



## International Covenant on Civil and Political Rights

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### Human Rights Committee

107th session

#### Summary record of the 2952nd meeting

Held at the Palais Wilson, Geneva, on Monday, 11 March 2013, at 3 p.m.

*Chairperson:* Sir Nigel Rodley

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

**Consideration of reports submitted by States parties under article 40 of the Covenant**

*Third periodic report of Paraguay (CCPR/C/PRY/3; CCPR/C/PRY/Q/3 and Add.1)*

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*
2. **The Chairperson** welcomed the delegation.
3. **Ms. Segovia Azucas** (Paraguay) said that the Government of Paraguay was engaged in ongoing collaboration with all international human rights mechanisms, as the visit to the country by the High Commissioner for Human Rights and several special rapporteurs demonstrated. A further example of that commitment to cooperate was the restructuring of the Inter-Institutional Commission responsible for ensuring compliance with the judgements and recommendations of the Inter-American human rights system: the Inter-Agency Commission for Compliance on the Enforcement of International Judgements (CICSI). The Commission's mandate had been broadened to cover other international mechanisms, including the Committee, and was henceforth chaired by the Vice-President and overseen by the Ministry of Justice and Labour. In addition, the Curuguaty incidents had been followed up in line with the requirements set by the Human Rights Council. The Ministry of the Interior implemented the recommendations of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and was working in particular to establish a system for the automatic registration of arrests. The national preventive mechanism prescribed by the Optional Protocol to the Convention against Torture had been implemented in December 2012. The protection and promotion of human rights were central to public policies. Since 2009, the executive branch Human Rights Network had been helping the public sector to work in partnership with other relevant stakeholders, which had resulted, for instance, in the preparation of the recently adopted National Human Rights Plan. Public institutions had been strengthened. For example, the Secretariat for Women had become the Ministry for Women, the National Institute for the Protection of Particularly Vulnerable Persons had become the National Secretariat for the Human Rights of Persons with Disabilities (SENADIS) and the National Anti-Corruption Secretariat had been established. There was also a plan to separate the justice and labour portfolios, which currently came under the same ministry.
4. At the legislative level, Act No. 4788 against trafficking in persons had been adopted, complementing the policy already in place to combat the practice. The International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189) had been ratified and a bill to combat gender-based violence was under consideration. Paraguay was nevertheless aware that there were difficulties which prevented unreserved implementation of the Covenant and hoped to overcome those obstacles with the help of civil society and the Committee's guidance.
5. **Mr. Rivas Palacios** and **Mr. Aquino** (Paraguay) briefly introduced the written replies of the State party to the list of issues, which featured in document CCPR/C/PRY/Q/3/Add.1, and added a few details.
6. The bill to combat all forms of discrimination had not yet been adopted as certain sectors of society were opposed to it. Land claims made by indigenous communities were processed by the National Institute for Indigenous Affairs (INDI) and the support centre for indigenous persons in line with ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169). This issue was also covered by the public policy for social development 2010–2020, and special training was provided for officials working in that area. Paraguay had also ratified the Convention on the Rights of Persons with Disabilities. It had yet to adapt legislation to guarantee persons with disabilities the right to vote, but a pilot project was

about to be carried out in the capital to facilitate their participation in the general elections on 21 April 2018. Discrimination against homosexual, bisexual and transgender persons was being tackled within the framework of the National Human Rights Plan, as well as through programmes for those persons and awareness-raising campaigns aimed at public officials. Discrimination in the public administration could be reported by calling a hotline. In March 2012 a text was adopted obliging health officials to provide a humane and quality service, without discrimination, to any woman who had undergone an abortion. Legislation had been amended to bring the definition of torture into line with the Covenant and with the Convention against Torture. The Commission on Visits to Juvenile Detention Centres continued to carry out inspections in respect of young detainees, and visits to adult establishments were conducted by human rights units of the Supreme Court of Justice, the Public Prosecution Service, the Ministry of Public Defence and the Ministry of Justice and Labour. A study into the use of solitary confinement had been undertaken, and an analysis into the reasons for prison overcrowding had given rise to a comprehensive series of reforms and administrative measures designed to identify solutions to the problem. Ill-treatment of children was prohibited under Act No. 1600/00 on domestic violence, as well as under the Criminal Code when it occurred in an institution, and such incidents were subject to special proceedings in a specialized court. The child protection bill was to be submitted to parliament in 2013 and a hotline had been set up by the Secretariat for Children to report cases of ill-treatment.

