



Convention on the Rights of the Child

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Committee on the Rights of the Child Sixty-fourth session

Summary record of the 1830th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 25 September 2013, at 10 a.m.

Chairperson: Ms. Sandberg

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The meeting was called to order at 10.05 a.m.

Consideration of reports of States parties (continued)

Initial report of Paraguay on the implementation of the Optional Protocol to the Convention on the sale of children, child prostitution and child pornography
(continued) (CRC/C/OPSC/PRY/1, CRC/C/OPSC/PRY/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*
2. **The Chairperson** invited the Paraguayan delegation to reply to the questions put by Committee members the previous day.
3. **Mr. Zarate Fleitas** (Paraguay) said that the Government's strategies and plans were administered by the respective competent departments or agencies. Children's rights were guaranteed under Act No. 1680/01 establishing the Code on Children and Adolescents. The Act also set up a system for coordinating plans and programmes for children. The President had made a commitment to increase investment in that area to 7 per cent of GDP by 2018.
4. **Mr. Cardona Llorens** (Country Rapporteur) said that the design of the Government's plans had been described in the State party's report (CRC/C/OPSC/PRY/1). He was more concerned with their practical application and coordination. He would like to know if the National Council for Children and Adolescents had met in the past 12 months, for example, and how many staff the National Secretariat for Children and Adolescents had. Of the more than 100 local bodies responsible for implementing the plans at the local level, how many were in fact operational? According to information received, many of those bodies were not meeting. Lastly, he asked how resource allocation would be dealt with in the new policy for 2013 onwards currently being worked out.
5. **Mr. Zarate Fleitas** (Paraguay) said that the National Council had not met often in recent months and the outcome of its meetings had not been very positive. At the local level, not all departments or municipalities yet had a council.
6. On the staffing question, he said that the National Secretariat had absorbed the direct support programmes and sometimes lost sight of their overall aim. Nevertheless the main objective was to decentralize direct support to local agencies and strengthen the national system by incorporating the municipalities. The municipalities had to be able to invest in direct support for children and adolescents without negative impacts.
7. Turning to the sociocultural context of the sale of children, child prostitution and child pornography, he said that awareness-raising and training among those working in the field were the best ways to deal with the issue. Poverty was a key factor: the nearly 20 per cent of the population living in extreme poverty was a particularly vulnerable sector where children could fall victim to such exploitation. The Government aimed to make inroads on extreme poverty by 2015 with its "Creating Opportunities" plan, which also benefited from private sector involvement. In addition, given the importance of early childhood in determining children's future, the National Secretariat for Children and Adolescents was implementing the National Policy on Early Childhood Care, with support from the Inter-American Development Bank (IADB).
8. **Mr. Cardona Llorens** asked what action the State party was taking to deal with attitudes propagated by the media. The printed press frequently carried erotic photos of young girls, for example, and regularly launched beauty contests, as though such displays of girls' bodies were entirely normal. Had the Government considered using the Criminal Code to place constraints on such messages, or entering into strategic partnership with the media in order to deal with that issue?

9. **Mr. Zarate Fleitas** (Paraguay) said that publication of images of that kind was prohibited under the Code on Children and Adolescents but was not a criminal offence. Since it incurred no sanctions the prohibition was ineffective.

10. **Ms. Abdo** (Paraguay) recalled that Committee members had wondered how it was possible for the State party to monitor the effectiveness of its multiple plans and programmes. She said that monitoring had in fact not always been related to the substance of mandates or the use of resources but rather to project management. The National Statistical Development Strategy launched by the Directorate-General of Statistics, Surveys and Censuses was intended to address that issue through the use of statistical information to help coordinate sectoral plans and prevent duplication of effort, and thereby ensure high quality performance. As part of the Strategy, the Executive Branch Human Rights Network had established various sets of human rights indicators to help with the monitoring of programmes. By disaggregating the data collected — which experience to date showed was a costly and technically complex, but necessary, operation — links could be made between the attributes of various groups and the effective use of budget resources.

11. The Executive Branch Human Rights Network played a very important role in bringing together all the State human rights agencies, giving it an overview and perspective on each portfolio.

12. As to the preparation of the State party's report, she said that, since the report on the Optional Protocol had been prepared, Paraguay had reported under the universal periodic review and planned to use the approach it had adopted there in its future reports: civil society and the Ombudsman's Office had been involved in the preparation of that report, an experience that had been extremely beneficial. Civil society organizations had taken time to analyse important questions and it was clear that the State worked best when collaborating with that sector and with international agencies.

