

Universal Periodic Review (42nd session)

Contribution of UNESCO

Guatemala

I. Background and framework

<i>Title</i>	<i>Date of ratification, accession, acceptance, or succession</i>	<i>Declarations /Reservations</i>	<i>Recognition of specific competences of treaty bodies</i>	<i>Reference to the rights within UNESCO's fields of competence</i>
Convention against Discrimination in Education 1960	Ratified on 04/02/1983	Reservation to this Convention shall not be permitted		Right to education
Convention concerning the Protection of the World Cultural and Natural Heritage (1972)	Ratification on 16 January 1979 Committee Member (2017-2021)			Right to take part in cultural life
Convention for the Safeguarding of the Intangible Cultural Heritage (2003)	Ratification on 25 October 2006 Committee Member (2016-2020)			Right to take part in cultural life
Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005)	Ratification on 25 October 2006 (2007-2009)			Right to take part in cultural life

II. Promotion and protection of human rights on the ground

A. Education

1. The **Constitution of Guatemala of 1985**¹ provides in its article 74 that “The inhabitants have the right and the obligation to receive initial, pre-primary, primary and basic education, within the age limits established by the law. The education provided by the State is free”. These levels of education correspond to nine years of compulsory education.
2. The **Law on National Education of 1991**² provides in its article 1 that “Education in Guatemala is based on the following principles: 1. It is an inherent right to the human person and an obligation for the state.”

B. Freedom of opinion and expression

Constitutional and Legislative Framework:

3. Freedom of expression is protected under article 35 of the Guatemalan Constitution³, which provides that “The expression of thought through any means of dissemination, without censorship or prior permission, is free”. The same Article guarantees freedom of information by stating that “access to the sources of information is free and no authority may limit this right.” Defamation is a criminal offense under Articles 159 to 166 of the Guatemalan Penal Code⁴ with a sanction ranging from two to five years of imprisonment.
4. In 2009, the Law for Free Access to Public Information⁵ (Decree 57 -2008) was adopted under the name “Ley de Acceso a la Informacion Publica”.⁶
5. Community broadcasters’ right to use radio frequencies is not explicitly guaranteed in Guatemalan law. Further, the Radio Communications Law⁷ (*Ley de Radio Comunicaciones*, 1980) prohibits in its article 41 transmissions “offensive to civic values and the national symbols” and programs “contrary to morals and good etiquette”. Further, it also forbids “news, messages, or propaganda of any kind, contrary to state security or public order”. There are concerns that the undefined and

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<http://www.unesco.org/education/edurights/media/docs/50fd280de558fb8c89dba02c4a4723c79fcbfe1a.pdf>

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<http://www.unesco.org/education/edurights/media/docs/fa7e1d1c41b2fc587381d74b2603cf470dd25983.pdf>

³ https://www.constituteproject.org/constitution/Guatemala_1993.pdf?lang=en

⁴ http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/GTM_codigo_penal.pdf

⁵ [1. Ley de Acceso a la Información Pública \(minfin.gob.gt\)](http://www.minfin.gob.gt/1. Ley de Acceso a la Información Pública (minfin.gob.gt))

⁶ Idem

⁷ [https://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeRadio1996\).pdf](https://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeRadio1996).pdf)

overly broad terminology included in these provisions may restrict the exercise of freedom of expression of radio broadcasters in ways that are incompatible with international human rights law.

6. The Community Media law initiative (Initiative 4087 de *Ley de Medios de Comunicación Comunitaria*⁸). was first proposed in 2009 to facilitate the development of community radio in a very linguistically diverse context such as the one of Guatemala. It was heard by the Plenary in August 2009, with a favorable ruling issued on 14 January 2010 by the Commission of Indigenous Peoples. However, the law was then shelved by Congress, which led the Constitutional Court of Guatemala to issue a judgment on 14 March 2012: « It is requested that the Congress of the Republic, and as considered in the present ruling, issue the appropriate legislation regulating the possibility and access of indigenous peoples to the production and use of transmission bands of the radio spectrum, in order to promote the defense, development and dissemination of their languages, traditions, spirituality and all other cultural expressions⁹.» Despite the ruling by the Constitutional Court, this law was never reconsidered by Congress.
7. There are several community radio stations operated by indigenous peoples that are not licensed by the State, therefore potentially run the risk of being penally accused¹⁰ for not having the right of using the radial spectrum.

