



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-second session**
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 8 OF THE Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts
Concluding observations: El Salvador

1. The Committee considered the initial report of El Salvador (CRC/C/OPAC/SLV/1) at its 1122nd meeting (see CRC/C/SR.1122), held on 15 May 2006, and adopted at the 1157th meeting (see CRC/C/SR.1157), held on 2 June 2006, the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the State party's report and of the written replies to the list of issues and appreciates the frank and constructive dialogue held with the delegation. The Committee reminds the State party that these concluding observations should be read in conjunction with its previous concluding observations adopted on the State party's second periodic report on 30 June 2004 contained in CRC/C/15/Add.232.

B. Positive aspects

3. The Committee notes with appreciation measures taken by the State party to implement and strengthen the protection of the rights contained in the Optional Protocol, in particular:

(a) The establishment by law of the minimum age for compulsory recruitment of 18 years and of voluntary recruitment of 16 years, with the necessary provisions to ensure that this recruitment complies with the requirements set out in the Optional Protocol;

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(b) The human rights and humanitarian law courses included in the curriculum of the armed forces; and

(c) The reform under way, as announced by the delegation during the dialogue, of the Military Code and other relevant legislation to raise the minimum age of voluntary recruitment from 16 to 18 years.

C. Principal areas of concern and recommendations**1. General measures of implementation****Legislation**

4. The Committee welcomes the indication given by the delegation that the Code of Military Justice is being amended to criminalize violations of the 1977 Additional Protocols to the Geneva Conventions. However, the Committee is concerned that:

(a) Acts which violate the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict are not included in this reform; and

(b) The provision in the Constitution and in the Armed Forces (Military and Reserves Service) Act, that "in case of necessity, ... all able-bodied Salvadorans" may be recruited for military service, could indefinitely lower the age range of recruits.

5. In order to strengthen the national and international measures for the prevention of the recruitment of children for armed forces or armed groups and their use in hostilities, the Committee recommends that the State party:

(a) Explicitly prohibit by law the recruitment of children under the age of 15 years into armed forces/groups and their

direct participation in hostilities;

(b) Explicitly prohibit by law the violation of the provisions of the Optional Protocol regarding the recruitment and involving of children in hostilities;

(c) Establish extraterritorial jurisdiction for these crimes when they are committed by or against a person who is a citizen of or has other links with the State party;

(d) Stipulate explicitly that military personnel should not undertake any act that violates the rights enshrined in the Optional Protocol, regardless of any military order to that effect;

(e) Consider ratifying the 1998 Rome Statute of the International Criminal Court, in order to strengthen the international protection of children against recruitment;

(f) Consider ratifying the 1994 Inter-American Convention on Forced Disappearance of Persons.

Monitoring of the implementation of the Protocol

6. The Committee wishes to reiterate its concern and recommendation adopted following the examination of the second periodic report under the Convention (CRC/C/15/Add.232) with regard to the Office of the Procurator for the Protection of Human Rights (Human Rights Procurator's Office) and the Office of the Deputy Procurator for the Rights of the Child. In addition, the Committee is concerned that the monitoring of the implementation of the Optional Protocols to the Convention on the Rights of the Child is not explicitly included in the mandate of the Human Rights Procurator's Office.

7. The Committee recommends that the State party implement the recommendation contained in document CRC/C/15/Add.232, and explicitly include in the mandate of the Human Rights Procurator's Office the monitoring of the implementation of the Optional Protocols to the Convention on the Rights of the Child.

National Plan of Action

8. The Committee welcomes the information on the various measures taken to implement the 1992 Peace Agreement and to address the consequences of the armed conflict.

9. The Committee recommends that the State party adopt, in collaboration with non governmental organizations (NGOs) and the civil society, a National Plan of Action for the implementation of the Optional Protocol as part of the 2001-2010 "Decade Plan" and of the provisions of the 1992 Peace Agreement that relate to the social reintegration of and assistance to children victims of the conflict. The Committee further recommends that the State party make efforts to trace children who disappeared during the conflict and to reunify them with their families when that is possible, and that it allocate sufficient financial and human resources to allow for the implementation of this part of the Plan of Action.

