



Convention on the Rights of the Child

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COMMITTEE ON THE RIGHTS OF THE CHILD**Forty-fifth 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 conflict****Concluding Observations: Guatemala**

1. The Committee considered the initial report of Guatemala (CRC/C/OPAC/GTM/1) at its 1246th meeting (see CRC/C/SR.1246), held on 1 June 2007, and adopted the following concluding observations at the 1255th meeting, held on 8 June 2007.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report, although regrets the delay in its submission. The Committee furthermore regrets that civil society was not consulted in the drafting process of the report. The Committee appreciates the constructive dialogue with a high-level and intersectoral delegation, but regrets the absence of a representative of the Ministry of Defence.

3. 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 8 June 2001, contained in CRC/C/15/Add.154.

B. Positive aspects

4. The Committee notes with appreciation:

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The State party's declaration made upon the ratification of the Optional Protocol that the minimum age for compulsory recruitment into the armed forces of Guatemala is 18 years;

The adoption of the Integral Law for the Protection of Children and Adolescents in 2003;

The stated intention of the State party to ratify the Rome Statute of the International Criminal Court.

5. The Committee further commends the State party's accession to or ratification of:

The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography on 9 May 2002;

ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour on 11 October 2001.

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

6. The Committee, while recognising the reference to the right of persons under 18 years old not to be recruited, even in case of armed conflict, in the Integral Law for the Protection of Children and Adolescents of 2003, is concerned that there is no clear prohibition of the recruitment of children below the age of 18 and no specific provision in the Criminal Code criminalizing forced recruitment below the age of 18. Furthermore, the Committee is concerned that the State party has not provided the necessary information about safeguards adopted in order to ensure that children are not recruited or involved in armed conflict.

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

Explicitly prohibit by law the recruitment of children under the age of 18 years into armed forces and armed groups and their direct participation in hostilities;

Explicitly criminalize by reform of the Penal Code violations of the provisions of the Optional Protocol regarding the recruitment and involvement of children in hostilities;

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;

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;

Ensure that adequate safeguards are in place to prevent the recruitment of children and to include information in this respect in the next periodic report;

Ratify the Rome Statute of the International Criminal Court.

Coordination of the implementation of the Protocol

8. The Committee regrets the lack of information on the national coordination of the implementation of the Protocol and in particular of the role of the Secretaría de Bienestar Social in this respect.

9. The Committee recommends that the State party strengthen and consolidate coordination in the areas covered by the Protocol, and that it be taken into account in the development of the National Plan of Action for Children adopted in 2004.

Budget allocations

10. The Committee commends the State party for reducing budget allocations for the military and for transferring resources to the social sector, however it is concerned that significant resources are dedicated to interventions resulting in the repression of adolescents living or working on the street.

11. The Committee recommends that further human and financial resources (e.g. through a revised taxation policy) be provided for the social sector, including for the implementation of the provisions of the Protocol.

Dissemination and training

12. The Committee, while recognising certain efforts to train professionals, is nevertheless concerned that the State party's dissemination and training activities regarding the Optional Protocol are limited. Little information is given regarding initiatives specifically aimed at raising awareness of the Optional Protocol. In particular, information is lacking regarding its dissemination among certain professional categories, in particular among the armed forces, including forces for international peacekeeping operations, and medical professionals who treat refugee, asylum-seeking and migrant children as well as among children at large.

13. The Committee recommends that the State party develop systematic awareness raising, education and training on the provisions of the Optional Protocol for children through the educational curricula, and for all relevant professional groups working with asylum-seeking, refugee and migrant children from countries affected by armed conflict, such as teachers, medical professionals, lawyers, judges, immigration officials, police and military personnel. The Committee emphasises the need to train the armed forces, taking into account the extensive forced recruitment by the military and paramilitary groups of children, especially indigenous children, that took place during the armed conflict, between 1962 and 1996.

Recruitment of children

Compulsory and voluntary recruitment

14. The Committee notes that Guatemala maintains compulsory military service and that the minimum age for both compulsory and voluntary recruitment is set at 18 years, which according to the State party report cannot be lowered even during states of emergency. However the Committee remains concerned that due to the number of children who lack birth registration, uncertainty about the age of young recruits may result in the recruitment of children under the age of 18. Finally, the Committee notes the high prevalence of and easy access to arms for persons under the age of 18.

