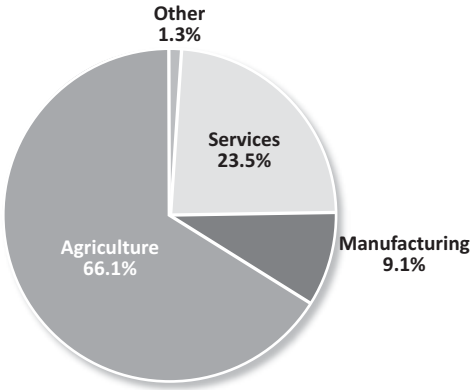
Guatemala

The Government of Guatemala has a strong legal framework to prohibit the worst forms of child labor. However, gaps remain in law enforcement and coverage of social programs to address the issue. Many children continue to engage in the worst forms of child labor, especially in agriculture and manufacturing. Child labor is especially prevalent among children of indigenous heritage.

Statistics on Working Children and School Attendance

Children	Age	Percent
Working	7-14 yrs.	16.8%
Attending School	7-14 yrs.	81.3%
Combining Work and School	7-14 yrs.	14.0%



Prevalence and Sectoral Distribution of the Worst Forms of Child Labor

Children are exploited in the worst forms of child labor in Guatemala,[2063] many in agriculture, which commonly involves use of potentially dangerous machinery and tools, carrying of heavy loads, and the application of harmful pesticides. Half of all working children in Guatemala are of indigenous heritage. The majority of child labor occurs in the agricultural sector in rural areas where children plant and harvest coffee, sugarcane, corn, and broccoli.[2064] Children also produce gravel and fireworks where they are frequently exposed to dangerous tools and substances.[2065] According to ILO-IPEC, almost 39,000 children also work in third-party homes as domestic servants, where they are vulnerable to physical and sexual abuse.[2066] Children, many of indigenous descent, work in the urban informal sector as peddlers and shoe shiners, activities which are located in streets, where children are exposed to densely transited areas with the risk of vehicle accidents. Although evidence is limited, there is reason to believe that the worst forms of child labor are used in the production of rubber and timber, as well as the packaging of vegetables and flowers.[2067] Children, many of whom are indigenous, also work in bricklaying, which exposes them to dangerous chemicals and tools.[2068]

Children are trafficked to, from, and within the country for commercial sexual exploitation. Child sex tourism is a problem in the cities of Antigua, Guatemala City, and surrounding areas of Lake Atitlan.[2069] Children are exploited for forced labor in streets, municipal dumps, and landfills.[2070]

Laws and Regulations on the Worst Forms of Child Labor

The Constitution and the Labor Code set the minimum age for employment at 14.[2071] Although the Labor Code continues to allow children under 14 to work under exceptional circumstances, the Ministry of Labor committed through the 2006 Government Agreement not to provide work authorizations to children below 14.[2072] Guatemala has set the minimum age for hazardous work at 18 and adopted a comprehensive list of hazardous occupations in which

minors age 14 through 17 are prohibited from working, including in work with explosive or toxic substances; in mining; underwater; with agrochemicals; in bars or other establishments where alcoholic beverages are served; and illicit occupations, such as producing and trafficking drugs.[2073] During the reporting period, the Government passed legislation strengthening penalties within the Penal Code for employing children in hazardous work.[2074]

The Constitution and the Penal Code specifically prohibit forced labor.[2075] In addition, Guatemala passed legislation in February 2009, which prohibits child pornography, including its production, distribution, and possession. The legislation sets stricter penalties for procuring, inducing, facilitating, and benefiting economically from child prostitution.[2076] The new law also establishes prohibitions against trafficking in persons, including trafficking for the purposes of forced labor and sexual exploitation and increases penalties for the trafficking of minors.[2077]

	C138, Minimum Age	✓
	C182, Worst Forms of Child Labor	✓
	CRC	✓
	CRC Optional Protocol on Armed Conflict	✓
	CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography	✓
	Palermo Protocol on Trafficking in Persons	✓
	Minimum Age for Work	14
	Minimum Age for Hazardous Work	18
	Compulsory Education Age	14
	Free Public Education	Yes

