



Working Paper #1 or Equivalent Heading Here

Assessing public policies from a human rights perspective

*A case study on the use of available resources
to realize the rights to health, education and
food in Guatemala*

In 2009 the Center for Economic and Social Rights (CESR) and the Instituto Centroamericano de Estudios Fiscales (ICEFI) produced a report titled Rights or privileges? Fiscal commitment to the rights to health, education and food in Guatemala. A collaboration between an international human rights organization and a Central American civil society organization specializing in monitoring fiscal policies, the project aimed to assess Guatemala's development efforts through the lens of its human rights obligations, and the particular role of tax and budget policies in advancing the basic economic and social rights of the whole population. The project was part of ongoing efforts by CESR and other human rights and development practitioners to integrate human rights perspectives more comprehensively and systematically in the monitoring of economic and social development policies.

This paper provides a step-by-step explanation of the methodology adopted to assess Guatemala's compliance with its development and human rights commitments. It sets out the analytical framework and tools that were applied at each stage in the project. The paper aims to provide an example, which, we suggest, may be usefully adapted in other settings to monitor economic and social policies from a human rights perspective.

Introduction

The study undertaken by the Center for Economic and Social Rights (CESR) and the Instituto Centroamericano de Estudios Fiscales (ICEFI) aimed to contribute to a broader reflection on the role of fiscal policy in complying with a state's economic, social and cultural rights (ESC rights) obligations. Despite being a middle-income country with the largest economy in Central America, Guatemala's social indicators were alarming; with more than half the population living below the national poverty line and one in seven Guatemalans living in extreme poverty. The persistence of systemic inequality and discrimination could be partially explained by the legacy of almost 40 years of armed conflict, which did not end until the signing of the Peace Accords in 1996. Nevertheless, the stark contrasts between rich and poor suggested that the dismal state of ESC rights could not be attributed to limited state resources, but to

the way in which they were distributed; highlighting the need to hold the state accountable for its efforts to generate and manage resources equitably and in accordance with its human rights obligations.

The study did not attempt to provide a comprehensive review of the state's compliance with *all* its ESC rights obligations, nor did it analyze the close relationship between poor social indicators and civil and political rights violations that occur in the country. Rather, it sought to complement the work done by other national and international human rights organizations in Guatemala, by focusing on the state's efforts to fulfill the rights to health, education and food—and to address three serious threats to these rights: child malnutrition, maternal mortality and low primary school completion. These issues were selected because they had been declared a national priority by successive governments in Guatemala and, similarly, represented three key fronts in the struggle against poverty to which all states have committed in the framework of the Millennium Development Goals (MDGs). Despite this, indicators on these issues stood out as strikingly poor, when compared at the regional level, as well as strikingly disparate when compared among different groups at the national level.

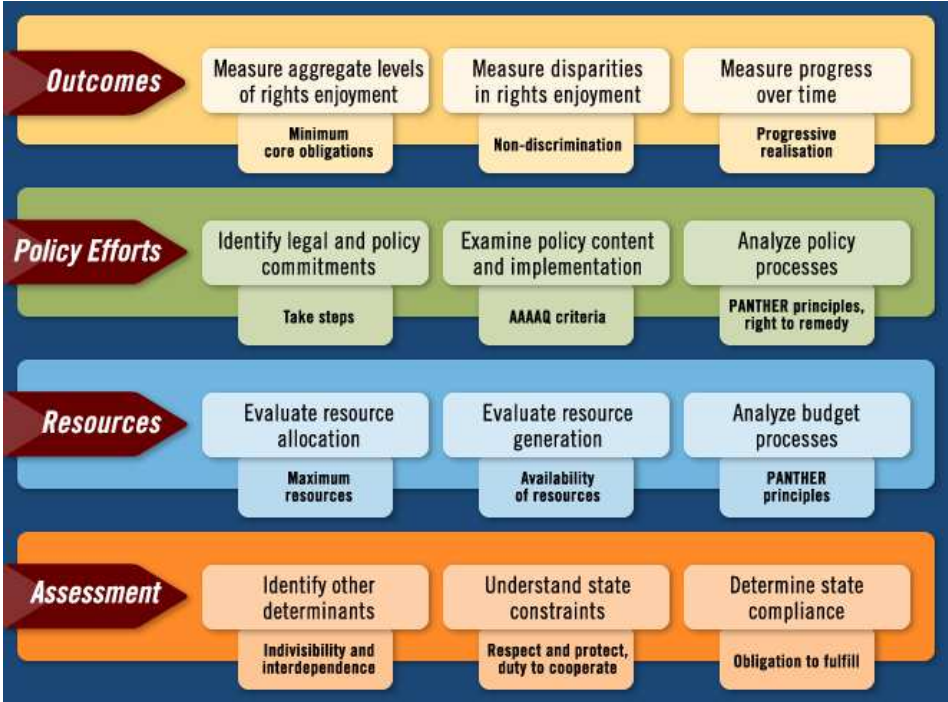
As stated in international human rights law, ESC rights impose three types of obligations on states in a similar manner as civil and political rights: to *respect*, to refrain from interfering with the enjoyment of rights; to *protect*, to prevent violations of rights by third parties; and to *fulfill*, to create conditions for the realization of rights. When scrutinizing public policies from a human rights perspective, it is important to focus on the obligation to fulfill to ensure accountability when such policies create, perpetuate, or exacerbate deprivations of ESC rights. In practice, however, it is more difficult to illustrate failures of the obligation to fulfill than the obligations to respect or protect. When rights deprivations such as malnutrition, illiteracy, and disease result from the specific actions of state or non-state actors, there is a direct causal relationship between the duty bearer and rights holder that can be seen on a case-by-case basis. However, when such deprivations result from dysfunctions or shortcoming in public policies, the causal link is more indirect.

Furthermore, the standards and principles relevant to understanding the obligation to fulfill, as it relates to ESC rights, are numerous and multi-dimensional, as shown in the table below. In particular, efforts to progressively realize rights must be assessed according to a state's maximum available resources. Because the obligation to fulfill is concerned with conduct of the state, not only the results of its conduct, looking at the outcomes government policies alone is insufficient. It is also necessary to also make a judgment about their adequacy.

<p>Elements of the Obligation to Fulfill:</p> <ul style="list-style-type: none">▪ Duty to take steps: to adopt legislative, judicial, budgetary, administrative and other measures to fulfill economic, social and cultural rights. <i>(Source: Covenant, Optional Protocol to the Covenant, Committee on Economic, Social and Cultural Rights General Comments)</i>▪ Maximum available resources: must be provided to the steps taken to fulfill rights, including resources that can be provided through international cooperation. <i>(Source: Covenant, Optional Protocol, General Comments)</i>▪ Minimum core obligations: an immediate duty to prioritize achieving minimum essential levels of rights enjoyment universally. <i>(Source: General Comment No.3)</i>▪ Non-discrimination: a duty to ensure substantive equality in enjoyment of rights and in steps taken to fulfill rights. <i>(Source: Covenant and General Comments)</i>▪ Duty to ensure that relevant services needed to fulfill rights are available, accessible, acceptable and of adequate quality (AAAAQ), without discrimination. <i>(Source: General Comments)</i>▪ Progressive realization: duty to move swiftly towards increased levels of rights enjoyment, with no deliberate retrogression. <i>(Source: Covenant Art 2)</i>▪ Participation, transparency and accountability: must be ensured in the policy-making/ monitoring process. <i>(Source: General Comments)</i>
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To provide a structure to holistically assess public policy against these various standards and principles the study adopted the analytical framework outlined below. The framework is based on four main steps: Outcomes; Policy Efforts; Resources; and Assessment. Each of these four steps includes different elements that provide a checklist of what needs to be taken into account when analyzing a particular situation.

Importantly, each element highlighted is closely connected to one or more of the relevant human rights standards and principles (e.g. policy content is assessed against the AAAAQ criteria developed by the Committee on Economic, Social and Cultural Rights, policy process are assessed against the principles of participation, transparency etc).



To carry out its analysis under each step of the framework, the study adopted a multidisciplinary approach, which combined a range of research techniques drawn from fields of human rights law, public policy analysis and development economics that were quantitative (focusing on data that can be expressed in quantifiable form; namely numbers, percentages or indices), as well as qualitative (focusing on descriptive information).

The unique feature of this multidisciplinary approach was that it combined:

- simple, descriptive statistics and data that were not overly complex or technical;
- indicators for measuring ESC rights developed by the UN and regional human rights bodies;
- non-binding standards from relevant fields such as public health that enjoyed broad consensus when they could give greater meaning to binding human rights standards;
- techniques of budget analysis to interpret the state's fiscal policy;
- traditional human rights reporting methods, including narrative testimony gathered through field visits in order to listen to affected individuals and communities and ensure that numbers are infused with human stories.

Together, these techniques enabled us to construct the argument that the state was not fulfilling its human rights obligations and to produce a final report that could serve as an advocacy tool for a broad range of actors, from NGOs to policy makers to the international community.

