



Meeting of the States Parties to the Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD

Forty-second session

SUMMARY RECORD OF THE 1122nd MEETING (Room A)

Held at the Palais Wilson, Geneva,
Monday, 15 May 2006, at 3 p.m.

Chairperson: Mr. DOEK

SUMMARY

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES

Initial report of El Salvador on implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES (agenda item 4)

Initial report of El Salvador on implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC/C/OPAC/SLV/1; list of issues to be taken up (CRC/C/OPAC/SLV/Q/1); State party's written replies to the list of issues to be taken up (CRC/C/OPAC/SLV/Q/1/Add.1))

1. *At the invitation of the Chairperson, the delegation of El Salvador took places at the Committee table.*

2. Mr. RECINOS TREJO (El Salvador) said that his country was not currently involved in any armed conflict, and that no children, therefore, were in danger of being recruited or employed in active hostilities. El Salvador did however take part in peacekeeping operations and in humanitarian missions in Iraq pursuant to resolution 1546 (2004) of the United Nations Security Council.

3. Since the end of the civil war and the signature of the peace agreements in 1992, El Salvador had made changes to the organization of its armed forces, and in particular to its Armed Forces (Military and Reserves Service) Act, in order to comply with the provisions of the Convention and its Optional Protocol on the involvement of children in armed conflict. It had also, in 1997, established an advisory authority on international humanitarian law by creating an inter-agency committee made up of representatives of the Ministry of Foreign Affairs, the Ministry of National Defence, Ministry of Public Health and Welfare, the Ministry of Education, the Office of the Attorney General of the Republic, the National Human Rights Council and the Salvadorian Red Cross, among others. The advisory authority had responsibility for disseminating the principles of humanitarian law in the context of the ratification of the international instruments relating to international humanitarian law, and for recommending legislative reforms to bring El Salvador into compliance with its obligations under the international treaties to which it was a party.

4. El Salvador had also undertaken a process of reform of the Penal Code and the Code of Military Justice to integrate into those codes the offences listed in the Geneva Conventions and its optional protocols, in particular with respect to war crimes and crimes against humanity.

5. Ms. ORTIZ (Rapporteur) considered it regrettable that the State party had not involved civil society organizations in the development of the report under review, and invited it to do so in future. Pointing out that the Salvadorian people were still suffering from the consequences of several natural disasters and a war in which 75,000 persons had died, 8,000 disappeared and 1 million been displaced, she asked how the Salvadorian Government was managing to forge a culture of peace and to prevent new conflicts. She would like to know whether the State party could guarantee that no juvenile aged 16 to 18 had been sent to Iraq in connection with the peacekeeping operations and, if any Salvadorian juveniles had been sent there, to know what their duties were. Quoting paragraph 8 of the report, which states that "In case of necessity, all Salvadorians fit for military service shall be soldiers", she asked whether the concept of "necessity" could be invoked to recruit juveniles between the ages of 16 and 18. Further, she would like to know how the State party

made sure that the recruitment of juveniles in the age group was voluntary and whether the mere submission of identity documents was enough to ensure that in a region where birth registration often left something to be desired.

6. Ms. ORTIZ asked, in addition, whether juveniles recruited into the army were subject to the same disciplinary sanctions as adults and how many of them had lost their lives in combat or been killed accidentally during their military service. Finally, she wanted to know how many children had benefited from the programmes for displaced children, orphans or combatants after the signature of the 1992 peace agreements.

7. Ms. OUEDRAOGO asked whether progress had been made in the area of birth registration, given that age was the criterion for armed forces recruitment. Were special training programmes provided for young recruits aged 16 to 18 years? Was the practice of hazing young recruits widespread in the State party? Finally, she would like to know whether juveniles in the age cohort that did not wish to continue their army career could change course and whether the young person's opinion was respected in military schools.

8. Mr. SIDDIQUI asked whether personnel in charge of peacekeeping operations in Iraq, who dealt with a certain number of Iraqi children, were trained in the rights of the child.

9. Mr. KOTRANE would like to know whether, in the framework of the planned Penal Code revision, the State party intended to penalize the recruitment of juveniles into the armed forces. He asked whether the State party meant to include courses on human rights and humanitarian law in school curricula to help create a culture of peace.

