

# Guatemala: Children and the military

(Pre-session)

Submission to the Committee on the Rights of the Child on the  
seventh periodic report of Guatemala

December 2023

## Summary

- **Minimum age of military recruitment.** While the State party has established 18 years as the minimum age of compulsory recruitment, it appears to not have made progress in criminalising child recruitment or in introducing safeguards to ensure that recruitment is not forced or coerced.
- **Military schools.** There is evidence of the military training of children in military schools, inappropriate forms of discipline, and sexual and physical abuse. The range and quality of the education offered is limited and attainment is very low. There remains a lack of clarity about the obligations on students leaving State military schools to serve in the armed forces.
- **Recruitment of children by non-state armed groups.** Children are being targeted by non-state armed groups for forced recruitment, in particular while travelling to and from school. Children are criminalised for membership of such groups, but the State party has yet to criminalise their recruitment. The State party has also failed to progress the Committee's previous recommendations, and has not addressed the issue of recruitment of children by non-state armed groups in their communications under the current reporting procedure, despite being asked to do so.
- **Child sexual abuse by peacekeeping troops.** In 2019, a member of the state armed forces was alleged to have raped a child while deployed on the MONUSCO peacekeeping mission in Democratic Republic of the Congo. The outcome of the case is still pending.

## Introduction

The Child Rights International Network (CRIN) and Conscience and Peace Tax International (CPTI) present these observations as part of their project to monitor progress in implementing the Optional Protocol to the Convention on the Rights of the Child (CRC) on the involvement of children in armed conflict (OPAC).

## Country situation

<b>Population (2022):</b>	17.4 million. <sup>1</sup>
<b>Armed forces personnel (2022):</b>	43,000. <sup>2</sup>
<b>Military service:</b>	Article 69 of Decree 72-90 establishing the armed forces requires citizens to register for national service 'upon reaching 18 years of age'. <sup>3</sup>
<b>Conscientious objection:</b>	No formal recognition. Under the Law on National Civic Service (No.20-2003), however, citizens are given, in principle, a free choice between military and civilian service.
<b>OPAC ratified:</b>	2002.
<b>OPAC report:</b>	<a href="#">CRC/C/OPAC/GTM/1</a> , received 2006 (with replies to the list of issues <a href="#">CRC/C/OPAC/GTM/Q/1/Add.1</a> , received 2007); reviewed at <a href="#">CRC/C/OPAC/GTM/CO/1</a> , 2007.
<b>CRC reviews since OPAC report:</b>	<a href="#">CRC/C/GTM/CO/3-4</a> , 2010. <a href="#">CRC/C/GTM/CO/5-6</a> , 2018.

## Issues arising

### Minimum age of military recruitment

The State party's binding declaration clarifies only that the *compulsory* recruitment of persons under the age of 18 is not permitted,<sup>4</sup> which is also written into national law.<sup>5</sup>

According to the State party's OPAC report, 'no one under the age of 18 is recruited [for military purposes] under any circumstances' (para 68) and 'persons under the age of 18 are not recruited in Guatemala' (para 74). The State party report under the combined third and fourth reporting cycle for the Convention underlines that voluntary recruitment is also permissible only from the age of 18.

The State party has committed to ensure that even in armed conflict, children and adolescents have the right to not be recruited into the military, and to adopt measures to ensure people under the age of 18 are not participating directly in hostilities.<sup>6</sup>

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<sup>1</sup> [World Bank](#) (2023).

<sup>2</sup> [Statista](#) (2023).

<sup>3</sup> [Decree 72-90, art. 69.](#)

<sup>4</sup> 'Guatemala shall not permit the compulsory recruitment of persons under 18 years of age into its armed forces, and, in keeping with article 3, paragraph 4, of the Convention on the Rights of the Child on the involvement of children in armed conflict, the description of the safeguards it has adopted to ensure that such recruitment is not forced or coerced shall be submitted at a later date.' UN Treaty Collection, [Chapter IV: Human Rights \(11b\)](#), 2023.