In order to illustrate the application of CESR's analytical framework, this paper provides a step-by-step explanation of the approach adopted for *Rights or Privileges*. The paper is structured around each of the four steps in the framework. For each step, it explains the human rights standards or principles to be assessed and outlines the techniques and tools we used to measure them. Drawing from each of the report's three focus areas, examples of our findings are used to illustrate the tools and techniques we used in the report and to show how these tools fit into the overall framework. It is important to keep in mind that the analytical framework is not a linear guide. It is designed to be dynamic and adaptable to different contexts. This means that the emphasis to be placed on each of the steps will vary depending on their relevance to the particular study. The steps may be revisited and expanded or reduced as needed.

Accordingly, the questions asked and means used to answer them in the context of the study are not an exhaustive list, but rather the main starting points to be adapted to the user's specific context.

STEP 1. Assessing Outcomes

The study began by using development indicators to explore the current economic and social rights situation in Guatemala, in order to provide a clearer and more specific illustration of human rights enjoyment on the ground. Although looking at indicators alone will generally not be determinative of a state's compliance with its human rights obligations, it is an important first step because it measures extent to which people actually enjoy certain minimum levels of each right measures.

Summary of Step

Step 1	Human Rights Standards	Types of Assessment Techniques
Measure levels of enjoyment of the right	<i>Minimum core obligations</i>	Identify relevant outcome indicators that show the extent to which the right, including its minimum essential levels, is enjoyed in the country.
	<i>Non-discrimination</i>	Disaggregate indicators by social groups to identify disparities in levels of enjoyment of the right.
	<i>Progressive realization</i>	Examine variations of indicators over time to assess progress, retrogression and change in disparities.

What were we trying to measure?

The objective of the first step was to identify simple indicators that were illustrative of the extent to which the right in question was being enjoyed. International standards provided the criteria against which to interpret these indicators against the states' human rights obligations. Specifically, we focused on:

- The concept of **minimum core obligations**: The state should give immediate priority to those measures necessary to ensure that the population universally enjoys at least the minimum conditions to live a dignified life (see Text Box).

What are minimum core obligations?

The concept of a "minimum core obligation" was first articulated by the Committee on Economic, Social and Cultural Rights in its [General Comment No. 3](#) and reiterated in the [Limburg Principles](#). It is, in the Committee's view, the obligation on states "to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights" regardless of their level of economic development. Failure by the state to meet these minimum levels (i.e. when a significant number of individuals are deprived of essential foodstuffs, essential primary health care, basic shelter and housing, or most basic forms of education) amounts to a "prima facie" presumption it has violated its obligations under the Covenant. This presumption can only be discharged if the state demonstrates that "every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations". Since 1993, the Committee has adopted a number of general comments that seek to define the minimum core of the Covenant's enumerated rights to food, health, housing, education and water.

- The principle of **non discrimination** enshrined in Article 2(2) of the Covenant: according to the Limburg Principles, this entails an immediate obligation to eliminate *de jure* discrimination (by abolishing discriminatory laws, regulations and practices) and an obligation to end *de facto* discrimination (the unequal enjoyment of ESC rights in practice) as quickly as possible.
- The principle of **progressive realization** enshrined in Article 2(1) of the Covenant: This requires that states move as expeditiously and as effectively as possible towards the full realization of ESC rights. It

also obligates the state to “fully” justify retrogressive measures, such as that which could result from a reduction in budget allocations on social spending.

In other words, it was necessary to ask: What are the current levels of enjoyment of the right? Do these levels appear high or low when compared to similar countries? How do these levels change when we look the situation of particular social groups? Has the level of enjoyment of the right gotten better or worse over time? Has progress been rapid or slow, consistent or sporadic?

How did we measure?

First, we identified appropriate outcome indicators based on socio-economic data that could act as proxies for the rights to food, health and education. We chose to look at rates of: child malnutrition, maternal mortality and primary school completion. These were chosen because they reflect core obligations from a human rights perspective and because they have been defined as priorities for Guatemala since the Peace Accords and included in many development programs. In addition, because they also reflect the commitment of the state with the MDGs, there was a rich source of information to use for our analysis about how well or bad the state was doing with respect to those goals. These three areas were also areas where Guatemala appeared to have performed very badly.

Indicators: provide or “indicate” (usually based on some form of numerical quantification) the prevailing circumstances at a given place and at a given point. E.g. the number of people who do X or Y. Indicators can be based on quantitative or qualitative data that can also be presented numerically.

Socio-economic data: quantitative or statistical information that responds to the category identified by an indicator.

Benchmarks: An agreed-upon implementation target, goal or normative standard that serves as basis for comparisons of performance

Second, we analyzed these indicators in light of the three principles outlined above. The objective was to determine the extent to which the population enjoyed minimum essential levels of these rights, to identify inequalities between population groups and to assess to what extent progress had been made over time. To do this, we looked at how the rates compared to the following:

- To similar countries (e.g. with comparable GDP per capita): We used countries in the region to ensure certain level of similarity. This allowed us to observe how analogous countries to Guatemala performed. The extreme disparity between these countries’ performance and Guatemala’s raised questions about why it had not reached certain level of rights enjoyment. In this sense, comparing Guatemala with other countries gave a proxy to determine how far it was from reaching a minimum essential level of rights enjoyment and whether the shortfall could reasonably be attributed to lack of resources; using the outcomes of other countries as reference points. While from a human rights perspective it would be expected that a country achieving the minimum level of rights enjoyment should demonstrate maternal mortality and chronic malnutrition rates as close to zero as possible, or the primary school completion rate as close as possible to 100%, the standard deviation line demonstrate by regional comparisons indicates whether Guatemala’s shortfall can reasonably attributed to lack of resources. The sources of data were, depending on the indicator, the World Bank, Unicef, and WHO. Their websites provide consistent information across countries that allowed us to make comparisons on different issues.
- Between social groups: We used disaggregated data from within the country to evaluate differences in the enjoyment of the rights among different groups. When the picture showed certain groups constantly left behind, this raised concerns about possible discrimination. The sources of the data were national surveys, in particular, the Encuesta Nacional de Condiciones de Vida (ENCOVI) and the Encuesta Nacional de Salud Materno Infantil (ENSMI), which provide information disaggregated by groups and over the periodicity they are conducted.
- Over time: the progressive realization of rights can be only analyzed if you can identify trends in the enjoyment of the right over a period of time. So, when data was available, we used it to illustrate the

rate of progress over time: (1) at the aggregate level and (2) between groups to show whether there had been a reduction in disparities. Regional comparisons were used as a benchmark of the progress achieved by other comparable countries. The sources of information were, depending on the indicator, either the national or international sources mentioned above.

What did we find?

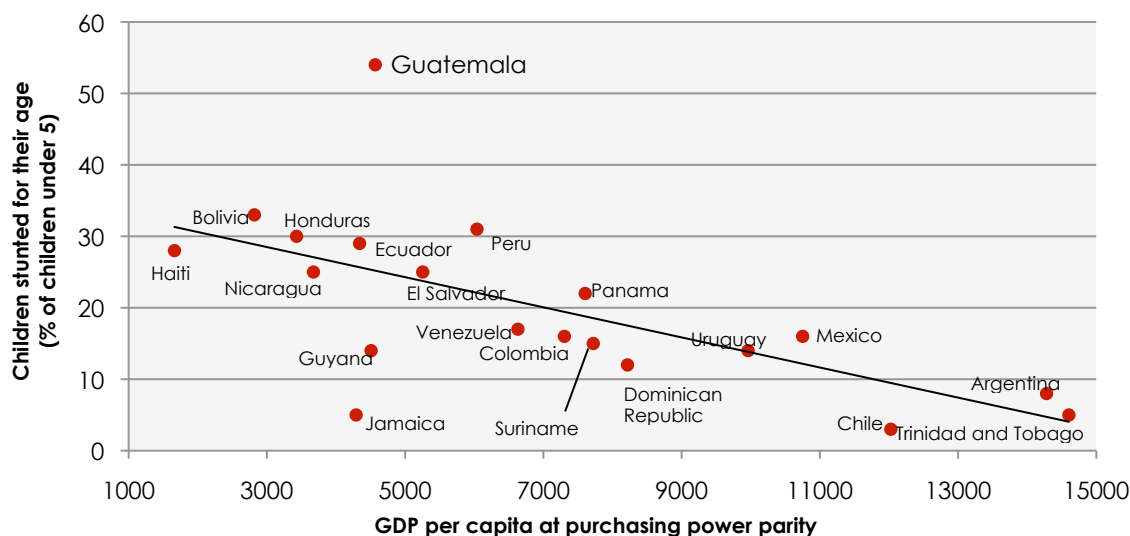
First, aggregate indicators showed that despite some progress in health, education and nutrition indicators over the past decade, Guatemala was still very far from satisfying what could reasonably be considered **minimum essential levels** of these rights for the entire population.