13. **Ms. Peña** (Paraguay), replying to the Committee's concerns about pre-adoptive custody, recalled that adoption was an institution intended to protect children but was an exceptional measure. By law the priority was to maintain family ties as far as possible, in accordance with children's right to know their parents and live with their family. It was true that pre-adoptive custody was not a strictly correct procedure but the law permitted it. It obviated lengthy and often stressful adoption procedures and if the notion of family ties was extended to include the pre-adoptive guardian that meant the child was able to stay in what had, over a two-year period, effectively become their family.

14. **Mr. Kotrane** recalled that, in its previous concluding observations on the State party's implementation of the Convention (CRC/C/PRY/CO/3), the Committee had already asked Paraguay to amend its legislation on pre-adoptive custody. The concern under the Optional Protocol was not the adoption system, however, but the criminal law and the prevention of trafficking. The question was what criminal provisions existed to deal with those who facilitated illegal adoption and the sale of children.

15. **Mr. Cardona Llorens**, noting that, out of 540 "adoptions" granted by court decision in the past three years, only 39 had actually been adoptions, while 500 had been cases of pre-adoptive custody. He wondered why courts should be so inclined to opt in 90 per cent of cases for an alternative that was supposed to be highly exceptional. In what way did that take account of the best interests of the child? What oversight was exercised by the relevant judicial bodies? He wondered in particular whether money might be changing hands to influence judges in their decisions: what measures was the State party taking to pre-empt the sale of children in which the country's judiciary might be implicated?

16. **Ms. Khazova** asked what means the State party had to keep track of children who had been adopted abroad and to monitor their situation.

17. **Mr. Zarate Fleitas** (Paraguay) said that the Criminal Code defined acts of various kinds as trafficking or sale of children. The Code ought to be amended to punish all possible acts of that kind, including the violation of adoption laws. On the courts' continuing authorization of pre-adoptive custody, he said that the State party had accepted the Committee's recommendations in 2010 and two draft amendments to the law were currently under consideration. As to oversight of intercountry adoptions, the Adoption Centre and its counterparts in other countries had special bilateral follow-up mechanisms to monitor children adopted abroad.

18. **Ms. Peña** (Paraguay) said that the Adoption Act had effectively put an end to irregular international adoption procedures, which had amounted to the sale of children. There was no longer direct contact between prospective adoptive parents and persons wishing to place a child for adoption; all requests for adoption, including international adoption, were handled by the Adoption Centre in Paraguay. Adoption agencies did not intervene in the process. The Centre submitted requests for adoption, including international adoption requests, to the courts and thence to the requesting country's national courts. International adoption was only possible to States parties to the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

19. There was no indication that guardianship cases involved trafficking of children. The National Council for Children and Adolescents dealt with such cases. In view of the possible link with *criadazgo* — the practice of using children to perform domestic tasks in exchange for board, lodging and, sometimes, a basic education — requests for guardianship were duly assessed, processed and followed up by special courts. Some prospective guardians submitted such applications with a view to keeping a child while others submitted them with a view to adoption. Pre-adoptive custody was to be avoided as it could jeopardize the right of a child to his or her identity; it was of paramount importance to the national authorities to ensure that children maintained their family ties.

20. **Mr. Aguirre** (Paraguay) said that, when democracy had been restored in Paraguay, policies to ban international adoption had been introduced. Prior to that time, international adoption had been a lucrative business and the number of such adoptions had amounted to some 3,000 annually; he was proud to state that the number had been reduced to zero. While action was being taken to increase the number of domestic adoptions, the applicable legislation was quite strict.

21. **Ms. da Silva** (Paraguay) replying to a question raised the previous day, said that efforts to protect not only child victims of violence but also women and adolescents, and to ensure that they were properly treated during trial proceedings, had included the establishment of inter-institutional guidelines on their protection.

22. A division for women, children and adolescent victims of violence had been established in the police force; three urban and three rural police precincts had been designated to focus on children. Officers worked specifically with victims to ensure that their rights were duly protected and that they received appropriate, high-quality services and personal attention. That approach was to be implemented nationwide.

