



# Convention on the Rights of the Child

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## Committee on the Rights of the Child Fifty-third session

### Summary record of the 1457th meeting (Chamber B)

Held at the Palais Wilson, Geneva, on Tuesday, 12 January 2010, at 10 a.m.

*Chairperson:* Mr. Filali

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*Third periodic report of Paraguay*

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

**Consideration of reports of States parties** (agenda item 4)

*Third periodic report of Paraguay (CRC/C/PRY/3); core document (HRI/CORE/1/Add.24); list of issues (CRC/C/PRY/Q/3); written replies of the State party to the list of issues (CRC/C/PRY/Q/3/Add.1)*

1. *At the invitation of the Chairperson, the members of the delegation of Paraguay took places at the Committee table.*
2. **Ms. Torres** (Paraguay) said that the *Sasö Pyajhu-Paraguay Solidario* programme formed part of the new social policy adopted by the Paraguayan Government to work more closely with target groups, the objective being to maximize the resources available. The Government had analysed the programmes and infrastructures set up by the previous governments with the aim of correcting the mistakes of the past, reinforcing the positive effects of State policies and establishing new relations between State and society. Macroeconomic indicators were encouraging, with a good year predicted for 2010, and the fiscal and monetary policy had mitigated the effects of the economic crisis, but much remained to be done to reduce poverty and overcome inequalities. The National Secretariat for Child and Adolescent Affairs (SNNA) considered poverty primarily a political issue requiring a better distribution of wealth and the development of innovative cooperation and participation mechanisms.
3. The resources allocated to the child sector had increased by 24 per cent in 2008 and the budget of the National Secretariat for Child and Adolescent Affairs had risen eightfold in 2009, which had had a positive impact on children's living conditions, particularly those of the most vulnerable. In December 2009, the Ministry of Health had decreed that all inhabitants (i.e., 6.4 million persons) would have free access to health care at public establishments. That no-charge policy, which was one element of the strategy to combat poverty, would be implemented gradually, beginning with outpatient and emergency medical services.
4. Since January 2009, the National Secretariat for Child and Adolescent Affairs and all the relevant ministries had made efforts to promote participation by the public, non-governmental stakeholders and local authorities, establishing, inter alia, specific and transparent mechanisms for citizen participation. One of the objectives of the strategic plan of the National Secretariat was to make children and adult leaders a driving force of the change sought by Paraguay. The National Secretariat had created the Directorate for Citizen Participation, with responsibility for providing children with discussion forums and involving them in the formulation and follow-up of the national action plan for children. That initiative to give children a voice was a good illustration of the policy of openness pursued in the country.
5. In March 2009, the Office of the Deputy Minister of Justice and Human Rights had been established at the Ministry of Justice and Labour with responsibility for setting up permanent institutions for the promotion and defence of human rights. Similarly, in June 2009, a human rights network had been created to coordinate, in particular, the formulation of the national action plan on human rights.
6. The legislative bill to place the National Secretariat for Child and Adolescent Affairs under the authority of the Ministry of Social Development still gave rise to debate. While institutional reform was essential, it was nonetheless crucial to entrust a high-level body with responsibility for defining and monitoring State policy for the advancement of children, who made up some 41.1 per cent of the total population. It was the task of all institutions and organizations dealing with children's issues to take greater account of the

best interests of the child, with the aim at all times of increasing respect for the rights of children.

7. **Mr. Zermatten** (Rapporteur for Paraguay) noted that Paraguay had 110,000 indigenous dwellers, but that population group was often ignored. Approximately 36 per cent of the country's inhabitants lived below the poverty line and some 16 per cent in extreme poverty. The situation had improved somewhat but the economic crisis and rising food prices had scarcely helped matters. Furthermore, wealth was unequally distributed, taxation culture was weak and corruption was widespread in the country. On the political level, the Colorado party, which had been in power for sixty-one years, had been defeated by the Patriotic Alliance for Change party in April 2008 and Mr. Lugo had become President for a five-year term. The current Government had given much hope for significant social change and for greater consideration of human rights in general and children's rights in particular.