7. Through the adoption of Act No. 4423/11 the Public Defender Service had become autonomous and was no longer dependent on the Supreme Court. It currently comprised 33 public defenders recruited by competition and 100 candidates were in the selection process. Various measures to improve child registration had been implemented by the Ministry of Justice and Labour, in cooperation with the Ministry of the Interior and the Secretariat for Children. As a result, in December 2012, over 3,000 children were registered in rural and indigenous border areas and 365,540 births had been registered as part of the universal registration programme. A priority objective of the Ministry was to open civil registry offices in hospitals and schools throughout the country. The Civil Registry Department and the Identification Department of the National Police had organized joint campaigns for registration and issuance of identity papers among the indigenous communities. A special programme for children who accompanied their mothers in prison had been implemented by the Ministry of Justice and Labour.

8. The NGO constitutional challenge of Act No. 4013 of 2010 on conscientious objection had been rejected on procedural grounds by the Constitutional Chamber of the Supreme Court of Justice but the complainants had announced that they would resubmit their application so that the merits of the case might be considered. In respect of freedom of opinion and expression, the judicial authorities increasingly applied the international criterion of “malicious intent”. The right to peaceful assembly could be exercised without restriction. Police interventions in peaceful demonstrations were governed by the manual on the use of force, the manual on police obligations and the guide to police operations.

9. Paraguay disseminated information on the Covenant and the obligations deriving therefrom through various means, especially through brochures and official websites of the relevant bodies. Particular importance was attached to consultations with civil society for the preparation of the country’s periodic reports, which were established in accordance with the treaty bodies’ harmonized guidelines and were also made available to the public.

10. **Mr. Salvioli** applauded the numerous measures taken by the State party but questioned the slow application of some of them. He noted with satisfaction the extension of the mandate of the CICSJ and requested further details in that regard. He would be grateful for concrete examples of the court’s application of the provisions of the Covenant. Regarding the case of *Asensi v. Paraguay*, the State party had indicated that it had adopted

most of the measures contained in the Committee's Views but it seemed that its reply had focused on the judiciary even though all State bodies, including the executive, had a role to play in that respect. The delegation was also invited to explain the way in which two other previous Committee decisions had been followed up regarding the cases of *Blanco Domínguez v. Paraguay* and *Benítez Gamarra v. Paraguay*.

11. He requested information on the actual exercise of the right to prior consultation for indigenous persons and asked in particular whether the consultations were conducted effectively, what methodology was used, which issues were actually covered and among which communities, since, according to some reliable NGOs, there was no mechanism guaranteeing the right of autonomous persons to consultation and to expression of their free, prior and informed consent regarding programmes and decisions affecting them. In view of the criticism voiced by indigenous communities, could the delegation also provide an assessment of INDI operations and confirm that the Institute fulfilled its mandate, which was to ensure that indigenous persons obtained titles to their ancestral lands.

12. He noted the progress made in implementing the decisions of the Inter-American Court of Human Rights in the *Yakye Axa, Sawhoyamaya and Xakmok Kasek* cases and requested details. He also asked about the progress of the inquiries into the extrajudicial execution by hired assassins in December 2012 and February 2013 of Mr. Vidal Vega and Mr. Benjamín Lezcano, two rural leaders and human rights activists.

13. **Mr. Neuman** asked why the former Ombudsman continued to occupy that position when his mandate had expired five years earlier, why his successor had still not been appointed and what steps were envisaged to ensure an effective and independent renewal of the mandate.

14. He wished to know the exact rights under which the Covenant had been derogated during the states of emergency declared in 2010, the extent and reasons for the derogation, and if the derogation had been strictly limited to the situation that had given rise to the declaration of the state of emergency. Lastly, with regard to child soldiers, he would be grateful for further information on the measures adopted to ensure that the amendments to the legislation to end the practice were closely observed.