10. The CHAIRPERSON, referring to the State party's written replies with respect to the work of the Inter-institutional Commission to Search for Children who Disappeared owing to Armed Conflict, asked how the cases referred to the Commission had been dealt with. He asked whether the protection fund for the war wounded, whose purpose it was to compensate victims of the war in El Salvador in the 90s, was truly effective and whether an alternate procedure was provided for people meeting the criteria for compensation but unable to produce the necessary supporting documents. Finally, he would like to know whether programmes had been implemented to provide psychological care for the children of persons that had suffered from the armed conflict, who in turn often suffered psychological and mental disorders.

The meeting was suspended at 3:35 p.m.; it resumed at 3:50 p.m.

11. Mr. WILL RIVET (El Salvador) explained that under the Constitution of the Republic of El Salvador, military service was compulsory for all Salvadorians between the ages of 18 and 30. The fact that all Salvadorians fit for military service could be conscripted, if necessary, by no means meant that El Salvador authorized children's participation in active hostilities.

12. Further, even though the Armed Forces (Military and Reserves Service) Act stated that juveniles between the ages of 16 and 18 years could volunteer for military service, since 2000, the military authorities had decided, internally, not to accept any more such applications. Hence, there were no longer any recruits under 18 years of age. This would soon become a de jure prohibition rather than simply de

facto, as a reform project was in hand to repeal Article 6 of the current Armed Forces (Military and Reserves Service) Act. Any person wishing to enlist in the army must present an identity document, and recruiting offices must verify its accuracy with the civil status register.

13. It should be noted, too, that El Salvador's Code of Military Justice did not provide any pecuniary or criminal penalties for juveniles. In the event of a breach of military discipline, before 2000, only the legislation on minors had been applicable, the only possible sanction being discharge from military service.

14. The CHAIRPERSON asked whether joining a Salvadorian military academy as of the age of 16 was regarded as a form of armed forces recruitment.

15. Mr. WILL RIVET (El Salvador) said that cadets attending Salvadorian military academies had student status and were therefore subject, for the two years that their schooling lasted, only to those academies' bylaws. The planned reforms to the Penal Code and the Code of Military Justice would not change that. Only when students obtained their diploma and the rank of second lieutenant did they truly start their military career.

16. As no juveniles were now being recruited by the Salvadorian armed forces, there had been no deaths of child soldiers. Moreover, the armed forces general inspectorate supervised the treatment of cadets and, if necessary, reported any anomaly or infringement noted to the general staff, whether the victim was a juvenile or an adult.

17. After the 1992 peace agreements, the Salvadorian armed forces had introduced the compulsory teaching of human rights and international humanitarian law into the curricula of all their educational institutions. They had also prepared a guide to human rights doctrines with one whole paragraph devoted to the rights of the child. The plan now under way to reform the Code of Military Justice also sought, in particular, to provide punishments for any person that had recruited or authorized the recruitment of a juvenile into the armed forces.

18. Currently, the average age of those deployed in Iraq on humanitarian missions was 30. Only one 18-year-old soldier had been in the first quota sent to Iraq. Before their departure, the soldiers took a 10-month preparatory course, during which they learned some basic Arabic and were introduced to the country's culture. That training also gave them a better idea of just how to behave vis-à-vis the Iraqis, and children in particular.

19. Between 1995 and today, the Salvadorian Government had invested \$158 million in its protection fund for the war wounded, \$14 million of which went each year to the implementation of the various physical and psychological rehabilitation and social reintegration programmes provided to victims. In all, some 30,000 people had taken advantage of the fund to date, in particular some 7,000 orphan minors, including approximately 6,000 ex-servicemen's children, and invalid children. Persons unable to take advantage of the fund because of its criteria had access to other programmes providing comparable services.

20. Ms. ORTIZ would like additional information on the measures implemented by the Salvadorian Government to comply with the decision handed down in 2005 by the Inter-American Court of Human Rights in the case of sisters Ernestina and Erlinda Serrano Cruz (*Hermanas Serrano Cruz vs. El Salvador*), and in particular

on the effectiveness of the Commission to Search for Children who Disappeared owing to Armed Conflict and the impartiality with its members, which seemed in some doubt. She also asked whether the State party soon planned to ratify the Inter-American Convention on the Forced Disappearance of Persons and to amend its Penal Code accordingly.