Dissemination and training

10. While welcoming the information on the curriculum of the armed forces, the Committee regrets the lack of information received on measures to disseminate the Optional Protocol to the public at large.

11. The Committee recommends that the State party widely disseminate information on the Optional Protocol and seize the opportunity of the reform of the Armed Forces (Military and Reserves Service) Act to hold a public debate on this topic. The Committee also recommends that the State party develop education and training programmes on the provisions of the Optional Protocol for children and all relevant professional groups working with and for children.

Budget allocations

12. The Committee is concerned that the budget necessary for the implementation of the Optional Protocol, in particular for the provision of assistance for the physical and psychological recovery and the social reintegration of children who have been involved in hostilities, as

contained in article 6, paragraph 3, has not been allocated. The Committee is also concerned that the resources required for the full implementation of the decision of the Inter-American Court in the *Hermanas Serrano Cruz v. El Salvador* case of 1 March 2005 have not been allocated.

13. The Committee recommends that the State party allocate appropriate financial and human resources for the full implementation of the Optional Protocol and of the Inter American Court decision, and to the Fund for Protection.

Cooperation with NGOs

14. The Committee regrets the lack of consultation with NGOs and civil society in the drafting process of the initial State party report.

15. The Committee recommends that NGOs and civil society organizations, including youth groups and associations, participate in the drafting of further reports, in the implementation of the Optional Protocol and of the Committee's recommendations, as well as in the legislative process.

2. Recruitment of children

Voluntary recruitment

16. The Committee welcomes the information received during the dialogue that in practice no child under the age of 18 has been recruited by the armed forces since 2000. However, the Committee is concerned that, considering the constraints of the birth registration system identified by the Committee on the Rights of the Child during the consideration of the second periodic report in 2004 (see CRC/C/15/Add.232, paras. 33 and 34), it might be difficult in some cases to determine the real age of the recruits.

17. The Committee recommends that the State party develop and strengthen measures to effectively guarantee that:

- (a) During recruitment procedures, the documentation proving the age of the person is adequate; and**
- (b) The voluntary recruitment of 16- and 17-year-old children is abolished by law, so as to reflect the current situation.**

Impunity

18. The Committee is particularly concerned at the absence of information on actions taken with respect to persons responsible for acts contrary to the Optional Protocol.

19. The Committee requests information on the actions taken with respect to persons responsible for acts contrary to the Optional Protocol.

3. Measures adopted with regard to disarmament, demobilization and social reintegration

Measures of disarmament, demobilization and social reintegration

20. The Committee regrets the paucity of information provided on measures and programmes adopted with regard to disarmament, demobilization and social reintegration of victims, in particular children who have been affected by the civil war and victims of landmines, taking into account that the involvement in an armed conflict produces long-term consequences that require psychosocial assistance.

21. The Committee recommends that the State party include information in its next report on measures adopted with regard to disarmament, demobilization and social reintegration of victims, in particular the children who have been affected by the armed conflict and victims of landmines. The Committee would like, in particular, information on the implementation of the measures prescribed in this regard by the Inter-American Court in the *Hermanas Serrano Cruz v. El Salvador* case of 1 March 2005.

4. Follow-up and dissemination

Follow-up

22. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the Cabinet or a similar body, to the Defense Ministry and the police, to the Parliament, and to provincial or state governments and parliaments, when applicable, for appropriate consideration and further action.

Dissemination

23. In the light of article 6, paragraph 2, of the Optional Protocol, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public at large and that it consider publishing the report along with the relevant summary records and concluding observations adopted by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Optional Protocol, as well as its implementation and its monitoring, within the Government and the Parliament, and to the general public, including concerned non-governmental organizations, youth groups and associations, and the media.

D. Next report

24. In accordance with article 8, paragraph 2, of the Optional Protocol, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its combined third and fourth periodic report under the Convention on the Rights of the Child, in accordance with article 44 of the Convention, due on 1 September 2007.
