, 2011.

<sup>22</sup> Congress of the Republic of Guatemala, 2008.

that Listen), the Alex Foundation, Artes Muy Especiales (Very Special Arts) and the Pro-Blind and Deaf Committee of Guatemala were involved in this effort. Three hundred fifty teachers received training on the education of children with visual disabilities.

194. The Ministry of Education follows a model for primary and preschool education for the 2011–2012 term that covers children in the 0 to 3-year-old group, whether or not they attend school. This programme also includes children with special educational needs.

195. The National Council for Persons with Disabilities and the National Literacy Committee signed a cooperation agreement on literacy programmes for persons with disabilities. The literacy project, which reached around 500 persons, was carried out in 2011 in 15 departments of the country. In 2007, for its part, the National Council for Persons with Disabilities set up a scholarship programme whereby financial assistance is provided to students with disabilities in the preschool, primary, basic, diversified and university levels so as to enable them to continue their studies. Forty scholarships were granted in 2010, and 69 in 2011.

## **Article 25**

### **Health**

196. Article 93 of the Political Constitution provides that the enjoyment of health is a fundamental right of the human being, without any discrimination. Article 94 stipulates that the State shall safeguard the health of and provide social assistance to all its inhabitants, and that it shall develop, through its institutions, programmes of prevention, promotion, recovery, rehabilitation, coordination and relevant supplementary actions in order to achieve complete physical, mental and social wellbeing for the people. Government Decree 295-2008, adopted in 2008, guarantees free access to this service for all Guatemalans.

197. In regard to legislation and regulations on health issues, laws covering specific sectors or amendments to those laws have been passed, as well as more general but important regulations governing efforts in the health sector. The National Health System has focused on preventive actions such as the campaign for maternal and child health, as reflected in vaccination campaigns and educational campaigns. Standards are applied within the National Health System to guide health care; however, there are no mechanisms for ensuring compliance and impact. The Standards for Comprehensive Health Care at the first and second levels cover pregnancy, delivery and post-partum care, care for newborns, breastfeeding infants, children, adolescents and older adults and other needs. The Guidelines for Prevention of Teen Pregnancies in Guatemala, in addition to covering pregnancy and prevention among adolescents, include a chapter on persons with special capacities. The Strategic Plan for Prevention of Blindness was developed in response to the World Health Assemblies of 2003 and 2006, which urged member States to support the Global Initiative for the Elimination of Avoidable Blindness.<sup>23</sup> In 2011, the Ministry of Health conducted research on trachoma in the departments of Sololá and Suchitepéquez to determine the incidence of this disease, which is the primary cause of infections producing blindness in the world. That research gave rise to the Comprehensive Plan for Trachoma Control in the department of Sololá.<sup>24</sup>

198. An important qualitative step is the National Health Agenda 2007–2020, which addresses the challenge of transforming the health system, especially in regard to coverage

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<sup>23</sup> Reply to questionnaire by Dr. Ana Castellanos Catú, who is in charge of programmes of the Ministry of Health and Social Welfare.

<sup>24</sup> *Op. cit.*

and quality.<sup>25</sup> Health services in the country must follow this agenda, which is crucial to the improvement of the quality of life of all Guatemalans, especially those who have disabilities.

199. As the lead agency for health services in the country, the Ministry of Health has promoted the necessary architectural adjustments through the Risk Management Unit, which applies the Accessibility Manual of the National Council for Persons with Disabilities in public buildings where health services are provided.

200. The Assistance to Persons with Disabilities Act, Decree 135-96, and chapter VI of the regulations thereto, relating to the issue of health, provide that persons with disabilities have the right, on the same terms as others, to receive health services, treatment for disease and rehabilitation. Health services must be provided without discrimination such as denial of services, lower quality of services or failure to provide them in the public hospital or health centre assigned to do so.

