



Analysis of the Guatemalan Education Sector from a Human Rights-Based Perspective

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List of Abbreviations

ASIES	Asociación de Investigación y Estudios Sociales
CEDAW	Convention on the Elimination of All Forms of Discrimination of against Women
CESCR	Committee on Economic, Social and Cultural Rights
CIIDH	Centro Internacional para Investigaciones en Derechos Humanos
COEDUCA	Comité Educativo
CNB	Curriculum Nacional Base
CNEM	Consejo Nacional de Educación Maya
CRC	Convention on the Rights of the Child
DIGEBI	Dirección General de Educación Bilingüe Intercultural
DIGECADE	Dirección General de la Calidad Educativa
EBI	Educación Bilingüe Intercultural
EFA-FTI	Education for All – Fast Track Initiative
ESCR	Economic, Social and Cultural Rights
GER	Gross Enrolment Rates
GTZ	Gesellschaft für Technische Zusammenarbeit
HR	Human Rights
HRBA	Human Rights Based Approach
IBE	Intercultural Bilingual Education
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
ISE	Instituciones de Servicios Educativos
JE	Junta Escolar
KfW	Kreditanstalt für Wiederaufbau
MDGs	Millenium Development Goals
MINEDUC	Ministerio de Educación
MR	Menschenrechte
NER	Net Enrolment Rates
ODHAG	Oficina de Derechos Humanos del Arzobispado de Guatemala
PACE	Programa de Apoyo a la Calidad Educativa
PDH	Procuraduría de los Derechos Humanos
PRONADE	Programa Nacional de Autogestión para el Desarrollo Educativo
Q	Quetzales (Guatemalan Currency)
SBM	School-Based Management
SES	Socio-Economic Status
UDHR	Universal Declaration of Human Rights

1. Introduction

Background and Objective of the Study

In recent years, international organisations and bilateral donors have made increasing efforts to systematically link their development work to human rights.¹ Prominent examples of this strategy are the 2000 UN Millennium Declaration and the 2007 OECD DAC “Action-oriented Policy Paper on Human Rights and Development”.² In line with this trend, the German government in 2004 issued a “Development Policy Action Plan on Human Rights 2004-2007” to serve as a basis for integrating human rights as a cross-cutting issue within German development policy and practise. The Action Plan was recently updated and extended until 2010. The GTZ project “Realising Human Rights in Development Cooperation”, launched in 2005, aims to provide concrete advice to the Federal Ministry for Economic Cooperation and Development and its implementing agencies on how to integrate a human rights-based approach (HRBA) into their work. Guatemala and Kenya have agreed to act as pilot countries for the application of Germany’s new human rights focus.

The objective of the HRBA to development is to ensure that development work explicitly and systematically (1) takes into consideration the standards provided by economic, social, cultural, political and civil rights, and (2) applies and strengthens human rights principles, such as empowerment, participation, non-discrimination, equality, transparency, and accountability. The realization of human rights is at the heart of a HRBA to development. Through the application of a human rights-based perspective, structural and institutionalised causes of power imbalances, discrimination, exclusion and, thus, poverty are identified.³ A stronger and more explicit focus is placed on a society’s marginalized and vulnerable groups, with the objective of strengthening their voice to articulate their rights and demand their fulfilment. At the same time, the approach focuses on strengthening the capacity of government bodies to fulfil human rights, particularly those of the most marginalized, thereby reinforcing governmental efforts to combat poverty and to achieve the internationally agreed Millennium Development Goals (MDGs).

This report is the output of a short-term consultancy which was commissioned by the GTZ project “Realizing Human Rights in Development Cooperation” on behalf of KfW. The consultancy was carried out in Guatemala between November and December 2007 as part of a larger feasibility study which was financed by KfW in preparation of the extension of a rural education programme. The objective of the GTZ consultancy was to analyse the Guatemalan education sector on the basis of the provisions made by human rights standards and principles. Key components of the GTZ consultancy included:

- Identifying and compiling those international, regional and national treaties and laws through which the Guatemalan government has committed itself to realize the human right to education;
- Applying human rights standards, including their core elements as well as human rights principles, as an analytic framework in order to identify the key challenges that Guatemala faces in the education sector;

¹ In fact, the right to development is recognized as an inalienable human right in itself by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized (UN General Assembly, Declaration on the Right to Development, 1986).

² See www.oecd.org/dac/governance/humanrights.

³ See UNESCO Asia and Pacific Regional Bureau for Education, “A Human Rights-Based Approach to Education Programming”, Power Point Presentation, Bangkok.

- Designing recommendations on how to tackle the human rights deficits in the education sector.

In analysing the Guatemalan education sector both the regular school system as well as the *Programa Nacional de Autogestión para el Desarrollo Educativo* (PRONADE) were taken into consideration. PRONADE has received financial support from KfW since 1998 through three consecutive programmes (PRONADE I-III). PRONADE is a school-based management (SBM) programme which aims to enhance access to basic education for rural, marginalized, and indigenous children, strengthening parental participation in school-related decision-making and tasks. Whereas PRONADE I-III have focused on improving access to and quality of primary education, it is expected that the newly proposed programme by KfW will also address improvements at the pre-primary and lower secondary education level. It should be noted that the current Guatemalan government, elected in December 2007, has established that PRONADE schools will be integrated into the regular school system. This means that some of the distinctions between the two systems that are addressed in this report are likely to become obsolete.

Methodology

The GTZ mission consisted of a three week field trip to Guatemala during which interviews were held with representatives of the following institutions:

- The Ministry of Education (Mineduc) at the national, departmental and municipal level;
- Other donor organisations, such as the World Bank, UNESCO and UNICEF;
- The GTZ Guatemala office;
- NGOs working in the education field, especially in support of PRONADE schools;
- The German Embassy;
- NGOs and foundations working on the promotion of human rights.

In addition, focus group interviews were held with the parents, teachers and educational supervisors of two PRONADE Schools in the department of Chiquimula. Excluding the participants of the focus group discussions, approximately 35 persons were interviewed. For a list of interviewees see Annex 2.

About half of the interviews were held in conjunction with the team leader of the KfW feasibility study team. The interviews with human rights organisations were carried out solely by the GTZ consultant. In addition, a large number of interviews were conducted exclusively by the KfW team as their consultancy was of a larger duration (three months) and started about six weeks before being joined by the GTZ consultant.

The interviews touched upon the following issues: challenges as regards access to and quality of education; the implementation of the new national curriculum; intercultural bilingual education (IBE); teacher training; availability and quality of teaching and learning material; the teaching of human rights as a subject in schools; and parental participation in school administration and educational quality.

In addition to the semi-structured and the focus group interviews, a considerable amount of background documents (including updated statistical data) were analysed, also feeding into the findings presented in this report. A full list of these documents is contained in Annex 4.

Key Aspects of a Human Rights-Based Approach to Education

This section provides an introduction to the key aspects of a HRBA to education, namely its core elements and guiding principles. They are rooted in or deduced from human rights standards as contained in international human rights treaties and conventions, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR). It also introduces the notion of rights-holders and duty-bearers. Chapter 2 will discuss the different international and regional treaties to which Guatemala is a signatory.

Core Elements of the Right to Education

The UN Committee on Economic, Social and Cultural Rights (CESCR) has published a series of comments – the so-called General Comments – which establish the core elements of the different ESCR, thereby providing substantive guidance on their fulfilment. General Comment No. 13 on the ICESCR concerns the right to education and establishes that in order to fulfil this right, education has to be available, accessible, acceptable and adaptable. These core elements are also known as the “Four A’s”. They are further explained in Box 1 below.

Box 1: The Four Core Elements of the Right to Education⁴

Core Element	Definition
Availability	Functioning educational institutions and programmes have to be available in sufficient quantity. Depending on country contexts, this entails the availability of school buildings, separate sanitation facilities for both sexes, safe drinking water within a reasonable distance, trained teachers receiving domestically competitive salaries as well as teaching and learning materials and facilities.
Accessibility	Accessibility has three overlapping dimensions: (1) education must be accessible to all without any discrimination, (2) education has to be within safe physical reach, i.e. at a reasonably convenient location or via modern technology (distance learning), and (3) education has to be affordable to all. Whereas primary education shall be free for all, signatories to the ICESCR are required to progressively introduce free secondary and higher education. Free primary education also implies the elimination of secondary, indirect costs, such as those related to school uniforms, transportation, examination fees etc. Economic accessibility may also entail the provision of scholarships to promote access among poor and disadvantaged groups.
Acceptability	Form and substance of education, including curricula and teaching methods have to be relevant, culturally appropriate and of good quality.
Adaptability	Education has to be flexible so that it can adapt to the needs of changing societies and communities and respond to the needs within their diverse social and cultural settings.

Governments are obliged to respect, protect and fulfil each of the “Four A’s”. General Comment No. 13 includes a series of examples which show what these different duties mean in practice: a State must respect the availability of education by not closing private schools, protect the accessibility by ensuring that, for example, parents do not prevent girls going from school, and fulfil the acceptability of education by ensuring that education is culturally relevant for minority groups.

⁴ UN Committee on Economic, Social and Cultural Rights, “General Comment No. 13 – The Right to Education”, 1999. For an additional discussion of the “Four A’s”, see Tomasevski, “Manual on Rights-Based Education – Global Human Rights Requirements Made Simple”, UNESCO Bangkok, 2004.

1.3.2 Human Rights Principles

Human Rights Principles are key guiding principles which aim to shape the processes and outcomes of development interventions. Thus, they are both a means to realizing human rights as well as an end in themselves, with both functions being of equal importance. The principles include non-discrimination and equality, participation and empowerment, and accountability and transparency. Box 2 explains their meaning and relevance in development work.

Box 2: Human Rights Principles and Development Work⁵

Human Rights Principles	Their Meaning in Development Work
<p>Equality as an entitlement addresses the prohibition of discrimination on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, economic position, birth or other status. Non-discrimination is a key element of all human rights.⁶</p>	<p>Equality and non-discrimination translate into a focus on tangible results and positive impacts for vulnerable or marginalized groups, e.g. poor, indigenous populations, or other groups discriminated against due to their status in law and/or society. The principle of non-discrimination gives legal force and legitimacy to pro-poor strategies and to temporary affirmative action measures to overcome past discrimination.</p>
<p>Participation in the conduct of public life is an important human right,⁷ and not limited to having the right to take part in elections. Participation extends to the rights to organize and assemble, to voice political or religious views, and to partake in political, social, economic and cultural life. Participation may lead to empowerment, another key human rights principle. In a political sense, empowerment refers to the ability to effectively organize for and articulate one's rights in the political process, be it on the family, community, regional or national level.</p>	<p>Participation is more than a method of good development practice but a right of individuals and groups in the development process. A HRBA to development emphasises the support - at an institutional level and in terms of capacity development – for the participation of those social groups who are excluded and marginalised. It thus ties in with the principle of non-discrimination.</p>
<p>Accountability is a key element in all human rights guarantees, and includes transparency and means for redress. Legal provisions without</p>	<p>Duty-bearers, i.e. the state and its organs on different levels, have to provide accessible information on and account for policies and decisions</p>

⁵ Source: GTZ: Hey, "Applying a Human Rights Based Approach in Primary Education - Overview and Recommendations to the Education Quality Program in Guatemala", 2007. For a further discussion, see UNESCO & UNICEF, "A Human Rights-Based Approach to Education for All", New York, 2007.

⁶ The prohibition of discrimination is recognized in the Universal Declaration of Human Rights (UDHR), UN-Convention on the Rights of the Child (CRC), ICESCR, UN-Convention on the Elimination of All Forms of Racial Discrimination and UN-Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

⁷ See ICCPR, article 25 (to take part in the conduct of public life) and Human Rights Committee, General Comment 25/1996, focusing on participation in public life.

Human Rights Principles	Their Meaning in Development Work
structures and institutions securing accountability and redress tend to be meaningless. Human rights law envisions a wide array of such institutions, e.g. judicial remedies, independent committees overseeing political procedures or those investigating complaints. Respecting the rights to assembly, organization, and a free media are important ingredients to secure channels of accountability.	they have taken. This includes their policies and measures geared towards development. Apart from supporting transparent, accountable behaviour in government bodies, the principle of accountability entails strengthening the capacity of institutions such as community councils, student committees and parent associations, regional or national legislatures, or comparable institutions in order to facilitate critical bottom-up approaches as well as redress should rights have been infringed.

1.3.3 Rights Holders and Duty Bearers

A HRBA to development distinguishes between rights holders and duty bearers. The existence of a right implies a corresponding obligation on the part of the duty bearer. Rights holders typically are the beneficiaries of development interventions, duty bearers the governmental counterparts. As regards the right to education, the main rights holders are school-aged children. They have the right to learn and hence are entitled to access and pursue quality education. The principal duty bearer is a country's Ministry of Education and, if applicable, its lower or decentralized branches at regional and local levels. This also includes independent or private entities which have been commissioned by the government to provide education. Their duty lies in the respect, the fulfilment and the protection of the right to education. Duty bearers also include parents as they are obliged to send their children to school. This is recognized in a series of international conventions which determine that (primary) education should be compulsory, highlighting the fact that neither parents, nor guardians, nor the State may treat as optional the decision whether a child should have access to education.⁸ Parents are also rights holders as they also have the right to choose to which educational establishment to send their children (for example, public or private). Teachers, too, are simultaneously duty bearers and rights holders. They are obliged vis-à-vis the State to teach the country's curriculum. In turn, they have the right to be sufficiently trained for their job and to receive adequate and fair compensation.

2. Guatemala's Legal Obligations regarding the Right to Education

Guatemala has ratified all key international⁹ and regional¹⁰ human rights conventions, a large number of which include provisions on the progressive fulfilment of the right to education.¹¹ It is also a signatory of the 1948 Universal Declaration of Human Rights (UDHR) which recognizes the right to education but which, as a declaration, is not legally binding. The right to education is also enshrined in the Guatemalan constitution as well as other national laws. An overview of the

⁸ UN Economic and Social Council, "Plans of action for primary education (Art. 14) – General Comment No. 11", Geneva 1999. However, it is also recognized that some parents are not able to fulfil the obligation to send their children to school due to a lack of resources.

⁹ International Covenant on Civil and Political Rights (ICCPR); ICESCR; UN-Convention on the Elimination of All Forms of Racial Discrimination; UN-Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; CRC; CEDAW and the UN-Convention on the Rights of Migrant Workers and Their Families.

¹⁰ American Convention on Human Rights; the Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights ("Protocol of San Salvador"); Inter-American Convention to Prevent and Punish Torture; Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará") and Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities.

¹¹ The obligation for progressive realization recognizes that due to resource and other constraints, certain rights can not be realized immediately but only over time, using a step-by-step approach. This is enshrined in Art. 2 of the ICESCR, stating that all social, economic and cultural rights are to be fulfilled progressively depending on national and international resources.

relevant international, regional and national conventions, treaties and laws, to which Guatemala has committed and which feature the right to education, is presented in the following section.¹²

2.1 International Conventions

Guatemala is a signatory to the following international conventions: (1) The ICESCR, ratified 1988; (2) The International Covenant on Civil and Political Rights (ICCPR), ratified in 1992; (3) The International Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), ratified 1982; (4) The UNESCO Convention against Discrimination in Education, ratified 1983; (5) The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), ratified 1983; (6) The Convention of the Rights of the Child (CRC), ratified 1990, and (7) the ILO Convention No. 169 concerning Indigenous and Tribal Peoples, ratified in 1996. Having ratified these different conventions, the country has committed itself to implementing them in practice. The key provisions of each these conventions as regards the right to education are summarized below.

2.1.1 International Covenant on Economic, Social and Cultural Rights

Art. 13 of the ICESCR is of particular relevance as regards the right to education. It stipulates that (1) primary education shall be compulsory and free for all; (2) secondary education shall be made generally available and accessible by the progressive introduction of free education; (3) higher education shall be made equally accessible to all; and (4) the development of a system of schools shall be actively pursued. In addition, Art. 14 commits those signatories which have not yet secured compulsory primary education free of charge to adopt, within two years, a plan of action for its progressive implementation.

2.1.2 International Covenant on Civil and Political Rights

ICCPR has no immediate relevance to the right to education. However, it is mentioned here as a number of the key human rights principles (cf. section 1.3.2) are deduced from this Covenant. The right to participate in public life is recognized in Art. 21 (right to peaceful assembly), Art. 22 (right to freedom of association) and Art. 25 (the right to take part in public affairs). The principles of accountability and transparency are based on the same provisions. The non-discrimination principle is a right of its own, laid down explicitly in every major human rights treaty.¹³

2.1.3 Convention on the Elimination of All Forms of Discrimination Against Women

Art. 10 of CEDAW obliges Guatemala as a state party of the Convention to take appropriate measures to eliminate discrimination against women in the field of education and, in particular, to ensure (1) equal access to studies and the achievement of diplomas; (2) access to the same curricula, the same examinations, teaching staff and school premises of equal standard; (3) the elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education; (4) the same opportunities to benefit from scholarships and study grants; and (5) the reduction of female student drop-out rates.