15. **Ms. Motoc** asked what the State party planned to do so that the anti-discrimination bill, which had been blocked in parliament since 2007 owing to opposition from certain conservative groups, might be adopted. What measures was the State party taking to abolish debt bondage, a practice endured particularly by the indigenous communities of Chaco? In addition, as the State party had indicated that it had ratified ILO Domestic Workers Convention, 2011 (No. 189) and that child labour was thereby criminally sanctioned, she asked whether penalties were effectively imposed against those who violated child labour legislation. Lastly, she enquired about the number of cases of corporal punishment of children which had led to criminal proceedings.

16. **Ms. Waterval** asked how the State party intended to implement ILO Domestic Workers Convention, 2011 (No. 189) and what actions it took to guarantee equal pay for equal work. She wished to know if the bill establishing SENADIS had been adopted and encouraged the State party to remove from the Electoral Code any provisions which excluded deaf mutes from the right to vote, and to take the necessary steps to ensure that persons with disabilities exercised that right with the assistance of a person of trust of their choice. In addition, would the anti-discrimination bill also cover persons with disabilities?

17. Regarding violence against women, could the delegation indicate the number of inquiries conducted and cases in which a sentence had been imposed — and the nature of the sentence — and the compensation awarded to victims? Could it also state whether there was a programme designed to help those who committed such violence to change their behaviour?

18. Might the delegation also specify the number of cases in which abortion had been criminally prosecuted under article 109 of the Criminal Code and the penalties imposed in those cases? The State party was urged to adopt measures so that all women and girls who were victims of rape or incest might have fully legal access to abortion services.

19. Lastly, details would be appreciated on the penalties imposed in cases of trafficking in persons since the adoption of Act No. 3440/08 and on additional measures adopted to prevent trafficking of the most vulnerable persons, especially women, children, refugees and asylum seekers.

20. **Mr. Bouzid** asked, in respect of the state of emergency declared by Act No. 3994/10, about the prerogatives and jurisdiction of the system established by Congress to monitor the implementation of that Act, and how it could intervene to end human rights violations and measure progress achieved during the state of emergency.

21. **Mr. Shany** asked what measures were in place to ensure that children with disabilities went to school and, in particular, what means of transport was provided for them. While the initiative to extend medical assistance provided to women before and after abortions was commendable, it was unclear how that initiative could be reconciled with the criminalization of abortion and how the additional penalties imposed on a medical official carrying out an abortion were compatible with article 6 of the Covenant, which guaranteed the right to life.

22. **Mr. Rodríguez-Rescia** wondered why, despite the considerable institutional efforts the country was making in the area of human rights and the numerous plans and programmes it implemented in that field, the State party found it so difficult to identify cases of torture and trafficking in persons, conduct inquiries into those cases and sentence the offenders. He would like to know why deaf mutes and persons deprived of liberty were not permitted to vote and whether the State party planned to take the necessary action so that the right to vote of those two groups was no longer restricted. He asked the delegation to explain how the recommendations of the Truth and Justice Commission on the right to the truth, to investigations and to reparations were implemented. Could the delegation also say how the compensation process for victims of human rights violations, put into place by the Ombudsman's Office, worked? Lastly, did the State party envisage introducing a regional strategy to combat trafficking in persons?

23. **The Chairperson** suggested suspending the meeting briefly to allow the delegation to prepare their replies to Committee members' questions.

*The meeting was suspended at 4.45 p.m. and resumed at 5.10 p.m.*

24. **Mr. Díaz Verón** (Paraguay) said that the competent departments of the Public Prosecution Service were currently investigating the cases of Vidal Vega and Benjamín Lezcano. In both cases the verdict returned had been intentional homicide. The Government of Paraguay was the first to hope that the cases would be solved and it would forward to the Committee any information on the progress of the proceedings as soon as possible.

25. **Ms. Morra** (Paraguay) said that the Committee's Views on the cases of Blanco Domínguez and Benítez Gamarra had been published in the *Official Gazette* and that a working group made up of State representatives and the victims' relatives had been set up. It had reached agreement on reparations, providing particularly for public recognition of the international responsibility of the State. In addition, substantial legislative reforms were envisaged since extrajudicial executions still did not constitute a criminal offence in domestic law. Lastly, measures would be adopted to ensure that financial compensation went to the victims' relatives, in accordance with legislation on compensation to victims of human rights violations during the dictatorship.