Implementation of the law:

8. The *Superintendencia de Telecomunicaciones*¹¹ (SIT) is the technical body of the Ministry of Communications, Infrastructure and Housing managing and monitoring the operations of the radio spectrum as well as applying the sanctions provided in the General Telecommunications Law. The Human Rights Ombudsman Office is the independent governmental institution that is in charge of monitoring the application of the provisions regarding access to information. The Office comprises a specialized Unit managing the application of this law and a specialized Unit for the safety of

⁸ https://www.congreso.gob.gt/detalle_pdf/iniciativas/2848

⁹ <http://138.94.255.164/Sentencias/819600.4238-2011.pdf>

¹⁰ [https://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeDTelecomunicaciones\(1996\).pdf](https://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeDTelecomunicaciones(1996).pdf)

¹¹ [http://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeDTelecomunicaciones\(1996\).pdf](http://www.palermo.edu/cele/pdf/Regulaciones/GuatemalaLeDTelecomunicaciones(1996).pdf)

journalists.¹²

Safety of journalists:

9. As at 16 May 2022, UNESCO has reported the killings of 23 journalists in Guatemala since systematic monitoring began in 2006.¹³ Out of these, 15 remain unresolved or no information has been received about the status of the judicial inquiries.

III. Review and specific recommendations

A. Education

Legislative, regulatory and policy framework:

- The Ministerial Agreement No. 3849-2017 designates the Departmental Directorates of Education of the Republic of Guatemala, to carry out the actions and issue the resolution for the equalization of studies carried out abroad to interested parties who request it.¹⁴ Strategy for the expansion of coverage in pre-primary and primary 2017-2020¹⁵ was adopted which establishes certain parameters for interpreting Education Coverage rates and makes an assessment of the Guatemalan educational landscape, determining goals, resources and agencies for the coming years.
- Public Policy and Plan of Action for the Comprehensive Protection of Children and Adolescents (2017-2032¹⁶) was adopted. With this Policy, it is hoped that by the year 2032, children and adolescents will live better lives, provided with institutions that have budgets for the implementation of comprehensive protection policies that achieve the full enjoyment of their rights and freedoms.
- The “Ministerial Resolution 2815 of September 2019 created the resource centres for inclusive education. The resource centres are an educational service that promotes inclusive education in the national education system. They provide teacher training,

¹² <https://www.pdh.org.gt/defensorias/defensoria-de-las-personas-defensoras-de-derechos-humanos-y-periodistas.html>

¹³ <https://en.unesco.org/themes/safety-journalists/observatory/country/223718>

¹⁴ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

¹⁵ <https://siteal.iiep.unesco.org/bdnp/2529/estrategia-ampliacion-cobertura-preprimaria-primaria-2017-2020>

¹⁶ https://siteal.iiep.unesco.org/sites/default/files/sit_accion_files/gt_6168.pdf

support SEN students with or without disabilities and liaise with parents.”¹⁷

- The Ministerial Agreement No. 1753-2019 was adopted for the regulation on the equalization and equivalence of studies at the pre-primary, primary and secondary education levels and in the school and out-of-school education subsystems.¹⁸

Non-discrimination

- In 2019, according to the national report 10th consultation on the Convention against Discrimination in Education, an inter-institutional coordination was established between the Presidential Commission against Discrimination and Racism and the Ministry of Education, through the Technical Committee "Preventing through Education".¹⁹ It is made up of representatives of the General Directorate of Intercultural Bilingual Education (*Dirección General de Educación Bilingüe Intercultural* - DIGEBI) and the General Directorate of Educational Quality Management (*Dirección General de Gestión de Calidad Educativa* - DIGECADE), and aims to implement the Law for the Promotion of Education against Discrimination in official primary schools nationwide.

Compulsory education and minimum age of employment

- While the previous UPR Recommendation N°111.96 recommended to implement compulsory primary education and noting that the Constitution provides for 9 years of compulsory primary and secondary education, out-of-school rates of primary and lower-secondary students remain high (18.57% in 2020).²⁰
- The high dropout rates could be caused by the low minimum age of employment which according to the article 31 of the Labour Code of 1947²¹ and article 66 of the Law of integral protection of childhood and adolescence of 2003²² is set at fourteen years old. The ILO Minimum age Convention of 1973 requires states to ensure that the minimum age of labour is set at 15 (except for specific circumstances), to ensure

¹⁷ <https://education-profiles.org/latin-america-and-the-caribbean/guatemala/~inclusion>

¹⁸ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

¹⁹ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

²⁰ <http://data.uis.unesco.org/>

²¹ <http://biblioteca.oj.gob.gt/digitales/36036.pdf>

²² http://www.oas.org/dil/esp/Ley_de_Proteccion_Integral_de_la_Ninez_y_Adolescencia_Guatemala.pdf

compulsory schooling.

