



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of Paraguay, adopted by the Committee at its 107th session (11–28 March 2013)

1. The Human Rights Committee considered the third periodic report of Paraguay (CCPR/C/PRY/3) at its 2952nd and 2953rd meetings (CCPR/C/SR.2952 and 2953), held on 11 and 12 March 2013. At its 2974th meeting (CCPR/C/SR.2974), held on 26 March 2013, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the third periodic report of Paraguay and the information in it. It is grateful to have had the opportunity to resume a constructive dialogue with the delegation of the State party on the measures taken by the latter during the reporting period to implement the provisions of the Covenant. The Committee thanks the State party for its written replies (CCPR/C/PRY/Q/3/Add.1) to the list of issues (CCPR/C/PRY/Q/3).

B. Positive aspects

3. The Committee welcomes the ratification by the State party of the Convention on the Rights of Persons with Disabilities, in September 2008, and the International Convention for the Protection of All Persons from Enforced Disappearance, in August 2010.

4. The Committee also welcomes:

(a) The adoption and implementation of Act No. 4288/2011 on the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(b) The establishment of the National Secretariat for the Human Rights of Persons with Disabilities, by Act No. 4720/12;

(c) The development of indicators to monitor the human rights situation and the progress made and results achieved by public policy in this area.

* Reissued for technical reasons on 7 August 2013.

C. Principal subjects of concern and recommendations

5. The Committee welcomes the establishment and operationalization of the Human Rights Network of the Executive Branch as the centre for inter-institutional coordination in the drafting of human rights policy and follow-up to the recommendations of international bodies. It also welcomes the State party's decision to increase the capacity of the Executive Inter-Institutional Commission for Compliance with International Judgements to follow up on and process the recommendations of the United Nations human rights mechanisms. The Committee hopes that both bodies will be strengthened and looks forward to the effective implementation of the above-mentioned decision. The Committee is, however, concerned about the small number of cases in which Covenant provisions have been invoked or applied by justice officials (art. 2).

The State party should strengthen the Human Rights Network of the Executive Branch in order to ensure that public policy is rights-based, and should ensure the prompt and effective implementation of its decision to extend the mandate of the Executive Inter-Institutional Commission for Compliance with International Judgements to cover the recommendations of United Nations human rights bodies. The State party should also ensure that all judges and justice officials receive training on the rights set forth in the Covenant and their applicability in domestic law. In its next periodic report, the State party should include detailed information on the application of the Covenant by the domestic courts.

6. The Committee takes note of the adoption of the National Human Rights Plan by means of Decree No. 10747. However, the Committee regrets that the plan adopted does not fully reflect the agreements and consensus reached following the participatory drafting process, which involved State institutions and civil society. In this respect, the Committee regrets that the plan adopted does not reflect all the concerns identified and does not include the strategic actions initially proposed to ensure its effective implementation.

The State party should ensure that the participatory processes followed in preparing the National Human Rights Plan are respected. In this connection, the State party should review the changes made without consultation to the draft National Human Rights Plan and should provide an adequate budget for its effective implementation, as well as monitoring and accountability mechanisms, while ensuring the participation of civil society and making use of human rights indicators.

7. The Committee is concerned that, under current procedures, it has not been possible to select a new ombudsman since 2008, and is also concerned about the lack of clear procedures and criteria for ensuring that the ombudsman's office is fully independent and effective, in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles) (art. 2).

The State party should ensure that an ombudsman with unimpeachable credentials is elected in a transparent and participatory process as soon as possible. It should also create a legislative and regulatory environment in which the necessary human and material resources are available to ensure that the ombudsman's office carries out its mandate in full and with complete independence, in accordance with the Paris Principles.

8. The Committee is concerned that judicial investigations have not yet been completed in many cases of violations of the right to life, including disappearances, torture, extrajudicial executions and illegal detention under the dictatorship of Alfredo Stroessner (1954–1989) and during the transitional period up to 2003. The Committee is concerned about the inequitable practices that have been identified and pointed out in proceedings to grant reparations and compensation to the victims of such violations. Finally, the

Committee regrets that the State party does not have the material and human resources needed to identify the remains discovered in the course of investigations into enforced disappearances (arts. 2 and 6).

The State party should ensure that all the cases of serious human rights violations documented by the Truth and Justice Commission are duly investigated and that those responsible are tried and, where appropriate, punished. The State party should also guarantee prompt and fair access by all victims and their families to reparation and compensation, including in cases of torture — such as psychological torture — that leaves no physical marks. Finally, the State party should, as a matter of urgency, consider including in its budget the resources needed to continue the search for and identification of human remains in the context of investigations into enforced disappearances.