<sup>5</sup> [Decree 72-90, art. 69.](#)

<sup>6</sup> [Decree 27-2003, art. 57.](#)

Age is verified by presenting 'suitable' documents when registering for compulsory military service.<sup>7</sup> The legislation does not specify what documents might be considered 'suitable'.

In its OPAC report, the State party affirmed that the Ministry of Defence was 'drafting a description of the safeguards to be adopted to ensure that recruitment is not forced or coerced'.<sup>8</sup> Subsequent communications from the State party with the Committee have not clarified whether such safeguards have been finalised or implemented.

In the two previous rounds of concluding observations, the Committee has recommended that the State party both explicitly prohibit child recruitment in *all* forms, and ensure that recruitment of children under 18 is criminalised in national law.<sup>9</sup> There is no sign that either of these targets has been advanced.

## Military schools

The Committee has previously raised concerns about the operation of military schools in Guatemala.

### 7 Adolfo V Hall military schools

The main military schools in Guatemala are the **7 Adolfo V Hall secondary schools**, in which children are aged 11-17, as verified by the presentation of a birth certificate.<sup>10</sup>

#### Status and obligations of students

Children in military schools are not classified as members of the armed forces and may not be mobilised, according to the State party.<sup>11</sup>

Children may withdraw from these schools with the consent of their parents or guardians.<sup>12</sup>

Although Child Soldiers International reported in 2017 that children are not obliged to enlist in the military once graduated,<sup>13</sup> this does not appear to be explicit. Since military training is clearly intended as a preparation for military service, it is possible that students are incentivised or induced to enlist when they leave the school, or penalised if they choose not to. It may be useful to seek clarification from the State party on this question.

#### Substandard curriculum and underachievement

The curriculum is set by the Ministry of Education in conjunction with other relevant ministries.

The news site *Nómada* reported in 2016 that educational attainment at the schools is extremely low.<sup>14</sup> In three of the seven schools, every student failed their mathematics exam; the highest pass rate across all the schools was 20%.<sup>15</sup> In literacy exams, three of the schools had a pass rate of

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<sup>7</sup> [Decree 20-2003, art. 18\(a\)](#).

<sup>8</sup> [CRC/C/OPAC/GTM/1](#), [70].

<sup>9</sup> [CRC/C/GTM/CO/5-6](#), [CRC/C/GTM/CO/3-4](#).

<sup>10</sup> [Child Soldiers International \(2017\)](#).

<sup>11</sup> CRC, Replies of Guatemala to the List of Issues on OPAC, para 3.

<sup>12</sup> *ibid*.

<sup>13</sup> [Child Soldiers International \(2017\)](#).

<sup>14</sup> [YouTube desmiente Guatemala - Alternative report to the Committee on the Rights of the Child A.V.Hall sobre cuasi-torturas](#) (2016).

<sup>15</sup> *ibid*.

less than 25%. Despite falling technically within the remit of the Ministry of Education, it is evident that the State party's obligations under articles 28 and 29 of the Convention are not being met.

### Military training of children including use of weapons

According to the military school regulations, the primary mission of the schools is to 'train applicants for the military profession, to train Reserve officers of the Guatemalan Army and mid-level professionals'.<sup>16</sup> Students receive training to qualify as a 'Reserve Second Lieutenant'.<sup>17</sup> Promotional videos created by the Ministry of Defense for the Adolfo V Hall schools show children completing foot drill, training for combat, and handling weapons.<sup>18</sup> The video posted by *Nómada* also shows children in the schools holding weapons.<sup>19</sup> The regulations stipulate punishments of two- or three-hour detention for failing to clean and maintain rifles to an adequate standard.<sup>20</sup>

### Abuse and harm

In its OPAC review cycle, the State party told the Committee that, at all military schools, 'emphasis is laid in particular on respect for human dignity and all the rights inherent therein'. Since then there have been several reports of serious physical violence and abuse in Adolfo V Hall schools.