2.1.4 UNESCO Convention against Discrimination in Education

This Convention calls on its state parties to eliminate any form of discrimination which is based on race, colour, sex, language, religion, political opinion, national or social origin and/or economic condition as regards access, standards and quality of education (Art. 1). In particular, it calls

¹² For a general discussion on the normative framework concerning the right to education, see Motakef, "Das Menschenrecht auf Bildung und der Schutz vor Diskriminierung – Exklusionsrisiken und Inklusionschancen", Berlin, 2006.

¹³ See, for example, Art. 2 of ICESCR and Art. 2 and 3 of ICCPR.

in the signatories of the Convention to (1) to make primary education free and compulsory and to make secondary and higher education generally available and accessible; (2) to ensure that the standards of education are equivalent in all public institutions; (3) to encourage and intensify the education of persons who have not received any primary or have not completed primary education; and (4) to provide training for the teaching profession without any discrimination (Art. 4).

2.1.5 International Convention on the Elimination of All Forms of Racial Discrimination

ICERD obliges its signatories to prohibit and eliminate racial discrimination and to guarantee the right of everyone to equality before the law in the enjoyment, inter alia, of their economic, social and cultural rights, such as the right to education (Art. 5). In addition it calls on the state parties to adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, to combat prejudices which lead to racial discrimination (Art.7).

2.1.6 Convention on the Rights of the Child

Art. 12 establishes that children are entitled to express their views on all matters of concern to them and to have these given due weight in accordance with their age and maturity – a right that also extends to all aspects of education. Art. 28 of the CRC sets out that state parties shall progressively (1) make primary education compulsory and free for all; (2) encourage the development of different forms of education, making them available and accessible and introducing free education and financial assistance in case of need; (3) make higher education accessible; (4) take measures to encourage regular attendance at school and the reduction of drop-out rates; and (5) take measures so ensure that school discipline is administered in a manner consistent with the child's human dignity. Art. 29 of the Convention concerns the content of education and provides that the education of the child shall be directed to the development of respect for human rights and fundamental freedoms as well as the respect for his or her own cultural identity, language and values, promoting a spirit of understanding, peace, tolerance and equality of sexes.

2.1.7 ILO Convention No. 169 concerning Indigenous and Tribal Peoples¹⁴

The right to education of indigenous and tribal peoples is dealt with in Part VI of this Convention. It contains the following provisions: (1) measures need to be taken to ensure that the peoples concerned have the same opportunity to acquire education at all levels on an equal footing as the rest of the national community (Art. 26), (2) education programmes for the peoples shall be developed and implemented in cooperation with them, incorporating their histories and knowledge and technologies, their value systems and their social, cultural and economic aspirations (Art. 27), (3) indigenous children shall be taught to read and write in their own language while also have the opportunity to obtain fluency in the national language (Art. 28), and (4) educational measures shall be taken among all sections of the national community with the object of eliminating prejudices that they may harbour in respect of these peoples (Art. 31).

2.2 Regional Conventions

In addition to its international commitments, Guatemala is also a signatory to regional human rights conventions. Of particular importance for the implementation of the right to education are the Additional Protocol to the American Convention on Human Rights in the Area of Economic,

¹⁴ In September 2007, the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples, which had been negotiated between nation states and indigenous peoples for more than 20 years. Still requiring ratification by its Member States, the Declaration recognizes that indigenous children have the right to all levels and forms of State education without discrimination. It also establishes that measures shall be taken to ensure that indigenous children have access, when possible, to an education in their own culture and provided in their own language.

Social and Cultural Rights, also known as the “Protocol of San Salvador”, which Guatemala ratified in 2000, and the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities, ratified in 2002.

2.2.1 Protocol of San Salvador

Art. 14 of this Protocol reaffirms the signatories’ obligations as regards access to and quality of primary, secondary and higher education (as established in the ICESCR and the CRC). It also states that education should be directed towards the full development of the human personality and human dignity and should strengthen the respect for human rights, ideological pluralism, fundamental freedoms, justice and peace. Art. 13.3 makes provisions for the establishment of special education programmes for students with physical disabilities or mental deficiencies.

2.2.2 Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities

Art. 3 of this Convention calls on its signatories to undertake measures to eliminate discrimination gradually and to promote integration in providing goods, services, facilities and activities such as employment, transportation, communication and education, among other things. It also establishes that public awareness needs to be increased through educational campaigns which aim at eliminating prejudices, stereotypes and other attitudes that jeopardize the right of persons to live as equals, thus promoting respect for and coexistence with persons with disabilities.

2.3 National Laws

At the national level Guatemala’s obligation to progressively implement the right to education is enshrined in the 1993 Political Constitution, the 1996 Peace Accords, the 1991 National Education Law, and the 2003 Law on the Protection of Children and Youth. As regards the Peace Accords, the Agreement on Social and Economic Aspects and the Agreement on the Identity and Rights of Indigenous Peoples are of particular relevance for the education sector.

2.3.1 Political Constitution

Art. 71 of the Guatemalan Constitution recognizes that the Guatemalan government has the obligation to provide and facilitate education to all its citizens, ensuring that no population group is discriminated against. Additional obligations arise from Art. 72 to 78. They determine, for example, that the Political Constitution as well as human rights shall be systematically taught in the national education system (Art. 72), that citizens have a right to free and obligatory education at the pre-primary, primary, and lower secondary level within the age ranges determined by further laws (Art. 74), that the State will provide both scholarships and grants to improve access to education and that it will promote special education (Art. 74). Art. 76 stipulates that the education system shall be decentralized and that bilingual education preferably be provided in those regions where the indigenous population constitutes a majority. Art. 78 recognizes that teachers have a right to retirement pay.

2.3.2 Agreement on Social and Economic Aspects and Agrarian Situation

Between 1994 and 1996 a number of Peace Accords were signed between the Guatemalan government and the leftist insurgency Unidad Revolucionaria Nacional Guatemala, aiming to end 36 years of civil war and to transform Guatemala into a democratic, participatory and more equal country. As a result of the provisions of the Peace Accords a Bipartite Commission on Educational Reform (*Comisión Paritaria de Reforma Educativa*) was established in 1997, con-

sisting in equal parts of government and indigenous organizations' representatives.¹⁵ The Commission was charged with the task of designing a reform of the education system.

The Agreement on Social and Economic Aspects and Agrarian Situation, which forms part of the Peace Accords, calls on the government to expand the coverage of education services at all levels, and in particular the provision of bilingual education in rural communities (Art. 22c). It also calls for the design and implementation a national civic education programme for democracy and peace, promoting the protection of human rights, the renewal of political culture and the peaceful resolution of conflicts (Art. 22f). Finally, it provides that in order to encourage the enrolment of children in the educational system and to lower the school drop-out rate, the government undertakes to encourage effective community and parental participation in the various aspects of the education and training services such as the design of the curriculum, the appointment of teachers and the definition of the school calendar (Art. 22g).

2.3.3 Agreement on the Identity and Rights of Indigenous Peoples

This agreement of the Peace Accords establishes that the Guatemalan education system shall respond to the country's cultural and linguistic diversity, recognizing and fostering the identity, values and educational systems of its indigenous population (Section G). To this end, it commits the government to grant parents and communities a prominent role in the definition of the curriculum and school calendar as well as the recruitment and dismissal of teachers; to integrate indigenous concepts as cross-cutting aspects into the educational reform; to broaden IBE and to hire and train bilingual teachers; to ensure the effective implementation of the right to education, especially among the marginalized indigenous population; to increase the government's education budget; to broaden scholarship programmes to enhance access to education and to eliminate cultural and gender stereotypes from didactic material.

2.3.4 National Education Law

This Law recognizes that the Guatemalan State is obliged to provide free, compulsory education of high quality to all, which, among other things, aims to promote an understanding for human rights, including children's rights (Art. 1 and 2). It also obliges the State to supply scholarships, loans and other forms of financial benefit to students, to promote special education, and to provide necessary infrastructure, equipment and material for adequately functioning teaching-learning processes (Art. 33). It also commits the government to create and promote special education programmes for disabled children (Art. 49).

2.3.5 National Law on the Protection of Children and Youth

Section II of this Law reconfirms that children have a right to education, obliging the government to ensure equality of access and completion rates (Art.36) and to guarantee the right to bilingual and intercultural education (Art. 38). It further establishes that parents have an obligation to participate in educational matters, specifically ensuring that children are enrolled in and regularly attend school and participating in the educational processes taking place in the classroom (Art. 40). It also confirms that the rights of children and youth shall be promoted in the education system (Art. 41) and that any measure of school discipline has to respect the integrity and dignity of children and youth (Art. 43). It also obliges educational authorities to denounce cases of physical, mental and sexual abuse targeted at students. Art. 10 states that all rights contained in this Law shall be equally applied to all children without any discrimination.

¹⁵ For further information on the basis, content, and objectives of the Educational Reform, see Comisión Paritaria de Reforma Educativa, "Diseño de la Reforma Educativa", Guatemala, 1998.

3. Analysis of the Guatemalan Education Sector

Chapter 3 will analyse the Guatemalan education sector from a HRB perspective. Chapter 3.1 will analyse the extent to which a human rights discourse is used in the sector. This is followed by chapter 3.2 which uses the core elements of the HRBA to education as a framework for examining the country's education sector. Chapter 3.3 will discuss the sector on the basis of the guiding principles of a HRBA. Finally, Chapter 3.4 will examine the goals and components of the PRONADE programme from a human rights perspective.

3.1 Use of a Human Rights Discourse within the Education Sector

Despite the country's strong legal basis regarding the right to education, it appears that the use of a human rights terminology is not common among state actors related to the education sector. In particular, the concept of a HRBA to education is not well known. As no department within the Ministry of Education has explicitly been assigned to work on the concept of the right to education, there is also no trickle down to the Ministry's decentralized offices at the departmental or municipal level or the teachers. However, it should be pointed out that a number of prominent members of the Ministry of Education have also worked for human rights NGOs in the past and that consequently, there are familiar with and apply a human rights discourse.

The current government has defined its goals for the education sector for the period 2005-2008 as follows: achieving universal primary completion (relates to availability, accessibility and quality); ensuring that educational reform reaches the classroom (quality, adaptability); fostering community participation in educational matters (participation, accountability); strengthening the competitive skills and knowledge of students (adaptability); and promoting civic and democratic values through education (acceptability, quality).

In contrast to the Ministry of Education, there are a number of Guatemalan NGOs and social organisations that explicitly work with the concept of the right to education and a HRBA to education.¹⁶ Using these concepts, they conduct analyses of the Guatemalan education sector, identifying those deficits that are relevant from a human rights-based perspective, develop policy proposals and carry out projects in different parts of the country. Among the deficits which they have identified are the following: limited accessibility at the pre-primary and lower secondary level; discrimination against certain vulnerable groups at all levels, both in terms of access and educational achievement (the rural and indigenous population, poor students, girls); low educational quality and efficiency at the different levels; reduced provision of intercultural bilingual education (IBE); and insufficient remuneration and training of the teaching staff. To what extent their work has an impact on the policies and strategies of the government could not be determined during the mission.

3.2 Analysis on the Basis of the Core Elements of a HRBA to Education

3.2.1 Availability

3.2.1.1 *Availability of educational programmes*

Over the past twelve years access to education has seen important improvements at all levels. Guatemala is now approaching universal coverage at the primary level, with net enrolment rates reaching 95% in 2006. This is a 30% increase compared to the 1995 figures (see Table 1 below). Increased access is largely due to improvements in the availability of schools. Between 1995 and 2006, an additional 7.400 pre-primary schools were established, an increase of 160%

¹⁶ Examples of such organizations include the Centro Internacional para Investigaciones en Derechos Humanos (CIIDH, www.ciidh.org); the Asociación de Capacitación y Asistencia Técnica en Educación y Discapacidad (ASCATED, www.ascated.net); Save the Children (www.savethechildren.org.gt); the Oficina de Derechos Humanos del Arzobispado de Guatemala (ODHAG, www.odhag.org.gt).

compared to 1995. During the same period, 4.600 additional primary schools were opened up (an increase of almost 60% compared to 1995).¹⁷

Despite notable increases, enrolment rates at the pre-primary and secondary level continue to be low. Not even half of the children of official pre-primary school age are enrolled in pre-primary education. Evidence shows that children who enter primary education with prior experience at the pre-primary level are less like to repeat grades and drop out of school. As high repetition and drop-out rates constitute considerable challenges at the primary level in Guatemala, the need for enhanced availability of pre-primary education becomes evident.

Table 1: Net and Gross Enrolment Rates (%) by Education Level, 1995 and 2006¹⁸

Year	Pre-Primary		Primary		Lower Secondary		Upper Secondary	
	NER*	GER**	NER	GER	NER	GER	NER	GER
1995	21.0	34.0	72.1	87.5	20.9	33.0	13.7	18.7
2006	47.2	57.7	95.0	113.0	34.4	57.3	19.8	31.1
Increase (%)	124.8	69.7	30.2	29.1	64.6	73.6	44.5	66.3

* Net enrolment rates (NER) indicate the number of children of official school age enrolled in a given level of education divided by the total number of children of the school age population at that level.

** Gross enrolment rates (GER) indicate the number of children of all ages enrolled in a given level of education divided by the total number of children of the school age population of that level.

Net enrolment rates for lower secondary education are at a mere 34%, for upper secondary education they are at about 20%. In part, these figures reflect the limited availability of educational services. This is particularly the case for rural areas. For example, only 22% of all educational programmes at the lower secondary level are offered in rural parts of the country.¹⁹ In addition, 85% of the students graduating from secondary education have attended private schools, as public schools are not widely available.

The differences in enrolment rates, shown in Table 1, are mirrored in levels of educational spending: in 2005 almost 80% of government spending on education went into the primary education sector. This was followed by investments in pre-primary education (8.8%), lower secondary (8.7%) and upper secondary (4.6%) education.²⁰ The figures have remained relatively constant for the past five years. Guatemala's education budget is low compared to other Central American countries. Average spending on education in the region amounts to 4% of the GDP. Between 1992 and 1997 Guatemala invested about 1.8% of its GDP in education. Since then education spending has been on the rise, amounting to about 2.8% of the GDP in 2007 which is still more than one percentage point below the Central American average.²¹ Education is nevertheless the sector which receives the largest share of the government's total budget, namely 18%. The financial sector receives a similar percentage of the government's budget; about 9% each are destined for the health sector and security.²²

From a human rights-based point of view, limited access at pre-primary, lower and upper secondary levels is of great concern, a fact that is also recognized by the current government.²³ The

¹⁷ Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007

¹⁸ Source: Mineduc, Transición Política – Informe de Transición Institucional (2007-2008)", Guatemala 2007. Data for 2006 is considered preliminary.

¹⁹ World Bank, "Project Appraisal Document, Education Quality and Secondary Education Project", Washington, 2007

²⁰ CIIDH, CIIDH, "Situación de los Derechos Económicos, Sociales y Culturales en Guatemala", Guatemala 2007; USAID y AED, "Guatemala – Sistema Nacional de Indicadores Educativos", Guatemala, 2006.

²¹ MINEDUC, "La Reforma Educativa está en Marcha – Informe de Transición", Power Point Präsentation, Guatemala, 2007

²² Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007

²³ MINEDUC, "Informe de Transición Institucional (2007-2008)", Guatemala, 2007

right to education entails that the government has the duty to provide access to education throughout all stages of childhood and beyond, albeit this being a progressive obligation. To reach universal primary education, particular attention has to be paid to the poorest and most rural departments of the country, including Alta Verapaz, Quiché and Huehuetenango, where up to 50% of primary school aged children are not enrolled in a school, constituting figures well below the national average.²⁴

3.2.1.2 *School infrastructure*²⁵

In Guatemala, only 14.5% of the public schools are considered to meet the necessary standards for effective teaching and learning processes to take place. More than 85% of the schools require some kind of improvement in order to meet the minimum standards. Most of the schools needing improvements are located in rural areas, reflecting the fact that learning conditions in rural areas fall short of those in urban areas.²⁶

PRONADE school buildings are of differing quality. Some of them consist of properly functioning brick buildings with several classrooms which have windows, electricity and sanitation facilities and which are surrounded by a fence for protection. Others are very plain one-classroom mud buildings that lack windows and hence proper ventilation, running water etc. In some PRONADE communities, there is no separate school building as such. Rather classes take place in private houses. The differing quality of the school buildings is partly related to the fact that the government and the supporting donors have agreed to speed up access to education by establishing easily built, provisional school buildings,²⁷ which over time are to be replaced by more elaborate and stable infrastructure.