9. The Committee regrets that the State party has not yet adopted the bill submitted to the Senate in May 2007 to outlaw all forms of discrimination, while stereotyping, discrimination and marginalization are still prevalent and are especially detrimental to women, persons with disabilities, indigenous people, people of African descent, and lesbians, gays, bisexuals and transsexuals (arts. 2, 26 and 27).

The State party should adopt comprehensive legislation to combat discrimination, including provisions that provide protection against discrimination on grounds of sexual orientation and gender identity, and should prioritize the implementation of programmes to eliminate stereotyping and discrimination and guarantee tolerance and respect for diversity. The State party should also adopt measures to promote equal opportunities and equal, unrestricted and non-discriminatory access to all services by women, persons with disabilities, indigenous people, people of African descent, and lesbians, gays, bisexuals and transsexuals.

10. The Committee is concerned that there are few women in Congress or in decision-making positions in the public and private sectors, and that stereotypes persist as regards the role of women in the family and in society (arts. 3, 25 and 26).

The State party should redouble its efforts to eliminate gender stereotyping in relation to the role and responsibilities of men and women in the family and in society, and should run awareness campaigns on this subject. The State party should also adopt special interim measures to increase women's participation in political and public life, as well as in the private sector.

11. While noting that the delegation has acknowledged the need to reform the Electoral Code to bring it fully into line with the Convention on the Rights of Persons with Disabilities, the Committee is concerned about the disproportionate restrictions on the right to vote of persons deprived of their liberty and persons with disabilities under articles 91 and 149 of the Electoral Code. The Committee is also concerned about the lack of practical measures to facilitate physical access to voting stations and to make voting slips available in Braille (arts. 2, 25 and 26).

The State party should revise articles 91 and 149 of the Electoral Code to: (a) eliminate disproportionate restrictions on the right to vote of persons deprived of their liberty; (b) ensure the elimination of discrimination against persons with mental or psychosocial disabilities, and deaf mutes, in the form of the denial of their right to vote for reasons out of proportion or not reasonably or objectively related to their ability to vote, taking into account article 25 of the Covenant and article 29 of the Convention on the Rights of Persons with Disabilities. The State party should also ensure that practical measures are taken throughout the country to promote access by persons with disabilities to voting stations and voting slips.

12. The Committee takes note of the measures adopted by the State party to protect women from domestic violence. However, the Committee is concerned at the persistence of high levels of violence against women and at the absence of an effective law to prevent, punish and eradicate such violence. The Committee is also concerned about the limited number of shelters or centres for women who are victims of domestic violence, since these facilities offer the only support for women survivors. Finally, the Committee regrets that there are as yet no precedents for granting reparation to the victims of domestic violence (arts. 6, 7, 14 and 26).

The State party should continue its efforts to prevent, punish and eradicate sexual and gender violence and to encourage victims to report cases, including by adopting a specific law on the subject after consultations with civil society. The State party should ensure that complaints of sexual and gender violence are properly investigated, that the perpetrators are tried and appropriately punished, and that victims receive suitable reparations and have access to specialized shelters or centres throughout the country. The State party should also include the topic of the protection of women against violence in educational programmes.

13. The Committee expresses its concern at the criminalization of abortion, including in cases of rape or incest, which forces pregnant women to seek clandestine abortion services that put their lives and health at risk. The Committee is also concerned about the continuing high rates of teenage pregnancies and maternal mortality (arts. 3 and 6).

The Committee recommends that the State party should revise its legislation on abortion by making further exceptions to the ban on abortion, including when the pregnancy is the result of rape or incest. The State party should ensure that reproductive health services are accessible to all women and girls in every region of the country. The State party should also increase the number, and ensure the implementation, of education and awareness programmes at the formal level (in public and private schools) and at the informal level (through the media and other means of communication) on the importance of using contraceptives and on sexual and reproductive health rights.

14. The Committee is concerned about reports that the neighbourhood watch committees set up in the departments of Caaguazú, Canindeyú and San Pedro have been involved in illegal detentions, death threats, house raids, murders and attempted murders, torture and ill-treatment, as well as in activities aimed at protecting drug traffickers and cigarette smugglers. The Committee is also concerned that no progress has been made in the investigation into the 2006 murder of Luis Martínez, a campesino leader of the Kamba Rember community who had criticized the committees (arts. 6, 7, 9 and 14).

The State party should evaluate and review the functioning of the neighbourhood watch committees, investigate, prosecute and punish all criminal acts for which their members are allegedly responsible, and provide appropriate compensation for their victims.

