

# Guatemala

## Policy and Legislation

### International Law

- Convention on the Rights of the Child (CRC)  
Source: <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>  
Signed: 26 January 1990  
Ratified: 6 June 1990
- Optional Protocol to the Convention on the Sale of Children, Child Prostitution, and Child Pornography  
Source: <https://treaties.un.org/Pages/Treaties.aspx?id=4&subid=A&lang=en>  
Signed: 7 September 2000  
Ratified: 9 May 2002
- Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict  
Source: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-b&chapter=4&clang=en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en)  
Signed: 7 September 2000  
Ratified: 9 May 2002
- ILO Minimum Age Convention (ILO 138)  
Source: <http://www.ilo.org/dyn/normlex/en/f?p=1000:12001:0::NO::>  
Ratified: 27 April 1990
- ILO Convention 182 on Worst Forms of Child Labour  
Source: <http://www.ilo.org/dyn/normlex/en/f?p=1000:12001:0::NO::>  
Ratified: 11 October 2001
- Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime  
Source: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18&clang=en)  
Ratified: 1 April 2004
- Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption  
Source: <https://www.hcch.net/en/instruments/conventions/status-table/?cid=69>  
Ratified: 26 November 2002
- Hague Convention on the Civil Aspects of International Child Abduction  
Source: <https://www.hcch.net/en/instruments/conventions/status-table/?cid=24>  
Ratified: 6 February 2002

### Regional Instruments

- Guatemala is a member of the Organization of American States (OAS), and is thus a party to:

- The American Convention on Human Rights  
Source: [https://www.oas.org/dil/treaties\\_B-32\\_American\\_Convention\\_on\\_Human\\_Rights.htm](https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm)  
Ratified: 27 April 1978
- The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women  
Source: <http://www.oas.org/juridico/english/treaties/a-61.html>  
Ratified: 4 April 1995

## National Legislation

- The Guatemalan Constitution
  - Article 47 describes the family as the bedrock of society and guarantees its social, economic and legal protection
  - Article 50 recognizes the equality of all children before the law
  - Article 102 forbids the employment of children less than 14 years of age subject to exceptions provided by the law
- The Act on the Comprehensive Protection of Children and Adolescents (2003)
  - This Act provides for the protection of children and adolescents from physical, sexual and emotional abuse
- The Adoption Act (2007)
  - This Act addresses irregular international adoptions with reference to The Hague Convention, in accordance with the best interest of the child and prioritizing placement of children with their family and national adoption before considering international adoption
- The Law against Sexual Violence, Exploitation and Human Trafficking (2009)
  - This Act creates a Secretariat Against Sexual Violence, Exploitation and Trafficking in Persons, which enhances coordination on anti-trafficking initiatives
- The Alba-Keneth Alert System Act (2010)
  - This Act regulates and activates protection systems to locate, recover and protect children from disappearance and trafficking

### **a) Age of Consent**

The Age of Consent in Guatemala is set at 16 years old.

Article 173 of the Penal Code, modified by Decreto 8-2015, specifies that intercourse with someone under 16 years old, is always considered statutory rape, even if there is no evidence of physical or psychological violence.

### **b) Age of Criminal Responsibility**

Article 20 of the Guatemalan Constitution stipulates that a person can be held criminally responsible from the age of 18 years.

Article 2 of the Childhood and Adolescence Integral Protection Law stipulates that children aged between 13 and 18 years old can be detained in specialized youth institutions.

### c) *Age of Marriage*

Article 81 of the Civil Code, modified by Decreto 8-2015, establishes the minimum legal age of marriage at 18 years. Article 82 provides for an exception for minors older than 16 years old, who can be married with the authorization of a judge, based on well-found grounds.

#### Local Policies

- The National Policy on the Prevention of Youth Violence and the Public Policy on Comprehensive Protection and its Plan of Action (2004-2015) are aimed at coordinating the actions of stakeholders and fulfilling the rights of children and adolescents.<sup>1</sup>
- The National Plan to Prevent and Eradicate Domestic Violence and Violence against Women (2004-2014) is aimed at strengthening prevention of violence and at the protection of women.<sup>2</sup>
- The National Policy on Human Rights Education (2006-2015) is aimed at institutionalizing and mainstreaming human rights in policies, and in governmental and non-governmental institutions.<sup>3</sup>
- The Public Policy on Human Trafficking and the Comprehensive Protection of Victims and the National Plan of Strategic Action (2007-2017) are redirecting and focusing the State's actions and budget to prevent and combat human trafficking based on the best interest of the child, non-discrimination, protection and attention to victims.<sup>4</sup>
- The Pilot Plan for International Adoption (2010-2012) is aimed at increasing capacities for the search of adoptive families in foreign countries for children who could not be placed with a Guatemalan family, and enhancing cooperation with authorities of receiving countries that are members of The Hague Convention. However, the former UN Special Rapporteur on the sale of children, child prostitution and child pornography expressed her regrets that this Plan has not been put into practice.<sup>5</sup>
- The Public Policy for Coexistence and the Elimination of Racism and Racial Discrimination (2006) and The Institutional Strategic Plan (2012-2016) are aimed at increasing security, democracy and justice, and realizing socioeconomic inclusion for all.<sup>6</sup>

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<sup>1</sup> UNITED NATIONS HUMAN RIGHTS COUNCIL, *Report of the Special Rapporteur on the sale of children child prostitution and child pornography, Najat Maalla M'jid, A/HRC/22/54, 2013.*

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*