Analysing the available data from a human rights-based perspective, the following deficits concerning the PRONADE school infrastructure can be detected:

- 53% of the schools are located within 100 metres of a river, the sea, a gorge or a boulder, making them more prone to be affected by natural disasters.
- In 35% of the schools sanitation facilities are insufficient, either because they are fully lacking or because they need some kind of repair.
- 81% of the schools require new fences to better protect the schools and create incentives to better equip them.

Positive aspects include the following:

- 79% of the schools have a concrete or ceramics floor, i.e. not a dirt floor. 60% of these are in a good state.
- 67% of the schools have walls that are made of brick or concrete, i.e. not of mud, more than 60% are in a good state.
- In 90% of the schools, the roofs are made of adequate material (metal, metal lamination or asbestos cement).

²⁴ See GTZ, DED et.al., "Gemeinsamer EZ-Bericht Guatemala", Guatemala, 2007; USAID y AED, "Guatemala – Sistema Nacional de Indicadores Educativas", Guatemala, 2006

²⁵ Sections 3.3.1.2-3.3.1.4 are based on the preliminary conclusions drawn by the KfW feasibility study team. Their sources include the 2006 Propuesta para la Implementación de la Rectoría del Ministerio de Educación en el área de Infraestructura Escolar and the 2005 Censo de Infraestructura Escolar de las Escuelas de Autogestión Comunitaria del PRONADE.

²⁶ USAID y AED, "Guatemala – Sistema Nacional de Indicadores Educativas", Guatemala, 2006

²⁷ One of the components of PRONADE I, financed by KfW, concerned the renovation and equipment of existing schools as well as the construction of provisional schools. See KfW, "Schlussprüfungsbericht – Guatemala, Ländliche Primarschulbildung PRONADE I", Frankfurt, 2004 and IPC, "Estudio de Factibilidad – PRONADE III," Guatemala, 2002.

- 63% of the schools have access to (drinking) water. 50% of these have running water; the remainder has access to well or other water source within 100 metres of the school.

Some of the challenges related to the deficiencies in the school infrastructure have to do with the fact that parents are responsible for constructing and maintaining the schools without necessarily having sufficient capacity to do so. In addition, while the COEDUCAs commit to taking care of the school infrastructure, their exact responsibilities are not defined. Finally, issues of preventive and corrective maintenance have not been sufficiently addressed by the Ministry of Education, ultimately contributing to the deterioration of school infrastructure.

In order to fulfil the right to education, the above deficits need to be addressed. The government needs to invest in the improvement and creation of infrastructure so as to provide quality learning environments for all children. Interventions at the infrastructure level should be guided by the goal of creating healthy, safe and protective learning environments that are in line with the best interest of the child (see Art. 3 of the CRC).

3.2.1.3 *Teaching and learning materials and facilities*

According to the Ministry of Education, each monolingual (Spanish) multi-grade school is to receive a classroom library, consisting of 187 different items (books, didactical games and posters). Bilingual schools are to receive classroom libraries of 243 items. However, a series of interview partners pointed out the fact that teaching and learning materials are not widely available, either because not a sufficient number is printed or because they are not well distributed. In particular, this concerns materials pertaining to the new curriculum as well culturally relevant materials in indigenous languages.

According to a study conducted by the World Bank, text books have been developed for grades 1-3 in the country's 4 major indigenous languages, covering Mayan culture, maths, Mayan language and reading. However, since there are no teaching guides for IBE, teachers have difficulties using these.²⁸ According to a different study, only about half of the teachers indicated to be using some sort of didactic material; about 40% reported to be using textbooks.²⁹ Only 1% of the schools indicated to be using classroom libraries, although it was not clear whether they were not used because they did not have physical access to them or because they did not know how to use them.

PRONADE schools, too, lack sufficient teaching and learning materials and facilities. Facilities such as libraries and labs are generally not provided. Only 46% of the students are reported to have desks that are in an adequate state.³⁰ A further problem is that available seats and desks often do not correspond to the height of the children as many students do not attend classes that correspond to their age. For example, it is not uncommon for a 14-year old student to attend fourth of fifth grade, meaning that they are seated on chairs and at desks that are too small and consequently uncomfortable for them. Situations such as these are criticized by the human rights perspective which demands that school furniture needs to be appropriate in terms of a child's age and height.

²⁸ World Bank, "Project Appraisal Document – Education Quality and Secondary Education Project", Washington, 2007

²⁹ Cited in Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007.

³⁰ Between 2006 and 2007 Mineduc invested about Q 136 million (EUR 13 million) into the PRONADE schools (effectively targeting about a third of them), to purchase school furniture, bilingual and monolingual classroom libraries and to finance teacher training. This investment has benefited approx. 250.000 children in about 5000 schools (of which 1650 are PRONADE schools). It is estimated that this has reduced the percentage of students who do not have desks in an adequate state to 31%.

Together, these findings indicate that the government is not fully carrying out its duty to make teaching and learning materials available to teachers and students, breaching Art. 33 of the National Education Law. This law establishes that the government is obliged to provide the necessary infrastructure, equipment, and materials to promote adequately functioning teaching and learning processes.

3.2.1.4 Availability of trained staff receiving competitive salaries

As regards the availability of trained teachers receiving domestically competitive salaries, Guatemala faces two serious challenges. Firstly, Guatemalan teachers are not considered to be well trained. In fact, this is one of the main factors generally associated with low educational quality. Pre-service training for teachers preparing to teach at the pre-primary and primary level takes place at upper secondary level (grades 10-12) only, meaning that Guatemalan pre-primary and primary teachers generally do not hold a university degree. It has been more than 22 years since the pre-service teacher training programme was last updated. Haiti and Guatemala are the only countries within Latin America that offer teacher training at secondary level; all other countries in the region provide pre-service training at university level (see Table 2 below).

Table 2: Levels and duration of pre-service teacher training in Central America³¹

Country	Level at which pre-service training is provided	Duration of pre-service training	Institutions offering pre-service training
El Salvador	Tertiary	3 years	Universities
Guatemala	Upper secondary	3 to 4 years	Escuelas Normales*
Honduras	Upper secondary and tertiary**	3 years at upper secondary, 2 years at tertiary level	University and Escuelas Normales
Nicaragua	Upper secondary and tertiary**	3 years at upper secondary, 2 years at tertiary level	Escuelas Normales
Costa Rica	Tertiary	5 years	Universities
Panama	Tertiary	4 years	Instituto Nacional Superior

* *Escuela Normal* is the term used for those institutions providing pre-service teacher training. They are part of the upper secondary education system.

** Both Honduras and Nicaragua are in the process of closing down their *Escuelas Normales*, progressively introducing pre-service teacher training at the university level only.

In practise this translates into teachers who are not sufficiently trained to teach in multi-grade schools (often the case in rural areas), to apply active, student-centred teaching methods and impart quality classes in maths, languages, and the social and natural sciences. All of these challenges are inconsistent with a HRBA to education. In terms of teaching methods, for example, the HRBA calls for the recognition of children as active contributors rather than passive recipients of their learning. The approach also demands that teaching and learning should involve interactive methodologies so as to creative stimulate interactive and participatory learning environments.³²

The newly elected Guatemalan government, which assumed office in January 2008, is planning on extending pre-service teacher training by an additional (fourth) year, to be offered at the uni-

³¹ This table is adapted from Universidad Rafael Landívar, "Censo sobre Escuelas Normales en Guatemala 2004", Guatemala, 2005.

³² UNESCO & UNICEF, "A Human Rights-Based Approach to Education for All", New York, 2007

versity level. The *Escuelas Normales* would continue to function but be combined with an additional year at university. The need to extend and “professionalize” (pre-service and in-service) teacher training is not a new issue in Guatemala; it was already foreseen in the 1998 Design of Educational Reform. So far, it has been opposed by the teaching corps as they feel that the government has not sufficiently consulted them. In addition teachers are often reluctant to attend training events in the afternoon – a time where many of them carry out additional jobs to compensate for their low income (see below). A compromise would thus be to provide training sessions in the evening and to progressively increase salaries of the more qualified teachers as an incentive to participate in those trainings.

The second serious challenge is that teacher salaries in general are low. Most teachers have to accept more than one job in order to gain a living. During their first four years of employment, a teacher on average gains Q 1900 (approx. EUR 190) per month.³³ However, Q 3000 (approx. EUR 300) is considered to be the minimum amount which a person needs in order to satisfy their basic needs, meaning that a young teacher cannot survive on the basis of one job alone. On average, the salary of a Guatemalan teacher amounts to 1.8 times the amount of the GDP per capita. This falls short of the benchmarks of the EFA-FTI which seek to achieve an average annual teacher salary of 3.5 times the per capita GDP by 2015.³⁴ As a result of their insufficient training and low pay, teachers’ motivation is generally considered to be poor. In addition, they neither enjoy a high social standing nor the respect of the general public. Salaries of PRONADE teachers are generally lower than those of teachers working in regular schools. They also have less job security as their contracts are of shorter duration and as they can be dismissed by the parent committee. However, the differences in the employment status of PRONADE vs. regular teachers will cease to exist once the planned integration of the two systems comes into effect.

In general, the relationship between teachers unions and the Ministry of Education is very conflictive; Guatemala is known for frequent strikes organized by the teachers unions. Inadequate pay and working conditions are not only problematic from a human rights point of view. They also have a negative impact on the professional attitude of teachers, decreasing the quality of education. The HRBA calls for the introduction of effective appraisal systems, adequate pay, and platforms which enable teachers to have a say with regards to their training and general teaching concerns, all of which contribute to higher levels of motivation and, ultimately, improved teaching standards.

3.2.2 Accessibility

3.2.2.1 *Non-discrimination*

Access to education strongly associates with ethnicity, geographic location, socio-economic status (SES) and, to a lesser extent, with gender in Guatemala.³⁵ Enrolment rates are generally higher for boys, the urban population, the Spanish *mestizos*, and the non poor than for girls, the rural population, indigenous people and the poor. This situation is also referred to as group-based or identity-based exclusion.³⁶ Despite notable advances, discrimination against these groups with regard to access education continues to persist, constituting a violation of the right to education.³⁷

³³ USAID y AED, „Guatemala – Sistema Nacional de Indicadores Educativas“, Guatemala, 2006

³⁴ UNESCO & UNICEF, “A Human Rights-Based Approach to Education for All”, New York, 2007

³⁵ In no other Latin American country do enrolment rates correlate as strongly with gender and ethnicity as they do in Guatemala. See GTZ, DED et.al., “Gemeinsamer EZ-Bericht Guatemala”, Guatemala, 2007. Guatemala only started disaggregating education data by ethnicity in 2003. Data on the developments of coverage among indigenous students is therefore only available as of 2003.

³⁶ See Fukuda-Parr, “Human Rights and National Poverty Reduction Strategies”, New York, 2007.

As Table 3 indicates, enrolment rates are generally lower for girls than for boys, with net enrolment rates being about 4% lower for girls at both the primary and lower secondary level. The average school survival rate in Guatemala is about 4.5 years; yet for girls the figure is only 3 and for indigenous girls 2 years.³⁸ The most alarming differences, however, can be found between the gross enrolment rates for indigenous (26%) and those for non-indigenous (74%) students at the lower secondary level, indicating a clear discrimination against indigenous groups. Overall GER for indigenous students throughout all educational levels is estimated at about 57%.³⁹

Table 3: Primary and Lower Secondary Education Enrolment Rates (2005)⁴⁰

Indicator	Total	Boys	Girls	Indigenous	Non-indigenous
Primary Education (grades 1-6)					
GER	113%	117%	108.8%	102.6%	120%
NET	93.5%	95.5%	91.5%	--	--
Lower Secondary Education (grades 7-9)					
GER	55%	59.3%	51%	26%	74%
NET	33%	34.5%	31.8%	--	--

Primary school attendance and completion is particularly low for indigenous girls due to a variety of reasons. For one, cultural factors play an important role as parents place little importance on the education of girls as they are not expected to learn a profession but rather take care of the household. In rural areas, girls get married at a very young age, as early as 13.⁴¹ In addition, language barriers also cause many indigenous girls to stay at home. Knowledge of the Spanish language is more common among indigenous boys so if education is only provided in Spanish, which often is the case, girls either do not enrol in the first place or else drop out because they do not understand the language of instruction.⁴² Enrolment and transition rates for indigenous girls are said to be higher if education is provided in indigenous languages. For example, 2005 data shows that girls' transition rates to grade 2 were 37% higher if classes were given by a bilingual rather than a monolingual teacher (79% and 42%, respectively).⁴³ Similarly, 2002 data found that primary drop-out rates were about 3.5% lower when education was provided in an indigenous language.⁴⁴

Discrimination against the rural and the poor population is evidenced by the data presented in Table 4:

³⁷ See UN Committee on the Elimination of Racial Discrimination, Concluding Observations on the Report submitted by Guatemala, 2006; UN Economic and Social Council, Concluding Observations of the CESCR: Guatemala, December 2003; UN Committee on the Rights of the Child, Concluding Observations of the CRC: Guatemala, 2001.

³⁸ KfW, "Förderschwerpunkte Guatemala", Frankfurt, 2005; See GTZ, DED et.al., "Gemeinsamer EZ-Bericht Guatemala", Guatemala, 2007.

³⁹ MINEDUC, "Informe de Transición Institucional (2007-2008), Guatemala, 2007

⁴⁰ Source: World Bank, "Project Appraisal Document, Education Quality and Secondary Education Project", Washington, 2007.

⁴¹ The statutory minimum age for marriage is 14 for girls in Guatemala. See Tomasevski, "Manual on Rights-Based Education – Global Human Rights Requirements Made Simple", UNESCO Bangkok, 2004.

⁴² The Dakar Framework stresses the importance of mother-tongue instruction. If a child does not understand what it is being taught, learning will not take place. For a further discussion, see Tomasevski, "Manual on Rights-Based Education – Global Human Rights Requirements Made Simple", UNESCO Bangkok, 2004. Also see Rubio, "Educación bilingüe en Guatemala", World Bank, 2004.

⁴³ See Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007.

⁴⁴ Rubio, "Educación bilingüe en Guatemala", World Bank, 2004

Table 4: Enrolment rates by age group, ethnicity and SES (%)⁴⁵

Age group	Geographic Location			SES		
	Urban	Rural	Extremely Poor	Poor	Non-Poor	
7-12 yrs.	88.9	78.7	62.6	81.2	93.2	
13-15 yrs.	76.6	50.7	41.1	53.2	75.5	
16-17 yrs.	58.7	25.0	14.6	25.0	56.7	
Total	80.8	63.6	51.0	66.1	82.1	

A decline in enrolment rates towards the higher age groups can be detected for all categories. However, the figures show that the decline is particularly steep for the rural, poor and extremely poor population, with enrolment rates for the 16-17 year olds only being 14.6% and 25% among the very poor and poor population, respectively, compared to 56.7% among the non-poor population. Enrolment rates for the urban and non-poor populations are higher across all age groups than for the rural, poor and extremely poor groups. A further figure that highlights the discrimination against the rural population is that in rural areas only 41% of the 15-24 year old have at least six years of education whereas in urban areas 74% of this age group do so.⁴⁶ Finally, urban Guatemala is the department with the lowest percentage of out-of-school children in the entire country.

The right to non-discrimination and to equality of opportunity as regards access to education is thus violated in Guatemala. To fulfil this right, the Guatemalan government needs to progressively ensure that girls, the indigenous, the rural and the poor population have equal opportunities of access and that cultural, economic and physical barriers hindering equal opportunities are eliminated. From a HRB perspective, a government has a duty to ensure that education is provided on an inclusive and non-discriminatory basis. Unless these marginalized groups receive special attention, the educational system will contribute to the perpetuation of social inequality and poverty.

3.2.2.2 Physical accessibility

More than half of the Guatemalan population lives in rural areas, the majority of which are located in the departments Huehuetenango, Alta Vera Paz, San Marcos and Quiché. It is in the rural areas that physical access constitutes a particular problem. Here different elements of infrastructure – such as manageable roads, public transport, running water and electricity – are often completely missing. As a result, the provision of educational services and materials has been limited, as has the supervision of schools. Until the end of the civil war in 1996, access to schools was often beyond the physical reach of a large number of communities. The establishment of PRONADE schools has partially improved this situation as the programme determines that primary schools shall be established in those communities with at least 25 school-aged children which are at least 3 km away from the nearest public school.