Institutional Mechanisms for Coordination and Enforcement

The Government has established a National Commission for the Eradication of Child Labor, led by the Vice President, to coordinate Government efforts to combat child labor. During the reporting period, the Commission met four times. The Ministry of Labor also operates nine Executive Secretariats throughout the country that work to coordinate the efforts of NGOs and local government agencies on the issue of child labor.[2078]

In addition to the National Commission, the Government has designated the Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons as the agency responsible for coordinating all government efforts against child trafficking and the commercial sexual exploitation of children. During the reporting period, the Secretariat received less than 5 percent of its designated funding.[2079]

The Ministry of Labor's Child Workers Protection Unit and Office of the Inspector General are responsible for enforcing child labor regulations, including prohibitions on children engaging in the worst forms of child labor.[2080] Both the Office of the Inspector General and the Child Workers Protection Unit receive complaints regarding the use of child labor by telephone, in writing, through the Ministry's Web site, or in person at the Ministry, or at one of its 24 regional offices.[2081]

Only eight of the Ministry of Labor's roughly 250 inspectors are trained on child labor issues, and such inspectors are still responsible for enforcing all labor laws, not solely child labor.[2082] In addition, the Ministry of Labor cannot levy fines on employers found to be in violation of the Labor Code and instead relies on labor courts to impose sanctions. This significantly slows down the process of enforcing labor laws because labor courts often have case backlogs, which cause delays in resolving disputes.[2083]

Although information on the total number of child labor inspections was not available, 213 child labor complaints were received in 2009. Of these complaints, 62 were resolved through the termination of the child's employment and referral to the Child Workers Protection Unit.[2084] However, information on how the other child labor complaints were resolved is not available. Also during 2009, the Ministry of Labor conducted surprise inspections of fireworks factories, identifying six cases of child labor.[2085] Information was not available on how these cases were resolved or if fines or sanctions were imposed against the employers.

In addition, research did not identify evidence that the Ministry of Labor carried out targeted inspections in other sectors where the worst forms of child labor occur.

Child trafficking and commercial sexual exploitation are primarily handled by police and prosecutors. The National Civil Police has five staff members, and the Public Ministry has three prosecutors, dedicated to investigating such crimes.[2086] Suspected cases of child trafficking can be reported through hotlines maintained by the Public Ministry, the National Police, and the Solicitor General's Office.[2087] During the reporting period, the Government worked with NGOs to train public officials on trafficking and the commercial sexual exploitation of children.[2088]

The Government received 208 complaints of trafficking in 2009; however, the data did not distinguish between adult and child trafficking cases. The Government initiated prosecutions in 64 of the cases, resulting in 11 convictions, two of which involved children.[2089]

Government Policies on the Worst Forms of Child Labor

In 2009, the Government adopted a Roadmap towards the Elimination of Child Labor in Guatemala, which aims to end child labor by the year 2020. The Roadmap integrates child labor into programs to combat poverty, promote education, and health, and it calls for legal reform to eliminate exceptions to the minimum age in Labor Code provisions and comprehensively prohibit all forms of hazardous work.[2090] The Government also adopted an Intra-institutional Coordination Protocol to Assist Child Laborers, which sets out guidelines for offices within the Ministry of Labor to identify child laborers and sanction their employers.[2091]

During the reporting period, the Government's Secretariat of Social Welfare implemented the National Plan of Action against the Commercial Sexual Exploitation of Children (CSEC).[2092] In addition, the Secretariat coordinated the Protocol to Assist Child Victims of CSEC, which outlines the responsibilities of government institutions and NGOs to prevent and respond to CSEC cases.[2093]

As a member of the Central American Parliament Commission on Women, Children, Youth, and Family, the Government participates in a regional Plan to Support the Prevention and Elimination of Human Trafficking and Commercial Sexual Exploitation of Children and Adolescents.[2094]

Social Programs to Eliminate or Prevent the Worst Forms of Child Labor

Since 1998, the Government of Guatemala participated in donor-funded projects to combat the worst forms of child labor. These projects, which have since concluded, include country-specific USDOL-funded initiatives to combat child labor in fireworks production and stone quarries.[2095] Additional regional initiatives included a USDOL-funded project to build the capacity of government and civil society organizations to combat the commercial sexual exploitation of children and child trafficking. The project focused on creating and strengthening legislative prohibitions, national plans of action, and repatriation protocols.[2096] Another regional project enhanced regional cooperation, legislation, policies, and institutions to reduce child labor by providing education.[2097]