8. The adoption of the Code on Children and Young Persons was welcome, as were the Indigenous Education Act, the law to abolish the trade in and dissemination of pornographic material involving minors or persons with disabilities, and the Civil Status Amendment Act to facilitate the registration of children who had no birth certificate; it would, however, be useful to know whether the State party had taken the necessary steps to bring those laws into conformity with the Convention. In 2004, Paraguay had established a truth and justice commission and also a national system for the comprehensive protection and advancement of children and adolescents under the supervision of the National Secretariat for Child and Adolescent Affairs, which had ministerial status.

9. At the international level, Paraguay had ratified the two optional protocols to the Convention, ILO Convention No. 138, the Convention on the Rights of Persons with Disabilities and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

10. Noting with concern that the new Criminal Code had reduced the penalties for child pornography, thus conflicting with the law adopted in 2006 to combat the trade in pornographic material involving minors, he wondered why the two instruments were not in alignment. He wished to know the status of the bill to place the National Secretariat for Child and Adolescent Affairs under the authority of the Ministry of Social Development and whether the National Secretariat had sufficient technical, human and financial resources to fulfil its duties. He wished to know about coordination between the National Secretariat and the municipalities through the advisory boards for the rights of children and adolescents, the number of such advisory boards and the resources made available to them. Details of the role of the recently established child monitoring centre would also be welcome.

11. He wondered whether the 2003–2008 national action plan for children had been assessed. He understood that the Ombudsman's Office had a children and youth department and wished to know more concerning that body, particularly with regard to its staffing. He wondered whether Paraguay planned to institute an ombudsman for children and adolescents. He also would like to know what mechanisms were in place to ensure greater transparency in the use of resources allocated to the child sector. The discrimination suffered by indigenous children prompted him to ask about the status of the legislative bill to eliminate all forms of discrimination. He wished to know the state of progress regarding the campaign for universal birth registration and the allocation of identity cards. Noting with concern that corporal punishment was widely tolerated within society, he would like to know whether the State planned to adopt a law to ban corporal punishment at school and in the home.

12. **Mr. Pollar** wondered whether the State party planned to cooperate with countries of the region, particularly Brazil, in controlling border crossings, given that many children crossed the Paraguayan border illegally, and also with Spain, since cases of Paraguayan children trafficked to that country had been reported. He also wished to know whether any partnerships on children's rights had been established with international organizations or with other countries and specifically whether Interpol had played a useful role in international cooperation concerning investigations of trafficking cases in Paraguay.

13. On the right to life, he was concerned about reports of extensive use of pesticides adversely affecting the health of indigenous inhabitants living on their ancestral lands and would like to receive further details on the matter.

14. Following the reports describing domestic violence against children, particularly sexual abuse, as alarming, he wished to know what Paraguay was doing to combat such violence, which was equivalent to torture, and what measures were being taken to combat police violence against street children, as reported by several sources.

15. **Mr. Krappmann** noted with appreciation that the principle of the best interests of the child was taken into account in legislation on children and was applied in judicial and administrative decision-making in the State party. However, according to some sources, that principle was being misused in order to circumvent the Adoption Act when a child was placed in temporary guardianship, on the pretext that adoption procedures would be too complicated. It also appeared that some children were registered at birth as biological children of couples who were not actually their biological parents because that would be in the best interests of the child. He would like the State party to provide further information on those situations.

16. Despite the measures taken by the authorities to encourage the participation of children in family, school and judicial contexts, extensive data indicated that in reality children were not heard. For example, they should be able to elect representatives heard by school administrations, be members of municipal councils and have greater opportunity to be heard in legal proceedings. He wondered whether Paraguay had plans to take measures to that effect and wished to receive additional information on the matter.

17. **Mr. Koompraphant** would like to know what the main problems were that affected children in Paraguay, what measures had been taken to solve them and whether the national action plan mentioned by the State party in its report addressed those issues.

18. **Ms. Varmah** noted that, according to several reliable sources, the national system for the collection of statistics was deficient and wondered whether any measures had been taken to improve it.

19. Data showed that the shortage of skilled birth attendants was the primary cause of infant and maternal mortality, with ensuing respiratory or diarrhoeal diseases. The Committee noted with concern that Paraguay did not have specific indicators to assess progress achieved in social investment in children, particularly with regard to survival and development. Additional information on the vaccination system for diseases such as tuberculosis in urban and rural areas would also be welcome.