This was evident from the fact that:

- Every State is obliged to ensure for everyone under its jurisdiction access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger, however half the population under five suffered from chronic malnutrition;
- Every state is obliged to provide primary education for all in accordance with article 13 (2)(a), however over 60% of children did not complete primary school at the appropriate age; and
- Every state should give 'comparable priority' to ensuring reproductive, maternal (pre-natal as well as post-natal) and child health care, however 290 women died for every 100,000 births in the country.

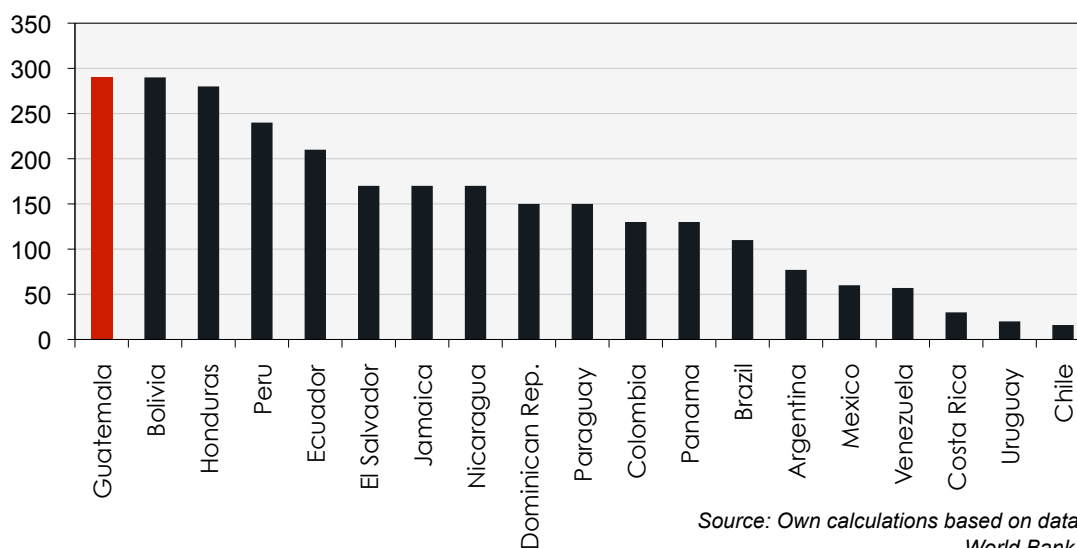
When these indicators were compared with other countries in Latin America with similar or even lower GDPs (at purchasing power parity), this starkly illustrated how far Guatemala was from universalizing a minimum level of enjoyment of ESC rights (e.g. ensuring no children were chronically malnourished) and that this shortfall bore no relation to the country's level of resources.

Rates of chronic malnutrition in Latin America (1996-2005) and GDP per capita (2005)



Source: Own calculations based on data from UNDP Human Development Report 2007/2008

Maternal Mortality Rates (adjusted) per 100,000 live births in Latin America (2005)

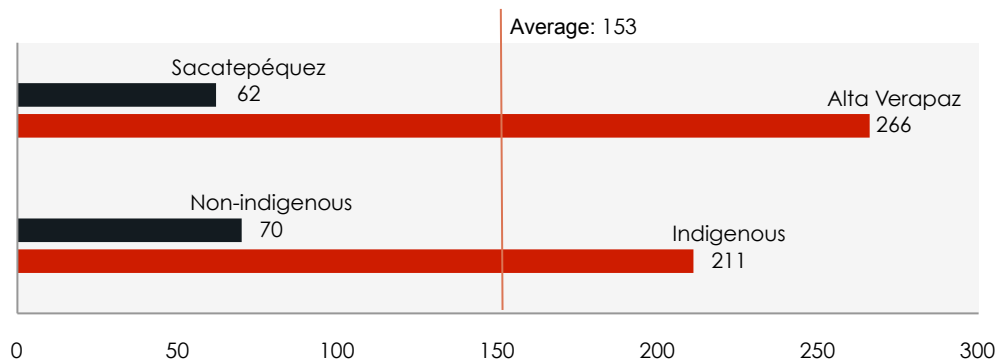


Source: Own calculations based on data from World Bank 2008

Second, indicators disaggregated by gender, ethnicity and socioeconomic status revealed **glaring disparities** in the enjoyment of ESC rights. For example:

- The rate of malnutrition among indigenous children was 70%; almost double that of non-indigenous children (36%).
- An indigenous woman was three times more likely to die during childbirth or pregnancy than a non-indigenous woman.
- In departments with high indigenous populations – such as Alta Verapaz and Quiché – the rates of primary school completion were just half those in the department of Guatemala.

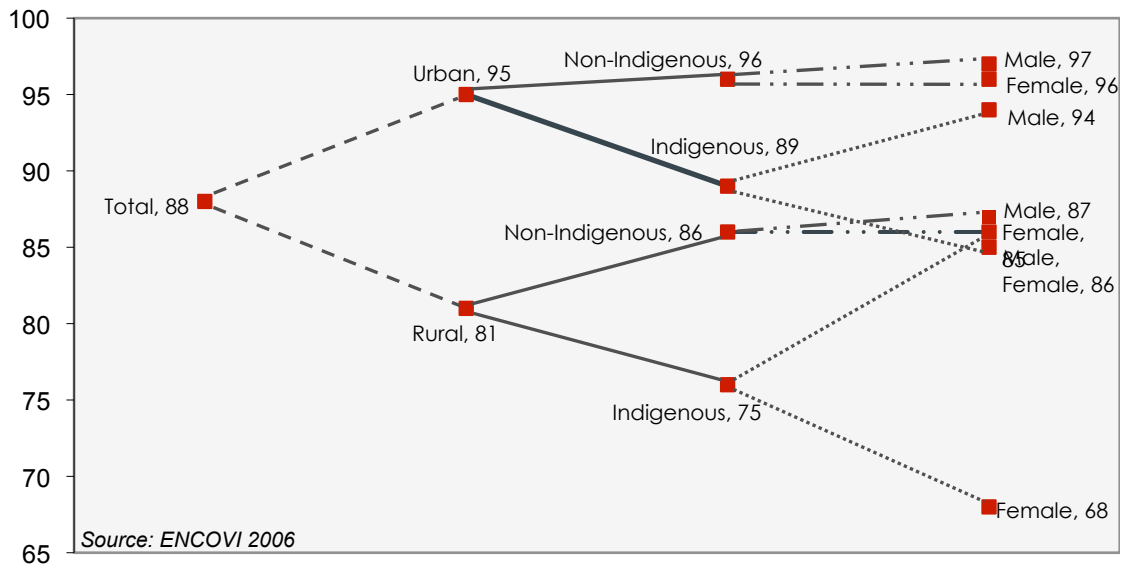
Maternal mortality rate (reported) per 100,000 live births, by ethnicity and selected departments



Source: Own calculation based on MSPAS (2003)

The gender gaps in education were also striking. Within Latin America, Guatemala had the greatest disparity between boys and girls completing primary school. To highlight the relationship between primary school completion and educational outcomes, we also looked at the youth literacy rate. As the graph below shows, this mirrored the large gender disparities seen in primary school completion rates. A disaggregated analysis by sex, ethnicity and urban/rural population revealed a telling picture of compound and inter-related disparities, with the literacy rate of rural indigenous women being almost 30% lower than that of urban, non-indigenous men.

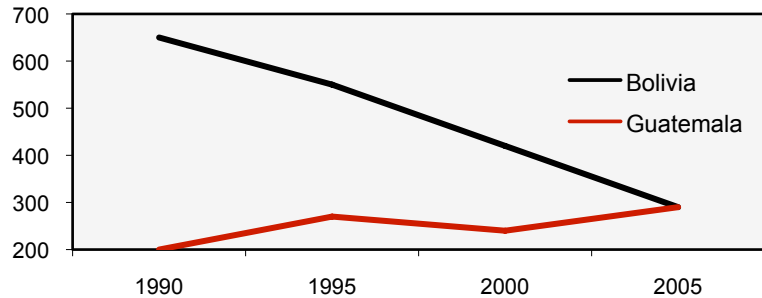
**Youth Literacy Rate (15-24) for 2006,
disaggregated by geographic area, ethnic origin and sex**



Third, Guatemala had shown only **slow improvement** in these indicators. We found that in some areas such as chronic malnutrition, the difference between Guatemala and other Latin American countries was much greater today than in the 1960s. Similarly, the progress in reducing maternal mortality had been slack in comparison with other countries in the region. In 1990, the rate of maternal mortality in Bolivia was three times higher than in Guatemala; in 2005, both countries had similar rates.

Furthermore, **progress had been uneven** and had not benefited people with the greatest need, widening existing inequality gaps. For example, while there had been significant improvement in primary education coverage in the 1990s, progress with regard to completion rates had been unequal between boys and girls, and the gender disparity ratio had actually increased from 6.4 in 1991 to 6.9 in 2006.