Quality education

- In implementing the previous UPR Recommendations N°111.94 and N°111.96, the Strategic actions in education in the Government Plan 2020-2024²³ aim to introduce improvements in the quality of public education through the provision of trained teachers, revision of the National Base Curriculum (CNB), the provision of pedagogical resources, and the development of a national curriculum.²⁴
- To ensure a safe and conducive environment, corporal punishment should be explicitly proscribed in education settings in the law.

Comprehensive sexuality education

- In addressing the previous UPR Recommendations N°111.13, in 2017, 290 primary school children from several communities in the departments of Izabal and La Esperanza and of Alta Verapaz attended to training on the topics of Comprehensive Sexuality Education. In 2018, a total of 779 girls and adolescents in primary and basic education cycle attended this training and in 2019, 216 girls in primary education attended.²⁵

Intercultural education

- As also recommended in the previous UPR Recommendation N°111.13, regarding education of indigenous communities it is relevant to refer to the Programme "Committed to First Grade". In 2019, the book "My first readings for first grade in the following languages (*Mis primeras lecturas para primer grado de primaria en los idiomas*): mam, q'eqchi', k'iche' y kaqchikel" was translated and contextualised and published.²⁶ During the same year, dialogues with 4 educational communities,

²³ <https://www.minex.gob.gt/Uploads/Pol%C3%ADticaGeneralGobierno2020-2024.pdf>

²⁴ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

²⁵ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

²⁶ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

including teachers, social, indigenous and community organisations, for the development of the Intercultural Bilingual Education was conducted and 350 teachers of the basic cycle were trained in linguistic, communicative, cultural, sociolinguistic and pedagogical competences in 7 Mayan languages: Q'eqchi', Mam, Kaqchikel, K'iche', Poqomchi', Q'anjob'al and Tz'utujil.

Vulnerable groups

- As recommended by the previous UPR Recommendation N°111.97, Guatemala offers several scholarships to enhance access in education: in 2017, the approved budget for scholarships was USD 12.4 million (GTQ 94 million) – 0.55 per cent of public spending on education. The scholarships aimed at vulnerable populations are as follows:²⁷
 - Study scholarships²⁸: aimed at low-income students in the public and cooperative sectors. Each student is provided with an annual allowance of USD 118 (GTQ 900). In 2017, 31,264 study scholarships were awarded to secondary school students.
 - Scholarships for students with disabilities²⁹: an annual scholarship of USD 130 (GTQ 1,000) for students with disabilities in official nurseries, primary schools and secondary schools is offered. In 2017, 4,478 students received this scholarship.
 - Social scholarship programme³⁰: scholarships and conditional cash transfers to people living in poverty and extreme poverty. For secondary education, a secondary education social scholarship supports adolescents and youth aged 11–24 years in public or private schools was endorsed by the Ministry of Education. In 2017, 5,700 secondary education scholarships were awarded and the budget allocated for that year was USD 1.9 million (GTQ 14.9 million) – 0.08 per cent of public spending on education. The higher education social scholarship supports young people aged 16–28 years with an allocation of USD 328 (GTQ 2,500). In 2017, 500 scholarships were awarded and the approved budget was USD 287,704 (GTQ 2.2 million) – 0.01 per cent of public spending on education.

²⁷ <https://education-profiles.org/latin-america-and-the-caribbean/guatemala/~financing-for-equity>

²⁸ http://www.mineduc.gob.gt/PORTAL/documents/memoriaLabores/Memoria_de_Labores_2017.pdf

²⁹ http://www.mineduc.gob.gt/PORTAL/documents/memoriaLabores/Memoria_de_Labores_2017.pdf

³⁰ <http://www.mides.gob.gt/webtwo/programas-sociales/becas/>

COVID-19 and digital education

- UNESCO's [Initiative on the Evolving Right to Education](#) reveals the needs for digital inclusion. In this regard, the Curriculum of the National Programme of Alternative Education -PRONEA-, Ministerial Agreement No. 3387-2019, dated 20 November 2019 establishes the curriculum for the face-to-face and blended learning modalities of PRONEA.³¹ In 2020, the government established the I learn at home and in class program³² which is a virtual learning platform developed by the Ministry of Education in collaboration with UNICEF and the Embassy of Canada. It allows students, teachers and parents to access various digital resources from home and thus continue learning.
- Specifically, for the COVID-19 pandemic, Guidelines for the care of extracurricular education programs,³³ as part of the Ministerial Agreement 841-2020, COVID-19 Response Plan were adopted to ensure the continuity of learning.