In recent years, the Government has funded and implemented social programs to combat the worst forms of child labor, including a small program to withdraw girls from child domestic work, as well as a program run by the Guatemala City Municipal Government to assist child laborers. The Government also operates larger scale anti-poverty and education programs to assist vulnerable children, including those vulnerable to the worst forms of child labor.[2098] In April 2008, the Government of Guatemala initiated the My Family Progresses (*Mi Familia Progresa* or MFP) program, providing cash transfers conditioned on children attending school to more than 500,000 families, but does not specifically target the issue of the worst forms of child labor.[2099] The question of whether this program has an impact on the worst forms of child labor does not appear to have been addressed.

As part of its efforts to address the commercial sexual exploitation of children, the Government provides services to child victims of commercial sexual exploitation through protection centers.[2100] The

Government does not fund shelters specifically for child trafficking victims, however, usually referring victims to state-run shelters for orphans and homeless children or NGOs.[2101]

Currently, the Government also participates in a 3½-year $4.2 million USDOL-funded project that aims to withdraw 4,832 children and prevent 3,090 children from exploitive work in agriculture, child domestic labor, and the urban informal sector through the provision of education and vocational training opportunities.[2102] In addition, Guatemala participates in a 2-year $550,000 global program funded by Canada to build the capacity of labor ministries, as well as worker and employer organizations, and in a 4-year $3.3 million regional initiative to eradicate child labor, funded by the Government of Spain.[2103]

Although the Government of Guatemala has undertaken national efforts to combat poverty among vulnerable populations, it is unclear if the Government will be able to sustain programs that assist children involved in agriculture, manufacturing, and urban informal work.

Based on the reporting above, the following actions would advance the reduction of the worst forms of child labor in Guatemala:

IN THE AREA OF COORDINATION AND ENFORCEMENT:

- Strengthen the capacity of the Ministry of Labor to enforce child labor laws by:
  - Increasing the number of labor inspectors trained in the enforcement of worst forms of child labor laws.
  - Carrying out targeted inspections in sectors where the worst forms of child labor are prevalent.
  - Authorizing the Ministry of Labor to levy fines when child labor violations are encountered.
- Fully fund the Secretariat against Sexual Violence, Exploitation, and Trafficking in Persons to coordinate government actions against child trafficking and the commercial sexual exploitation of children.

IN THE AREA OF PROGRAMS:

- Increase the impact of social programs to combat child labor by:
  - Assessing the impact that the *Mi Familia Progresa* program may have on addressing the worst forms of child labor;
  - Creating government social programs to reduce the worst forms of child labor in agriculture, manufacturing, urban informal work, child domestic labor, and among indigenous children.
  - Providing shelters specifically for child victims of trafficking.

[2063] Data provided in the chart at the beginning of this country report are based on UCW analysis of ILO SIMPOC, UNICEF MICS, and World Bank surveys, *Child Economic Activity, School Attendance, and Combined Working and Studying Rates*, 2005-2010. Reliable data on the worst forms of child labor are especially difficult to collect given the often hidden or illegal nature of the worst forms. As a result, statistics on children's work are reported here, which may or may not include the worst forms of child labor. For more information on sources used for these statistics, the definition of working children, and other indicators used in this report, please see the "Children's Work and Education Statistics: Sources and Definitions" section.

