



# Country fact sheet for the CRC

## COUNTRY: GUATEMALA

REPORT N°	<ul style="list-style-type: none"> <li>▪ Fifth and Sixth Periodic Report (UNCRC)</li> </ul>
PRE-SESSION/SESSION	<ul style="list-style-type: none"> <li>▪ Pre-sessional: 77<sup>th</sup> (June 2017)</li> <li>▪ Sessional: 77<sup>th</sup> (January-February 2018)</li> </ul>
LAWS (THC-1993, GUIDELINES, DOMESTIC LAWS)	<ul style="list-style-type: none"> <li>▪ UNCRC: 1990</li> <li>▪ OPCRC on the sale of children: 2002</li> <li>▪ 1993 Hague Convention on Intercountry Adoption: 2002</li> <li>▪ Ley de Protección Integral de la Niñez y Adolescencia, Decreto No. 27-2003</li> <li>▪ Ley de Adopciones, Decreto No. 77-2007</li> <li>▪ Reglamento de la Ley de Adopciones, Acuerdo Gubernativo No. 182-2010</li> </ul>
GENERAL SITUATION OF CHILDREN DEPRIVED OF THEIR FAMILY	<ul style="list-style-type: none"> <li>▪ The country remains marked by high levels of poverty, violence and impunity. An International Commission Against Impunity in Guatemala (Comisión Internacional Contra la Impunidad en Guatemala, CICIG), which is an <i>ad hoc</i> United Nations body aimed at combating the latter, was established in 2006-2007.</li> <li>▪ <b>Abandonment and family separation:</b> Economic and social exclusion has affected a considerable part of the population, in particular in rural and indigenous areas; thus, poverty has become one of the numerous factors that have affected family and community structures across the country. Indeed, according to UNICEF, in 2014, 59.3% of the Guatemalan population was living under the poverty line, and 23.4% lived in extreme poverty. Domestic violence as well as migration by one or both parents have also become causes of potential family separation; thus, these must be addressed by prevention programmes.</li> <li>▪ <b>Legal and institutional structure:</b> The child and adolescent protection system has faced many challenges, in particular in a country in which adoption started as a humanitarian act in a context of conflict, and became its second source of income through bad practices and irregularities until 2007. The Law on the Comprehensive Protection of Children and Adolescents (Decree 27-2003) establishes the framework for the creation and strengthening of the protection system in the country and its article 18 recognises the right to live in a family. There is currently a move to reform this child protection legislation in order to establish true integrated and special child protection systems.</li> <li>▪ <b>Programmes for the prevention of family separation:</b> The National Adoption Council has a programme for mothers in conflict with their motherhood. Its objective is to prevent abandonment and provide support and guidance in order for a family to be able to care for its child, by addressing a variety of situations of crisis and difficulties, prior to or after the child's birth. It offers immediate care, depending on the circumstances, the level of risk for the child and his family, as well as periodic support and follow-up. In 2015, the National Adoption Council expanded this service by concluding partnerships with other organisations, thereby reaching a wider number of families and offering referrals to partner organisations. Thanks to the latter, in 2015, 140 biological mothers and/or fathers were provided support, of which 41% decided to keep and care for the child. Unfortunately, other</li> </ul>