A video posted and described by *Nómada* shows organised fights between students, dangerous hazing rituals in which staff participate, and verbal abuse.<sup>21</sup>

Between 2013 and 2016, 18 complaints were made to the Human Rights Ombudsman about sexual and physical violence at the schools, carried out by both staff and other students.<sup>22</sup> In 2016, one child was beaten with a baseball bat by a fellow student, and a complaint was taken to the Human Rights Commissioner as a result of the lack of remedial action by the school.<sup>23</sup>

In 2016, there were at least three reports of teenage students being raped by soldiers at the schools.<sup>24</sup> The Minister of Defence at the time (William Mansilla) told investigators that the victim had been in a relationship with the suspect and 'this type of thing happens because minors can't handle the relationship between men and women'.<sup>25</sup> In response to reports of sexual violence, the Adolfo V Hall schools reportedly expelled 35 female students<sup>26</sup> and prevented them from staying on the school premises as a preventative measure. Alarms and cameras were then fitted in girls' dormitories for their security, but in apparent violation of their privacy.<sup>27</sup>

### Age-inappropriate discipline

Under the schools' regulations,<sup>28</sup> punishments include "physical punishment" and deprivation of free time. In the school regulations, the punishments for each act is specified.<sup>29</sup> For 'minor misdemeanours' such as being late to, or missing, classes, or failing to maintain 'work tools',

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<sup>16</sup> [Reglamento General para los Institutos Adolfo v Hall de la Republica](#), art. 2.

<sup>17</sup> [Child Soldiers International \(2017\)](#).

<sup>18</sup> ["Soldado firme y leal a su Nación" #Hijos Predilectos del Honor y la Ciencia | By Instituto Adolfo V. Hall Central Guatemala.](#)

<sup>19</sup> [YouTube desmiente al A.V.Hall sobre cuasi-torturas](#) (2016).

<sup>20</sup> [Reglamento General para los Institutos Adolfo v Hall de la Republica](#), Chapter IV, art. 20.

<sup>21</sup> [YouTube desmiente al A.V.Hall sobre cuasi-torturas](#) (2016).

<sup>22</sup> *ibid.*

<sup>23</sup> [Acciona contra el reglamento del Adolfo V. Hall.](#)

<sup>24</sup> [Desde 2015 se reportan 3 casos de abusos en institutos Adolfo V. Hall.](#)

<sup>25</sup> [Child Soldiers International \(2017\)](#).

<sup>26</sup> [MTM querellante en el caso de la joven violada dentro del Instituto Adolfo V. Hall de Retalhuleu.](#)

<sup>27</sup> *ibid.*

<sup>28</sup> [Reglamento General para los Institutos Adolfo v Hall de la Republica](#).

<sup>29</sup> [Reglamento Disciplinario Instituto Adolfo V. Hall Jalapa.](#)

deprivation of free time can range between one and 24 hours.<sup>30</sup> For ‘serious misdemeanours’ such as cheating in exams, marking desks, or refusing to comply with an order, punishments can range from one to eight days.<sup>31</sup>

Photographs included in the *Nómada* video show students being forced to balance on their feet and head while officers stand on their backs or hit them with sticks.<sup>32</sup>

Child Soldiers International reported in 2017 that the Human Rights Commissioner’s office recorded 18 complaints against the schools between 2003 and 2016. The true scale of the abuse is suspected to be higher, due to likely widespread fear of speaking out.<sup>33</sup>

Local groups have also brought litigation to have the regulations for the Adolfo V Hall schools declared unconstitutional on grounds of the expulsion of pregnant and LGBTQIA+ students.<sup>34</sup> It is unclear whether the regulations have since been amended.

### Concerns previously raised by the CRC

The Committee had raised concerns about the failure to make the use of corporal punishment in military schools unlawful.<sup>35</sup> Its continuing use constitutes violations of the rights to freedom from physical and mental violence under article 19, and the right to rest, play and leisure under article 30.

### Other military schools

Other military schools in Guatemala require children to have obtained a minimum level of education before enrollment, and it is implied that they must be aged over 16.<sup>36</sup> We currently have no evidence to offer the Committee about these institutions.