15. The Committee is concerned about the high number of human rights defenders, particularly campesino and indigenous defenders, who have been assaulted, attacked and killed. In this connection, the Committee expresses particular concern at the recent killings of Mr. Vidal Vega, a campesino leader and witness in the Curuguay case, and Mr. Benjamín Lezcano, secretary-general of the “Dr. Gaspar Rodríguez de Francia” campesino coordinating committee (arts. 6, 7, 9 and 14).

The State party should take immediate steps to provide effective protection for defenders whose safety is at risk because of their professional activities. It should also ensure that perpetrators are punished following prompt, impartial and

comprehensive investigations into threats and attacks against human rights defenders and, as a priority, into the killings of Vidal Vega and Benjamín Lezcano.

16. The Committee welcomes the establishment of the national mechanism for the prevention of torture and the adoption of Act No. 4614-2012, which brings the definition of torture and enforced disappearance in domestic legislation into line with international standards. However, the Committee regrets that few of the investigations into cases of torture by the Special Human Rights Unit of the Public Prosecution Service lead to the conviction of the perpetrators and reparation for the victims. The Committee is concerned that there is no truly independent complaints mechanism to deal with allegations of torture or ill-treatment in places of deprivation of liberty and that few of these cases have come to trial (arts. 7 and 14).

The State party should ensure that every act of torture or cruel, inhuman or degrading treatment is investigated in accordance with the Istanbul Protocol, and tried and punished in a manner commensurate with its gravity. To this end, the State party should strengthen the capacity of the Special Human Rights Unit of the Public Prosecution Service to investigate cases of torture and cruel, inhuman or degrading treatment. It should also strengthen the capacity of the forensic doctors of the Public Prosecution Service and the judiciary to detect and diagnose cases of torture and ill-treatment, and should set up an independent system to receive and process complaints of torture or ill-treatment in all places of deprivation of liberty. The State party should provide the resources necessary for a fully functioning national mechanism for the prevention of torture, and should ensure that every allegation of torture or cruel, inhuman or degrading treatment is duly recorded.

17. While it is aware of the efforts made by the State party to prevent and punish human trafficking, the Committee is concerned about the large number of children and women who continue to be the victims of trafficking, and about the widespread impunity in such cases (arts. 7, 8 and 14).

The State party should step up its efforts to put a stop to human trafficking, particularly trafficking in women and children for purposes of sexual exploitation or child labour. The State party should try all alleged perpetrators of such acts and, if they are found guilty, punish them. The State party should continue training police and immigration officers and should provide protection and rehabilitation for victims. It should also strengthen its mechanisms for cooperation with neighbouring countries and run public awareness campaigns on the negative effects of human trafficking.

18. The Committee is concerned about the working conditions of domestic workers, and about the lack of protection for their rights (arts. 3, 8 and 26).

The State party should guarantee respect for the fundamental rights of domestic workers, in accordance with the principles set forth in article 8 of the Covenant, and should protect them from any situation of domestic servitude. The State party should also establish effective monitoring mechanisms to ensure that employers respect these rights, that domestic workers have access to the courts in order to exercise those rights, and that any violations are investigated and punished.

19. The Committee is concerned about the prevalence of the practice of *criadazgo*, which involves placing children and adolescents with another family to carry out domestic chores, usually without giving them access to education or basic labour rights (arts. 8 and 24).

The State party should adopt policies and strategies to eliminate the practice of *criadazgo*, including by supporting the original family unit so that it can play its full role in the upbringing of children and by running awareness campaigns to make

society less tolerant of child labour. The State party should also take steps to implement vocational training programmes for children and adolescents from vulnerable families throughout the country.

20. The Committee is concerned that, at present, around 70 per cent of detainees have not been tried and sentenced. The Committee is also concerned about reports that a large proportion of the individuals in pretrial detention have not been informed of the reasons for their detention. The Committee is also concerned about the lengthy duration of pretrial detention and the difficulties faced by detainees in having access to a lawyer from the very beginning of their detention (arts. 9 and 14).

The State party should reduce the number of people in pretrial detention and should strictly limit its duration, in accordance with article 14, paragraph 3 (c), of the Covenant, and it should ensure that the provisions of article 9 are fully adhered to. The State party should also promote the use of non-custodial alternatives such as bail or electronic bracelets. Finally, the State party should ensure that all detainees are informed immediately of the reason for their detention and their rights, and that they have proper access to a lawyer and can contact a family member or person of trust from the very beginning of their detention.