26. **Mr. Orué** (Paraguay) said, regarding the Committee's Views on the Asensi Martínez case, that when a court granted visiting rights to the father of a child and the mother did not respect the decision, preventing her child from seeing his or her father under various pretexts, she lost custody of the child. As article 95 of the Code on Children and Adolescents was too brief and could be misinterpreted, the Secretariat for Children and Adolescents had drawn up an amendment bill to clarify its interpretation and scope.

27. **Mr. Núñez** (Paraguay) said that the first decision which had set legal precedence regarding conscientious objection had been Supreme Court of Justice ruling No. 68 of 1996 on a constitutional challenge lodged by Alejandro José Riera Gagliardone. The Supreme Court had ruled in his favour, considering that the absence of legislation governing the application of the constitutional provision on the right to conscientious objection was not an obstacle to the exercise of that right.

28. **Mr. Saguier Carmona** (Paraguay) explained that the Ombudsman had not yet been replaced because it was very difficult for the candidates to obtain the two-thirds majority imposed by the Constitution. If the Chamber of Deputies were not in agreement about the choice of candidate, the title holder's mandate was tacitly renewed. It was hoped that after the April 2013 elections the distribution of parliamentary blocs would change and a new Ombudsman could finally be appointed. The anti-discrimination bill had not yet been adopted because certain extremely conservative sections of society vehemently opposed and wrongly feared that its adoption might open the way for bills such as ones authorizing same-sex marriage. The authors of the anti-discrimination bill were doing all in their power to have the bill considered by parliament, but the President of the Senate did not want to put it on the agenda as he did not believe there was any chance that it would be adopted.

29. **Mr. Orué** (Paraguay) said, regarding the prohibition against the recruitment of minors to the army, that the main measures had been legislative. For example, article 10 of the Act on compulsory military service, which stipulated that enlistment in the army emancipated minors, had been repealed. In an exceedingly military culture such as Paraguay's, legislative amendments were far from insignificant. In March 2006, the President of the Republic, as Commander of the National Armed Forces had issued an order prohibiting the recruitment of minors under 18 years of age and establishing the military, legal and administrative responsibility of any person not respecting that prohibition. There were several complaint mechanisms which could be referred to for the forced recruitment of children, including the Directorate-General for Human Rights of the Secretariat for Children and Adolescents. Article 5 of the Act on children included the obligation to report without delay to the Ombudsman any violation of the rights of children and adolescents, including cases of forced recruitment and labour. The Ombudsman's Office was authorized to visit, on its own initiative, any place where children were present, including army barracks. In addition, it had set up a department of children's rights which could receive complaints. The emergency phone line — 147 — was open 24 hours a day and provided immediate assistance to individuals in distress or directed them to the competent body. Since the enactment of the legislation prohibiting the forced recruitment of children, no such complaints or reports had been registered. However, isolated cases of ill-treatment and deaths of minors in the army had been reported. A case concerning two children who had been abducted in February 2013 by their father and enlisted not in the regular army but in an illegal paramilitary group, the Paraguayan People's Army, was currently before the courts. The Court had spared no effort to find the children but its task was particularly difficult since the paramilitary group was clandestine. Furthermore, the public authorities had taken steps to compensate conscripted minors who had been ill-treated, and the relatives of minors who had died during their military service. In the case of Marcelino Gómez Paredes and Cristián Ariel Núñez, the State had acknowledged its international responsibility primarily for the assaults and the failure to observe the right to life of which

those conscripted minors had been victims, and had awarded posthumous promotions to 67 conscripts who had died while in service, and whose heirs received a life pension.

30. **Ms. Silvero** (Paraguay) said that as abortion was a criminal offence in Paraguay, many were carried out in secret. Statistics from the Ministry of Health put the number of abortions for women aged between 20 and 39 years at 2,589 in 2008, 3,008 in 2009 and 2,790 in 2010. Definitive statistics for 2011 and 2012 were not yet available. The interim figure for 2011 was 513, and 95 for the period between January and April 2012. Statistics for other age groups (15 to 19 years and 40 to 49 years) could be provided to the Committee at a later date.