23. A number of strategies had been put in place to tackle domestic violence at the local authority level. Male and female police officers had received training on domestic violence, discrimination and issues relating to children, including those from vulnerable population groups. Children under 18 years of age could lodge a complaint at a police station without an accompanying adult and support teams for various population sectors were on duty 24 hours a day at some police stations. Specialized teams were assigned to receive, record and follow up complaints from children, in addition to providing them with various kinds of support. Some 70 per cent of victims of domestic violence were women and some 3 per cent were under 18 years of age.

24. The Children and Youth Department of the Office of the Ombudsman also monitored and followed up on cases involving children. It could provide assistance whenever requested to do so by a child. It was competent to institute civil proceedings and act in guardianship cases; it could receive complaints in respect of child rights violations and initiate proceedings; it could represent children in court and protect their rights, refer cases to the appropriate authorities, suggest appropriate measures and ensure that deadlines were met. The Department was empowered to request reports pertinent to its investigations from various institutional bodies and, through a court, from private sector bodies. The multidisciplinary team that constituted the Department worked with the judicial authorities in cases involving children, providing written or oral reports, issuing technical reports or making recommendations on appropriate measures as required.

25. The Ministry and the National Secretariat for Childhood and Adolescence had established a sexual exploitation unit to support and reintegrate victims of trafficking and exploitation and to raise awareness. A telephone hotline had been set up to receive and follow up on calls. A witness protection programme was in place for persons at risk as a result of their intervention in a trial as a witness or victim.

26. **Mr. Cardona Llorens** said that, in addition to the information provided about the programmes established, the Committee would appreciate further, specific information about what happened to victims and witnesses once the trial was over. What was done to ensure that victims were in fact rehabilitated and reintegrated? How many staff operated the telephone hotline, and what was its budget?

27. **Ms. Aidoo**, referring to article 9 of the Optional Protocol, invited the delegation to explain how the authorities ensured that victims were properly compensated by the legally responsible persons or entities and to share its experience in that regard.

28. **Mr. Zarate Fleitas** (Paraguay) said that, while a unit for the prevention of trafficking and sexual exploitation had been established, follow-up and support for victims during trial proceedings was limited to monitoring. Resources were not sufficient to provide comprehensive support to the child victims of sale, prostitution and pornography, but every effort would be made to obtain increased budget resources. Additional resources were also required for the proper rehabilitation and monitoring of child victims. The telephone hotline was provided free of charge and operated around the clock; however, recently, there had not been sufficient resources to meet demand or provide the required training for staff.

29. Under the Criminal Code, the perpetrator of an offence should provide compensation to the victim; however, compensation tended not to be sought in either civil or criminal proceedings. Procedures were needed that would ensure that victims received compensation so that they had the resources to move on with their lives.

The meeting was suspended at 11.10 a.m. and resumed at 11.30 a.m.

30. **Mr. Brizuela** (Paraguay) said that a wide range of acts relating to pornographic material involving children and adolescents under the age of 18 were defined as offences under article 140 of the Criminal Code. The organization or funding of public or private performances in which minors under the age of 18 took part in sexual acts was also punishable under the Criminal Code. Perpetrators were liable to a penalty of up to 10 years' imprisonment, without the possibility of conditional release.

31. Aggravating circumstances in cases involving the distribution of pornography depicting minors or adolescents included participation of a minor under 14 years of age; a relationship of parental authority, guardianship or responsibility for the child's education; acting with a person who had such a relationship with the child; and the use of violence, force, threats, or coercion against the child, or the promise of remuneration. A sentence of

up to 10 years' imprisonment could be imposed in such cases where the child was under 14, or up to 5 years' imprisonment where the child was aged between 14 and 18.

32. The sentences under article 140 for cases of child and adolescent pornography were more severe than those for cases involving adults.

33. Article 29 of the Criminal Code prescribed sentences of up to 12 years' imprisonment for subjecting others to forced labour or similar situations; the same penalty was applicable to persons involved in the extraction of human organs without consent. Paraguay had ratified the ILO Employment Promotion and Protection against Unemployment Convention, 1988 (No. 168) and the ILO Social Security (Minimum Standards) Convention, 1952 (No. 102).

34. The principle of extraterritoriality was accepted in certain cases, specifically those involving trafficking in persons. The Criminal Code allowed for the prosecution in Paraguay of the perpetrators of acts punishable under international conventions or agreements even when such acts were committed outside Paraguay.