Specific recommendations:

10. Guatemala should be encouraged to:

- Strengthen efforts to ensure the full implementation of compulsory education by combatting school dropout.
- Consider raising the minimum age of employment to 15 years of age and ensure its alignment with the end of compulsory education.
- Prohibit corporal punishment in education settings in the law.
- Continue to enhance the digital inclusion of learners while ensuring their protection and privacy.
- Continue to submit regularly comprehensive national reports for the periodic consultations on UNESCO's education-related standard-setting instruments, and notably on the Convention against Discrimination in Education.

³¹ http://www.unesco.org/education/edurights/media/resources/file/GUATEMALA-10th_consultation_report.pdf

³² <https://aprendoencasayenclase.mineduc.gob.gt/>

³³ <https://planipolis.iiep.unesco.org/en/2020/orientaciones-para-la-atenci%C3%B3n-de-los-programas-de-educaci%C3%B3n-extraescolar-acuerdo-ministerial>

- Share with UNESCO any relevant information to update its country profile on online monitoring tools: UNESCO's Observatory on the Right to Education³⁴ and HerAtlas: Monitoring the right to education for girls and women.³⁵

B. Freedom of opinion and expression

11. Guatemala is recommended to decriminalize defamation and place it within a civil code in accordance with international standards.³⁶
12. The Government is urged to continue to investigate the cases of killed journalists, and to voluntarily report on the status of judicial follow-up to UNESCO. The Government may wish to consider taking advantage of the UN Plan of Action on the Safety of Journalists and the Issue of Impunity as a means to strengthen protection of journalists and freedom of expression.
13. Guatemala is recommended to create an independent mechanism for the protection of journalists and social communicators, taking into account the specific gender-based violence against women journalists and other persons in situation of vulnerability such as indigenous and community journalists.
14. Guatemala is recommended to implement the legislation concerning access to radio frequencies, which would promote, develop and diffuse the languages of indigenous populations, and to reform the law on radio communication in order to guarantee the proper and free functioning of local radios with access to spectrum.

C. Cultural Rights

15. As a State Party to the Convention concerning the Protection of the World Cultural and Natural Heritage (1972), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005), Guatemala is encouraged to fully implement the relevant provisions that promote access to and participation in cultural heritage and creative expressions and, as such, are conducive to implementing the right to

³⁴ <http://www.unesco.org/education/edurights/index.php?action=countries&lng=en>

³⁵ <https://en.unesco.org/education/girls-women-rights>

³⁶ See for example, General Comments No 34. of the International Covenant on Civil and Political Rights (ICCPR), 2006 Recommendation of the 87th Session Human Rights Committee, the recommendations of the UN Special Rapporteurs on the Right to Freedom of Opinion and Expression, and Resolution 1577 (2007) of the Parliamentary Assembly of the Council of Europe

take part in cultural life as defined in article 27 of the Universal Declaration of Human Rights and article 15 of the International Covenant on Economic, Social and Cultural Rights. In doing so, Guatemala is encouraged to give due consideration to the participation of communities, practitioners, cultural actors and civil society organizations as well as groups in vulnerable situations (i.e. minorities, indigenous peoples, migrants, refugees, young peoples and peoples with disabilities, etc.), and to ensure that equal opportunities are given to women and girls to address gender disparities.

D. Freedom of scientific research and the right to benefit from scientific progress and its applications

16. Guatemala did not submit its National Report on the implementation of *the Recommendation on Science and Scientific Researchers (2017)* for the consultation period from 2017 to 2020. Therefore, Guatemala is encouraged to report to UNESCO on its implementation actions, especially noting legislative or other measures adopted by it with the aim to ensure application of these norms and standards in national law, policy and practice paying a particular attention to the legal provisions and regulatory frameworks which ensure the implementation of human rights of scientific researchers themselves (rights of association, freedom of research, expression and publication, etc.) and human rights obligations related to the practice of science generally: the human rights related to access to and uses of scientific knowledge through education; the sharing of benefits of scientific progress and its applications; the principle of non-discrimination, requiring in this case active promotion of women and girls entering scientific careers; protection for the rights of human subjects of research; and promotion of the science society interface. Furthermore, Guatemala is encouraged to expand input on issues covered by the 2017 Recommendation in its national report to the UPR to allow further discussions thereon at the Human Rights Council and the formulation of specific recommendations. Within this framework, Guatemala is urged to consider expanding the scope of application of freedom of expression to include scientists and scientific researchers and also to address the relevant dimensions of the right to

science in its reporting on the impact of the COVID-19 pandemic and the assessment of responses thereto.