21. Mr. RIVERA (El Salvador) said that, initially, the Commission to Search for Children who Disappeared owing to Armed Conflict had received 40 complaints from the NGO Pro-búsqueda, which was endeavouring to reunite families and children that had got separated. Created initially for a four-year period, the Commission had begun its work on that basis in August 2005. To date, it had resolved one case, while resolution of seven more was expected within the next few months, and had received nine additional complaints as a result of its investigative operations in the field. Though relatively young, the Commission was therefore fully operational today, thanks in great part to its members' unwavering determination.

22. Although El Salvador was not now a party to the Inter-American Convention on the Forced Disappearance of Persons, that offence was part of the current Penal Code. Even though domestic laws did cover the offence, the question of ratification was being studied.

23. With regard to the investigation into the disappearance of Ernestina and Erlinda Serrano Cruz, Mr. Rivera indicated that in spite of the difficulties caused by the fact that the complaint had been filed 20 years after the fact, the Government had decided to continue the proceeding. The armed forces had lately communicated the names of the soldiers in command of the units operating in the area where the disappearances had taken place.

24. Ms. ORTIZ asked whether the members of the Commission to Search for Children who Disappeared owing to Armed Conflict were under any obligation to communicate such information as they might have. Noting that the Commission, when it had recently announced that an individual had been found, had not acknowledged the Government's responsibility, she asked whether that reflected some difficulty in recognizing the mistakes that had been made, whereas it was essential for the Government to assume its responsibilities so that the country as a whole could learn the lessons of the past. In addition, she asked what had become of the genetic information system whose creation had been recommended by the Inter-American Court of Human Rights to help in the search for, and identification of, the missing persons.

25. Mr. WILL RIVET (El Salvador) said that Commission members' willingness to make available such documents or files as would help in that endeavour was, in his opinion, more significant than any formalization of an obligation in that regard. To date, the military institution had answered all of the Commission's enquiries and authorized 37 discussions with retired or active members of the armed forces that might have belonged to the units involved in the engagements during which the disappearances were reported to have occurred. Regarding the existence of a genetic database, Mr. Rivera said that the El Salvador Supreme Court now had such a tool, which would make it possible to identify the disappeared.

26. The Salvadorian Government had complied with the ruling of the Inter-American Court under which the Government was required only to compensate the

victims' families. It would have had no difficulty in asking the families' forgiveness if the Court had deemed that necessary.

27. Ms. ORTIZ noted that in its written replies the State party had indicated that of the 152 children belonging to the FMLN that had been demobilized, and were to be placed in education centres, only nine had in the end been so placed, and only had completed his studies. She would like particulars on that outcome, which seemed surprising in view of the efforts made.

28. Mr. WILL RIVET (El Salvador) indicated that it had been possible for many minors to be restored to their families. Moreover, under the Escuela Saludable programme, a budget had been set aside for schools to purchase food and school supplies so that parents, in particular in the countryside, would no longer be obliged to put their children to work.

29. Ms. ORTIZ asked whether there was a link between the *maras* phenomenon and the problems born of the war, in particular the concomitant population movements.

30. Ms. CUBIAS MEDINA (El Salvador) said that the *maras* phenomenon was also found in other countries of the area, including Honduras, Mexico and Nicaragua, and was primarily related to migration and the importation of the phenomenon from Los Angeles, whence many Salvadorians had been deported. It was also related to the absence of any authority figures for the young people that joined these gangs, whose leaders played the role of a father, an uncle or a big brother. Moreover, El Salvador had a serious overpopulation problem which, combined with migration, had led to a great deal of violence.

31. Ms. ORTIZ thanked the State party for its willingness to engage in dialogue and the quality of its replies. She encouraged El Salvador to continue its reform process and, in particular, would like it to clarify its position on the prohibition of the recruitment of young people under 18 into the armed forces and, ultimately, to make the necessary amendments to its laws and constitution. Noting that the Inter-American Court of Human Rights had ruled that the definition of "forced disappearance" in the Salvadorian Penal Code was not in compliance with international standards, she urged the State party to make the necessary amendments to the Penal Code and to ratify the Inter-American Convention on the Forced Disappearance of Persons.

32. Mr. RECINOS TREJO (El Salvador) thanked Committee members for the constructive dialogue his delegation had had with them and assured them that his country would do everything possible to make continued progress along the same lines.

The meeting rose at 4:50 p.m.