201. The State needs to put in place social and economic policies to guarantee that persons with disabilities can achieve physical, social and mental development under conditions that protect their dignity. The nationwide network of hospitals operated by the Ministry of Public Health and Social Welfare has special programmes at every level of care. At the primary and secondary levels, care is provided in 29 health areas comprised of four maternity centres, five comprehensive maternal and child health centres, 154 type B health care centres, 36 neighbourhood health clinics, 229 weekend clinics, 18 outpatient centres, 317 districts, 805 neighbourhood health clinics. At the tertiary level, there are 44 hospitals including two national referral hospitals, seven specialized hospitals, seven regional hospitals, 14 district hospitals and 14 area hospitals.

202. The Ministry of Public Health and the Guatemalan Social Security Institute offer comprehensive rehabilitation through the network of health centres or assistance centres. Workers who are enrolled in the social security system under existing rules and who suffer from a disability can opt for the retirement programme for the disabled. The Mental Health Centre provides care for patients and family members or caretakers, who are trained in techniques for the care of persons with intellectual disabilities.<sup>26</sup>

203. As part of its programme of vocational training for the care of persons with disabilities, the Ministry of Health has trained 17,575 *comadronas*.<sup>27</sup> Quarterly refresher courses in prevention, detection and referral of disabilities is provided through the National Reproductive Health Programme.

204. All the national health services and the Guatemalan Social Security Institute are working to prevent the causes of disabilities by keeping a stock of the micronutrients iron, folic acid and vitamin A, which are administered in accordance with the Standards for Care, based on the life cycle of the person concerned. The Ministry of Health monitors and supervises food fortification, e.g., with iodine in salt, vitamin A in sugar, and folic acid in flours, through the National Food Control Programme.

205. Specific materials are available for the prevention of disabling diseases and of HIV-AIDS. Counselling and forums, as well as programmes to promote healthy lifestyles to prevent obesity, diabetes, cancer and hypertension, are other tools available. The National Commission on Prevention of Chronic Diseases was set up, and protocols for care

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<sup>25</sup> Ajustes, reforma y resultados: las políticas de salud de Guatemala, 1985–2010. Cuaderno de Desarrollo Humano, UNDP 2010.

<sup>26</sup> Interview with Dr. Juan Carlos Lorenti, Director of the Rehabilitation Hospital of the Guatemalan Social Security Institute, 2012.

<sup>27</sup> *Comadrona* or *partera* (midwife): A woman without formal training or degrees who assists women in childbirth in rural areas.

in specific cases are in place, such as the protocol for an intercultural approach to comprehensive health care for victims of child abuse, published in November 2010, and the protocol for culturally relevant comprehensive health care for children and adolescents at risk of being subjected to the worst forms of child labour, published in June 2012.<sup>28</sup> Both of these protocols strengthen comprehensive health care.

206. The National Council for Persons with Disabilities and WHO/PAHO have promoted the CBR Guidelines. The Ministry of Health has a National Commission on CBR Implementation.<sup>29</sup> Diplomate programmes for staff members include training on and evaluation of the application of health-care standards. In 2012, 2,315 health professionals in different areas of the country received training.

207. The Children's Hospital for Infectious Diseases and Rehabilitation started a post-graduate programme in physical medicine and rehabilitation with the aim of improving care and training doctors to offer and improve services in national hospitals.<sup>30</sup>

208. The Ministry of Public Health and Social Welfare has two programmes that guarantee care for persons with disabilities, namely, the Food Security and Nutrition Programme, which focuses on prevention, and the Disability Programme, which deals with cross-cutting health issues. The purpose of these programmes is to guarantee support and care for persons with disabilities.

## **Article 26**

### **Habilitation and rehabilitation**

209. This article ratifies the articles on personal mobility and health and education. The State has taken action to help persons with disabilities maintain all their physical, mental, social and vocational abilities, and to enable them to participate fully and enjoy inclusion in all aspects of life. To this end, it carries out general habilitation and rehabilitation programmes in the areas of health, employment, education and social services.

210. Specific programmes are in place for rehabilitation of patients with disabilities in two public hospitals and in the Guatemalan Social Security Institute, namely, the Children's Hospital for Infectious Diseases and Rehabilitation, the Department of Physical Medicine and Rehabilitation of the San Juan de Dios Hospital and the Rehabilitation Hospital of the Guatemalan Social Security Institute. These hospitals have special units for persons with disabilities. Stakeholders in the health sector have identified the need for construction of a fourth-level, specialized hospital and the hiring of qualified specialists, as well as an expanded budget for the hospitals that currently provide care for persons with disabilities.