In order to improve access at the lower secondary level in rural areas, the government started introducing modalities of distance education in 1998. The two largest flexible modalities are *Telesecundaria* (video-supported teaching) and *Alternancia* (a semi-distance modality that alternates students between school and community learning). *Telesecundaria* is currently imple-

⁴⁵ This table is adapted from USAID and AED, “Equidad de la Educación en Guatemala”, Power Point Presentation, Guatemala, May 2007.

⁴⁶ Congreso de la Republica Guatemala, “Iniciativa que dispone aprobar la Ley Marco de Educación Nacional”, Guatemala, 2007 (2004 data)

mented in about 500 schools, targeting 35.000 students; *Alternancia* is offered in 550 schools, thereby reaching 17.000 students.⁴⁷

The benefits of the *Telesecundaria* include its affordability as well as the evening hours of operation, enabling the students to continue to support their parents in farming and household duties during the day (see next sub-section 3.3.2.3).⁴⁸ Given the relatively low cost, the government has been able to provide *Telesecundaria* even in smaller communities, thereby enhancing access to lower secondary education. One of the challenges related to this programme is that during the rainy season electricity cuts are rather common. In addition, the video tapes are hard to understand given the noise caused by the rain. In addition, not all of the schools dispose of sufficient teaching and learning materials and facilities.

Positive aspects of the *Alternancia* programme are its contribution to increased access, not least because the opening up of its learning centres involves a non-bureaucratic process. Downsides include the lack of cultural relevance and hence the need to stronger adapt to the multi-cultural and multi-lingual context of the country, the need to improve teacher training, and the insufficient availability of teaching and learning materials.⁴⁹

3.3.2.1 *Economic Accessibility*

While primary education is free and compulsory in Guatemala, a series of private and opportunity costs deter accessibility of education. It is estimated that the average monthly cost associated with primary education amounts to 12% of the basic food basket (accounting for transportation costs, school uniforms and materials etc).⁵⁰ In addition to limited availability and physical difficulties of access, low educational quality and efficiency, high levels of youth migration to the US, parents' negative attitudes towards the need for education, language barriers and malnutrition, poverty and child labour are among the main reasons of why children do not attend school. Data from the 2002 Guatemalan household survey indicates that about 5% of rural indigenous students do not attend school because educational services are not provided while approx. 23% indicated not to attend school for economic reasons.⁵¹

According to data available from 2000, the reasons for non-attendance in the age ranges 13-15 and 16-18, independent of geographic location and ethnic identity, can be grouped into a series of categories, as presented in Table 5 below. Almost 64 % of the students in the 13-15 age range indicated not to attend school for economic reasons (adding up "lack of money", "household duties", "need to work"). The figure amounts to almost 70% for the age range 16-18. The table shows that in order to improve enrolment rates the government needs to address issues of child labour and economic accessibility.⁵² What should also be noted are the high percentage rates of students who mentioned a lack of interest (22% and 19% respectively) as a reason for not attending school. This might be an indication that the benefits of education are underestimated, either perhaps because students are not aware of its returns or because the low quality of the education system is known. It could also indicate that the curriculum and the teaching methods are not adapted to the needs and interests of the students.

⁴⁷ World Bank, "Project Appraisal Document – Education Quality and Secondary Education Project", Washington, 2007.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

⁵¹ Quoted in Action Aid Guatemala, "Derecho a la Educación – El Precio que Pagan los Pobres", Guatemala, 2006.

⁵² Studies conducted by the Mineduc have shown that insufficient availability of schools is no longer the prime reason for why children no longer attend school, with socio-economic reasons playing a larger role instead. See Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007.

Table 5: Reasons for Non-Attendance in the 13-15 and 16-18 Age Ranges⁵³

Reason	Age Range 13-15	Age Range 16-18
No place available	1.5%	0.7%
No grade	0.1%	0.1%
No school	1.6%	1.1%
School too far	1.5%	0.9%
Lack of interest	22%	19%
Lack of money	29.7%	23.5%
Household duties	11.4%	17%
Need to work ⁵⁴	22.8%	29.2%
Age	1%	1.2%
Completion of studies	0.9%	0.6%
Pregnant	0.5%	1%
Illness	2.2%	1.5%
Other	4.8%	4.2%
Total	100%	100%

With the support of the international community, the Guatemalan government has aimed to address these issues, implementing two large-scale programmes that aim to create an incentive for parents to send their children to school. These consist of school feeding and scholarship programmes, both of which are proposed by the HRBA to education as means to enhance school enrolment and attendance rates. School feeding programmes are mainly implemented in the community run schools, such as those of the PRONADE system. Many poor children often come to school without having had breakfast, diminishing their ability to concentrate and hence do well in school. Through the school feeding programmes, a free of charge school breakfast is provided to children on a daily basis. In 2006, 90% of the students indicated to benefit from this programme.⁵⁵

The objective of the scholarship programmes is to motivate parents to send their children to school by partially covering for private costs (uniforms, transportation costs etc) and compensating for the loss of work hours which are generated by the children attending school rather than helping parents in the household or in the field (opportunity costs). Scholarships are available both within the regular and the PRONADE system. There are two main programmes to stimulate primary school attendance: the so-called Peace Scholarships (*Becas de la Paz*), available for boys and girls, and the Girls' Scholarships (*Becas de la Niña*), exclusively targeting girls in rural communities.

Both types of scholarships amount to Q300 (EUR 30) annually. In case of the *Becas de la Paz*, scholarships are provided for each student. The total sum is administered by the parent committee to buy teaching and learning materials, provide the poorest families with a contribution to buy clothes and shoes for the children, and to pay training activities for parents and teachers. The money of the Girls' Scholarship is paid directly to individual families. In both cases, the participating schools are selected on the basis of poverty and educational risk indicators in order to target the most vulnerable communities.

⁵³ Table adapted from World Bank, "Central America Education Strategy – An Agenda for Action", Washington, 2005

⁵⁴ Guatemala ratified the 1973 ILO Minimum Age Convention in 1990, determining 14 as the minimum age for employment.

⁵⁵ USAID y AED, „Guatemala – Sistema Nacional de Indicadores Educativas“, Guatemala, 2006

A further set of scholarships are available for the lower secondary level: study grants (*Bolsa de Estudios*), food scholarships (*Becas de Alimentación*) and scholarships based on academic excellence (*Becas de Excelencia*). All three of the programmes target poor communities and amount to between Q900 and Q17.500 annually, depending on the programme. In 2007 the government provided about 190.000 scholarships at the primary and 16.000 scholarships at the lower secondary level, thereby benefiting about 6.4% of all children aged 6-13 (primary level) and about 3% of the students enrolled in public secondary schools.⁵⁶

The largest number of scholarships at the primary level was offered in four of Guatemala's poorest departments, namely Quiché, Huehuetenango, San Marcos and Alta Verapaz.⁵⁷ At the lower secondary level, the department of Guatemala has benefited most. A HRBA to education supports the implementation of well-functioning scholarship programmes as a means to overcome discrimination and exclusion of poor and marginalized groups. However, the programmes also need to be efficient and effective in order to fulfil their purpose. In line with this, the Guatemalan government will have to address some of the following challenges: disbursement is often irregular and/or delayed; clientelism is reported to play a role in the assignation of the recipients; Mineduc has not yet evaluated the efficiency and impacts on student achievement of the programmes; and it is not clear how the scholarship money is used by the families.

3.2.3 Acceptability and Quality

In addition to insufficient coverage at the pre-primary and secondary education level and unequal access to primary education for certain population groups, deficits in acceptability, quality, and efficiency can be detected throughout all education levels. While the country is on its way to universal primary enrolment, universal primary completion (MDG 3) remains a challenge that needs to be addressed. The Guatemalan system is characterized by high repetition and drop-out rates, high pupil-teacher ratios and high incidences of teacher absenteeism, truancy and over-age pupils,⁵⁸ all of which constitute breaches against the acceptability of its educational services and a child's right to quality education. Selected indicators of quality and efficiency are discussed in further detail in the following section. Tables pertaining to these indicators are presented in Annex 5.

3.2.3.1 *Indicators of educational quality and efficiency*⁵⁹

Guatemala is the country with the highest primary repetition rates throughout Central America. Official data shows that over the past 13 years primary repetition rates have only dropped by 3.6% (with figures at 16.2% in 1992 and 12.5% in 2005), with higher rates for the male and the rural population remaining constant. Repetition rates for girls are about 2% lower than for boys. More significant differences can be found between the rural and the urban, and between the poor and non-poor population, clearly showing a discrimination against the poor and rural population. Primary repetition rates stand at about 8% for the urban and about 15% for the rural population. Similarly, 24% of the poor population repeat primary grade, while repetition rates for the non-poor population amount to a lower 15%.⁶⁰

⁵⁶ CIIDH, "Más becas para más educación – Análisis de los programas del Ministerio de Educación y una propuesta", Guatemala, 2007

⁵⁷ Ibid.

⁵⁸ See UN Committee on the Rights of the Child, Concluding Observations of the CRC: Guatemala, 2001; GTZ, "Angebot zur Durchführung des Vorhabens Programm zur Förderung der Qualität der Grundbildung (PACE), Guatemala", 2006

⁵⁹ This section draws on Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

⁶⁰ Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007

High drop out rates also continue to be a concern in Guatemala. They imply that a large number of children do not complete their education. Primary completion rates in Guatemala currently stand at 64%.⁶¹ While primary drop-out rates have been reduced from 12.8% in 1992 to 6% in 2005, the rural population continues to be at a disadvantage, with their current drop-out rates reaching 8% in comparison to the 4% drop-out rate among the urban students.

Having over-age students in the classroom is a common problem in the Guatemalan education system. The phenomenon is caused by children who repeat – possibly more than once – a grade, causing their age no longer to correspond to the prescribed age of the grade they are in. Studies have shown that the older a child is when enrolling in first grade, the less likely it is for them to complete primary education. The official age for entering first grade in Guatemala is 7 years; that for sixth grade is 12 years. However, data shows that the average age of first graders is 9 years among non-indigenous students and 9.5 for the indigenous population. Similar figures can be detected for sixth grade with the average non-indigenous population being 2.5 years and the indigenous population being 3 years over age.⁶² The data indicates that the overage problem is aggravated for the indigenous population.

One of the consequences of insufficient educational quality is low educational achievement which can be noted throughout all grades of primary education. Upon the completion of first grade the majority of students are not able to read and understand simple written messages. Less than half of sixth grade students manage to correspond to a question concerning something they have just read. Data shows that educational achievement is particularly low for the rural and the indigenous population as well as for those students whose parents are illiterate and did not go to school.

3.2.3.2 Curriculum

One of the main efforts to improve educational quality has been the design of a new national curriculum, the CNB, which began in 2001. This reform was based on the recognition that the content of existing curriculum lacked sufficient cultural relevance, contained stereotypes which discriminated against girls and the indigenous population, had not been developed in a participatory manner and did not place emphasis on such issues as the peaceful resolution of conflicts, democracy and civic values. In addition, there was agreement that the old curriculum did not sufficiently focus on the development of competencies. The aim of the design of the new curriculum is to revise and modernize the focus, content and methods of education, to recognize the cultural-linguistic diversity of the country and to contribute to the enhancement of educational quality and the fostering of democracy and peace.

Implementation of the CNB has started at the pre-primary and primary level. The design of the new curriculum for the lower secondary level has been completed; implementation is now pending. A draft curriculum for upper secondary education is currently being prepared by Mineduc. In order for the new curriculum to be imparted teachers and teacher training institutions need to be trained and equipped accordingly. However, in the interviews it was pointed out that teachers have not yet received sufficient training to do so and that teaching and learning materials pertaining to the new curriculum have not sufficiently been distributed. Consequently, the goals of the new curriculum have not been achieved.

⁶¹ World Bank, "Project Information Document –Education Quality and Secondary Education Project", Washington, 2005

⁶² Congreso de la Republica Guatemala, "Iniciativa que dispone aprobar la Ley Marco de Educación Nacional", Guatemala, 2007

A HRBA also calls for human rights education, i.e. the teaching of human rights as a subject in school, be it as a separate subject or else as a cross-cutting issue.⁶³ Human rights education is foreseen in the new curriculum but relevant teaching and learning materials provided by the government are currently lacking. In addition, teachers have not received training on how to teach human rights.

The community of Guatemalan NGOs and social organizations is quite active with regards to this issue. The NGO CIIDH, for example, has carried out a review of the new CNB, analyzing its integration of human rights issues. It has concluded that the new curriculum only touches upon issues related to human rights, peace promotion, and multi-culturism in a dispersed rather than a holistic manner and has developed a proposal for their enhanced integration.⁶⁴ In addition, the ombudsman (*Procuraduría de Derechos Humanos*, PDH) and the Archbishop's Human Rights Office (*Oficina de Derechos Humanos del Arzobispado de Guatemala*, ODHAG) have both published teaching and learning materials on human rights issues and carry out training and awareness raising campaigns in different communities.⁶⁵

The NGOs also point out that it is important not to narrow human rights education down to the teaching of the texts and articles of human rights conventions. Rather, the goal should be to convey the relevance and applicability of human rights in the daily lives of students. This is in line with the HRBA to education which argues that human rights can only be taught in an environment where these are respected and consequently suggests that the application of human rights should permeate all aspects of schooling.

3.2.3.3 *School violence and school discipline*

A HRBA to education argues that children, inter alia, have the right for their dignity to be respected within the learning environment which implies that education has to be provided in a way that is consistent with human rights.⁶⁶ This also entails the freedom from all forms of violence within educational establishments, be it physical, emotional, sexual or verbal. Perpetrators can be teachers, directors or other school staff. Violence can also be perpetrated by children against children or against teachers. The Guatemalan National Law on the Protection of Children and Youth recognizes that measures of school discipline have to respect a child's integrity and dignity. In addition, Art. 19 of the CRC establishes the right of the child to be protected from all forms of physical and mental violence through appropriate legal, administrative, social and educational measures.

A number of governmental and non-governmental institutions in Guatemala work on the protection of the children against violence, including in the educational context. They include Save the Children Norway, Action Aid, the National Commission of Child Abuse (*Asociación Comisión Nacional contra el Maltrato Infantil*, CONACMI), and the national ombudsman office (*Procuraduría de Derechos Humanos*, PDH).

National level data on school violence could not be identified during the mission. However, studies covering selected areas of the country or containing data on specific aspects of school violence were consulted. One study found that physical, verbal and psychological violence commit-

⁶³ For a comparative study on human rights education in Latin America, see Instituto Interamericano de Derechos Humanos, "II Informe Interamericano de la Educación en Derechos Humanos – Un estudio de 19 países", Costa Rica, 2003

⁶⁴ CIIDH, "Cumplimiento de la recomendación No. 36 de la CEH – Propuesta para la Reforma Educativa", Guatemala

⁶⁵ An example includes the teaching guide "Propuesta Pedagógica – Eduquémonos para el Nunca Más", prepared by ODHAG in 2004.

⁶⁶ For a further discussion on the right to respect within the learning environment, see UNESCO & UNICEF, "A Human Rights-Based Approach to Education for All", New York, 2007

ted by the teaching staff constitutes a significant problem in the country.⁶⁷ According to a Mineduc study⁶⁸, 2% of the teachers indicated that physical punishment is permitted in school. Nine percent confirmed that there are students who commit acts of violence against other students which coincides with the 10% of the students who indicated to be frequently hit or hurt by someone in school. A qualitative study carried out by ActionAid found that about 50% of female students suffered from acts emotional violence, consisting of insults, mockery and threats, as well as from physical violence (blows, kicks, pulling of hair), with figures being significantly higher for the rural than the urban population.⁶⁹ It also found, that 37% of rural girls indicated to have suffered from sexual abuse, compared to 13% in urban areas. Some interview partners indicated that there is little violence against children in PRONADE schools given the hiring and firing powers that parents hold over teachers. If a child were to report a case of abuse, then the teacher would have to fear being dismissed.

In implementing a HRBA to education, Guatemala will have to ensure that physical violence and humiliating forms of punishments are systematically identified and that policies and strategies are implemented to ban these from the classroom. To this end, teachers need to be trained to promote positive, non-violent forms of discipline and conflict resolution. Children need to learn to respect the rights of fellow students.

