

## COMMITTEE ON THE RIGHTS OF THE CHILD

42<sup>nd</sup> session (Geneva, 15 May – 2 June 2006)

Reports of States

El Salvador (initial report)

### *Information submitted to the Committee*

El Salvador submitted its initial report<sup>1</sup> under the *Optional Protocol to the Convention of the Rights of the Child on the involvement of children in armed conflict* in January 2004. El Salvador also submitted as written replies<sup>2</sup> to the Committee on the Rights of the Child's list of issues<sup>3</sup>. The report provides information on the legislative framework that ensures that minors under the age of 16 are not recruited into the armed forces. The report also shows provisions to ensure that minors between 16 and 18 are not involved in armed combat. The report repeatedly asserts that the country is not involved in any internal or international armed conflict. No NGO reports were submitted to the Committee; however, observers to the dialogue were numerous and included a member of Franciscans International and a large delegation from the United Nations Children's Fund (UNICEF).

El Salvador ratified the *Convention on the Rights of the Child* in 1990; the *Optional Protocol on the sale of children, child prostitution, and child pornography* (OPSC) in 2004; and the *Optional Protocol on the involvement of children in armed conflict* (OPAC) in 2002.

### *Themes and Issues*

The main theme of the discussion was the **recruitment of children between the ages of 16 and 18** into the armed forces. The State party report asserts that Article 215 of the Constitution of El Salvador provides that military service is compulsory for all Salvadorans from 18 to 30 years of age. The *Armed Forces, Military and Reserves Service Act* provides that minors between the ages of 16 and 18 who volunteer for military service can attend military academies. The Committee questioned the delegation on the criteria for volunteers, the benefits of military service, and how benefits are advertised. The Committee also raised questions about the absence of a law criminalising the recruitment of children in El Salvador or of Salvadoran children in other countries. Additionally, the Committee asked about how the Government is confronting problems with birth registration, which has an impact on the legal ages for military recruitment<sup>4</sup>.

In its response to these questions, the delegation first clarified that children between 16 and 18 are only involved in logistical support and are not allowed to serve as combatants. Regarding the absence of a law criminalising child recruitment, the delegation noted that currently, the code of military justice is being amended to include criminalising the recruitment of minors as combatants. Municipality officials are working in collaboration with military officials on the problems related to the intersection of military recruitment and birth registration to ensure that the documentation submitted when applying for military service corresponds with departmental records. The delegation largely failed to address questions related to the benefits of military service and the question of voluntary service.

In relation to non-combatant military recruits between 16 and 18, the Committee questioned the delegation about disciplinary action in barracks and whether minors are subject to the same disciplinary measures as adults; how many young people between the ages of 16 and 18 have died or been wounded in armed service; training programs that take into account the young age of recruits; problems related to hazing<sup>5</sup>; and to what extent the opinion of the child is respected, specifically regarding whether a minor can resign from the armed forces. The delegation did not address these questions directly, saying instead that there are no minors in the armed forces. Cadets in academies are considered students and are therefore subject to the internal regulations for each academy.

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<sup>1</sup> [CRC/C/OPAC/SLV/1](http://www.ohchr.org/english/bodies/crc/crcs42.htm), available at <http://www.ohchr.org/english/bodies/crc/crcs42.htm>.

<sup>2</sup> [CRC/C/OPAC/SLV/Q/1/Add.1](http://www.ohchr.org/english/bodies/crc/crcs42.htm), available at <http://www.ohchr.org/english/bodies/crc/crcs42.htm>.

<sup>3</sup> [CRC/C/OPAC/SLV/Q/1](http://www.ohchr.org/english/bodies/crc/docs/list/CRC.C.OPAC.SLV.Q.1.pdf) available at <http://www.ohchr.org/english/bodies/crc/docs/list/CRC.C.OPAC.SLV.Q.1.pdf>.

<sup>4</sup> In its concluding observations from the State party's last examination under the Convention on the Rights of the Child ([CRC/C/15/Add.232](http://www.ohchr.org/english/bodies/crc/docs/concl/CRC.C.15/Add.232)), the Committee expressed concern about the relatively large percentage of the population that has not been registered at birth and do not have a birth certificate.

<sup>5</sup> Hazing is often ritualistic harassment, abuse or humiliation with requirements to perform meaningless tasks; sometimes as a way of initiation into a social group.

*El Salvador*

Also discussed were the **consequences of the armed conflict** in El Salvador, which ended in 1992. The Committee asked whether there are programs related to the rehabilitation of children orphaned, or otherwise affected, by the armed conflict and what kind of reparations have been made available to people affected by the armed conflict and their families. The Committee enquired about the reparations and protection fund established by the Government and the application process. The delegation responded with figures on how much beneficiaries have been awarded to date. It noted that 7,000 minor orphans have been awarded compensation, and children disabled during the conflict have been given comprehensive care. When pushed on the issue of applications for reparations, the delegation responded that when an applicant does not meet the criteria for receiving reparations, the State helps the applicant obtain aid from another source. Furthermore, the European Union and other bodies have provided funds for vocational training and other reparations.

Other issues covered included the State party's involvement in the war in Iraq; the *Inter-American Convention on Forced Disappearance of Persons*; training of the armed forces in particular in human rights and the rights of children; and the rising problem of children's involvement in gangs in El Salvador.

*Conclusions and Recommendations*

The Committee addressed several central issues covered under the Optional Protocol, such as penalties for recruitment of children in the armed forces, rehabilitation of children who were involved in armed conflict; however, it did not push the delegation on other important issues, such as legal provisions for Salvadoran children who are recruited into the armed forces of other States. Furthermore, the Committee did not follow-up on its questions regarding the benefits of volunteering for armed service for minors between the ages of 16 and 18, and other key questions.

Despite these problems in the discussion itself, the aforementioned issues are addressed for the most part in the concluding observations<sup>6</sup>. The main positive aspect noted by the Committee included the reform mentioned by the delegation to raise the minimum age of voluntary recruitment from 16 to 18 years and the human rights and humanitarian law course included in the curriculum of the armed forces, though there was no substantial data provided on these courses during in any part of the session or in the documentation.

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<sup>6</sup> [CRC/C/OPAC/SLV/1](http://www.ohchr.org/english/bodies/crc/docs/co/CRC.C.OPAC.SLV.1.pdf) available at <http://www.ohchr.org/english/bodies/crc/docs/co/CRC.C.OPAC.SLV.1.pdf>.