211. Members of the army who suffer some type of disability are cared for in the Centre for the Disabled of the Guatemalan Army. This centre guarantees rehabilitation and habilitation services for members of the armed forces who suffer some type of disability, not only in terms of medical care but also through production projects costing up to 10,000 quetzals.<sup>31</sup>

<sup>28</sup> Reply to questionnaire by Dr. Ana Castellanos Catú, who is in charge of programmes of the Ministry of Health.

<sup>29</sup> *Op. cit.*

<sup>30</sup> Information provided by Dr. Helga Luna, Outpatient Care, Children's Hospital for Infectious Diseases and Rehabilitation.

<sup>31</sup> Report submitted by the Guatemalan Army at the request of the National Council for Persons with Disabilities, 2011.

**Article 27****Work and employment***Legislative measures against discrimination in the workplace and the right to equality*

212. Article 101 of the Political Constitution stipulates the following: “Right to work. Work is a right and a social obligation of the person. The labour regime of the country must be organized in accordance with the principles of social justice.” The Department of Assistance to Workers with Disabilities of the Ministry of Labour and Social Security provides support for persons with disabilities who are looking for work through its intermediation services and visiting businesses to raise awareness about disability issues.

213. Guatemala has ratified the ILO Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983 (159). This entails formulating a State policy to generate and encourage employment for persons with disabilities. Actions in this regard must be reflected in a national policy.

214. The Assistance to Persons with Disabilities Act assigns priority to training for persons with disabilities who are over 18 years old and have not had access to education or job training.

215. The Ministry of Labour and Social Security provides training to enable persons with disabilities to enter the labour market. It offers training courses for job seekers, pre-employment skills training and computer courses for young people with auditory disabilities so that they can enter the labour force.

216. The National Council for Persons with Disabilities and 18 institutions and organizations of persons with disabilities set up the Inter-Agency Board for Job Training and Labour Insertion of Persons with Disabilities, under Agreement GMS-1535 and with the Technical Training Institute, they implemented the National Job Training and Labour Insertion Plan. The aim is to provide training for employment and self-employment, so as to enable persons with disabilities to participate in production activities as holders of rights and improve their quality of life.

217. The Plan was carried out in 2011 in the context of the lines of action set out in the National Disability Policy, in terms of: (a) training and skills development; (b) promotion and awareness raising; (c) monitoring and evaluation; (d) management and cooperation; (e) research and systematization. The results include 25 job vacancies, 10 microenterprises in the National Registry Office, nine persons placed in private companies, 20 in public institutions, creation of a database starting with 482 files for job placement, 99 persons trained for labour insertion. In addition, a forum was held with entrepreneurs and representatives of business chambers, which was attended by the Vice-President of the Republic, the Minister of Labour and the Manager of the Technical Training Institute. This helped strengthen the institutional structure of the initial labour-insertion programmes. Actions were also carried out in the departments of Baja Verapaz and Jutiapa.

218. The Ministry of Labour and Social Security is promoting an inclusive employment policy which involves encouraging government ministries to hire persons with disabilities.<sup>32</sup> In addition, awareness-raising campaigns are conducted to promote inclusion of persons with disabilities in the private-sector job market.

219. As the lead government agency for employment policy, the Ministry of Labour and Social Security also hires persons with disabilities as part of its own staff. Sixteen persons

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<sup>32</sup> Interview with Ms. Brenda Santos Flores, Director of Social Security.

with disabilities are currently working in the Ministry; however, this policy still needs to be reinforced.

220. Some public agencies have entered into collective agreements with labour organizations that include a requirement for the hiring of persons with disabilities.