**Maternal Mortality Rates (adjusted) per 100,000 live births:
Guatemala and Bolivia (1990-2005)**



Source: Own calculations based on ECLAC and UN Statistic

STEP 2. Assessing Policy Efforts

As already noted, a state's compliance with its obligation to fulfill ESC rights cannot be measured solely in terms of the level of enjoyment of a right; as determined by looking at socio-economic outcomes. Though poor outcomes may suggest *prima facie* non-compliance, a state's obligations encompass both obligations of conduct and obligations of result, meaning a state must show it is taking "action reasonably calculated to realize the enjoyment of the particular right".¹ Therefore, compliance should be assessed by looking at the commitment and effort a state has demonstrated to ensuring that public policies further the goals of universal enjoyment of minimum level of the right, progressive realization and equality.

Summary of Step 2

Element	Human Rights Principles	Types of Assessment Techniques
<i>Identify legal and policy commitments</i>	<i>Obligation to take steps</i>	Identify international commitments and national constitutional and legislative provisions that give effect to them. Verify the existence of specific laws and policies on the right and compare their provisions to international standards.
<i>Examine policy content and implementation</i>	<i>AAAAQ criteria</i>	Identify the goods and services needed to give effect to the right. Measure the availability, accessibility, acceptability and quality of these goods and services (e.g. assessing quantitative and qualitative data, community score cards).
<i>Analyze policy processes</i>	<i>Participation, Transparency, Accountability, Right to a remedy</i>	Analyze relevant national laws and policies (e.g. on access to information, local participation, complaints mechanisms etc.). Collect feedback on the extent to which those principles are applied in practice (e.g. through interviews or other qualitative methods and quantitative indicators if available).

What were we trying to measure?

According to the Committee on Economic, Social and Cultural Rights, states must take “deliberate, concrete and targeted” steps towards the full realization of the rights in the Covenant within a reasonably short time. The means used to satisfy the obligation ‘to take steps’ should be “all appropriate means, including particularly the adoption of legislative measures”.² Thus, the first task was to identify what international commitments Guatemala had made and to consider whether measures taken at the national level incorporated or gave effect to the country’s international commitments.

Second, we needed to analyze the actual content of such policies and evaluate how they have been implemented in practice. The objective was to determine to what extent the state’s policies had promoted the availability, accessibility, acceptability and quality of the services necessary for the enjoyment of the right. These four criteria (referred to here as the ‘AAAAQ’ criteria’) were developed by the Committee on Economic, Social and Cultural Rights in its General Comments.³

As a rights perspective deals not only with the content of policies, but also with the way these are designed and implemented, we also needed to consider the processes by which such policies were designed and implemented. Human rights principles set out procedural requirements for the formulation of, consultation on and implementation of policies, which should be transparent; promote the full participation of all; and provide mechanisms for monitoring, oversight and accountability.⁴

In other words, the questions we needed to ask at this step were: What legal and policy commitments have been made to give effect to the right? Do the initiatives undertaken to implement these commitments ensure that services are increasingly made available, accessible, acceptable and of adequate quality; in principle and in practice? Do such initiatives prioritize the reduction of disparities and the achievement of universal minimum levels of the rights in question? Do policy processes ensure participatory and accountable decision-making?

How did we measure?

First, we observed to what extent the national framework was incorporating the content of international obligations. The international commitments we identified were:

- Treaties ratified by Guatemala that refer to the rights the study was analyzing: namely the Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination all forms of Discrimination Against Women; the Convention on the Rights of the Child; ILO Convention No.169; the American Convention on Human Rights; and the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights.

- International development commitments made by Guatemala (e.g. the Cairo Declaration on Human Rights, Millennium Development Goals).

Second, to analyze the policies the country had implemented to realize the rights under review we used the framework outlined by the Committee regarding availability, accessibility, acceptability and quality of services; adapting the framework to the right in question as needed:

- In relation to food and education, we first used the General Comments of the Committee to interpret what it means to say that food or education is available, accessible, acceptable, adequate or of adequate quality. For example, the Committee has held that food should be available either directly from productive land or through “well functioning distribution, processing and market systems”.⁵ Second, we identified the key factors limiting the availability, accessibility, acceptability and quality of the right for people in Guatemala. For instance, in the case of education we found that economic constraints were one of the key problems preventing students from finishing primary school. Third, we evaluated the policies that had been adopted to try and overcome those limitations. To understand the key determinants and constraints we drew on development analyses and other literature from these specific fields, from both Guatemala and internationally.
- In relation to maternal health, we first referred to public health literature (which is more detailed than the human rights literature in the area) in order to identify the policies we would focus on. International guidelines (e.g. from WHO, Unicef, UNFPA) identify emergency obstetric care, skilled birth attendants and family planning services as key services necessary to ensure maternal health. We then measured the extent to which *these* services were available, accessible, acceptable and of adequate quality.

Quantitative and qualitative information regarding these criteria was then gathered from national surveys, information provided by local activists in the areas of food, health and education, qualitative data gathered through interviews and focus groups carried out during field research, and previous reports and evaluations conducted by other state and non-governmental actors.

The principles of participation, transparency and accountability were analyzed principally through the structured interviews carried out in Alta Verapaz, which aimed to assess the perceptions of individuals and communities regarding their economic and social rights and their ability to influence policy decisions affecting them. These issues were also raised indirectly in our assessment of policy content and implementation and were a recurrent theme in the secondary materials we reviewed (e.g. policy evaluations and monitoring reports of other organizations).

What did we find?

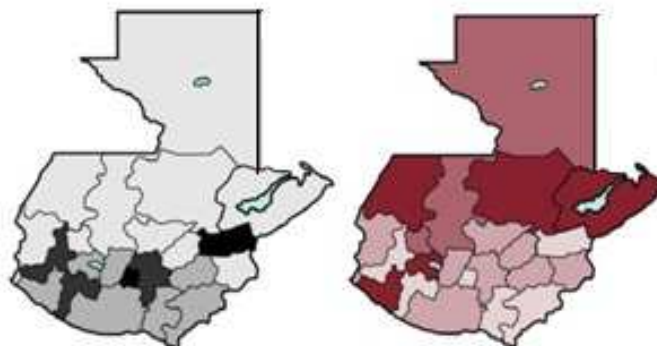
The Constitution of 1985 enshrined the rights to health and education, among other social rights, and integrated the provisions of international and regional human rights treaties ratified by Guatemala into its normative framework. Laws and policies formulated by successive governments had generally been framed in exemplary terms. For example, the Food Security law recognizes the right to food and its provisions draw heavily on international human rights standards. In terms of political commitments, the Peace Accords were based on the explicit commitment to respect and fulfill human rights as the foundation for lasting peace and included specific commitments to tackle maternal mortality, malnutrition and lack of access to education. These commitments were reinforced with the adoption of the Millennium Development Goals (MDGs). In practice, however, policies and programs to give effect to these commitments were not **available, accessible** to all, **acceptable** and of **adequate quality** and lacked mechanisms to ensure **transparency, accountability and participation**. Examples of our findings on each of these criteria follow below.

Availability

In relation to maternal health, availability of essential services was low and unequal. There was a strong negative correlation between maternal mortality and the availability of **obstetric care**, as demonstrate in the map on the following page. The LEFT shows the availability of qualified obstetricians and gynecologists and the RIGHT shows MMR. Regions with higher levels of available obstetric service (marked in a darker shade) have a lower MMR (marked in a lighter shade). Regions with low levels of obstetric services (marked in a lighter shade) have a higher MMR (marked in a darker shade). Availability of basic emergency obstetric services was well below the international benchmarks in WHO/UNFPA guidelines.

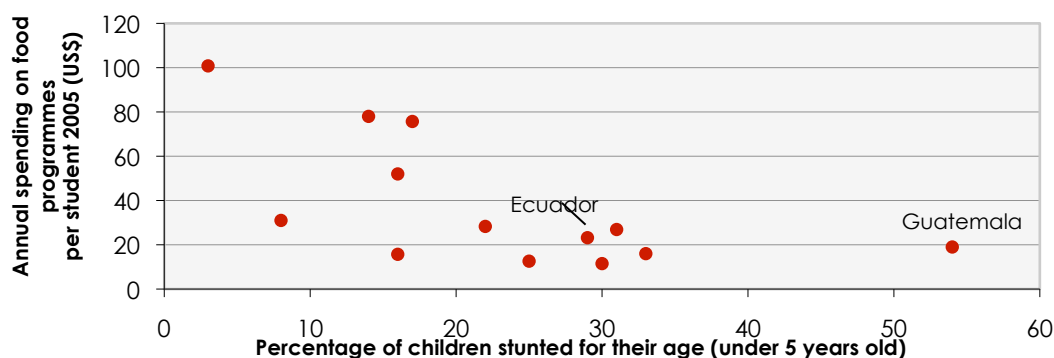
Programs that sought to promote the availability of **family planning services**, including for adolescent women, had made little progress. Guatemala had some of the worst indicators in Latin America with regard to unmet contraceptive need among adolescents, which was especially high among indigenous adolescents compared to non-indigenous adolescents. The delay in implementing the 2006 Law of Universal and Equitable Access to Family Planning Services had also been a significant setback.