3.2.4 Adaptability

Guatemala is a highly multi-ethnic and pluri-cultural country. The country is home to four major ethnic groups and 23 socio-linguistic groups (in addition to Spanish, the country's official language). The four ethnic groups consist of the Spanish-speaking *mestizos* (also known as *ladinos*), the Maya, the Xinka and the Garífuna. Most of the socio-linguistic groups are part of the Maya family. Since the end of the Civil War, the Guatemalan government has made advancements in the provision of intercultural bilingual education – a fundamental requirement enshrined in the 1996 Peace Agreements. In 1995, for example, a separate department for IBE was created within the Ministry of Education (*Dirección General de Educación Bilingüe Intercultural, DIGEBI*). The mandate of DIGEBI is to develop, implement and evaluate IBE for all educational levels in all areas of the country.

The current government has also invested in the enhancement of IBE. In 2004 it launched the so-called Framework Strategy for the Revitalization of IBE which establishes the short-term objective of providing bilingual education to all children at the pre-primary level and within the first three years of primary education by 2007. Between 2005 and 2006 the Guatemalan government created 3.500 new places for pre-service teacher training in IBE.⁷⁰ In addition, it has introduced an IBE bonus (*Bono por Bilingüismo*), an incentive to be paid to bilingual teachers and administrative staff working in IBE schools. In 2005, there were 3.800 IBE schools in the country, compared to 800 schools in 1995.⁷¹

However, overall improvements in IBE over the past 10-12 years have been limited. Interview partners repeatedly pointed out the lack of political will to holistically address the issue of IBE. The following highlights some of the issues related to the limited provision of IBE. In rural Guatemala knowledge of the Spanish language is limited. Most pre-primary and primary school

⁶⁷ UN, "La violencia contra niños, niñas y adolescentes – Informe de América Latina en el marco del Estudio Mundial de Naciones Unidas", 2006.

⁶⁸ See Alvarez and Schiefelbein, "Informe Integrado del Sector Educación: Primer Borrador Final", Guatemala, 2007.

⁶⁹ ActionAid International Guatemala, "Violencia contra las niñas en las escuelas y sus alrededores", Guatemala 2006

⁷⁰ MINEDUC, "Informe de Transición Institucional (2007-2008)", Guatemala, 2007

⁷¹ World Bank, "Project Appraisal Document – Education Quality and Secondary Education Project", Washington, 2007

aged children only speak an indigenous language. However, the provision of intercultural bilingual education is limited; most teachers exclusively speak Spanish. It is not an uncommon problem to assign monolingual teachers to communities which are predominantly Maya-speaking. In part this is related to a confusion created by the National Constitution which states that IBE shall be provided in communities with a predominantly indigenous population. The term “predominant”, however, has not yet been defined. Currently, every school that has at least one bilingual teacher is defined as a bilingual school, with the result that there are many more bilingual schools on paper than those actually implementing IBE.⁷²

Further, bilingual education is limited to a selection of languages and only offered at pre-primary and primary level, i.e. not at the secondary and higher level. This is often referred to as “castellanización”, i.e. the process of only offering IBE in lower grades of primary education and progressively, and finally exclusively, providing monolingual education towards higher grades of education. From a human-rights perspective this constitutes a violation of the respect of the child’s identity, language and values. In fact, it is breach of the provisions contained in the Peace Accords which establish that the study and knowledge of indigenous languages shall be strengthened at all levels of education.

The extent to which IBE is offered has in part to do with the amount of teachers who are trained to provide bilingual education. This in turn has to do with the extent to which teacher training institutes are equipped to provide pre-service and/or in-service training in IBE. Only about 22% of Guatemala’s *escuelas normales* provide bilingual teacher training in a Mayan language. In 75% of the schools, students are only taught in Spanish; the remaining schools offer teacher training in Spanish and English.⁷³ The figures are similar for the ethnic identity of the instructors employed in the *escuelas normales*: only about 24% of the instructors are of indigenous origin; the remainder are Spanish-speaking *mestizos*.⁷⁴ Finally, the grand majority (about 70%) of students who enrol in teacher training, i.e. the countries future teachers, are *mestizos*, too.⁷⁵

It should be pointed out that opinions among the indigenous population as regards the (main) language of instruction are divided. Some parents argue that the focus should be on the Spanish language as the children already learn the indigenous language at home and as knowledge of Spanish will help them later in their lives, for example to find adequate employment. Others argue that IBE is a prerequisite for parents sending their children to school as they do not want their children to be in a classroom where they will not understand anything, be bored and fail exams.

Some of the indigenous groups, including the National Council on Maya Education (*Consejo Nacional de Educación Maya*, CNEM), go even further and say that current forms of IBE are not sufficiently far-reaching as they place a strong emphasis on linguistic issues only. Instead, they propose a more holistic approach (*educación indígena/maya*) which goes beyond teaching in vernacular language and the provision of information on the country’s different cultures, and also concerns contents, curriculum, teaching methods, the teaching of Mayan values, and pedagogy.

Their demands are in line with a HRBA to education which establishes that education programmes for indigenous peoples shall be developed and implemented in cooperation with them, incorporating their histories and knowledge and technologies, their value systems and their so-

⁷² World Bank, “Project Appraisal Document – Education Quality and Secondary Education Project”, Washington, 2007

⁷³ Universidad Rafael Landívar, “Censo sobre Escuelas Normales en Guatemala 2004”, Guatemala, 2005

⁷⁴ Ibid.

⁷⁵ Ibid.

cial, cultural and economic aspirations (ILO Convention No. 169, Art. 27). This is confirmed by the Peace Accords which establish that the education system shall recognize and strengthen the culture, values and educational concepts of its indigenous population. In order to fulfil this demand, CNEM has been entrusted with developing an applicable proposal on the integration of Mayan education into the national system. So far, however, as they themselves have recognized, it has failed to move beyond a theoretical framework towards the design of a practical alternative.

3.3 Analysis on the Basis of Human Rights Principles

3.3.1 Non-Discrimination and Equality

Challenges related to the discrimination against girls, the poor, the rural and the indigenous population have been discussed in chapter 3.2.2. An additional group that sees its right to education violated are disabled children. Their right to education is enshrined in Guatemala's Political Constitution (Art. 71 and 74), the 1996 Law on the Attention of Persons with Disabilities (Art. 25-33) as well as the Inter-American Convention on the Elimination of all Forms of Discrimination against Persons with Disabilities (Art.3).⁷⁶ They commit the government to provide inclusive education, and to promote educational programmes that correspond to the needs of disabled children, including the adaptation and/or implementation of special teacher training, teaching methods, teaching and learning materials and the promotion of physical accessibility. This is in line with a HRBA to education which argues that all children have a right to education and that consequently educational programmes have to be developed for all, ensuring that barriers are removed and that disadvantaged children are included (inclusive education).

Detailed data on the incidence and nature of students' disabilities, the availability of special education programmes and the education coverage among disabled persons was not collected during the mission. However, it is clear that there are physical, institutional and cultural barriers that limit the access of disabled children to education. Generally, in rural areas where the PRONADE programme has been operating physical access to schools is very difficult due to a lack of infrastructure (lack of paths, ramps as well as public transport, at least all the way to the school). Physical access for disabled children in urban school is also obstructed by cobble stone or muddy streets which make the use of wheel chairs difficult; lack of ramps; inadequate school furniture (desks etc); doors that are too narrow; sanitation facilities that do not cater to the needs of disabled children etc.⁷⁷

A further deficit is that teachers are not sufficiently trained and consequently lack the tools and methods to work with disabled children.⁷⁸ They also often reject having handicapped children in their class because of prejudices. Negative attitudes towards schooling can also be detected among parents who often hide their disabled children as they feel ashamed. Rejection and discrimination can further be noted among non-disabled children who bully against disabled children. Negative attitudes and behaviour constitute a violation against the rights of disabled children in itself. However, they also contribute to a violation of their right to education, as discriminated and marginalized students lose their self-esteem and motivation to do well in school.

⁷⁶ Guatemala is also a signatory to the 2006 UN Convention on the Rights of Persons with Disabilities (ratification pending) which also recognizes disabled people's right to education.

⁷⁷ The Guatemalan NGO ASCATED has published a manual which indicates the architectural barriers that a physically disabled child encounters in wanting to access a school. This manual also contains a number of simple solutions on how to locally improve these architectural conditions. See ASCATED, "Escuelas sin barreras – manual de soluciones locales", Guatemala, 2006.

⁷⁸ Training materials targeting teachers and children on how to tackle issues of discrimination against disabled children have been developed by Guatemalan NGOs. For example, ASCATED, "En el lugar de los otros y las otras – Guía dirigida a Educadores y Educadoras", Guatemala, 2005.

3.3.2 Participation und Empowerment

The Guatemalan education system foresees the participation of parents in school-related decision-making both within regular and PRONADE schools. For this reason, parent committees have been established for both types of schools. These are called *Juntas Escolares* for the regular and COEDUCAS for the PRONADE schools. Their decision-making power is mainly administrative in nature and involves such tasks as buying teaching and learning material, preparing the school breakfast, and supporting the construction and maintenance of school buildings. In addition, the COEDUCAs also have the right and responsibility to select and recruit teachers, monitor teacher and student attendance, pay their salaries and dismiss teachers in case they do not perform adequately.

In 2004, the Ministry of Education also granted COEDUCAs the power to determine the school calendar, i.e. allowing them to determine on which days of the year classes are given, provided they amount to a total of 180 days. The ultimate objective of transferring decisions regarding the school calendar to the parents is to enhance school attendance rates as children often miss classes, for example during times of harvest and related temporary migrations. With this flexible arrangement, parents are able to close schools during these periods, thus avoiding problems of seasonal absenteeism. A HRBA welcomes the use of flexible time tables as this results in a more inclusive approach to education which is adapted to the actual needs and circumstances of the communities.

Contrary to the provisions of the Peace Accords and the National Law on the Protection of Children and Adolescents, parents have not been devolved tasks related to the content and quality of education. The Peace Accords, for example, establish that parents shall have a say in the design of the curriculum; the National Law on the Protection of Children and Adolescents establishes that parents shall participate in the educational processes taking place in the classroom. From a human rights-based perspective, the limitation to administrative tasks should be seen as deficit.

The participation of children in school management issues is not foreseen in PRONADE schools. From a human rights point of view this constitutes a deficit.⁷⁹ Art. 12 of the CRC establishes that children are entitled to express their views on all matters of concern to them and to have these given due weight in accordance with their age and maturity – a right that also extends to all aspects of education.⁸⁰ A human rights-based perspective would therefore argue that children have the right to be meaningfully consulted in matters related to forms and content of education which would imply ensuring ways that enable children to voice their opinion on educational content, school management and teaching and learning methods, bearing in mind their age and maturity. A HRBA does not require parents or children to ultimately decide on the kinds of teaching methods or the content of the curriculum. However, it demands that their opinion be heard and taken into consideration in governmental decision-making processes.

The above ties in with a current discussion in Guatemala on whether or not the community should be involved in matters that relate to the content and quality of education (teaching and learning methods, teachers' attitudes and behaviour towards their students, homework support etc). Opinions are divided here. Some argue that educational quality is the domain of the Ministry of Education and that parents do not have the capacity to contribute to the improvement of educational quality as most of the rural population is either illiterate or has completed less than five years of education. Others say that parents have much to offer even though they might

⁷⁹ See Heinz, Deutsches Institut für Menschenrechte, "Menschenrechtsrelevanz in der Arbeit der KfW – Eine Portfolio-Analyse ausgewählter Projekte", Berlin, 2006.

⁸⁰ UNESCO & UNICEF, "A Human Rights-Based Approach to Education for All", New York, 2007

need some capacity building and awareness raising. It is pointed out, for example, that parents have basic counting skills (from counting cattle, vending produce at local markets) which they can use to practise maths with their children, ultimately contributing to better student achievement.

Another example is the GTZ PACE-Programme which is working with parents to raise their awareness for the need to grant children a time and space to do their daily homework which is not necessarily a given as many children have to support their parents working in the field or in the household. Ceding them time for their homework is another indirect means to improve student achievement and thus educational quality.

3.3.3 Accountability and Transparency

The issue of accountability features strongly within the PRONADE system as the COEDUCAs have the responsibility to monitor teachers' attendance, holding them accountable for working days that they are absent. Teacher absenteeism is a considerable problem in the regular school system as school supervision is argued to be weak. In turn, teacher attendance is much higher in PRONADE schools, which is commonly linked to the fact that parents have the right to dismiss teachers who are not performing.

While granting parents a voice vis-à-vis the teachers is positive from a human rights point of view, this right needs to be balanced with a teacher's right to decent work and to join unions. As stated above, the current government is planning on integrating PRONADE into the regular school system, thus placing all teachers under the authority of Mineduc. On the one hand, this will strengthen the job security of PRONADE teachers. On the other, it will probably aggravate the problem of teacher absenteeism as teacher attendance and performance will no longer be monitored by parents. This would imply that unless the new government also works on a reform of the school supervision and teacher incentive system, the quality of education would continue to suffer.

3.4 **Analysing PRONADE from a Human Rights Perspective**

The Guatemalan government launched the rural education programme PRONADE in 1993, with the aim of enhancing access to and quality of education, targeting low income students in rural areas of the country. It runs in parallel to the regular education system; they differ in administrative arrangements. Whereas the regular school system is exclusively administered by the Ministry of Education and its decentralized branched at the regional and municipal level, PRONADE has decentralized some administrative tasks to parent associations, the COEDUCAs, directly. These in turn are supported by NGOs with experience in the education sector (the so-called *Instituciones de Servicios Educativos*, ISE) who provide capacity development to the parents and supervise the programme in the field.

Since the mid-1990s, the programme has been receiving financial support from the World Bank and KfW. PRONADE is a well known programme both within the country and the region, not least because of its substantial achievements in improving pre-primary and primary enrolment rates. Even though PRONADE does not explicitly make use of the human rights terminology, its goals and strategies show a considerable overlap with a HRBA to education.⁸¹ The programme has contributed to the realization of the right to education, especially in terms of expanding availability of and access to educational services in areas previously not attended by the education system. Currently almost half a million children in Guatemala are attending PRONADE schools,

⁸¹ See Heinz, Deutsches Institut für Menschenrechte, "Menschenrechtsrelevanz in der Arbeit der KfW – Eine Portfolio-Analyse ausgewählter Projekte", Berlin, 2006.

constituting about a fifth of all Guatemalan students.⁸² PRONADE schools are exclusively located in rural, indigenous areas, which is where Guatemala's poorest and most marginalized population lives. About half of all PRONADE schools have been established in the country's four poorest departments (Quiché, Alta Vera Paz, Huehuetenango and San Marcos); 83% of the schools are located in communities that are extremely poor.⁸³ In Alta Vera Paz about 50% of all students are enrolled in PRONADE schools as regular schools so far have been scarcely available there.

By establishing and equipping schools in rural areas, PRONADE has been crucial to providing services to previously excluded population groups (availability). The programme has also strengthened the accessibility of education by targeting rural, indigenous students (non-discrimination), establishing schools in communities where the nearest public school previously was at least three kilometres away (geographic accessibility), and providing scholarships to poor students to cover the indirect costs associated with attending school (financial accessibility). While PRONADE offers a special scholarship programme which exclusively targets girls, the revised documents did not reveal that the programme also applies other strategies in order to specifically benefit girls.⁸⁴

Even though issues related to acceptability and adaptability (quality education, IBE) feature among PRONADE's goals, they have been of a lesser concern to the programme. Many PRONADE schools do not employ bilingual teachers and teaching and learning materials are often in Spanish only despite the fact that PRONADE schools are mainly established in indigenous communities. This is a clear violation of the human rights principle of "acceptability" as well as the provisions concerning IBE contained in the Political Constitution, the different Agreements of the Peace Accords as well as the National Law on the Protection of Children and Youth. It should also be noted that the GTZ supported PACE programme has been working on issues of bilingual (Maya) education in Guatemala since 1993, building up considerable expertise in this area. GTZ and KfW have agreed that this expertise will feed into one of the components of PRONADE III, under implementation since November 2007.

The evaluation of PRONADE I (1999-2004), carried out in 2004, showed that the programme had not fully reached its goals of reducing primary repetition and drop-out rates, which are important indicators of educational quality.⁸⁵ While the provision of quality education is a progressive obligation, the government will have to continue making efforts to improve the quality of PRONADE schools in order to fulfil the right to education.

Parental participation and accountability in school management also constitute important elements of the programme. Parental participation is generally considered to be high, enabling them to hold teachers accountable for their attendance and performance. While these aspects are positive from a HRB perspective, it constitutes a shortcoming that communities do not have a say as regards the content and quality of education, as foreseen, for example, in the 1996 Peace Accords and the National Law on the Protection of Children and Youth. In addition, the fact that children do not participate in matters related to educational content and quality is also considered a short-coming from a HRB point of view.