221. There is no specific State policy on employment of persons with disabilities by micro-entrepreneurs; however, efforts have been made by organizations such as Trickle Up, which is funded by USAID and focuses on the inclusion of persons with disabilities in production programmes. As of this date, Trickle Up has developed micro-enterprises and set up savings groups. Production activities that are suitable for persons with disabilities are weaving and crafts and jobs in agriculture, business and commerce.<sup>33</sup>

## **Article 28**

### **Adequate standard of living and social protection**

222. Initiatives in this area include the Policy on Social Development and Population was created by article 19 of the Social Development Act, Decree 42-2001. This policy provides for measures to be taken in coordination with the executive branch to promote social, cultural, political, economic and legal conditions to facilitate access to the benefits of development with equity and on equal terms with others.

223. The executive branch set up the Council for Social Cohesion, by Government Order 79-2008. The Council implements social programmes such as the Mi Familia Progresá cash-transfer programme that has distributed cash allowance in the departments with the highest poverty rates, such as Alta Verapaz, Quiché, Huehuetenango, San Marcos, Sololá and Totonicapán. In addition to their high poverty rates, these departments have a large indigenous population and a large number of persons with disabilities.

224. The Bolsa Solidaria programme,<sup>34</sup> which is aimed at mitigating food shortages for low-income households, has been very well received by the beneficiary population, but benefits were not delivered consistently. The Council for Social Cohesion also set up soup kitchens<sup>35</sup> in poor sectors of the capital city. The purpose of these programmes is to stop the cycle of poverty. Although these programmes do not directly mention the population with disabilities, they do help reduce the potential effect of disability. Under the current administration, the programmes were given permanent status in the Ministry of Social Development, which has carried out the following social programmes: (a) Mi Bono Seguro (a periodic allowance for medical services, disability assistance, education or disaster relief); (b) Mi Bolsa Segura (a periodic allowance of food, provided in kind); (c) Jóvenes Protagonistas (Young Leaders); and (d) Comedores Seguros (a soup kitchen programme).

225. According to the National Survey on Disabilities, 90 per cent of households that include persons with disabilities live in formal housing; however, 8.5 per cent live in dwellings that can be considered shanties, both because of their size, measured by the number of rooms, and of the construction materials used.<sup>36</sup> During preparation of this report, no policy for providing housing assistance to persons with disabilities was identified.

<sup>33</sup> Information provided by Mr. Iván Juárez, of TrickleUp.

<sup>34</sup> In 2008, assistance was provided in 149 shantytowns comprising 22,250 families and in 2009, to 373 shantytowns, benefitting 50,473 families.

<sup>35</sup> No specific information is available on the number of beneficiaries or the impact of this programme.

<sup>36</sup> National Survey on Disabilities 2005.

**Article 29****Participation in political and public life**

226. During the 2007 election process, the National Council for Persons with Disabilities and three other organizations joined forces to facilitate the participation of persons with disabilities and their families. The following organizations were involved in this effort: National Association of the Blind, Association for Training and Technical Assistance in Education and Disabilities and the Guatemalan Association for Support to Persons with Physical Limitations. Consultations were held with participants in eight workshops held in the same number of regions, and the findings were recorded in a report entitled *Agenda Minima* (Minimum Agenda). This report was presented to the candidates for president for the 2008–2012 term. The politicians were asked to agree to it, and they undertook to work for its implementation.

227. In 2010, persons with disabilities were involved in advocacy and citizen participation, in particular in the urban and rural development councils and in the forums known as *Gobernando con la Gente* (Governing with the Folks), at which they stressed the importance of being included in decision making.

228. The status of implementation of the Minimum Agenda was reviewed during the 2011 election cycle. Bearing in mind that the candidates for president for the 2008–2012 term had already been approached, the proposals on persons with disabilities were revised and presented to the presidential and mayoral candidates for the 2012–2016 term. In addition, departmental and municipal forums were held to discuss the proposals that had been presented to candidates.

229. Some persons with disabilities participated as candidates for elected office for the 2008–2012 legislative term. Two persons with disabilities were candidates for deputy and one person with a physical disability ran for president. Several persons with disabilities serve on the National Council for Persons with Disabilities, to wit, the President, the Vice-President, a member of the Board of Directors and the current Director-General. Also, a person with disability is the advisor on disability matters to the Board of Directors of the Congress of the Republic.