[2064] ILO-IPEC, *Trabajo Infantíl y Pueblos Indígenas: El Caso de Guatemala*, San José, 2006, 27; available from http://white.oit.org.pe/ipec/documentos/guatemala_indigenas.pdf. See also Ministry of Labor and Social Provision, National Institute of Statistics, and ILO-IPEC, *Trabajo Infantil en Guatemala: Un estudio en profundidad sobre la Encuesta de Condiciones de Vida -ENCOVI- 2006*, Guatemala City, 2008, 21 and 23; available from http://white.oit.org.pe/ipec/documentos/estudio_en_profundidad_encovi_2006.pdf. See also Mark Lacey, "Bush to Press Free Trade in a Place Where Young Children Still Cut the Cane," *New York Times* (New York), March 11, 2007; available from http://www.nytimes.com/2007/03/12/world/americas/12guatemala.html. See also ILO-IPEC, *Guatemala, exito del proyecto de trabajo infantil en brócoli: Inauguran centro turístico en Chilascó,* [online] 2009 [cited April 9, 2010]; available from http://white.oit.org.pe/ipec/alcencuentros/interior.php?notCodigo=898. See also The Solidarity Center, *Justice for All: The Struggle for Workers Rights in Guatemala*, Washington, DC, 2008, 90; available from http://www.solidaritycenter.org/files/pubs_guatemala_wr.pdf.

[2065] ILO-IPEC, *Trabajo Infantíl y Pueblos Indígenas: El Caso de Guatemala*, 55. See also Alba Trejo, "Guatemala: persisten las peores formas de trabajo infantíl", Cimacnoticias.com, [online], June 16, 2008 [cited July 25, 2008]; available from http://www.cimacnoticias.com/site/08061606-Guatemala-persiste.33562.0.html. See also U.S. Embassy- Guatemala City, *reporting*, June 2, 2008. See also UNICEF, *Mírame: Situación de la niña indígena en Guatemala*, Guatemala City, 2007, 60, 62, 63; available from http://www.unicef.org.gt/02infancia/documentos/mirame_situacion_nina_indigena.pdf. See also Global Youth Connect, *Guatemala Program Report*, Kingston, June 2007; available from http://www.globalyouthconnect.org/pdf/guate_2007.pdf. See also The Solidarity Center, *Justice for All: The Struggle for Workers Rights in Guatemala*, 89 and 91.

[2066] ILO-IPEC, *Alto al Trabajo Infantíl Doméstico!*, 2005, 9; available from http://white.oit.org.pe/ipec/documentos/legal_tid_guatemala.pdf. See also U.S. Embassy-Guatemala City, *reporting, June 2, 2008*.

[2067] ILO-IPEC, *Alto al Trabajo Infantíl Doméstico!*, 43 and 47. See also ILO-IPEC, *Trabajo Infantíl y Pueblos Indígenas: El Caso de Guatemala*, 55.

[2068] ILO-IPEC, *Trabajo Infantíl y Pueblos Indígenas: El Caso de Guatemala*, 54.

[2069] U.S. Department of State, "Guatemala (Tier 2 Watch List)," in *Trafficking in Persons Report- 2010*, Washington, DC, June 14, 2010; available from http://www.state.gov/g/tip/rls/tiprpt/2010/142760.htm. See also U.S. Embassy-Guatemala City, *reporting*, March 15, 2010.

[2070] U.S. Department of State, "Guatemala," in *Country Reports on Human Rights Practices- 2009*, Washington, DC, March 11, 2010, section 5; available from http://www.state.gov/g/drl/rls/hrrpt/2009/wha/136114.htm. See also U.S. Department of State, "Trafficking in Persons Report-2010: Guatemala."

[2071] Government of Guatemala, *Código de Trabajo de la República de Guatemala*, articles 31 and 148; available from http://www.lexadin.nl/wlg/legis/nofr/oeur/arch/gua/ct.pdf. See also Government of Guatemala, *Acuerdo gubernativo 112-2006*, article 32; available from http://www.mintrabajo.gob.gt/org/leyes-y-convenios/acuerdos/acuerdo-gubernativo-no.-112-2006-proteccion-laboral-de-la-ninez-y-adolescencia.

[2072] Government of Guatemala, *Código de Trabajo*, article 150. See also Government of Guatemala, *Intrainstitutional Protocol*, 154-2008, (August 14, 2008); available from http://white.oit.org.pe/ipec/documentos/protocolo_intrainstitucional_atencion_guatemala.pdf.

[2073] Government of Guatemala, *Acuerdo gubernativo 112-2006*, article 32. See also Government of Guatemala, *Intrainstitutional Protocol*.