⁸² PRONADE, "Programa Nacional de Autogestión para el Desarrollo Educativo", Power Point Präsentation, Guatemala, 2007

⁸³ Action Aid Guatemala, "Derecho a la Educación – El Precio que Pagan los Pobres", Guatemala, 2006; PRONADE, "Programa Nacional de Autogestión para el Desarrollo Educativo", Power Point Präsentation, Guatemala, 2007

⁸⁴ KfW, "Guatemala: Ländliche Primarschulbildung PRONADE I", Kurzfassung Schlussprüfung, Frankfurt, 2004; PRONADE, "Programa Nacional de Autogestión para el Desarrollo Educativo", Power Point Präsentation, Guatemala, 2007; MINEDUC, "PRONADE: La Comunidad Educativa Comprometida por la Educación", 2007.

⁸⁵ KfW, "Förderschwerpunkte Guatemala", Frankfurt, 2005

4. Conclusions and Recommendations

Chapter 4 contains a list of recommendations that aim to provide guidance on how to include a HRBA into the design of future education sector interventions promoted by the German government. The recommendations follow the same structure as the main part of the report, first addressing the “Four A’s”, then making recommendations as regards key human rights principles.

Availability of educational services

- Efforts need to be increased to enhance enrolment rates at the pre-primary and secondary level, ensuring that access to education is provided throughout all stages of childhood. These efforts need to take into account and address obstacles that currently limit access at these levels, especially for rural, indigenous, and poor students and girls. The obstacles relate to availability, economic and physical accessibility, language barriers, poverty and child labour, as well as children’s and parents’ lack of interest in and awareness of the benefits of education.
- In order to comply with the right to education and also in view of reaching Universal Primary Completion (MDG 3), a special focus has to be placed on the poorest and most marginalized areas of the country (Alta Vera Paz, Quiche, and Huehuetango).
- The quality and the standards of school infrastructure need to be improved especially in rural areas, ensuring that learning environments are welcoming, healthy, safe, and respecting the best interest of the child (Art. 3 CRC). The right to access to education establishes that schools should have adequate sanitation facilities for both sexes, be protected from natural or man-made dangers, for example through the creation of fences, and have access to drinking water within a reasonable distance, i.e. not amounting to more than a 30 minute walk for both ways.
- Teaching and learning materials, especially those pertaining to the new curriculum, need to be made available in sufficient quantities and distributed to all schools. Teachers need to be trained on how to use these materials.
- Pre-service and in-service teacher training needs to be improved with the goal of equipping teachers with the tools and instruments to impart active, child-centred teaching.
- A culture in which teachers’ rights are respected needs to be fostered. Steps need to be taken to enhance their working conditions, for example by introducing better appraisal systems, enhancing their salaries and providing them opportunities to be consulted with regards to government decisions that affect their profession. At the same time it needs to be ensured that teachers live up to their obligation of reliably providing quality education.
- The suggestion of paying a special bonus to teachers working in rural areas that are difficult to access should be scrutinized for its viability.
- Efforts need to be made in order to establish a positive and constructive relationship between parents and students on the one hand and teachers on the other; one that is characterized by trust and cooperation. Best practices and positive experiences from other countries, such as those using a score card system, should be considered in order to improve the situation. To this end, exchange visits could be financed.

Accessibility of educational services

- Special efforts have to be made to eliminate the exclusion of and discrimination against marginalized and vulnerable groups, such as girls, the poor, the rural and the indigenous population,

ensuring that they have equal access to and equal opportunities to complete quality education at all levels. This will entail a mixture of strategies, including increasing the availability of educational services, enhancing the provision of scholarships and IBE, raising the awareness among parents and students as regards the right to and benefit of education, and addressing issues of poverty and child labour.

- Physical accessibility, especially in rural areas, needs to progressively be improved, for example through the enhanced provision of public transport and the construction of safe roads and paths. Investments in rural infrastructure can also contribute to enhanced access in a more indirect way. For example, by improving the system of rural roads, paths and wells the time-consuming burden of girls' household duties, for example fetching water from far-away sources, can be alleviated, effectively creating more time for them to attend school.

- The availability and quality of flexible modalities of secondary education needs to be improved. Modalities of lower secondary education should take into account the (working) schedules of families and their children. Adolescents typically work with their parents in the morning in the fields or in the household. Offering classes in the afternoons has proven to be a more convenient time for students to attend classes. A further modality that has proven to be successful in enhancing access is the provision of distance education on weekends only as this allows children carry out household as normal during the week. Other Latin American countries have successfully experimented with a system of host families. The government pays host families in a village that has a secondary school a stipend in return for offering accommodation to students who come from villages that lack a secondary school.

- The scholarship system for secondary education should be strengthened, specifically targeting marginalized groups such as girls, the poor, the rural and the indigenous communities. The amount of and frequency with which scholarships are paid need to be adequate to motivate children to enrol and stay in school. This means that they should tangibly reduce the burden of private and opportunity costs.

- Large-scale efforts need to be made to raise the awareness of parents and children regarding the right to and benefits of education, including the education of girls and disabled children. Parents should also be made aware that they have duties in ensuring that their children attend and do well in school (making sure they arrive on time, granting them time to attend and do their homework etc.). Parents could be consulted on what in their eyes constitute the major obstacles to their children attending school.

Acceptability and quality of educational services

- Interventions that aim to enhance the efficiency and quality of education need to be strengthened at all levels of education, ensuring that particularly marginalized groups (rural, indigenous and poor students as well as girls) have equal opportunities in terms of transition and completion rates and student achievement. Special programmes need to be designed and implemented to stimulate students to complete primary education in order to enhance transition rates to secondary education.

- Teachers need to be trained and equipped with relevant teaching material in order to implement the CNB and impart human rights education. If the government is not in a position to do so, it could consider involving PDH, ODHAG or the Office of the High Commissioner of Human Rights in the training of training teachers on human rights education. All three organisations have a mandate to provide human rights education and have experience in training activities and have developed relevant training materials. Depending on its resources, the government could delegate this task on an interim or a permanent basis.

- The respect for children within the classroom needs to be promoted, in order to eliminate and prevent incidences of school violence. This concerns the respect and prevalence of non-violence among children as well as the respect and prevalence of non-violence between teachers and students. Teachers and students need to be made aware or trained on constructive, non-violent forms of conflict resolution.

Adaptability of educational services

- The government needs to ensure the increased availability of infrastructure, teachers, teacher training institutes, and teaching and learning materials to ensure quality provision of IBE. IBE should not only be taught at lower levels of education but be provided up to higher levels. Its provision should not be limited to the teaching of an indigenous language but rather adopt a holistic approach that also incorporates the values, aspirations, educational concepts and methods of the indigenous community.
- As regards the provision of IBE, it is recommended to make use of the IBE experiences of the GTZ PACE programme. In addition, in terms of IBE, effective forms of collaboration between GTZ and KfW should be sought.
- In order to combat discrimination and prejudices, intercultural education should also be offered to the ladino community, starting at the early childhood level.
- The impacts and efficiency of paying a “bilingual bonus” to IBE teachers should be evaluated.

Non-discrimination and equality

- Policies and strategies need to be implemented to guarantee that disabled children, girls, poor, rural as well as indigenous students have equal access to quality education.

Participation and empowerment

- Communities, teachers and families should be made aware of the child’s right to participate in matters of concern to them. In many communities, children are not expected or allowed to voice their concerns and speak in public.
- Community participation in educational matters should not be limited to administrative tasks but also concern teaching contents and methods. This might involve capacity building of parents, for example in so called parent schools, touching upon issues of educational quality, the importance of education, the rights of the child etc.
- In addition, it should be considered involving children in school-related decision-making, if not through the COEDUCA or the *Junta Escolar* than through their participation in child-led student committees where each grade elects a representative to have a voice and vote in decision-making bodies. Best practices developed by NGOs working in the country or else developed in similar country contexts could be consulted.
- In enhancing parents’ and children’s participation in the teaching and learning process, it should also be ensured that the communication and cooperation between them and the teaching staff is improved. The GTZ PACE programme aims to enhance the relationship between parents, teachers and students by organizing joint workshops and projects in which all three groups participate. Joint committees, where all three stakeholder groups are represented, have been successfully established in Mexico (*Consejos de Participación Escolar*) and Colombia (*Alianza Comunitaria*) and could be examined for their lessons learnt.

Accountability and Transparency

- Teacher absenteeism constitutes a major problem in the regular school system, infringing on a child's right to access quality education. The government needs to ensure that teachers regularly attend school and thus fulfil their duties. To this end, the government needs to develop an effective system that combines both monitoring and supervision of teachers as well as enhanced incentives and training.

Annex 1: Terms of Reference – Nina Otto

SV Menschenrechte umsetzen in der EZ
PN 04.2201.4-001.00
VN



Beratungseinsatz zur Integration des
Menschenrechtsansatzes im Rahmen der KfW Feasibility Study zur
Neukonzeption des deutschen FZ-Beitrags im Bildungssektor, Guatemala
November 2007

Nina Otto

I. Hintergrund

Auf internationaler Ebene wie auch in der deutschen Entwicklungspolitik hat die systematische Verknüpfung von Menschenrechten und Entwicklungszusammenarbeit in den letzten Jahren weiter an Dynamik gewonnen. Der prominenteste Ausdruck dessen ist die Millenniumserklärung von 2000. Auf OECD DAC Ebene wurde mit dem im Februar 2007 verabschiedeten "Action-oriented Policy Paper on Human Rights and Development"⁸⁶ ein deutliches politisches Bekenntnis aller Mitgliedsstaaten zur Verstärkung der eigenen Anstrengungen in Bezug auf die konsequente Ausrichtung der EZ an den Menschenrechten gegeben.

Bereits im Juli 2004 veröffentlichte das Bundesministerium für wirtschaftliche Zusammenarbeit und Entwicklung (BMZ) den 'Entwicklungspolitischen Aktionsplan für Menschenrechte 2004-2007' mit dem Ziel, den Menschenrechtsansatz als Querschnittsorientierung in der deutschen Entwicklungspolitik und -praxis zu verankern. Das GTZ Sektorvorhaben "Menschenrechte umsetzen in der Entwicklungszusammenarbeit" unterstützt seit Juni 2005 das BMZ und seine Durchführungsorganisationen darin, dieses Ziel zu erreichen.

Der Menschenrechtsansatz zielt darauf ab,

- die Entwicklungszusammenarbeit explizit und systematisch an den menschenrechtlichen Standards wirtschaftlicher, sozialer, kultureller, bürgerlicher und politischer Menschenrechte zu orientieren sowie
- die so genannten menschenrechtlichen Prinzipien, Empowerment und Partizipation, Nicht-diskriminierung und Chancengleichheit, Rechenschaftspflicht und Transparenz in der EZ zu beachten und engagiert zu fördern.

Durch die Menschenrechtsperspektive treten strukturelle, gesellschaftspolitische Ursachen von Diskriminierung und sozialer Ausgrenzung in den Fokus der Analyse und Handlungsstrategien.

2004 wählte das BMZ neben Kenia Guatemala als Pilotland aus, um den Menschenrechtsansatz in der Praxis der deutschen Entwicklungszusammenarbeit gezielt umzusetzen und zu erproben. Die anvisierte systematische Ausrichtung der deutschen EZ an den Menschenrechten wurde mit den Partnerländern im Rahmen der Regierungsverhandlungen diskutiert und vereinbart.

⁸⁶ Siehe hierzu: www.oecd.org/dac/governance/humanrights.

Guatemala hat alle sieben Kern-Menschenrechtsverträge der UN ratifiziert und sich damit zu deren Umsetzung auf nationaler Ebene rechtlich bindend verpflichtet⁸⁷. Darüber hinaus hat Guatemala auch auf regionaler Ebene die meisten Menschenrechtsverträge des interamerikanischen Menschenrechtssystems ratifiziert⁸⁸. Auf nationaler Ebene beinhaltet die guatemaltekische Verfassung selbst das Recht auf Bildung. All dies statuiert die Pflicht, das innerstaatliche Rechtssystem entsprechend anzupassen und entsprechende Politiken gezielt umzusetzen.

Im GTZ-unterstützten PACE Programm zur Verbesserung der Grundbildung in Guatemala fand bereits ein Beratungseinsatz des Sektorvorhabens zum Menschenrechtsansatz statt. Die dort gesammelten Erfahrungen und die bereits stattgefundene inhaltliche Auseinandersetzung mit dem Menschenrechtsansatz auf konzeptioneller und praktischer Ebene sollten im Rahmen des Beratungseinsatzes zur Unterstützung der KfW- Feasibility Study genutzt und berücksichtigt werden.

II. Ziele und Hauptaufgaben

Der Beratungseinsatz hat zum Ziel, menschenrechtliche Prinzipien und Standards systematisch in die Entwicklung des KfW-Neuvorhabens im Bildungssektor in Guatemala einzubringen. Hierzu wird die Gutachterin das aus FZ-Mitteln finanzierte KfW Gutachterteam fachlich unterstützen und beraten (insgesamt 3 Wochen vor Ort) und ihre menschenrechtliche Expertise in die Problem- und Situationsanalyse sowie die Planung des Neuvorhabens interaktiv einbringen. Die Gutachterin wird darüber hinaus konkrete, umsetzungsorientierte Anregungen für aus Menschenrechtsperspektive wichtige und sinnvolle FZ-Projektcomponenten erarbeiten und Ansatzpunkte für ergänzende TZ-Ansätze entwickeln.

Der Beratungseinsatz umfasst die folgenden wesentlichen Elemente:

1. Inhaltliche Beiträge

- Zusammenstellung der menschenrechtlichen Verpflichtungen Guatemalas (internationale, regionale sowie nationale) mit besonderer Relevanz für den Bildungssektor (insbesondere Recht auf Bildung und die in der Kinderrechtskonvention niedergelegten Rechte).
- Identifizierung der menschenrechtlichen Herausforderungen im Bildungssektor (Problemanalyse) in Guatemala unter Berücksichtigung der menschenrechtlichen Prinzipien und Kernelemente der relevanten Rechte (Verfügbarkeit, Zugänglichkeit, Adaptierbarkeit, Angemessenheit, Qualität). Dabei werden Analysen anderer Geber, NGOs und Menschenrechtsinstitutionen sowie Material des internationalen und regionalen Menschenrechtssystems genutzt und ausgewertet. Entsprechend werden gezielte Gespräche mit relevanten staatlichen und nichtstaatlichen Institutionen in Guatemala geführt, (z.B. COPRHEDE).
- in enger Abstimmung mit dem Hauptgutachterteam Entwicklung konkreter umsetzungsorientierter Empfehlungen, wie das Vorhaben gezielt zum Abbau der menschenrechtlichen Defizite im Bildungssektor beitragen kann.
- Entwicklung von Vorschlägen für ergänzende menschenrechtsrelevante TZ-Maßnahmen.

2. Unterstützung bei der methodischen Gestaltung der Feasibility Study.

⁸⁷ International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), UN-Convention on the Elimination of All Forms of Racial Discrimination, UN-Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, UN-Convention on the Rights of the Child (including the two optional protocols on children in armed conflict and on the prohibition of child trafficking, prostitution and pornography), UN-Convention on the Elimination of All Forms of Discrimination against Women and the UN-Convention on the Rights of Migrant Workers and Their Families.

⁸⁸ S. für eine vollständige Übersicht http://www.oas.org/dil/esp/tratados_materia.htm#DEREHUM.

Die Beraterin trägt dazu bei und berät das Hauptgutachterteam darin, in der methodischen Gestaltung der Feasibility Study menschenrechtliche Prinzipien umzusetzen. Insbesondere geht es darum, dass die von Diskriminierung besonders betroffenen Gruppen (indigene Mädchen und Jungen bzw. Jugendliche aus besonders armen Haushalten und deren Eltern, darunter Kinder, die bisher nicht zur Schule gehen sowie Behinderte) ihre Perspektive und Interessen in den Analyse- und Planungsprozess unmittelbar einbringen können. Hierzu werden selbständig oder in Kooperation mit den FZ-Consultants Focus Group Diskussionen insbesondere mit Kindern und Jugendlichen sowie deren Eltern, ggf. auch LehrerInnen durchgeführt. Die Diskussionsrunden dienen gleichzeitig dazu, herauszufinden, welches Rechtsbewusstsein bzgl. der o.g. Rechte bei den verschiedenen Beteiligten besteht.