230. The National Council for Persons with Disabilities organized nine forums and two round tables on the election process, which were attended by 1,319 persons with and without disabilities. These meetings encouraged citizens to participate and be aware of the importance of their vote.

231. The National Council for Persons with Disabilities presented the Project on Citizen Participation of Persons with Disabilities, which it and five organizations belonging to the Citizen Participation Forum promoted during the 2011 electoral process. The project presented includes three basic lines of action: coordination with the Supreme Electoral Tribunal, advocacy to persuade political parties to include disability issues in their agendas, and training on the subject for election boards throughout the country.

232. The Supreme Electoral Tribunal, in cooperation with the International Foundation for Electoral Systems, disseminated information for persons with disabilities. To educate new citizens, they worked with the Committee for the Blind and Deaf to organize children's elections.

**Article 30****Participation in cultural life, recreation, leisure and sport**

233. The State has taken measures to recognize and promote the right of persons with disabilities to participate on an equal footing with others, through the Assistance to Persons

with Disabilities Act and the National Disability Policy. Participation in cultural life, recreation, leisure and sports are specific objectives of both measures.

234. These measures also call for the provision of physical spaces in general and in particular, in areas where cultural, sport or recreational activities are held; such spaces must be accessible to persons with disabilities. Likewise, public and private institutions that carry out such activities must provide the necessary technical means to ensure that everyone can enjoy them and participate with the accessible means provided.

235. Access to recreation and non-organized sports. The National Council for Persons with Disabilities works in coordination with the Ministry of Culture and Sports on compliance with the National Sports Act to guarantee that all persons with disabilities are able to practice non-organized sports, physical activities and recreation, by helping to facilitate access to facilities and offering advice and technical, professional, logistical and economic support. Recreational programmes organized by the private sector must also allow for the inclusion of persons with disabilities. These actions have received the support of the Paralympic Committee and the Special Olympics; support is also provided by Organización Artes Muy Especiales (Very Special Arts Organization), which promotes cultural activities among the population with disabilities.

236. The National Council for Persons with Disabilities will encourage public and private schools that train physical education teachers and faculties of physical education in universities throughout the country to include in their curricula subjects in the area of physical education, sports and recreation for persons with disabilities.

237. The National Council for Persons with Disabilities is working to persuade the Autonomous Sports Confederation of Guatemala to include within its structure the National Sports Federation for Athletes with Disabilities and to assign a physical location for its use. The executive committees of sports clubs that own facilities are being asked to allow those facilities to be used for activities planned and scheduled in agreement with the federation of sports for athletes with disabilities. According to the rules, sports clubs must provide technical assistance in specific sports in order to improve technical and organizational performance in sports for athletes with disabilities.

238. Pursuant to article 1 of Ministerial Order 883-2009, the Directorate-General of Sports and Recreation of the Office of the Vice-Minister of Sports and Recreation of the Ministry of Culture and Sports<sup>37</sup> set up a special capacities programme in the 22 departments of the Republic. The aim of this programme is to promote physical and cultural activities, recreation and sports as a means for achieving social integration, rehabilitation and equality of conditions among groups that need special attention.

### **Article 31** **Statistics and data collection**

239. The National Institute of Statistics generates official information and conducts a national population census every ten years, in order to obtain official data on the situation of the country. In 2005, it carried out the National Survey on Disabilities that made it possible to obtain data on persons with disabilities and their location throughout the country. The Survey also provided information on the situation of persons with disabilities and the classification of their disabilities.

240. In order to obtain local data on the situation with regard to disabilities, the National Council for Persons with Disabilities, with the support of Plan International, conducted a departmental survey on disabilities, especially among children, in the departments of Baja

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<sup>37</sup> Report of the Directorate-General of Sports and Recreation, May 2005.