Number of Obstetricians/Gynecologists per 100,000 women of reproductive age and Maternal Mortality Rate by Department (2009)



For a number of the programs we examined, limited availability was a result of insufficient resources. For example, the Programa de Alimentación Escolar (School Food Program) was one of the programs with greatest coverage and received one of the highest budget allocations; however this allocation had not been adequate. The funds allocated amounted to little more than one quetzal per student per day (about 12 U.S. cents). This barely covered one-third of the daily caloric intake recommended by nutritional experts in Guatemala. The Figure below shows the correlation between spending on school food programs and the achievement of nutritional outcomes for children.

Annual Spending on School Feeding Programs per Student and Percentage of Children stunted for their Age in Latin America



Source: Own calculations based on Barros (2005) and UNDP

Accessibility

In relation to maternal health, only 41% of women gave birth attended by qualified personnel. This was only slightly higher than in Sierra Leone, the country with the lowest human development index in the world. Women in predominantly indigenous regions lacked physical access to emergency obstetric care (EOC) when they faced complications in pregnancy, childbirth or postpartum care. The cost of transportation, both in time and money, was one of the principal obstacles to access adequate treatment, which primarily affected the poorest families. Testimonies from family members of women who had died in Senahú, Alta Verapaz highlighted the terrible consequences:

Adela had lost a lot of blood. She knew she had to go to hospital but she didn't want to – it's 75km away and we couldn't afford the transport. She said it was cheaper for her to die at home than to be brought back dead from the hospital.

In relation to the education system, it was financial accessibility that a large part of the population lacked. Lack of resources and the need to work **were the primary reasons why children did not enroll or remain in school**, according to the ENCOVI survey in 2006. Specific financial aid programs aimed at increasing accessibility had only had limited results. For example, a scholarship program was implemented in the mid-1990s to increase enrolment and retention of girls at primary school level, especially in rural areas. However, it was undermined by limited coverage and insufficient and inequitable resource allocation

according to data obtained through the Ministry of Education website. Today only 14% of indigenous and 36% of non-indigenous girls in rural areas completed primary school.

Acceptability

In relation to maternal health, the cultural inappropriateness of these services was reported to be one of the most significant obstacles faced by indigenous women in addition to physical and economic inaccessibility. Statistics indicated that births in public health facilities had not increased as a percentage of total births since 2005, suggesting a low demand by the population. These statistics were supported with interview-based research reflecting the local situation, which illustrated that the failure to respect traditional birth practices dissuaded many indigenous women from giving birth in public facilities. Interviewees told us of derogatory treatment and disregard for their language and cultural traditions, such as a preference for vertical childbirth:

“I couldn’t have my baby in a health centre because they force you to give birth lying down. They treat you bad if you don’t speak Spanish.”

Cultural inappropriateness was also a barrier in the education system. Even though almost 40% of Guatemala’s is indigenous, and bilingual education could contribute to reducing repetition rates and school dropout rates, in 2006 only 13% of children between 7 and 12 years old received education in Spanish and a Mayan language, according to a study conducted by ICEFI in 2007. Bilingual education was only offered to students in a limited number of public schools during the first three years of primary school and was not available in all of the country’s indigenous languages. Little progress had been made in training and hiring bilingual teachers and there had been unsatisfactory results in production of teaching materials with an intercultural focus and in other languages (OACNUDH, 2008).⁶

Adequate Quality

In relation to education, the content of lessons was seriously lacking in quality. In order to promote higher quality education, there was an urgent need to improve teacher training –also in bilingual education- as well as to implement a salary scale that can attract and retain qualified teachers, including performance incentives and measures to attract teachers to rural areas. Again, low funding was principle cause of poor quality.

Similarly, the creation of Centros de Atención Integral Materno-Infantil (Centers for Integral Maternal-Child Attention) had made emergency obstetric care more readily available. However, a lack of resources limited the response capacity of the centers, which lacked essential medical and surgical equipment. Interviews in rural indigenous communities in Alta Verapaz, for instance, provided complementary evidence that health services in Guatemala were not adequate to their needs since they could not communicate properly with the personnel.

“When we go to the health care center, if there is no doctor or nurse who speaks our language, we receive a bad service and we have to wait a lot....”

Policy Processes

The information gathered in interviews and reviews of programs and policy papers enabled some general observations to be made on the lack of transparency and accountability of relevant policies. It was apparent that while some level of participation was included as part of the policy framework, there was a general consensus among people that this was only on paper, not in practice. In particular, the report noted serious deficiencies in the design and implementation of public policies. The absence of inter-institutional coordination was a recurring problem, according to interviews and conversations with relevant actors, as was the lack of transparency in objectives and results. Genuine civil society participation in policy design and decision-making often did not occur. Instead, participation has sometimes been used as a pretext to transfer responsibilities from public authorities to families. This was the case, for example, when school boards were created to manage school food programs.

STEP 3. Assessing Resources

The Covenant's recognition that the full realization of ESC rights can only be achieved gradually—as resources allow—is an important qualifier on the obligation to take steps to fulfill these rights. Nevertheless, states must show that the steps they have taken—the programs, plans and services assessed above—have benefited from “maximum available resources”. As the discussion in step 2 showed, weaknesses in policies frequently stem from under resourcing. This step takes a bigger picture view of the state's fiscal policy to determine whether such funding decisions result from genuine resource limitation on the state, or from a failure to allocate available resource in line with human rights principles and priorities.

Summary of Step Three

Element	Human Rights Principles	Types of Assessment Techniques
<i>Evaluate planned and actual resource expenditures</i>	<p><i>Core obligations</i></p> <p><i>Non-discrimination</i></p> <p><i>Progressive realization according to maximum available resources</i></p> <p><i>Transparency and accountability</i></p>	<p>Calculate the percentage of the state's budget allocated to social spending relevant to specific right, comparing to relevant benchmarks.</p> <p>Identify which population groups are benefitting from spending; contrasting spending disparities with disparities in human rights outcomes.</p> <p>Compare allocations to previous budgets to see how spending has evolved over time, taking into account economic growth over the period.</p> <p>Track public expenditure (e.g. using PETS, QSDS, or social audits).</p>
<i>Evaluate resource generation</i>	<p><i>Progressive realization according to maximum available resources</i></p> <p><i>Non-discrimination</i></p>	<p>Calculate the state budget as a percentage of the overall economy and compare to similar countries.</p> <p>Identify and assess the adequacy and fairness of the state's main revenue sources (e.g. taxation, borrowing, international assistance).</p> <p>Evaluate the state's fiscal and/or monetary policies governing the raising of revenue (e.g. identify tax base as % of GDP and track its evolution over time, taking into account economic growth over the period).</p>
<i>Analyze relevant policy processes</i>	<p><i>Participation, accountability, transparency, right to a remedy</i></p>	<p>Collect feedback on public participation in the design, implementation and evaluation of fiscal and monetary policies (e.g. through interviews or other qualitative methods and quantitative data, if available).</p> <p>Analyze indicators related to transparency of economic policy process.</p>

What were we trying to measure?

Progressive and equitable economic policies are a prerequisite to the full realization of a range of rights. In order to understand the resources Guatemala had “available” to it—and how it had used those resources—it was necessary to examine the state's economic policies. In particular, we focused on its system of raising revenue (especially through tax collection) and determining expenditures (including income redistribution and financing of public social services).. We wanted to determine whether budget allocations devoted to the rights in question amounted to an equitable and effective use of available resources in order to advance the principles of universal enjoyment of minimum levels of rights enjoyment, equality and progressive realization. We also assessed whether the state had effectively tapped into all those resources that may be available to it.⁷

In other words, the questions we asked at this step were: How much of its budget does the state allocate to social spending? How much has been allocated for each right? Do allocations prioritize the provision of essential services and areas of core obligation? Who has benefited (i.e. are resource allocations aimed at reducing disparities?) How has spending evolved over time? How has the state budget evolved over time (e.g. as a percentage of GDP)? What have been its main sources of revenue (e.g. taxes, aid, remittances) as a percentage of GDP? Are policies governing the raising of revenue fair and efficient? Who is the most affected by the current tax system? Has there been any change over time regarding the tax system? What has been the impact of this change?

How did we measure?