## Use of children by non-state armed groups

In its previous concluding observations on the CRC,<sup>37</sup> the Committee made recommendations to the State party, in order to address the use of children by non-state armed groups in the State party, which continues today.

### Child recruitment and use by the *maras*

#### Child recruitment

There are unknown but large numbers of children living in areas controlled by the *maras* who are forcibly recruited. Evidence reported by Save the Children suggests that children feel most vulnerable to *mara* violence while travelling to and from school, and indeed children have been murdered on their daily school journey, for reasons that include refusing to engage in *mara* activities.<sup>38</sup> The *maras* use schools as a site of recruitment and there is evidence of armed violence

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<sup>30</sup> *ibid.*

<sup>31</sup> *ibid.*

<sup>32</sup> [YouTube desmiente al A.V.Hall sobre cuasi-torturas](#) (2016).

<sup>33</sup> [Child Soldiers International](#) (2017).

<sup>34</sup> [Acciona contra el reglamento del Adolfo V. Hall.](#)

<sup>35</sup> [CRC/C/OPAC/GTM/CO/1](#), [16].

<sup>36</sup> [CRC/C/OPAC/GTM/1.](#)

<sup>37</sup> [CRC/C/GTM/CO/5-6.](#)

<sup>38</sup> [Save the Children, ‘En el Fuego Cruzado: El impacto de la violencia de maras y pandilla en el Triángulo Norte de Centroamérica’](#) (2019).

taking place on and around school grounds. Parents, teachers and passers-by bus drivers have been murdered in front of children while at school.<sup>39</sup>

### Uses of child recruits

Children below the age of eight tend to be recruited as '*banderitas*', who act as 'spies' and monitor neighbourhoods to warn of rival groups and of law enforcement activity.<sup>40</sup> As they get older, they can also be used for drug trafficking and dealing in schools. At the age of 15-16, children are being used as '*gatilleros*' ('trigger-person'), where they are paid to kill someone in order to prove their affiliation with the *maras*. Save the Children reports that children as young as six are recruited to transport guns, weapons and messages between gangs, and have been coerced into homicides as young as 13. Girls are at particular risk of recruitment for sexual abuse and exploitation.<sup>41</sup>

The recruitment of children by the *maras* leads to many rights violations by facilitating, for example, participation in arms, drug, and human trafficking, and organised crime.<sup>42</sup> Save the Children, in its report on the impact of gang violence in Central America on access to education, found extensive evidence of the forced displacement of children and sexual and physical abuse.<sup>43</sup>

### Social and economic factors

The recruitment of children by non-state armed groups in Guatemala is exacerbated by poverty cycles, the migration of parents leaving children without care, and a widespread lack of educational opportunities. Approximately 70% of children under the age of 10 live in poverty, and more than 2.5 million do not have access to education.<sup>44</sup> Accordingly, very large numbers of children in the State party are unable to enjoy the fundamental rights recognised by the Convention and its Optional Protocols.

### Criminalisation of child recruits but not child recruitment

No explicit provision in national law criminalises child recruitment.<sup>45</sup> The State party has failed to address the Committee's question relating to this in their response to the list of issues under the current reporting cycle.<sup>46</sup>

Conversely, under article 399 of the Penal Code, children can be criminalised for involvement with non-state armed groups, a crime punishable by a custodial sentence of up to eight years.<sup>47</sup> Despite this, children recruited by armed groups may be unable to leave armed groups due to fears for their safety as well as that of their families.

### Previous observations of the CRC

In the previous concluding observations,<sup>48</sup> the Committee recommended that the State party both improve efforts to prevent recruitment by the *maras*, including by addressing root causes such as

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<sup>39</sup> *ibid.*

<sup>40</sup> *ibid.*

<sup>41</sup> *ibid.*

<sup>42</sup> *ibid.*

<sup>43</sup> *ibid.*

<sup>44</sup> *ibid.*

<sup>45</sup> [Child Soldiers International \(2017\)](#).

<sup>46</sup> [CRC/C/GTM/QPR/7](#), [34(c)].

<sup>47</sup> [Penal Code 1973, art. 399](#).