21. The Committee is concerned about the very high levels of overcrowding and the poor conditions in places of detention, including in the youth custodial facilities known as “educational centres” (art. 10). The Committee is also concerned at the absence of sentence enforcement regulations for the purpose of monitoring conditions of custodial sentence enforcement and promoting the use of non-custodial alternatives.

The State party should improve conditions in prisons and detention centres, in accordance with the provisions of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners. In particular, the State party should bring youth custodial facilities up to international standards, particularly in terms of education, sanitation, leisure opportunities, access to water and suitable basic washrooms. The State party should also adopt sentence enforcement regulations and consider the wider use of alternatives to imprisonment, such as electronic surveillance devices, parole and community service.

22. The Committee is concerned about reports of high levels of corruption in the judiciary, which are not properly investigated and punished; this directly affects the independence and legitimacy of judges. The Committee is also concerned about the turnover of judges as a result of alleged pressure from the executive and legislature on the judicial authorities and as a result of the removability of judges (arts. 2 and 14).

The State party should safeguard, in law and in practice, the independence of the judiciary and should guarantee the competence, independence and non-removability of judges. The State party should eliminate all forms of interference by the other branches of government in the judicial branch. To this end, it should ensure prompt, thorough, independent and impartial investigations into all complaints of interference, including complaints of corruption, and should try and punish those responsible, including any judges who are accomplices.

23. The Committee is concerned about allegations of serious irregularities in the actions of the Public Prosecution Service, the judiciary and the security forces in relation to the police raid in Curuguaty in June 2012. In particular, the Committee is concerned about reports of a lack of impartiality and independence in the investigations into the events (arts. 6, 7 and 14).

The State party should institute an immediate, independent and impartial investigation into the deaths of 17 people during the police raid in Curuguaty on 15

June 2012, and also into all the related incidents reported by the victims, particularly torture, arbitrary detention, extrajudicial executions and possible violations of due process, including in the case of the young person who was convicted and the two heavily pregnant women held in pretrial detention.

24. The Committee is concerned about the procedures followed to impeach former President Fernando Lugo in June 2012 under article 225 of the Constitution, particularly the time allowed for the preparation and presentation of a defence. This represents a serious challenge to the principles of article 25 of the Covenant (arts. 14 and 25).

The State party should ensure, inter alia by regulating article 225 of the Constitution, that impeachment proceedings are always carried out in full conformity with the basic principles of due process and with the principles set out in article 25 of the Covenant, which guarantee the functioning of every democratic society.

25. The Committee is concerned about the criminalization of defamation, which discourages the media from publishing critical information on matters of public interest, and which is a threat to freedom of expression and access to information of all kinds (art. 19).

The State party should guarantee freedom of expression and freedom of the press, as enshrined in article 19 of the Covenant and developed at length in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. The State party should therefore protect the pluralist nature of the news media. It should also consider decriminalizing defamation and should in any case restrict the application of criminal law to the most serious cases, bearing in mind that imprisonment is never an appropriate punishment in such cases.

26. The Committee takes note of the efforts by the State party to register all births, but regrets that a large proportion of children are still not registered, especially in rural areas and in indigenous communities (arts. 16, 24 and 27).

The State party should continue its efforts to ensure that all children born in its territory are registered and receive an official birth certificate. Accordingly, it should amend its legislation to allow teenage mothers to register their children without the need for a court order. It should also carry out campaigns to encourage the registration of all adults who have not yet been registered.

27. The Committee regrets the allegations that the National Institute for Indigenous Affairs (INDI) facilitated the sale of ancestral indigenous lands to private companies, in violation of the right of indigenous peoples to be consulted by the State party about decisions that affect their rights (arts. 2, 26 and 27).

The State party should strengthen the National Institute for Indigenous Affairs and ensure that its activities guarantee the full protection and promotion of the rights of indigenous communities, including the right to prior, informed consultation. At the same time, the State party should legally recognize the right to prior, informed consultation and should take due account of the decisions of indigenous peoples during the consultation process.

28. The State party should widely disseminate the Covenant, its third periodic report, its written replies to the list of issues drawn up by the Committee, and the present concluding observations in order to increase awareness among the judicial, legislative and administrative authorities, civil society and the non-governmental organizations operating in the country, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the other official languages of the State party. In addition, it requests the State party to consult widely with civil society and non-governmental organizations when it prepares its fourth periodic report.

29. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the Committee's recommendations in paragraphs 8, 14 and 23 of these concluding observations.

30. The Committee requests the State party to provide in its next periodic report, which is due to be submitted by 30 March 2017, specific, up-to-date information on all its recommendations and on the Covenant as a whole.