First we gathered budgetary information in order to calculate social spending as a percentage of GDP. We compared this percentage in Guatemala with different countries in the region. We also compared the percentage to the budgets of previous years to observe the difference over time. We also looked at how social spending was benefiting certain groups of people to observe which quintile was benefiting more from spending. The main means to find this information was secondary data from the Ministry of Finance of Guatemala, budget information for the years under review and data from the Economic Commission for Latin America⁸ to compare countries. ICEFI’s experience on analyzing budgets was crucial for this step.

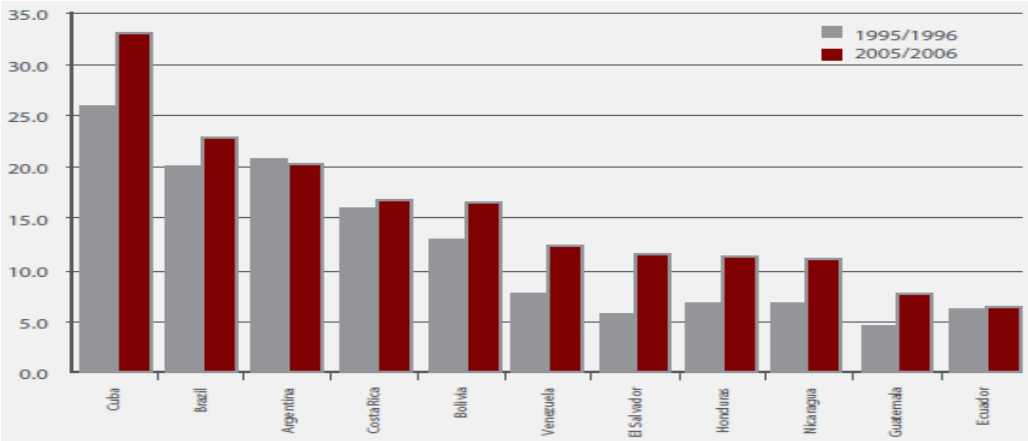
Second, we calculated the percentage of money allocated to nutrition, health and education, in order to have a general overview of the budget dedicated to those areas. For example, we identified relevant ministries’ budgets and tracked how these had evolved over time; calculated per capita spending by the Health Ministry among different departments, per student spending by the Education Ministry, and spending on educational programs per quintile (such as scholarships, transportation); and collected information on household expenditure in the areas of health, education and food. The data sources for this information were statistics from the Ministry of Finance, the Bank of Guatemala, National Institute of Statistics, WHO and CEPAL.

Third, we sought to identify where inequities in the raising of revenue had left the state without the resources needed to implement social policies aimed at realizing the basic rights of the whole population progressively and without discrimination. First, we compared the size of the state’s budget to the overall size of the economy (represented by GDP). As the large majority of the state’s budget in Guatemala comes from taxation, we then analyzed the tax system to determine whether it provides resources to the Government in a fair and efficient manner. In particular, we analyzed how the taxation affects different groups of the population (e.g. whether taxes attach to income or to goods; whether they are fixed or proportionate to means etc.). The data was obtained from the Ministry of Finance and secondary data from ICEFI’s research.

What did we find?

First, we found that even though the proportion of GDP devoted to social spending overall in Guatemala had increased in the last 15 years, it remained **among the lowest** in Latin America, as shown below.

Social spending in selected countries of Latin America and the Caribbean as a percentage of GDP (1995/1996 and 2005/2006)

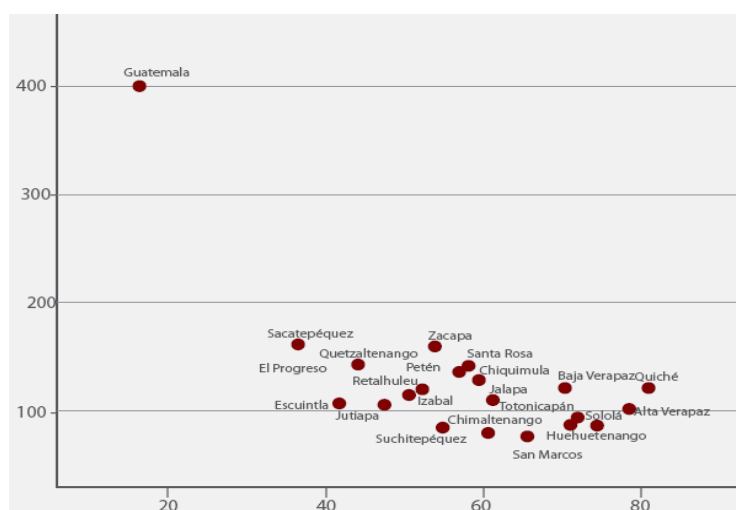


Within its social spending allocation, Guatemala dedicated **fewer resources than its neighbors** to the promotion of food, health and education:

- In 2007 a mere 0.66% of GDP was dedicated to food security (compared to 1.26% in El Salvador; 1.6% in Nicaragua and 0.95% in Honduras).
- In 2008, the budget of the Ministry of Education was 2% of GDP. In Latin America, average public education spending has remained at around 4.5% of GDP since 2000, while the countries with the best education indicators devote, on average, 6.2% of GDP to education.
- Between 1996 and 2008 the average budget allocation for the Ministry of Public Health and Social Assistance (MSPAS) – the primary source of public spending – did not exceed 1% of GDP. By comparison, countries with the best health outcomes (including Argentina, Chile, Costa Rica, Cuba and Uruguay) dedicated, on average, approximately 5% of GDP to this sector.

Second, the distribution of spending was **inequitable**. As shown in the Figure below, per capita health spending in 2006 was three times higher in the metropolitan area of Guatemala than in Quiché, a rural area with the highest percentage of people living in poverty. As in the health sector, the allocation of resources in education largely benefited urban centers, where the most experienced teachers and most modern educational facilities could be found.

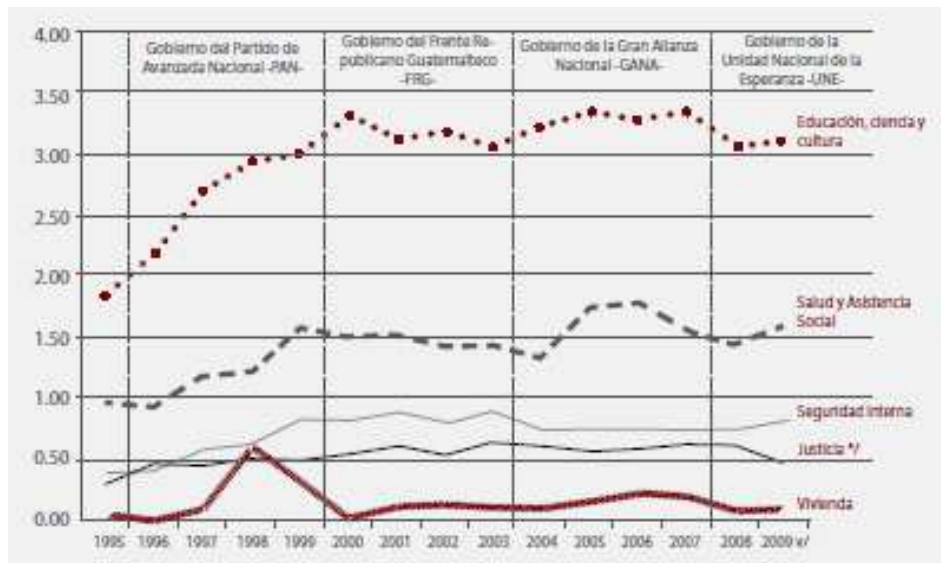
Per capita spending by the MSPAS and percentage of the population living in poverty, by region (2006)



Source: own calculation based on statistics from the Ministry of Public Finance

Third, resource allocations had **not evolved** over time so as to progressively realize ESC rights. Commitments made under the Peace Accords set targets for increasing social spending. In the case of education, for example, the Accords stated that by 2000 there should be a 50% increase in the proportion of budget in relation to GDP, in comparison to the executed budget in 1995. A similar percentage was adopted for public expenditure in health. Nevertheless, public spending on health per capita had remained relatively stagnant since 2000, and was actually lower in 2008 than in 2001. As a result, households were taking on an increased burden of health costs. For example, while public spending by the MSPAS decreased from 25% of total health spending in 1996 to 13% in 2007, household expenditure increased from 31% to 66% over this period.