Verapaz<sup>38</sup> and Jalapa. Work has begun on the departmental survey in Izabal, also with the aim of identifying disabilities, especially among children, and obtaining statistical data at the local level.<sup>39</sup>

## **Article 32**

### **International cooperation**

241. The Ministry of Education created the Directorate for International Cooperation to serve as liaison with international organizations. The Directorate-General of Special Education, in coordination with the Directorate for International Cooperation, has worked on setting up projects that will benefit the population with special educational needs, with and without disabilities. The following projects are currently underway:

242. A project on best practices for educational inclusion was implemented in 2011. The project was aimed at encouraging inclusion of students with disabilities in the regular educational system, in both the public and the private sectors nationwide. The project has a budget of 171,141.29 quetzals (US\$ 22,000) provided by the MAPFRE Foundation of Spain, in coordination with the Organization of Ibero-American States (OEI).

243. During the second half of 2011, the United Nations Educational, Scientific and Cultural Organization (UNESCO) supported implementation of project 565720001GUA, System of information on the population with special educational needs, with or without disabilities. The information will be gathered throughout the country. The project has a budget of US\$ 26,000.

244. The Mi Escuela Progresiva (My School Progresses) project, IDB 2018/OC-GU, Subprogramme on Quality of education, was designed for multigrade schools in the 45 priority municipalities of the country. The project involves adapting support materials for teachers in multigrade schools, including kits on inclusion and training on how to use the materials (2011–2012), to help the population with special educational needs. A budget of 2,099,979.44 quetzals (US\$ 270,000) was allocated for this project.

245. The Intergovernmental Ibero-American Cooperation Network for the Education of Persons with Special Educational Needs (RIINEE) was established in 2004. Its guiding principles are the protection of human rights and of democratic values for harmonious coexistence, recognition of the diversity of human beings and respect for their differences, equality of educational opportunities for everyone, mutual aid, cooperation and exchange of experiences among countries in the area of education for persons with special educational needs.

246. The Ministry of Education is represented in RIINEE by the Directorate-General of Special Education. The Network receives financing from the Ministry of Education of Spain and the Regional Bureau for Education in Latin America and the Caribbean of UNESCO (OREALC/UNESCO). This cooperation made it possible to establish a documentation centre specializing in educational inclusion, to carry out workshops with directors of special education in several countries of Ibero-America and the Caribbean, and to set up internships on teacher training in Colombia and Nicaragua in 2010.

247. Another example of cooperation is the methodological proposal of the Regional Education Information System on Students with Disabilities (SIRIED). The SIRIED tools were validated in public schools throughout the country by the Association for Technical Training in Education and Disabilities. Technical personnel from the Directorate of

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<sup>38</sup> *Re-Habil* magazine, number 1, year 3, 2008.

<sup>39</sup> *Memoria Annual de Actividades 2011. Acción Conjunta para una participación plena*. National Council for Persons with Disabilities.

Planning and the Directorate-General of Special Education participated in the process of constructing tools before and after the validation exercise, along with technical staff from other countries, given that the system is regional in scope.

248. With support from the Inter-American Council for Integral Development of the Organization of American States (OAS) and in coordination with the Secretariat of Public Education of Mexico, the Ministry of Education of Guatemala participated in the project on Strengthening of education and training for life and work for young people with disabilities in their transition to productive employment. Teachers from the special education schools of Guatemala participated in the project. A situation analysis was conducted during the period between 2008 and 2010, and a report was produced. The report, entitled “Estrategias Didácticas para Jóvenes con Discapacidad Intelectual en el Campo Laboral” (Teaching Strategies for Young People with Intellectual Disabilities in the Job Market) was distributed in 45 public special education schools.

249. With support from the USAID Education Standards and Research Program, the first set of guidelines for working with children with special educational needs was developed as a teaching resource. The handbook was distributed to 3,000 regular teachers at all levels in 2009.

250. The Guatemala office of the Japanese International Cooperation Agency (JICA) has contributed volunteers in different areas of work in the special education schools of Cobán and San Cristóbal Verapaz, in Alta Verapaz. These programmes are coordinated with the Secretariat of Planning and Programming.

251. The Institute for Development and Innovation in Education of the Organization of Ibero-American States, based in Panama, has coordinated with the Ministry of Education to exchange documentary information, both directly and virtually. Teachers and special education teams have participated in this programme since 2009.