31. **Mr. Rivas Palacios** (Paraguay) said that the authorities recognized the need to bring national legislation into line with the Convention on the Rights of Persons with Disabilities. The Higher Electoral Tribunal had launched a campaign entitled “Accessible Elections” which was designed to guarantee the participation of persons with disabilities in the elections. A pilot plan would be carried out first in Asunción during the April 2013 elections and would then be implemented progressively throughout the country.

32. **Ms. Segovia Azucas** (Paraguay) added that the bill to establish a secretariat for persons with disabilities had been adopted and the municipality of Asunción had provided for the construction of ramps for street access and for all public buildings to be made accessible to persons with disabilities. In public transport, two seats at the front of the vehicle were reserved for persons with disabilities, and work was being done on the installation of mechanical or hydraulic systems to make public transport accessible to wheelchair users. Adapting vehicles nevertheless came at a cost and the State was not certain that it would be able to assume the full cost and prevent the expense from being reflected in the price of the tickets.

33. **Ms. Silvero Salgueiro** (Paraguay) said that considerable progress had been made on the care and protection of victims of domestic violence and in curbing such violence. The Ministry of the Interior, the Ministry of Health, the Ministry of Education and the Office of the Public Prosecutor coordinated their activities. The Ministry for Women had set up services in four departments at border locations to deal with cases of violence against women and had established a 24-hour emergency phone line. In addition, a central register for all domestic violence cases brought to the attention of the competent authorities had been created. An inter-agency working group had been set up at departmental level in order to design awareness-raising and prevention policies. A bill on domestic violence was currently being assessed and disseminated; it provided mainly for sanctions against public bodies that did not respect the obligation to protect female victims of domestic violence. The Ministry for Women dealt with all aspects of trafficking in women and girls. A reception centre had been opened in the metropolitan area and two others were being built at border locations. An inter-agency working group was currently drawing up a bill on trafficking in persons. At regional level, a guide had been prepared on female victims of trafficking and sexual exploitation, and a campaign to combat trafficking in persons in the MERCOSUR region was being developed.

34. **Mr. Díaz Verón** (Paraguay) added that the Paraguayan Government was deeply concerned about trafficking in persons and had therefore launched in 2011 the national programme to combat trafficking, the three main objectives of which were prevention, punishment and victim support. Through mutual legal assistance particularly from Argentina, Brazil, Chile and Spain, 100 Paraguayans had been repatriated in 2012. Eight sentences had been handed down against criminal groups that organized such trafficking with prison sentences of between 4 and 8 years.

35. **Mr. Saguier Carmona** (Paraguay) said that over the previous five years, a state of emergency had been declared only twice: in 2010 and 2011. The Constitution provided that

the state of emergency was subject to certain conditions in order to avoid misuse. Moreover, the reasons and nature of the restrictions had to be described in detail. In 2010, a state of emergency had been declared following the breakout of troubles in certain departments bordering Brazil. Criminal groups and drug traffickers were in fact spreading terror and stopping the public institutions from running smoothly. The Act declaring the state of emergency adopted by Congress in 2010 allowed the executive to arrest persons suspected of participating in the activities of those criminal groups. The arrests had been handled on a case-by-case basis and the suspect had the opportunity to leave the country or to file an appeal of habeas corpus.

36. **Mr. Duarte van Humbeck** (Paraguay) said that in 2010 and 2011, Paraguay's diplomatic mission to New York had informed the other States parties to the Covenant of the declaration of the state of emergency and had annexed the relevant legislation adopted by Congress, in accordance with article 4 of the Covenant.

37. **Ms. Silvero Salgueiro** (Paraguay) said, with regard to the measures taken to give effect to ILO Domestic Workers Convention, 2011 (No. 189), that an inter-agency working group comprising trade union representatives and domestic workers would submit a bill on domestic workers. The Social Security Institute had developed a plan for domestic workers designed to guarantee access for those women to medical care throughout the country.

38. **Ms. Segovia Azucas** (Paraguay) said that the Ministry of Justice and Labour included a department which was specifically tasked with protecting domestic workers and that a plan for equal opportunities centred on domestic work was shortly to be launched with the support of the United Nations Development Programme (UNDP) and in cooperation with ILO.

39. **The Chairperson** thanked the delegation and invited it to continue its replies to questions at the next meeting.

*The meeting rose at 6 p.m.*