35. **Mr. Cardona Llorens** said that he understood that the extraction of human organs without consent for the purpose of trafficking was classified as a crime, but he would like to know whether the sale of the organs of children was classified in and of itself as a crime, considering that the consent of a minor in such a case would be given by a parent. In addition, he asked the delegation to clarify how legal persons involved in the distribution of child pornography via new technologies could be prosecuted and punished if they could not be identified and how natural persons not on Paraguayan territory could be prosecuted and punished for such offences.

36. **Mr. Zarate Fleitas** (Paraguay) said that the Criminal Code did not establish the criminal liability of legal persons.

37. **Mr. Kotrane** said that the Committee wished to know whether forced child labour and the sale of organs were punished as offences under the Optional Protocol, and therefore subject to harsher penalties. He asked whether the domestic courts had competence to try offences under the Optional Protocol that had been committed abroad, regardless of whether a bilateral agreement was in place.

38. **Mr. Zarate Fleitas** (Paraguay) said that the Criminal Code provided for the criminal prosecution of acts committed abroad if they involved Paraguayan legal interests or the protection of the legal assets of Paraguayan nationals. The sale of children itself was not explicitly classified as an offence in the Criminal Code, but other classifications could be applied to that crime.

39. **Mr. Candia** (Paraguay) said that, under the national plan for the prevention and eradication of child labour and the protection of adolescent labour, a list of the main stakeholders had been drawn up as an aid to identifying children involved in the worst forms of child labour, including the exploitation of child domestic workers (*criadazgo*). As to the causes of child labour, he said that, although it was poverty that required the most urgent action, it was also necessary to take into account cultural beliefs in the family and the community to the effect that the work of children and adolescents was a positive part of their upbringing and development. The State was expending a great deal of effort to change that mentality, stressing that child labour had a negative impact on the overall development of children, and that the combination of work and school was one of the main causes of absenteeism and school dropout. Activities to combat the worst forms of child labour addressed, inter alia, child labour in rural areas, the sexual exploitation of children and child exploitation in the home. National legislation treated child exploitation in the homes of members of the military and in the homes of civilians in the same way and did not provide for any exceptions.

40. The specific activities conducted through the Ministry of Education and Culture included the “Learning without Fear” campaign, which involved awareness-raising workshops on the eradication of ill-treatment and abuse in schools. Another programme aimed to improve interpersonal relationships in the education community, thereby promoting students’ social development. The psychosocial status of children in the *criadazgo* system was also monitored, and there was a procedure in place for teachers to report violations of the rights of children, so as to ensure that the State intervened promptly.

41. The *Abrazo* programme had now been extended to other forms of dangerous child labour and pilot programmes involving training and protected employment for adolescents had been launched. Educators monitored more than 200 urban areas to observe and record the movements of street children with a view to incorporating them in the programme. One of the obvious problems was that many families depended on the income of child workers. With that in mind, financial support for families had been strengthened since 2011. A system of family monitoring had been implemented, involving more frequent visits by social workers and the development of family plans to assess how the situation was progressing. Families living in extreme poverty received solidarity vouchers and those with very young children received a basic monthly food basket.

42. Paraguay had ratified the ILO Minimum Age Convention, 1973 (No. 138), the ILO Worst Forms of Child Labour Convention, 1999 (No. 182) and the ILO Domestic Workers Convention, 2011 (No. 189).

43. **Mr. Cardona Llorens** welcomed the State party’s ratification of ILO Convention No. 189. The Committee was concerned about the phenomenon of child domestic servitude, as it involved the sale of children for work, and wished to know the applicable penalties for those who kept a child in *criadazgo*.

44. **Mr. Mezmur** asked about the measures taken by the State party to strengthen the capacity of law enforcement agencies in that regard, and particularly the police, the judiciary and the customs service.

45. **Mr. Zarate Fleitas** (Paraguay) said that *criadazgo* was not classified as a separate offence in criminal legislation, but the penalties for other crimes, such as the violation of adoption rules, could be applied to persons who kept a child in *criadazgo*. The *Abrazo* programme had initially targeted child labour in the streets and had later been extended to child labour in brick factories and sugar cane plantations. The aim was to encourage children not to leave their communities, as that in turn would help prevent *criadazgo*. The programme would have to be reviewed to assess how it could most effectively be applied to prevent *criadazgo*.

46. With regard to strengthening the capacity of law enforcement agencies, he said that the Public Defender Service had a nationwide system of ombudsmen for children and adolescents. The Ministry of the Interior had set up a confidential phone line to report complaints about police misconduct and corruption.