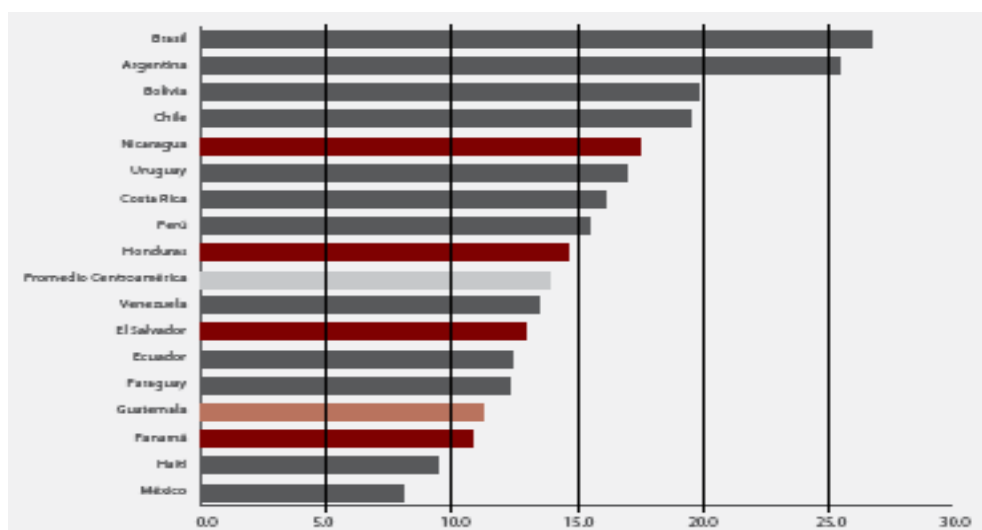
Central government social spending since the Peace Accords by sector (as a percentage of GDP)



Source: own calculations based on statistics from the Ministry of Public Finance and the Central Bank

What was notable in Guatemala was that this low level of social spending was, in turn, a result of the small size of the public budget. The country's 10 years of economic growth had not translated into a visible increase in the size of the national budget. As the Table below shows, it remained one of lowest in the region (15% of GDP, while the regional average was almost 27%). The reason for this, we observed, was that the tax burden in Guatemala was one of the lowest in Latin America and the Caribbean. The Peace Accords led to extensive dialogue on fiscal policy that involved over 100 civil society organisations. The resulting Fiscal Pact of 2000 recognized the need for a tax system that was just, equitable, and progressive. It set the goal of increasing the tax burden by 50% for the year 2000 compared to 1995 (i.e. to 12% of GDP, or 13.2% under the new accounting system). Nevertheless, this goal was far from being reached and there has been no consistency in the progression of tax collection.⁹ Unlike other countries with low tax burdens, however, tax revenue constituted the main source of total revenue for the Guatemalan state (e.g. it was 94% in 2008). Therefore, the tax system did not generate the resources needed for the state to comply with its obligation to progressively realize ESC rights, without discrimination.

Tax Burden as a percentage of GDP in Selected Countries in Latin America and the Caribbean (2008, preliminary figures)



Source: own calculations based on statistics from CEPAL

We also observed that the distribution of the tax burden was highly inequitable. Direct taxation (on income and assets) was very low. Indirect taxes (e.g. VAT on consumption), which are regressive, represented over 75% of total tax collected. As a result, the poorest sectors of the population were affected disproportionately, and were effectively shouldering the main burden of funding the state's social programs. Moreover, the country's most profitable business sectors (e.g. coffee and sugar producers, textile "maquilas", and the tourism, mining, energy and telecommunications sectors) enjoyed significant tax privileges and incentives. In 2008, the total tax breaks, deductions and exemptions was twice the amount the state expected to collect in income tax. For each quetzal collected in income tax, the state effectively "gave back" over 2.5 quetzals in exemptions and deductions.

STEP 4. Assessment

The objective of this final step is to draw together the findings from the previous steps, in order to determine whether the state is in compliance with its human rights obligations. However, before making a final conclusion about the state's compliance, it is important to understand the whole picture. Poor human rights outcomes usually have to do with dysfunctions related to institutions, social structure, or lack of political will. Understanding these dysfunctions is essential for identifying actionable recommendations.

Summary of Step Four

Element	Human Rights Principles	Types of Assessment Techniques
<i>Identify contextual factors that limit the enjoyment of the right</i>	<i>Indivisibility and interdependence of rights Right to a remedy</i>	Identify the social, economic, political or cultural conditions that prevent people from enjoying the right or seeking redress for violations of the right (e.g. through capacity gap assessment).
<i>Understand the state's constraints</i>	<i>Obligation to respect and protect rights against abuse by third parties Extraterritorial obligations of other states to respect, protect and fulfill ESC rights</i>	Identify how the acts or omissions of third parties or structural dysfunctions impact on the state's ability to fulfill the right.
<i>Determine state compliance</i>	<i>Obligation to fulfill</i>	Draw together findings from previous steps, in light of above elements.

What were we trying to measure?

Before making a final determination, we first wanted to contextualize the underlying causes of problem. This meant attempting to uncover *why* government efforts have not been more successful; looking beyond the shortcomings of those efforts themselves, as already identified in steps two and three.

Reflecting the principle that human rights and fundamental freedoms are indivisible and interdependent, we began by identifying other rights deprivations or socio-economic, political or cultural factors, such as poverty or social exclusion that may inhibit people's ability to enjoy the particular rights that are being studied. Evaluating efforts the state had made to address these other deprivations or conditions was another part of this analysis. In Guatemala, the major factor was poverty. In other cases, it may be entrenched cultural biases or limitations on political freedoms.

A second element we considered before presenting the final assessment was to identify how different national and international constraints hampered the state's ability to fulfill ESC rights. Although such constraints will vary greatly depending on the context, they may broadly relate to: (a) the conduct of third parties, such as corruption by officials, corporate misconduct, elite capture, donor influence, aid conditionality etc; or (b) structural dysfunctions relating, for example, to decentralization, electoral processes, parliamentary procedures etc. In essence, we were seeking to explain why the state's efforts to improve the level of enjoyment of the right in question had not been successful. In other words, the

questions we asked at this step were: Why has reform been slow or why are more resources not available? Is it a result of genuine limitations on the state? Interference from third parties? Lack of political will?

Analyzing these two elements provided the necessary information to complete the methodology, by assessing whether the state was complying with its obligation to fulfill the rights in question.

How did we measure?

The indicators we selected to assess in the report (malnutrition rates, maternal mortality rates and school completion rates) were chosen because the areas of nutrition, health and education are widely accepted to be interconnected. We also conducted secondary research to visualize the indivisibility of these rights. We identified other structural conditions in the country that limited people's ability to enjoy their rights. In particular, we looked at poverty and its relation to the lack of fulfillment of the rights under review. We used data from national statistics to show how poverty connects with deprivations of the rights studied in the report. In the report's introduction we presented an overview of the Guatemala's poverty statistics and, when appropriate, under the analysis of each right described how poverty affected rights enjoyment since this gave an overall picture of the country situation.

In relation to constraints on the state, a recurring issue raised in the secondary materials we reviewed was 'elite capture' (see box below). In Guatemala, the presence of an elite that controls most of the economy of the country and has strong a group of people with a huge economic power, as well as great influence in politics, has been one of the main obstacle to improving tax structures and thus enlarging resource base the state is able to generate. To further understand this phenomenon, we conducted further secondary research and interviewed relevant actors.

What is Elite Capture?

Elite capture refers to a situation where a small group of people (the elite) exerts disproportionate influence and thus manipulates a decision making process so as to usurp resources allocated for the benefit of the population at large to their own advantage. An elite group could have such power because of their social position, economic influence, for historical reasons, or because of an educational advantage. Elitism is usually perpetuated through family influence and interconnections, political cronyism, economic power, and so on.

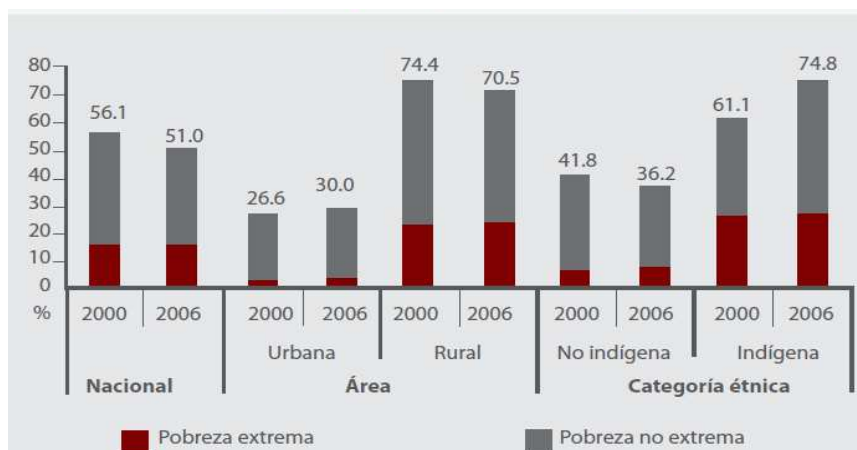
Finally, the assessment was made by referring back to the main obligations of the state under international human rights law and comparing these obligations with the information the report had highlighted. In other words, the obligation to progressively fulfill the rights under review, using the maximum available resources, and without discrimination, was the guidance to conclude that the country was not making enough efforts to comply with its obligations.

What did we find?