[2074] U.S. Embassy- Guatemala City, *reporting, March 15, 2010*. See also Government of Guatemala, *Ley contra la Violencia Sexual, Explotación y Trata de Personas*, 9-2009, (March 20, 2009); available from http://www.acnur.org/biblioteca/pdf/7047.pdf.

[2075] Government of Guatemala, *Constitution*, (May 31, 1985, reformed November 17, 1993), article 4; available from http://pdba.georgetown.edu/Constitutions/Guate/guate93.html. See also Government of Guatemala, *Código Penal*, article 202; available from http://www.oas.org/JURIDICO/MLA/sp/gtm/sp_gtm-int-text-cp.pdf.

[2076] Government of Guatemala, *Ley contra la Violencia Sexual, Explotación y Trata de Personas*, articles 36-43.

[2077] Ibid., articles 47-49.

[2078] U.S. Embassy- Guatemala City, *reporting (I)*, February 4, 2010.

[2079] Ibid. See also U.S. Department of State, "Trafficking in Persons Report- 2010: Guatemala."

[2080] U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2081] Ibid.

[2082] Ibid.

[2083] U.S. Embassy- Guatemala City, *reporting (II)*, February 4, 2010.

[2084] U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2085] Ibid.

[2086] Ibid. See also U.S. Embassy- Guatemala City, *reporting, March 15, 2010*.

[2087] U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2088] U.S. Embassy- Guatemala City, *reporting, March 15, 2010*.

[2089] U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2090] ILO-IPEC, *Hoja de Ruta para hacer de Guatemala un país libre de trabajo infantil y sus peores formas*, 2009, 3; available from http://white.oit.org.pe/ipec/pagina.php?pagina=337.

[2091] Government of Guatemala, *Intrainstitutional Protocol*, 24-28.

[2092] ECPAT International CSEC Database, *Guatemala*, accessed April 9, 2010; available from http://www.ecpat.net/.

[2093] Secretariat of Social Welfare, ILO-IPEC, and ECPAT Guatemala, *Protocolo para la detección y atención integral a niñas, niños, y adolescentes víctimas de explotación sexual comercial*, Guatemala, 2007, 7, 19-21; available from http://www.ilo.org/ipecinfo/product/viewProduct.do?productId=6621.

[2094] Comisión de la Mujer Niñez Juventud y Familia del Parlamento Centroamericano, *I Plan de Trabajo Regional de la Comisión para Apoyar la Prevención y Eliminación la Trata de Personas y la Explotación Sexual Comercial de Niños, Niñas y Adolescentes, 2008-2010*, 2008, 14.

[2095] ILO-IPEC, *Combating Child Labour in the Fireworks Industry of Guatemala*, Project Document, 1998. See also ILO-IPEC, *Combating child labour in stone quarries of Guatemala*, Project Document, 1998.

[2096] ILO-IPEC, *Trabajo Infantíl y Pueblos Indígenas: El Caso de Guatemala*, vi and vii. See also ILO-IPEC, *Guatemala, exito del proyecto de trabajo infantil en brócoli*, 1 and 34.

[2097] See also CARE, *Primero Aprendo Project: Combating Exploitive Child Labor through Education in Central America and the Dominican Republic*, Final Technical Progress Report, March 31, 2009, 2. See also ILO-IPEC, *Alto al Trabajo Infantíl Doméstico!*, 22-23.

[2098] U.S. Embassy- Guatemala City, *reporting*, January 23, 2009. See also U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2099] Government of Guatemala, *Más de 500 mil familias en dos años,* [online] [cited April 22, 2010]; available from http://www.mifamiliaprogresa.gob.gt/portal/joomla/noticias/86-mas-de-500-mil-familias-en-dos-anos.html.

[2100] Secretariat of Social Welfare, ILO-IPEC, and Guatemala, *Protocolo para la detección y atención integral*, 20. See also U.S. Embassy- Guatemala City, *reporting (I), February 4, 2010*.

[2101] U.S. Department of State, "Trafficking in Persons Report- 2010: Guatemala."

[2102] Catholic Relief Services, *My Rights Matter*, Project Document, 2009.

[2103] ILO-IPEC official, E-mail communication to USDOL official, December 18, 2008.