III. Dokumentation

Neben dem interaktiven Einbringen ihrer Expertise in die verschiedenen Etappen der Feasibility Study und in die Gesamtkonzeption des Vorhabens erstellt die Gutachterin ein separates Dokument als Anlage zum Hauptbericht. In dieser Anlage werden die unter Punkt 1. aufgeführten Aspekte zusammengefasst. Der Bericht wird in Deutsch erstellt und aus Mitteln des Sektorvorhabens ins Spanische übersetzt. Ein Entwurf des Berichtes wird 2 Wochen nach dem 3-wöchigen Beratungseinsatz in Guatemala zur Abstimmung vorgelegt. Kommentare seitens des Sektorvorhabens und der KfW werden in eine Endversion eingearbeitet.

IV. Vorbereitung des Einsatzes

Für den Einsatz relevante Dokumente sowie Hinweise auf Personen, die ggf. vor Ort separat zu interviewen sind, werden rechtzeitig durch die KfW sowie das Sektorvorhaben bekannt gegeben. Die Details der Planung (Logistik etc.) werden frühzeitig per e-mail bekannt gegeben und abgestimmt. Wenn zeitlich möglich, wird die Beraterin an einem vorbereitenden Treffen mit den beiden Hauptgutachtern, der KfW und dem SV „Menschenrechte umsetzen in der Entwicklungszusammenarbeit“ teilnehmen. Falls ein persönliches Treffen nicht möglich ist, ist eine ausführliche Abstimmung per Telefon und e-mail vorgesehen.

Den Hauptgutachtern wird vom Sektorvorhaben vor ihrer Ausreise eine Materialsammlung mit den wichtigsten Informationen zum Recht auf Bildung und zum Menschenrechtsansatz in der EZ zur Verfügung gestellt, damit sie sich entsprechend vorbereiten können.

V. Arbeitstage

4 Tage Vorbereitung (davon 1 Tag intensive Vorbereitung mit Frau Hoensbroech, 24.9.)

2 Reisetage

21 Tage vor Ort

5 Tage Berichterstellung und Korrespondenz / Abstimmung mit Hauptgutachtern (Einspeisen wichtiger Aspekte in den Endbericht).

1 Tag Besprechung des Einsatzes / der Ergebnisse mit KfW und SV

Annex 2: List of Interviewees

Below is a list of those persons who were interviewed in the context of the feasibility study. It also indicates their respective positions and institutions they work for.

1. Individuals

Name	Position	Institution
Agosto López, Herminio Antonio	Jefe de Equipo, PRONADE I y II	IPC/KfW
Argueta, Bienvenido	National Programme Officer for Education	UNESCO Guatemala
Beteta, Dora de	Directora de Promoción y Educación	PDH
Blanco Lapola, Orlando	Coordinador General	CIIDH
Burbano, Gabriela de	Directora	ASCATED
Callejas Herrera, Vivian	Directora, Dirección Financiera	PRONADE, MINEDUC
Chavizo, Viktor	Jefe de Equipo	PRONADE III, KfW
Cumes, Heliodoro	Coordinador de Programas	Save the Children Norway
España, Dr.	Miembro	Comisión de Políticas Educativas de la UNE
Flores, Rolando	Contador General	ASCATED
García Salas, Olga María	Jefa	Subdirección de Curriculum Multilingüe Intercultural, MINEDUC
Guerra Pazos, Francisco Javier	Coordinador Técnico-Administrativo	Supervisión de Educación de Jocatán, MINEDUC
Gularte, Susana	Asesora, DIGECADE	MINEDUC
Linares, Luis	Secretario Ejecutivo Adjunto	ASIES
Linares, Rene	Director	PRONADE, MINEDUC
López, Luis Enrique	Director	PACE, GTZ Guatemala
Luhmann, Peter	Director	GTZ Guatemala
Marroquín, Reynaldo	Asesor	Dirección Departamental de Educación de Chiquimula, MINEDUC
Medina, Sergio Estuardo	Supervisor Educativo	Supervisión de Educación de Jocatán, MINEDUC
Morales, Marco Antonio	Asesor	PACE, GTZ Guatemala
Morales de la Sierra, María Eugenia	Procuradora Adjunta	PDH
Pineda Ocaña, José Fernando	Jefe del Depto. de Educación Primaria y Ciclo Básico	Subdirección de Curriculum Multilingüe Intercultural, MINEDUC

Puac Bixcul, Francisco	Asesor	CNEM
Ramirez, Werner	Asesor	PACE, GTZ Guatemala
Reyes, Joel	Experto en Educación	World Bank Büro Guatemala
Reyes de Muralles, Hermina	Directora	DIGECADE, MINEDUC
Rodenas Paredes, Nery	Director Ejecutivo	ODAH
Rosales Cerezo, Francisco	Miembro	Comisión de Políticas Educativas de la UNE
Sacalxot, Martín	Defensor de los Pueblos Indígenas	PDH
Sanchez, Ana Maria	Oficial Asistente del Proyecto de Educación	UNICEF Guatemala
Schaff, Bodo	Jefe de Misión Adjunto	Deutsche Botschaft Guatemala
Tobar, Alicia	Abogada	Defensora de la Niñez y Juventud, PDH
Ujpan, Juan	Asesor Educación Bilingüe	PACE, GTZ Guatemala
Velarde, Maria Eugenia	Economista	PRONADE III, KfW
Zetina Castellanos, Waldemar	Abogado	Defensora de la Niñez y Juventud, PDH

2. Participants in focus group discussions

a) PRONADE School, Caserío Nacimientos, Aldea La Lima, Camotán, Chiquimula

Name	Position
Elder Edgardo Mendoza Almazán	Coordinador, SEPREDI
Eduardo Gómez	Técnico de campo, SEPREDI
Nilsy Lladira Aldana García	Docente multigrado
Feliciano Esquivel	Presidente Coeduca
Lorenzo Esquivel	Padre de familia
Manuela Esquivel	Secretaria Coeduca
Clara Palacios	Madre de familia
Santos Gomez Cilia	Padre de familia
Santos Consudo Avalez	Padre de familia
Cecilia Esquivel	Madre de familia
Lidia Avalez	Madre de familia
Roxaura Esquivel	Madre de familia
Pablo Avalez	Padre de familia
Cacinto Equivel	Padre de familia
Esperanza Esquivel	Madre de familia

b) PRONADE School, Caserío Pinalito, Aldea El Volcán, Camotán, Chiquimula

Name	Position
Elder Edgardo Mendoza Almazán	Coordinador, SEPREDI

Wilson Ruben Guerra Portillo	Técnico de campo, SEPREDI
Oliver Esquivel	Presidente Coeduca
Martin López Roque	Vice-presidente Coeduca
Francisco Vasquez	Secretario Coeduca
Ovidio Roque	Tesorero Coeduca
Alejandro Peña	Vocal I Coeduca
Luis Reyes López	Vocal II Coeduca
Alidio Caciano Mendez	Vocal III Coeduca
Blanca Gutierrez	Madre de familia
Virginia Roque	Madre de familia
Matilde Espino	Madre de familia
Pascuala Escalante	Madre de familia
Faustina Caciano	Madre de familia
Melida Peña	Madre de familia
Lucia Espino	Madre de familia
Herlinda Reyes López	Madre de familia
Isidro López	Padre de familia
Martiliano López	Padre de familia
Byron Ramirez	Padre de familia
Remigio Reyes	Padre de familia
Pedro Vásquez Escalante	Padre de familia
Mynor Reyes	Jóven
Alfonso Reyes Nufio	Jóven
Demetrio Ryes Nufio	Jóven
Isaias Reyes	Jóven

Annex 3: Schedule Feasibility Study Guatemala

Gutachterin: Nina Otto

Einsatzzeitraum: 17.11. – 11.12.2007

Datum	Uhrzeit	Thema, Ort, Gesprächspartner
Sa 17.11		16:35 Ankunft in Guatemala
So 18.11		
Mo 19.11	8:30 – 13:00	Arbeitsmeeting mit Erik Theinhardt , Teamleiter (Erstellung der Agenda, Identifizierung und Austausch von Arbeits- und Backgroundmaterial)
	14.45 – 16:15	Interview: Hermína Reyes de Muralles DIGECADE, Ministerio de Educación (MINEDUC), 6a. Calle 1-87, zona 10
	16:15 – 17:15	Interview: Olga María García Salas Subdirección de Curriculum Multilingüe Intercultural, und José Fernando Pineda Ocaña , Subdirección de Curriculum, Jefe del Depto. de Educación Primaria y Cyclo Básico, MINEDUC, 6a. Calle 1-87, zona 10
	18:30 – 19:30	Organisationsmeeting mit Carlos Alvarado Lokaler Backstopper von GOPA Consultants, Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10
Di 20.11	8:30 – 9:30	Gespräch mit Peter Luhmann Büroleiter, GTZ Guatemala, 5 Ave 15-11, Zona 10, Tel.: 23675496
	11:00 – 12:15	Gespräch mit Rene Linares , Director PRONADE, MINEDUC, und Vivian Callejas Herrera , Dirección Financiera, PRONADE, MINEDUC, 6a. Calle 1-87, zona 10
	15:00 – 16:00	Interview mit Joel Reyes , Sr. Education Expert Weltbank, Edificio Atlantis, 13 calle/ 3 Ave, Zona 11, Nivel 14, Tel.: 59901145
	17:00 – 19:00	Gespräch mit Victor Chavizo , Teamleiter PRONADE III, KfW, und Maria Eugenia Velarde , Ökonomin, PRONADE III, KfW, 6a. Calle 1-87, zona 10
Mi 21.11	7:30 – 8:45	Interview mit Herminio Antonio Agosto López Ehemaliger Teamleiter, PRONADE I und II, KfW Frühstück im Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10 Tel.: 58956438

	9:00 – 10:00	Interview mit Luis Linares , Secretario Ejecutivo Adjunto, ASIES, 10 Calle 7-48, Zona 9, Tel: 53066415 Arbeitsmeeting mit Erik Theinhardt (Entwurf des logframes des Projekts)
	10:30 – 12:30	Interview mit Werner Ramirez , Asesor PACE, Oficina PACE, 4 calle 6-55, Zona 9, Tel.: 52028853
	15:45 – 16:30	Organisationsmeeting mit Carlos Alvarado Lokaler Backstopper, GOPA Consultants im Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10
	17:30 – 18:30	Durchsicht der erhaltenen Informationsmaterialien, Vorbereitung der Reise
Do 22.11	6:30 – 11:00	Fahrt von Guatemala City in die Region Chiquimula
	11:00 – 14:00	Focus group Interview mit dem Elternrat und der Lehrerin der PRONADE Schule im Caserío Nacimientos, Aldea La Lima, Municipio Camotán, in Begleitung der ISE SEPREDI (Koordinator Elder Wilson)
	15:00 – 16:00	Interview mit Francisco Javier Guerra Pazos , Coordinador Técnico-Administrativo, und Sergio Estuardo Medina , Supervisor Educativo, Supervisión de Educación de Jocatán Übernachtung im Hotel El Caja in Chiquimula
Fr 23.11	8:00 – 10:00	Fahrt von Chiquimula in das Caserío El Pinalto, Aldea El Volcán, Municipio Camotán, Region Chiquimula
	10:00 – 12:30	Focus group Interview mit dem Elternrat und der Lehrerin der PRONADE Schule des Caserío El Pinalto
	15:00 – 16:00	Interview mit Reynaldo Marroquín , Berater, Dirección Departamental de Educación, 8ª. Av. Sur Final Zona 1 Chiquimula
	16:30 – 20:00	Rückfahrt nach Guatemala City
Sa 24.11		
So 25.11		
Mo 26.11	10:00 – 12:00	Interview mit Marco Antonio Morales Berater, PACE, Oficina PACE, 4 calle 6-55, Zona 9 Tel.: 2331 4509
	12:00 – 12:15	Meeting mit Luis Enrique López , Programmleiter PACE, Oficina PACE, 4 calle 6-55, Zona 9, Tel.: 2331 4509
	14:30 – 16:00	Interview mit Gabriela de Burbano, Direktorin, und Rolando Flores, Contador General, ASCATED

		7 Ave 12-23, Zona 9, Plaza España, Tel.: 2331 7871
	16:30 – 18:00	Vorbereitung des ersten Feedback Meetings
Di 27.11	7:00 – 11:00	Erstes Feedback Meeting (Themen: Schulinfrastruktur, Finanzierung, Machbarkeit des vorgeschlagenen Konzepts, Auswahl der Regionen) Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10
	11:00-12:00	Debriefing mit dem GOPA/KfW-Team PRONADE IV sowie dem GOPA/KfW-Team PRONADE III
	14:00 – 16:00	Debriefing mit dem mit dem GOPA/KfW-Team PRONADE IV sowie dem GOPA/KfW-Team PRONADE III, Hans Otto, Direktor GOPA Consultants und Carlos Alvarado, lokaler Backstopper GOPA Consultants
	16:00-19:00	Durchsicht der erhaltenen Materialien, Erstellung der Quellenangaben des Berichts, Identifizierung der menschenrechts-relevanten Verpflichtungen Guatemalas im Bildungsbereich
Mi 28.11	9:00 – 10:15	Interview mit Orlando Blanco Lapola , Coordinador General, CIIDH, 2 calle 4-42, Zona 2, Tel. : 56083038
	11:00 – 13:00	Organisierung weiterer Termine, Entwurf der Berichtsstruktur
	15:00 – 16:00	Gespräch mit Dr. Bodo Schaff Deutsche Botschaft Guatemala, 20 calle, 6-20, Zona 10, Edificio Plaza Marítima, Segundo Nivel
	17:00 – 19:00	Vorbereitung des zweiten Feedback Meetings (organisatorische Aspekte, Festlegung der Themen und Leitfragen)
Do. 29.11		Organisation weiterer Interviews, Überarbeitung der Leitfragen und Erstellung einer Power Point Präsentation zum MR-Ansatz für das Feedback Meeting, Fortführung der Identifizierung der menschenrechts-relevanten Verpflichtungen Guatemalas im Bildungsbereich, organisatorische Vorbereitung des Feedback Meetings
Fr 30.11	7:30 – 11:00	Zweites Feedback Meeting (Themen: Machbarkeit des vorgeschlagenen Konzepts, Kooperation mit anderen Gebern, Qualität der Bildung, Partizipation der Eltern, Auswahl der Regionen, Vorstellung des MR-Konzepts) Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10
	11:30 – 18:00	Zusammenfassung aller bisher geführten Interviews als weitere Quelle für den Bericht von Erik Theinhardt; Überarbeitung des Marco Lógicos

Sa 1.12		
So 2.12.		
Mo 3.13	Vormittags 14:30 – 17:00	Berichterstellung Interview mit Waldemar Zetina Castellanos und Alicia Tobar , Defensora de la Niñez y Juventud, PDH, 12 avenida 12-72, zona 1, Tel.: 24241717 Interview mit Martín Sacalxot , Defensor de Pueblos Indígenas, PDH, 12 avenida 12-11, zona 1, Tel.: 2424 1717/ 5384 0153 Interview mit Dora de Beteta , Directora de Promoción y Educación, PDH, 13 calle 12-48 A, zona 1
Di 4.12	9:00 – 10:30 11:00 – 12:00 15:00 – 16:15 17:00 – 18:30	Interview mit Pablo Ujpan , Berater PACE (educación bilingüe), Oficina PACE, 4 calle 6-55, Zona 9 Tel.: 59780560 Interview mit Susana Gularte , Asesora DIGECADE, ehemalige Mitarbeiterin der PDH, 3 nivel a la Norte, Edificio Nuevo, MINEDUC, Tel.: 5715 4383 Interview mit Martín Sacalxot , Defensor de Pueblos Indígenas, PDH, 12 avenida 12-11, zona 1, Tel.: 2424 1717/ 5384 0153 Debriefing mit Angelika Stöcklein , Projektmanagerin der Feasibility-Studie, GOPA Consultants
Mi 5.12	10:00 – 11:45 14:30 – 15:45 16:15 – 19:30	Interview mit Dr. Bienvenido Argueta , UNESCO, 4 calle 1-57, Zona 10, Te.: 2360 8040/ 2360 5649 Interview mit Heliodoro Cumes , 9 Ave 32-01, Zona 11, Colonia Las Charcas, Save the Children Noruega, Tel.: 2485 0806 Berichterstellung und Interviewzusammenfassung
Do 6.12	9:30 – 10:45 15:00 – 16:30 17:00 – 19:00	Interview mit Francisco Puac Bixcul , Asesor, Consejo Nacional de la Educación Maya, Tel.: 22511861/ 22328194, 4 calle A, 0-28, zona 1 Interview mit Nery Rodenas , ODAH, 6 calle 7-70, zona 1, Tel.: 2285 0456 Berichterstellung
Fr 7.12	8:30 – 12:30 14:00 – 15:15 15:30 – 16:30	Überarbeitung des Marco Lógico, Berichterstellung Interview mit Dr. España und Francisco Rosales Cerezo , Comisión de Políticas Educativas de la UNE Hotel Ciudad Vieja, 8 Calle 3- 67 Zona 10 Interview mit Ana Maria Sanchez , UNICEF, Edificio