15. The Committee recommends that the State party ensure, in case of lack of a birth certificate, that the age of the recruit is determined by other reliable means, including medical examination. The State party should seek to ensure that all children are provided with reliable birth registration and identification documentation. If in doubt the State party should consider recruits to be children and not accept them for military service. The State party is recommended to establish an inspection mechanism to ensure that all military recruits are over 18 years of age. Finally, the Committee recommends that the State party adopt measures to restrict access to arms for persons under the age of 18.

Role of military schools

16. The Committee is concerned about reports of the use of corporal punishment in military schools and that such punishment is not explicitly prohibited by law. In view of this, the Committee is concerned that adequate impartial complaints mechanisms for children attending military schools appear to be lacking.

17. The Committee recommends that the State party;

Ensure that all children in military schools receive education according to articles 28, 29 and 31 of the Convention on the Rights of the Child, taking into account its general comment No. 1 (2001) on the aims of education. In particular, human rights education should be included on the provisions of the Protocol;

Formally prohibit corporal punishment, taking into account general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment;

Provide children attending military schools with adequate access to independent complaints and investigation mechanisms.

Measures adopted with regard to disarmament, demobilization

and social reintegration

Impunity

18. The Committee is particularly concerned over the paucity of information and data on the number of children forcibly recruited by military and paramilitary groups during the armed conflict and the lack of investigation into the responsibility of those responsible for such acts.

19. The Committee urges the State party to undertake further documentation on reports of children affected by forced recruitment, allocate resources for their identification and ensure that investigations are carried out into alleged cases of forced recruitment of children during the armed conflict, in violation of provisions of the Protocol, article 38 of the Convention on the Rights of the Child and Additional Protocol II to the Geneva Conventions relating to the Protection of Victims of Non-International Armed Conflicts .

Measures of recovery and social reintegration

20. The Committee is concerned that the budget necessary for the implementation of reparations measures, in particular for rehabilitation, compensation, physical and psychological recovery and social reintegration of children who have been involved in hostilities, is inadequate. The Committee is concerned that the work of the National Commission for the Search for Disappeared Children and the National Reparations Programme has been slow and inefficient. The Committee regrets that the State party has allocated inadequate resources for full compliance with the sentences of the Inter-American Court of Human Rights relating to cases of children who were victims during the armed conflict.

21. The Committee recommends that the State party allocate appropriate financial and human resources for the full implementation of comprehensive reparations measures, including a gender perspective, and of the recommendations of the Commission for Historical Clarification, especially in the allocation of funding and human resources for the National Commission for the Search for Disappeared Children and the National Reparations Programme. Furthermore, the Committee encourages the State party to adopt pending legislation establishing an autonomous commission for investigating disappearances, including of children. Furthermore, the Committee urges the State party to comply fully with the sentences of the Inter-American Court of Human Rights relating to cases of children who were victims during the armed conflict.

International assistance and cooperation

Technical assistance

22. The Committee encourages the State party to seek further international technical assistance and continue its cooperation with the United Nations, including the Office of the United Nations High Commissioner for Human Rights, as well as other relevant agencies, in order to further the practical implementation of the provisions of the Optional Protocol. The Committee furthermore urges the State party to take its responsibility to ensure the sustainability of such technical assistance.

F follow-up and dissemination

F follow-up

23. 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 relevant Government Ministries, the Congress and to departmental as well as local authorities, for appropriate consideration and further action.

Dissemination

24. In light of article 6, paragraph 2 of the Optional Protocol, the Committee recommends that the report and written replies submitted by the State party and related recommendations (concluding observations) adopted be made widely available, including through the internet (but not exclusively), to the public at large, civil society organizations, youth groups and professional groups in order to generate debate and awareness of the Convention, its implementation and

monitoring. Furthermore, the Committee recommends that the State party make the Optional Protocol widely known to children and their parents through, inter alia , school curricula and human rights education.

Next report

25. 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 consolidated third and fourth periodic reports under the Convention on the Rights of the Child, in accordance with article 44 of the Convention.

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