252. The Swedish International Development Agency (Sida) and the Danish International Development Agency (DANIDA) have provided funding for the National Plan for Training and Labour Insertion of Persons with Disabilities, Reference GMS-1535, which was signed on 21 December 2009. The contribution, amounting to 460,000 quetzals (US\$ 60,000), covers education and training for employment and self-employment of persons with disabilities. The aim of the project is to promote their inclusion in production activities and their participation as agents of development for a better quality of life, through inter-agency coordination.

### **Article 33**

#### **National implementation and monitoring**

253. The Presidential Commission for Coordinating Executive Policy in the Field of Human Rights has implemented a system for monitoring the recommendations of United Nations treaty bodies. Guatemala has not yet received any recommendations from the Committee on the Rights of Persons with Disabilities; however, of the 985 recommendations made to the State of Guatemala, eight, or 81 per cent of the total, refer to the issue of disability. Seven of those recommendations were made by the Committee on the Rights of the Child, and one by the Committee on Economic, Social and Cultural Rights.<sup>40</sup>

254. The Committee on Economic, Social and Cultural Rights made the following recommendation: “The Committee urges the State party to address the condition of persons

<sup>40</sup> Office of the High Commissioner for Human Rights. Seguimiento a las recomendaciones de los órganos de tratados a Guatemala. Guatemala, May 2008–2011.

with disabilities by formulating adequate implementation measures in this area. It also recommends that the State party provide in its next periodic report detailed information on measures taken and the results obtained” (E/C.12/1/Add.93, para. 36).

255. Guatemala recognizes the validity of the principles, rules and practices, both national and international, that guide nations in their efforts to maintain peace and other values that are fundamental for peaceful coexistence and full respect for human rights.

256. The following steps have been taken to feed the database of the monitoring system: matching the recommendation being implemented with the action reported for each institution, incorporating the actions of each institution, assigning the specific institution to be responsible for compliance, level of compliance weighted by the institution concerned, either partially or totally implemented. The Presidential Human Rights Commission has reorganized the Research and Reporting Department, which now has the rank of Directorate and is in charge of the monitoring system. The monitoring system has been reinforced with qualified personnel, physical equipment and software especially designed for this type of database. This Directorate has a staff of five analysts who are responsible for entering and updating data and preparing reports on the status of compliance with the recommendations. The monitoring system is described on the website of the Presidential Human Rights Commission ([www.copredek.gob.gt](http://www.copredek.gob.gt)).

257. The Congress of the Republic allocated a budget of 5 million quetzals for implementation of the National Disability Policy and 5 million quetzals for the work of the National Council for Persons with Disabilities. This will make it possible to monitor implementation of the recommendations related to the Convention on the Rights of Persons with Disabilities.

258. To allow for direct communication with the bodies charged with ensuring compliance with each one of the recommendations made to the State of Guatemala, the Presidential Human Rights Commission set up an inter-agency forum on follow-up to the recommendations of treaty bodies to the State of Guatemala. The aim of the Inter-Agency Forum is to strengthen the national monitoring system through direct and relevant action. The Forum meets every two months, as stipulated in its Plan of Operations; the meetings are presided over by the Presidential Human Rights Commission. The Forum’s work plan calls for setting up thematic groups to ensure that full attention is paid to every issue, such as disability, security and justice, women, children and indigenous peoples.

## **V. General conclusions**

259. The State of Guatemala recognizes persons with disabilities as holders of rights; through its institutions, it works for the construction of an inclusive society that is more compassionate and more respectful of persons with disabilities. Although its progress in this area seems incipient, for a developing country, its achievements are significant and offer incentives for the promotion and protection of the rights of persons with disabilities.

260. In general terms, the State of Guatemala believes that advances have been made, although not enough to meet all the needs and demands of persons with disabilities. The process of change has begun with the goal of: (a) improving living conditions for persons with disabilities, guaranteeing the full enjoyment of their human rights; (b) reducing the causes of disability in Guatemala; (c) implementing strategies for inclusion and development in the context of the Convention.

261. Advances have been made in regard to legislation, given that the country now has a legal framework for addressing the issues of persons with disabilities and protecting them in every sphere.

262. The greatest advances to date have been made in the areas of education, health and rehabilitation.

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