		Edyma Plaza, Nivel 2, 13 Calle 8-44, Zona 10 Tel.: 2327 6373, 5205 0122
Sa 8.12		
So. 9.12	16:30 – 18:30	Vorbereitung des Abschlussworkshops
Mo. 10.12	8:00-14:15	Abschlussworkshop , Hotel Princess, 13 Calle 7-65, zona 9 (Themen: Vorstellung des Menschenrechtsansatzes, Vorstellung und Besprechung des Marco Lógico des Projekts)
	Nachmittags	Debriefing, Interviewzusammenfassung, Kommentierung des Marco Lógico
Die 11.12		18:10 Rückflug nach Deutschland

Annex 4: Sources

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- GTZ, DED, InWent, KfW, „Gemeinsamer EZ-Bericht Guatemala“, Guatemala, 2007
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- USAID/AED, "Equidad de la Educación en Guatemala", Power Point Presentation, Guatemala, May 2007

3. Human rights treaties and conventions

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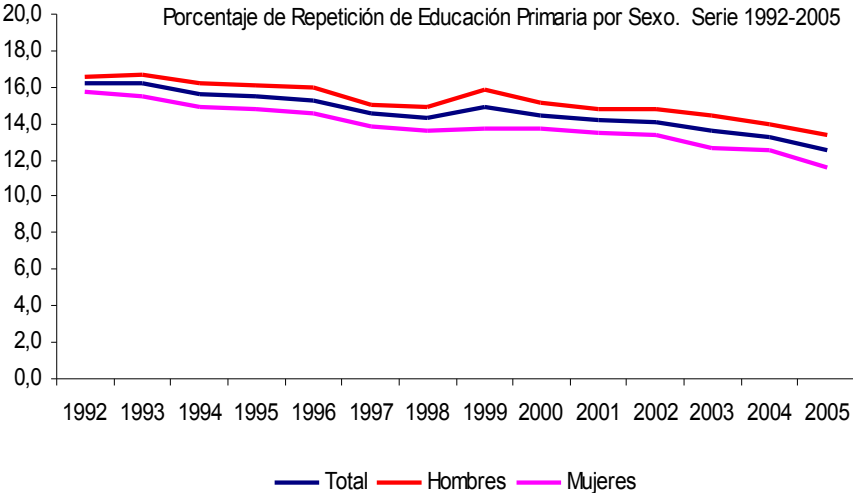
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Annex 5: Indicators of Educational Quality, Efficiency and Equity

The following tables present a series of indicators pertaining to the quality and efficiency of the Guatemalan education system. They are disaggregated by gender, geographic location, grade, and/or ethnicity, thus indicating which population groups are discriminated against (inequity of the internal efficiency of the educational system). The tables are only available in Spanish.

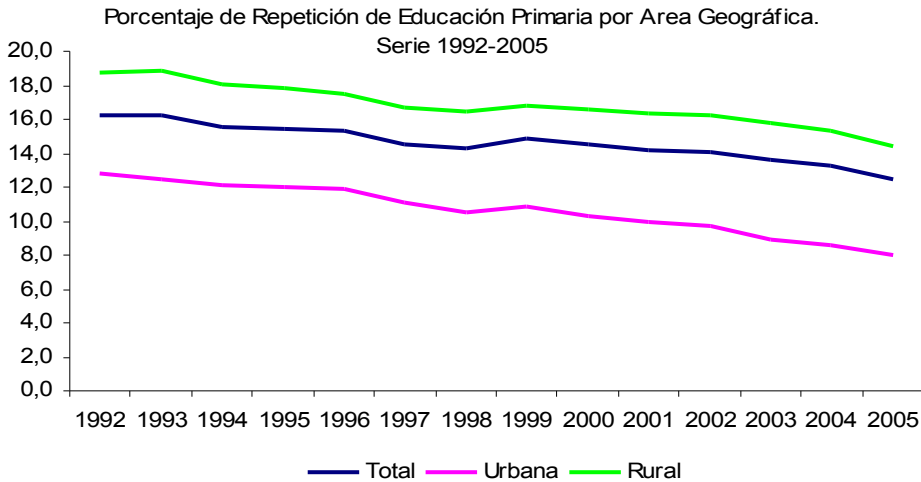
1. Primary repetition rates by gender (1992-2005)



Source: Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

The table shows that repetition rates have dropped on average by 2% since 1992. Primary repetition rates are currently about 4% higher than for girls.

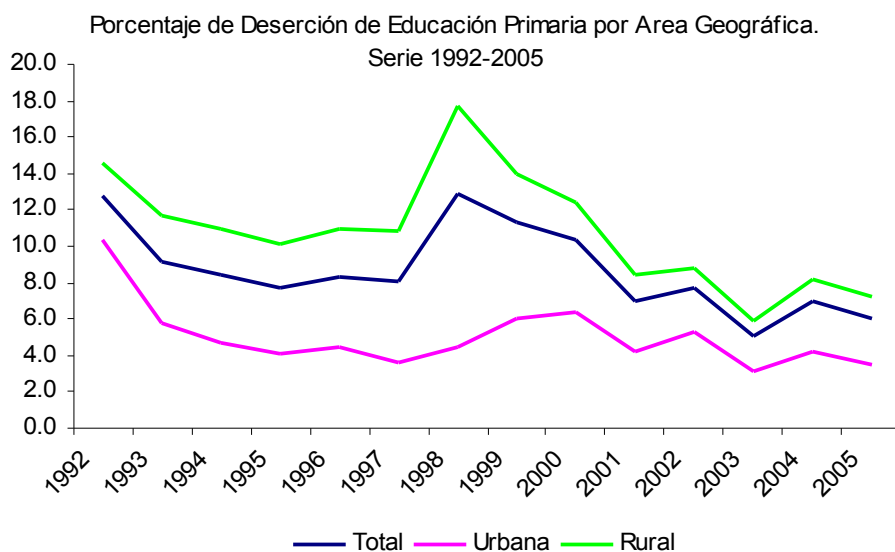
2. Primary repetition rates by geographic location (1992-2005)



Source: Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

Repetition rates at the primary level are about 6% higher for the rural than for the urban population.

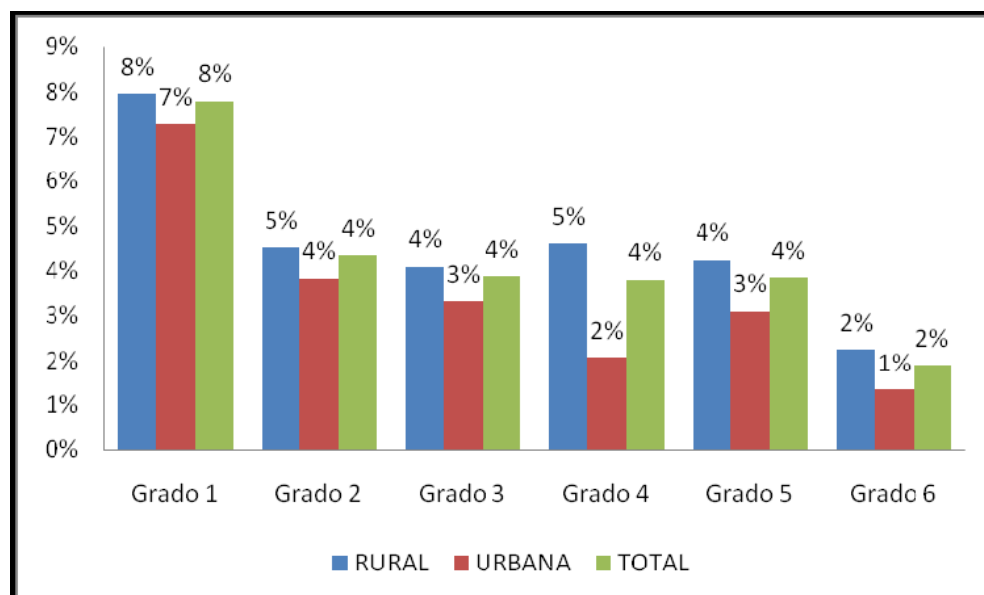
3. Primary drop-out rates by geographic location (1992-2005)



Source: Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

While not following a regular pattern, primary drop-out rates have dropped by an average 6%. They continue to be about 5% higher for the rural than for the urban population.

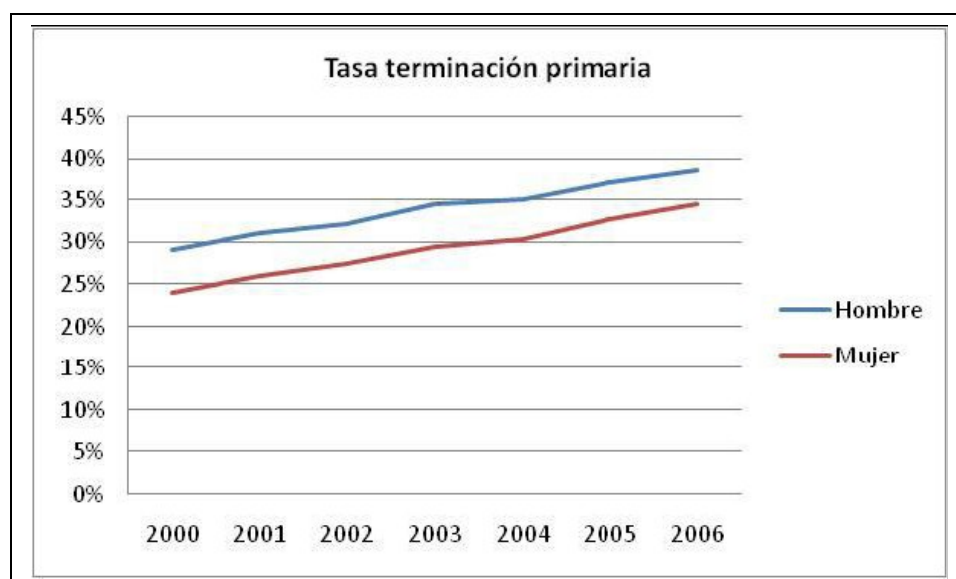
4. Primary drop-out rates by grade and geographic location (2005)



Source: USAID y AED, "Guatemala – Sistema Nacional de Indicadores Educativas", Guatemala, 2006

Even though Guatemala is approaching universal primary enrolment, challenges as regards its completion persist. Drop-out rates are particularly high at the grade 1 level. Drop-out rates are higher for the rural than the urban population for all primary grades.

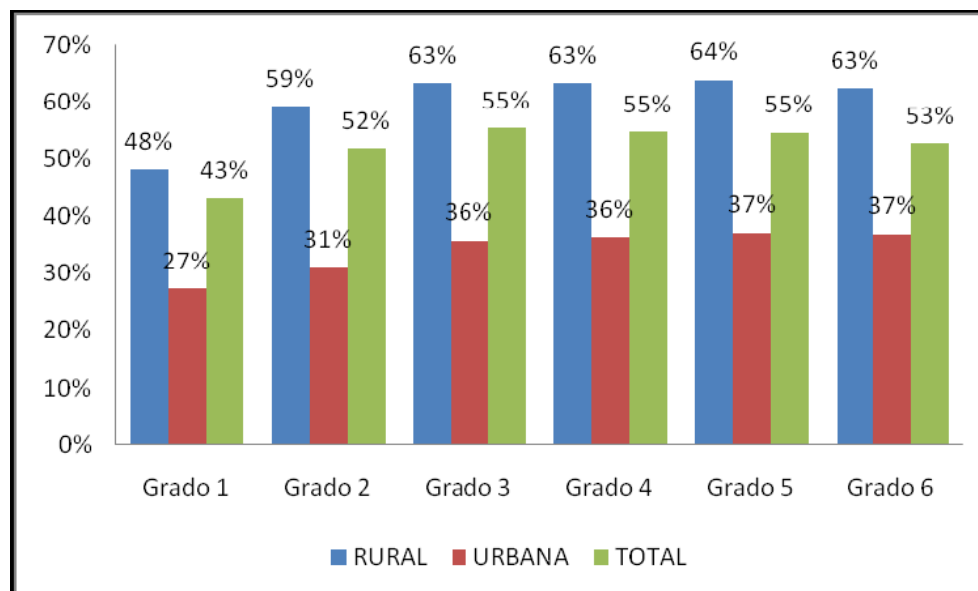
5. Primary completion rates by gender (2000-2006)



Source: USAID y AED, „Guatemala – Sistema Nacional de Indicadores Educativas“, Guatemala, 2006

Primary completion rates have been on the rise, showing an increase of about 10% for both boys and girls. However, completion rates have remained a constant 5% lower for girls than for boys.

6. Percentage of over-age students by grade and geographic location (2006)



Source: USAID y AED, „Guatemala – Sistema Nacional de Indicadores Educativas“, Guatemala, 2006

The problem of over-age students increases towards higher grades of primary education. It is a considerable challenge within the Guatemalan education system, with the percentage of over-age students ranging from 43% (grade 1) to 55% (grades 3-5). The problem of over-age students particularly affects the rural population, with percentage rates being between 20-30% higher for rural than for urban students.

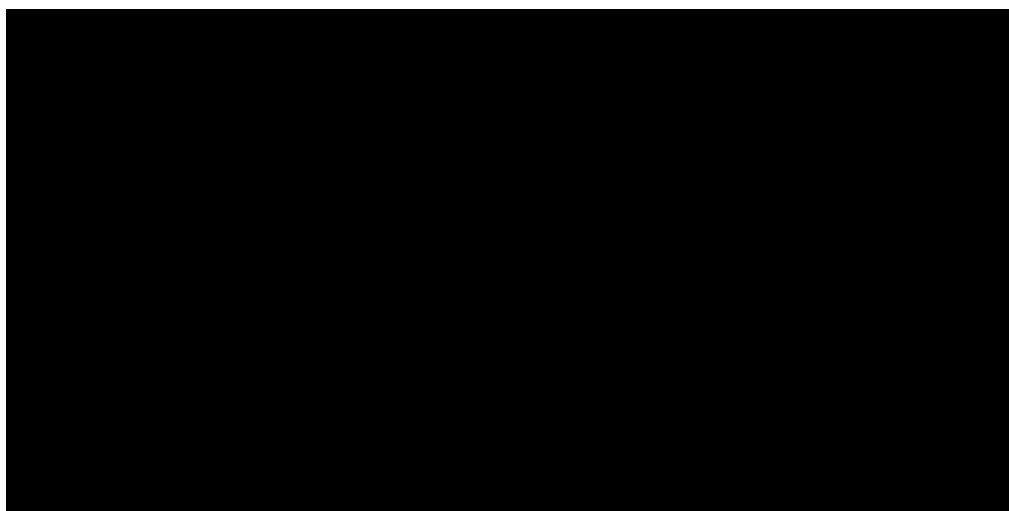
7. Overage students in first and third grade by ethnic group

Language	First grade % overage	Third grade % overage
National Average	26.4	38.8
Spanish/ladino schools	22.6	32.2
Kaqchikel	22.9	35.1
K'iche	29.5	43.8
Mam	34.4	54.6
Q'eqchi	36.6	60.5
Chorti	41.0	57.4
Akateko	53.6	75.5
Pocomam	16.6	32.8

Source: World Bank, "Project Appraisal Document – Education Quality and Secondary Education Project", Washington, 2007

This table shows that the percentage of Ladino students who are overage in first and in third grade is below the national average. In fact they are the lowest in comparison with the other ethnic groups, with the exception of the Pocomam who have a lower rate of over-age students in grade 1. The table also indicates that some indigenous groups are more disadvantaged than others, such as the Mam, the Q'eqchi, the Chorti and the Akateko.

8. Illiteracy rates by geographic location, gender, SES and ethnicity (2000)



Source: Porta Pallais and Laguna, "Equidad de la Educación en Guatemala", Serie de Investigaciones Educativas, Vol. 4, USAID y AED, Guatemala, 2007

As indicated by this table, illiteracy rates are higher for the rural, the female, (extremely) poor and indigenous population than for the urban, male, non-poor and ladino population. Differences are particularly high between the non-poor and the extremely poor population, with a difference in literacy rates of more than 40% (17% compared to 60,1% illiteracy rates, respectively).

Annex 6: Presentation – Introducing a HRBA into the Feasibility Study

See separate document – to be inserted here