	<p>potential sources of support remain very limited.</p> <p>Sources: UNICEF Guatemala, <a href="https://www.unicef.org/guatemala/spanish/">https://www.unicef.org/guatemala/spanish/</a>; Comisión Internacional Contra la Impunidad en Guatemala, <a href="http://www.cicig.org">http://www.cicig.org</a>; Consejo Nacional de Adopciones, <a href="http://www.cna.gob.gt">http://www.cna.gob.gt</a>; Secretaría de Bienestar Social de la Presidencia, <a href="http://www.sbs.gob.gt/?page_id=454">http://www.sbs.gob.gt/?page_id=454</a>; Consejo Nacional de Adopciones, Memoria de Labores 2015, <a href="http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf">http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf</a>.</p>
<p>ALTERNATIVE CARE OPTIONS</p>	<ul style="list-style-type: none"> <li>▪ <b>Residential care:</b> Residential care remains the main care option in cases of family separation. There are currently only three public children’s homes under the responsibility of the Social Welfare Secretariat (SBS), and a high number of private homes. The National Adoptions Council is competent to authorise and supervise these homes. In 2014, there were 131 children’s homes operating in the country, and 3,878 children placed in them.</li> <li>▪ In the years since the establishment of the latter, Minimum Quality Standards have been developed for protection homes and shelters, and were published on 25 August 2010 in the Diario de Centro América, via Internal Agreement N° CNA-CD-008-2010. It is worth mentioning that some private homes have closed since the entry into force of the Adoption Law, due to the suspension of intercountry adoptions; this has resulted in increased pressure on public homes.</li> <li>▪ It is worth highlighting the tragic events that occurred in the public home Hogar Seguro Virgen de la Asunción in March 2017. Indeed, despite reiterated expressions of concern as to the safety, wellbeing and protection of the children placed in the latter, this home continued operating. On 8 March, a fire started in a limited space, in which a high number of girls were locked up, and 41 of them died in this tragic event. This situation reflects the questionable quality of the care offered in this large public institution and the need to ensure that minimum standards of care are complied with in public and private homes in the country.</li> <li>▪ <b>Foster care:</b> Whilst limited foster care programmes had been operating in the country for some decades, including the term ‘<i>cuidadora</i>’ as a transitional form of care during the strongest years of intercountry adoption, it is only recently, in particular in the aftermath of the above-mentioned tragic event, that foster care is gaining visibility. Indeed, given the urgent need to develop family-based alternative care, the Latin-American Foster Care Network (RELAF) is currently supporting governmental and non-governmental entities in the country to establish a solid foster care programme for children.</li> </ul> <p>Sources: Consejo Nacional de Adopciones, Memoria de Labores 2014, <a href="http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2014.pdf">http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2014.pdf</a>, and Memoria de Labores 2015, <a href="http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf">http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf</a>; Secretaría de Bienestar Social de la Presidencia, <a href="http://www.sbs.gob.gt/?page_id=456">http://www.sbs.gob.gt/?page_id=456</a>; UNICEF, ‘UNICEF lamenta tragedia en Hogar Seguro de Guatemala, hace un llamado para acabar con la institucionalización de niños en la región’, <a href="https://www.unicef.org/spanish/media/media_95070.html">https://www.unicef.org/spanish/media/media_95070.html</a>; Red Latinoamericana de Acogimiento Familiar, Facebook.</p>
<p>ADOPTION</p>	<ul style="list-style-type: none"> <li>▪ Historically, domestic adoption levels have been particularly low in Guatemala, given that intercountry adoptions managed to attract high amounts to the country; thus, there was no interest in promoting domestic adoption, nor did the financial requirements enable the majority of the Guatemalan population to consider adoption. However, there were many <i>de facto</i> adoptions, i.e. registering the child as one’s biological son or daughter or caring for the child without ever making the situation official.</li> <li>▪ Since the new adoption-related legislation and the suspension of intercountry adoptions since 2007, measures have been taken to actively promote domestic adoption – which is now free-of-charge and may only be undertaken via the National Adoptions Council. For example, in 2015, 119 domestic adoption procedures were finalised, and 158 prospective families were assessed and considered suitable. In addition, partnerships were established with local organisations, aimed at promoting domestic adoption and offering support pre- and post-adoption to nationals adopting within the country.</li> <li>▪ The National Adoptions Council has also created a campaign and special programme aimed</li> </ul>

	<p>at the adoption of children of particular profiles (health issues, groups of siblings and older children), called <i>Creeré</i>. 36 of these children were adopted in 2015.</p> <ul style="list-style-type: none"> <li>▪ The suspension of intercountry adoption, decided in 2007, remains in force. It remains important to further strengthen the general child protection system, including the adoption system, in order to remedy the consequences of the complex period of intercountry adoptions in Guatemala, as recently reflected in the case of the Ramirez Brothers before the Inter-American Human Rights Court (final decision pending).</li> </ul> <p>Sources: Consejo Nacional de Adopciones, Memoria de Labores 2015, <a href="http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf">http://www.cna.gob.gt/Documentos/MemoriaLabores/ML2015.pdf</a>; Consejo Nacional de Adopciones, Creeré, <a href="http://www.cna.gob.gt/Creere.html">http://www.cna.gob.gt/Creere.html</a>; Inter-American Court of Human Rights, <a href="http://www.corteidh.or.cr/docs/comunicados/cp_22_17.pdf">http://www.corteidh.or.cr/docs/comunicados/cp_22_17.pdf</a> (p. 4); Inter-American Commission Human Rights, Report No. 72/15, Case 12.896, Report on Merits, Ramírez Brothers and Family v Guatemala, <a href="http://www.oas.org/en/iachr/decisions/court/2016/12896FondoEn.pdf">http://www.oas.org/en/iachr/decisions/court/2016/12896FondoEn.pdf</a>.</p>
<b>STATISTICS</b>	See above.
<b>RISKS</b>	<ul style="list-style-type: none"> <li>▪ There is a need to further strengthen prevention mechanisms aimed at strengthening families, in particular in the context of the socio-economic difficulties, violence and migration affecting Guatemala's society and families.</li> <li>▪ There is also a need to ensure the true development of family-based alternative care, such as foster care, whilst working on improving the quality of care in residential care, whether in public or in private homes.</li> <li>▪ Domestic adoption must be further promoted and supported, including for children with particular needs</li> </ul>
<b>POTENTIAL QUESTIONS</b>	<ul style="list-style-type: none"> <li>▪ What is the legal reform of the existing child protection-related laws intending?</li> <li>▪ What is being undertaken to ensure that the child protection authorities (Secretaría de Bienestar Social, Consejo Nacional de Adopciones, and others) can fully comply with their functions and responsibilities?</li> <li>▪ What is the progress made in the development of the newly-established foster care programme?</li> <li>▪ What is being undertaking to further promote domestic adoption?</li> <li>▪ What are the country's plans in relation to intercountry adoption? Are there plans to terminate its suspension?</li> </ul>