<sup>48</sup> [CRC/C/GTM/CO/5-6](#), [48].

poverty and lack of educational opportunities, and ensuring that the recruitment of children is properly prosecuted. There is no evidence to suggest that the State party has acted on this.

The State party was asked to report on the recruitment of children by non-state armed groups for the current reporting period, but failed to do so.

## Child sexual abuse by peacekeepers

It is welcome that Guatemala has formally endorsed the 2017 Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers, which include commitments on the protection and care of children encountered by troops on UN peacekeeping missions.<sup>49</sup>

However, in 2019, a member of Guatemala's armed forces was alleged to have raped a child while deployed on the MONUSCO peacekeeping mission in Democratic Republic of the Congo, according to the UN Conduct and Discipline Service.<sup>50</sup> The outcome of the case is still pending.

## Suggested questions

### 1. Military recruitment:

- a. Does national legislation expressly prohibit and criminalise the military recruitment and use of children in all circumstances, including in a time of war?
- b. How are children protected from recruitment by non-state armed groups? In particular, what steps can be taken to prevent the exploitation of children through schools? How can schools be made safer for children to attend, and protected against forced recruitment by non-state armed groups?
- c. What steps are being taken to address the root causes that mean children are more susceptible to recruitment by non-state armed groups?

### 2. Military schools:

- a. What progress has been made by the Ministry of Defence in introducing safeguards to ensure enrollment into the Adolfo V Hall schools is not forced or coerced, as mentioned in the initial State party report under OPAC?
- b. In Adolfo V Hall military schools, what is the academic curriculum, what proportion of time is devoted to military training, and what steps are being taken to ensure that the quality of education and educational outcomes for children are sufficient to meet the requirements of articles 28 and 29 of the Convention?
- c. What practical measures ensure that disciplinary arrangements at the Adolfo V Hall schools, which are drawn directly from those of the army, are consistent with the dignity and rights of the child, including the right to be free from physical and mental

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<sup>49</sup> Government of Canada, '[The Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers](#)', 2017.

<sup>50</sup> UN Conduct and Discipline Service, '[Sexual exploitation and abuse | Conduct in UN Field Missions](#)' [additional data spreadsheet], 2023.

violence? In what other ways are children safeguarded against violence while in the care of the schools?

- d. Have regulations of military schools been amended to remove discriminatory clauses, particularly against LGBTQIA+ students?
3. What steps has the State party taken to prosecute its peacekeepers accused of sexual offences against children, and to eliminate the risk in future? Why is an investigation into the alleged rape of a child by a member of its armed forces on the MONUSCO mission still pending?

## Suggested recommendations

1. Amend legislation to give force to OPAC in domestic law, particularly to prohibit and criminalise the military recruitment and use of children in all circumstances by state armed forces and non-state armed groups.
  2. Ensure that children recruited by non-state armed groups are treated as victims and cannot be prosecuted.
  3. Amend regulations, as appropriate, to ensure that children at military schools cannot be:
    - a. Subjected to military discipline, particularly corporal punishment and other disciplinary methods inconsistent with the dignity and rights of the child;
    - b. Trained in combat and the use of weapons; and
    - c. Expelled or prohibited from enrolling in military schools for discriminatory reasons, particularly on the basis of sexuality or gender identity.
  4. Amend regulations to ensure that the educational provision at all military schools meets the obligations of article 29 of the Convention.
  5. Ensure that there are appropriate safeguarding and protection regulations in schools to prevent exploitation by non-state armed groups.
  6. Recalling the Committee's previous recommendations on the prevention of child recruitment by non-state armed groups, including by the *maras* and drug traffickers, address the root causes, such as conditions of poverty, exclusion, and discrimination.
  7. Investigate and prosecute as appropriate all alleged sexual offences against children by armed forces personnel contributed by the State party to United Nations peacekeeping missions, provide full training for all peacekeeping personnel on the safeguarding of children on deployment, and strengthen the armed forces' policies and rules of engagement to minimise risk. The State party should consider increasing the proportion of female personnel on peacekeeping missions.
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