The three issues addressed in the report—malnutrition, maternal health and education—demonstrated the interrelationship and interdependence of rights. Besides being intrinsic rights, health, education and food are instrumental rights that are mutually reinforcing and that enable the enjoyment of other rights; civil and political, economic, social and cultural. For example, child malnutrition is a factor that affects a child's school attendance and academic performance. For women, a lack of education is linked with an increased risk of maternal mortality, because it limits their ability to access information and services related to sexual and reproductive health. A mother's death in turn has economic consequences for the family, increasing children's food insecurity.¹⁰

Underlying each of the areas addressed in the report, poverty was a constant and recurring factor limiting people's ability to enjoy their rights; thus it was the subject of particular analysis. Poverty in Guatemala was predominantly rural and indigenous, as can be seen in following figure. Indigenous people living in rural areas suffered poverty and extreme poverty in a higher percentage and over one third of the indigenous poor (over a million) lived in extreme poverty. Though poverty overall had declined between 2000 - 2006, extreme poverty had only decreased slightly and among indigenous people it had even increased.¹¹

Incidence of poverty according to area and ethnicity by category of poverty for 2000 and 2006



Source: own calculation based on data from Encovi 2000 and 2006

Although a comprehensive review of the government's poverty reduction strategies was beyond the scope of the report, we did look at one flagship social protection program called "Mi Familia Progresiva". The program, introduced in 45 priority municipalities in 2008, included a conditional cash transfer scheme for eligible families to encourage children to enroll and remain in school and for children and mothers (or pregnant women) to undergo health and nutrition screenings. However, NGO reports observed shortcomings in the conduct of the census that had limited the program's ability to ensure that its beneficiaries were in fact the most disadvantaged families and institutional weaknesses that have hindered the program's implementation. A study of the perceptions of beneficiaries of the program highlighted that its effectiveness was limited by the inadequacy of the allocated amounts, as well as existing gaps in the health and education systems, such as the limited availability of educational institutions, medicine shortages and lack of health centers and the inability of these to serve indigenous beneficiaries in their own language.¹²

The lack of adequate investment in the realization of economic and social rights resulted not simply from the state's incapacity or inefficiency in gathering and reassigning public resources; but from a historical co-optation of the state by socioeconomic elites that had resulted in weak regulatory structures and an economic context hostile to reform. Such groups had blocked attempts at fiscal reform and ensured that public policymaking protected their privileges at the expense of the rights of the whole population. Following the Peace Accords, for example, a fiscal pact was agreed to create a more just and equitable tax system that was progressive, universal and obligatory. However, the pact did not win approval in Congress and for decades attempts at fiscal reform have been systematically thwarted by the politically powerful business sector, which has for years used a series of tactics to block any attempt at reform. The exceptional degree of influence that economic elites have had over Guatemalan political life has enabled them to maintain tax privileges on a scale surpassing those in other countries in the region. Furthermore, while the system for tax oversight and the legal regime against tax evasion had been strengthened since 1998, evasion continued to have a devastating impact.¹³

Overall, a compelling picture of non-compliance emerged from our triangulation of outcomes, policy efforts and resource allocation. It became clear that economic and social rights were the unfulfilled agenda of Guatemala's post-conflict transition. While the return to democracy and the end of conflict had made it possible for many Guatemalans to exercise their right to freedom of expression and to periodically elect their representatives, the right to an adequate and dignified standard of living was still far from being universally enjoyed. This was dramatically illustrated by the alarming levels of child malnutrition, maternal death and school dropout rates. That the democratic transition had not resulted in significant progress in the fulfillment of economic and social rights was due, in large part, to the vision of the state that had dominated policymaking, particularly fiscal policy, in recent decades. Guatemala had become a weak state that had increasingly ceded more space to private markets. The result of treating people as consumers rather than rights-holding citizens has been to transform education, health and food into privileges for those who can afford them, rather than universal rights the state has a duty to uphold.

Reflections and Lessons learned

By adopting a robust analytical framework and methodological approach CESR was able to conduct a more rigorous policy analysis and make detailed recommendations to government on fiscal reform needed to ensure higher social spending, a better distribution this expenditure and the strengthening of systems of social auditing and accountability. The report's recommendations included an estimation of resources necessary to advance toward the realization of the rights to education, health and nutrition, as well as a series of mechanisms that could strengthen state funding of these rights. Framing the issues of child malnutrition, maternal mortality and low primary school completion as human rights imperatives gave demands for reform renewed force. This put pressure on the government to fully justify its position and ultimately secured the government's commitment to increase social spending and push through progressive tax reforms. Local NGOs were very supportive of the recommendations and this prompted and strengthened national and local level monitoring by civil society groups, including Reproductive Health Observatory and a planned Citizens Health Movement. It also brought the link between fiscal policy and human rights outcomes to attention of Committee on the Elimination of Discrimination Against Women (CEDAW), the Committee on the Rights of the Child (CRC) and other UN bodies.

The experience of conducting the study in Guatemala provided invaluable lessons in terms of the strengths and weaknesses of its analytical framework and methodological. For the purpose of further developing the analytical framework to be applied to concrete cases in the future, it is particularly worth highlighting the following:

- The scope of the research will determine the depth of analysis that is possible to undertake. For example, selecting fewer indicators will allow a deeper analysis of them, while including multiple indicators will give broader, but more superficial overview of the country context. There is no right answer in deciding on a specific versus broad approach, but advocacy goals should guide the decision on the scope of the research.
- The combination of the expertise from different organizations was crucial to developing an interdisciplinary output. The human rights background provided by CESR and the experience on fiscal policy and economics added by ICEFI, was effecting in following the methodological approach that goes beyond a legal analysis and connects human rights with public policy and governments spending. This interdisciplinary approach also had great impact from an advocacy point of view, as it broadened the array of actors interested in the report's recommendations.
- Working with a local partner was crucial to the process of gathering data and understanding the context and dynamics within the country.
- The framework depends on data that can visualize human rights in a simple and not overly complex manner. Some issues addressed in the framework, like participation and accountability, were assessed from a predominantly qualitative angle. There is a need to increase capacity to gather and analyze quantitative data on these issues.

Endnotes

¹ *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, para. 7, Maastricht, Jan. 22-26, 1997, at: http://www1.umn.edu/humanrts/instree/Maastrichtguidelines_.html

² ECOSOC, CESCR, *General Comment No.3, The Nature of State Parties' Obligations*, Report on the Fifth Session, Supp. No. 3, Annex III, para. 3, U.N. Doc. E/1991/23 (1991).

³ See ECOSOC, CESCR, *General Comment No.12 the Right to Adequate Food*, U.N. Doc. E/C.12/1999/5 (1999); *General Comment No.13 The Right to Education*, U.N. Doc. E/C.12/1999/10 (1999); and *General Comment No.14, The Right to the Highest Attainable Standard of Health*, U.N. Doc. E/C.12/1999/4 (1999).

⁴ See the [Stamford Common Understanding on Human Rights Programming](#) for a definition of the key principles of non-discrimination and equality, participation and inclusion, transparency and right to information, accountability and rule of law and access.

⁵ *General Comment No.12, supra*, note 3, at para. 12.

- ⁶ CESR & ICEFI (2009), *¿Derechos o Privilegios? El compromiso fiscal con la salud, la educación y la alimentación en Guatemala*, at p.75.
- ⁷ The Limburg Principles affirm that "available resources" refers to "both the resources within a State and those available from the international community through international cooperation and assistance". *Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights*, para. 26, Annex, U.N. Doc. E/CN.4/1987/17 (June 2-6, 1986).
- ⁸ ECLAC/CEPAL in Spanish.
- ⁹ While the tax burden increased between 1996 and 2002 after the signing of the Peace Accords, since 2003 it has decreased slightly. In 2007, it reached a historic 12.1% of GDP, the closest it has come to meeting the goal set for 2000 by the Peace Accords (13.2% according to the new national accounting system).
- ¹⁰ *Guatemala Report*, *supra* note 6, at p.15.
- ¹¹ *Id.*, at p.3.
- ¹² *Id.*, at p.102.
- ¹³ It has been estimated that in 2006, tax evasion and exemptions applied to VAT cost the state approximately 10 billion quetzals (about US\$1.2 billion) in uncollected revenue, that is, 4.3% of GDP. This was more than the total amount invested by the State in health and education that year. Tax collection had also been negatively affected by the reduction in import tariffs due to trade liberalization policies and agreements.

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About This Paper

This briefing was prepared by Allison Corkery and Maria Jose Eva at the Center for Economic and Social Rights. Comments welcome at rights@cesr.org

Established in 1993, the Center for Economic and Social Rights (CESR) works for the recognition and enforcement of economic, social, and cultural rights as a powerful tool for promoting social justice and human dignity. Exposing violations of economic, social, and cultural rights through an interdisciplinary combination of legal and socioeconomic analysis, we advocate for changes to economic and social policy at the international, national and local levels to ensure these policies comply with international human rights standards. We seek to uphold the universal human rights of every person to education, health, food, water, housing, work, and other economic, social, and cultural rights essential to basic dignity.

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