47. **Ms. da Silva** (Paraguay) said that the National Anti-Corruption Secretariat had been established to design and implement strategies to combat corruption and set up control mechanisms in the public sector. Procedures were in place to receive complaints about public officials and initiate investigations and legal proceedings.

48. **The Chairperson** asked about the extent to which the telephone hotline was being used.

49. **Mr. Zarate Fleitas** (Paraguay) said that the delegation would provide a reply in writing on the number of complaints. Replying to a number of questions from the previous day, he said that domestic trafficking was punished under legislation enacted in 2011. Sex tourism itself was not defined as a crime in national criminal legislation, but it could be

prosecuted under different charges. Regarding the border with Brazil and the forthcoming football World Cup competition, a meeting was to take place the following week between the public prosecution services of the two countries to define a framework for cooperation in that regard.

50. The nationwide helpline was the result of successful cooperation between NGOs and the State and dealt not only with complaints but also general questions about children's rights. Complaints were forwarded to the relevant authorities and followed up to ensure that the necessary action was being taken.

51. **Ms. Aidoo** asked whether the State party had worked with the tourism industry to develop a code of conduct to protect children from child sex tourism and enable reporting of that issue.

52. **Mr. Zarate Fleitas** (Paraguay) said that the National Secretariat for Children and Adolescents had started working with the National Secretariat for Tourism to collect data that would help in planning specific initiatives.

53. **Ms. Aldoseri** asked the delegation to include in its written replies information on the number of cases that had been investigated and whether any law enforcement officers had been prosecuted.

54. **The Chairperson** asked whether child prostitutes were considered victims or perpetrators in the Paraguayan criminal justice system and whether child prostitutes aged between 14 and 18 could be criminally prosecuted.

55. **Mr. Zarate Fleitas** (Paraguay) said that child prostitutes were considered victims under the Criminal Code and could not be prosecuted.

56. **Mr. Kotrane** requested clarification of whether the penalty for procuring was actually increased in cases of sexually exploited children.

57. **Mr. Mezmur** asked how often the possibility of increasing the prison sentence for child prostitution had been raised and in what circumstances.

58. **Mr. Zarate Fleitas** (Paraguay) said that article 139 of the Criminal Code, on procuring, provided that, if the victim was under the age of 14, the maximum penalty was increased to 8 years' imprisonment. However, the provision did not take into account children over 14. There were no statistics on the frequency with which such aggravated penalties were applied.

59. **The Chairperson** asked whether the high rate of child marriage might facilitate offences under the Optional Protocol.

60. **Mr. Zarate Fleitas** (Paraguay) said that there were no reports of child marriages that constituted sale of children. Among indigenous peoples, marriage took place earlier, and it was necessary to respect their culture while ensuring the protection of children's rights. In that connection, Paraguay had ratified the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169).

61. **Ms. Oviedo Fierro** asked whether there were any plans to revise the legal situation with respect to the excessively long adoption process. She wondered what was being done to ensure that all steps were taken to prioritize family ties. She would also be interested to hear more about judges' personal power to place children.

62. **Mr. Zarate Fleitas** (Paraguay) said that, with respect to the lengthy adoption procedure, there were two proposals to amend the law. The Supreme Court had recently adopted a decision setting out the duration of child protection measures, including placement in an institution and guardianship. A special unit for the protection of children had been set up in the National Secretariat for Children and Adolescents and was currently

working in coordination with the judicial authorities and civil society organizations to deinstitutionalize children, maintain their family ties and prevent situations conducive to the sale or exploitation of children.

63. **Mr. Cardona Llorens** thanked the delegation for the constructive and sincere dialogue and its transparent report. The Committee trusted that its recommendations would help in designing national policy and raising awareness of the problems faced by children.

64. **Mr. Nogueira Neto** (Country Rapporteur, Optional Protocol on the involvement of children in armed conflict) said that the Committee welcomed the information provided by the delegation on the coordination of the Optional Protocol on the involvement of children in armed conflict in Paraguay, dissemination and awareness-raising activities on the Optional Protocol, training for all relevant professionals, the creation of mechanisms for data collection and age verification, peace education, protection measures for child victims and international cooperation.

65. **Mr. Zarate Fleitas** (Paraguay) said that his delegation's dialogue and cooperation with the Committee would help the State party raise the profile of children's rights in all government institutions.

The meeting rose at 12.30 p.m.