20. **The Chairperson** wondered whether Paraguay planned to ratify Hague Convention No. 23 of 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations and the Convention for the Protection of All Persons from Enforced Disappearance, which it had signed without reservations in February 2007 and which was related to the Convention on the Rights of the Child, especially since the State party had ratified the Inter-American Convention on the same topic. He also wished to know whether judges of the State party ever referred to the Convention to substantiate a decision when children were parties in a case or were summoned to be heard as witnesses and whether the

Children and Youth Department had, in accordance with the duties assigned to it, undertaken any investigations and, if so, where a conclusion had been reached, what the findings had been and whether reports on the matter had been made available to the public.

*The meeting was suspended at 11.05 a.m. and resumed at 11.25 a.m.*

21. **Ms. Torres** (Paraguay) wished to emphasize that, as a united front of associations, civil society had since 1994 made a significant contribution to the formulation and implementation of policies promoting respect for the rights of children and adolescents and had thus helped to bring about legislative and institutional adjustments, in particular with the creation of the National Secretariat for Child and Adolescent Affairs, whose primary objective was to strengthen the system for the advancement of children and adolescents.

22. In that regard, the National Council was the operating authority at the central level, while departmental and municipal councils functioned at the local level. The ongoing process of political and administrative decentralization required a highly democratic approach. For the first part of 2010, there were plans to create 9 new municipal advisory offices for children at the local level, to supplement the 200 already in place, out of a total of 236 municipalities. In addition to support from central Government, social investment by local authorities had a major role to play but that role remained limited; to develop it, the innovative step had been taken of making provision for them to be able to approach international donors to finance specific projects and, in November 2009, an initiative financed by a non-refundable donation from the Inter-American Development Bank had been launched with the aim of establishing an appraisal, a plan and a budget for the implementation of such projects at six municipal advisory offices for children. That initiative should lead to improved follow-up and visible results under a shared administration process.

23. With regard to the way in which the National Secretariat had managed the successive increases in its budget, which had initially been small since it had been sufficient only to cover its essential staffing costs, its infrastructure and the adoption centre, the National Secretariat had executed 91 per cent of its annual budget by December 2009. The establishment of the technical teams necessary to carry out its programmes had proved a major challenge. Five new programmes had had to be set up, including a basic programme of comprehensive care for children and adolescents in collaboration with the municipal advisory offices for children, with the aim of advancing the national consultation process for the purpose of formulating and evaluating the national plan.

24. As to the level of participation of children and adolescents in those various processes, Law 1680/2001, establishing the Code on Children and Young Persons, granted them the right to be represented on departmental and municipal councils; moreover, the National Council and the National Secretariat had previously decided, by means of regulations, to arrange for children to be represented in those institutions so that they could speak there but without the right to vote, and, in extension of that decision, there were plans to submit a legislative proposal to confer the right to vote on children's organizations in the various pertinent bodies, such as the National Council.

25. **Mr. Krappmann** would like to know how children's representatives were elected in the National Council and on which matters they could make their voices heard.

26. **Ms. Torres** (Paraguay) said that, although Law 1680/2001 did not expressly provide for the participation of children in the National Council, an agreement between its members had enabled a second-level body to be set up as a national platform bringing together various children's organizations. The children themselves had chosen their two representatives, who attended the Council's ordinary sessions, which took place every fortnight, where they could make their voices heard on any topic addressed within that context. A mechanism had also been introduced to allow the participation of new groups

that were not part of the national platform, including indigenous children, children with disabilities, children from rural areas and children of African descent. Coordination would accordingly be ensured with 16 sectoral children's organizations in an effort to establish direct links with the various stakeholders without adult intermediaries. In that regard, the Directorate for Citizen Participation had in August 2008 organized a meeting at which children had had the opportunity to put questions to the President and a number of ministers and, on the basis of the points raised by the children, the President had subsequently requested explanations from several of those ministers.

27. In the education sector, experiments in child representation by school boards had been undertaken, but the model used was still based on the principle of adult supervision. The Ministry was currently attempting to make further strides on the basis of a consultation process aimed at promoting a new culture of education and more direct representation.

28. In the area of health, the NGO Hear our Voices was working with health professionals to instil a new culture in which children and adolescents were not simply bodies to be cared for but individuals to be respected. More generally, the objective was to promote participation of and respect for children not only among representatives of the State but also in daily life. That was the aim of the bill about to be presented to Parliament on banning all forms of corporal punishment, the "Learning without Fear" teacher awareness campaign on positive forms of discipline, and the initial study on domestic violence conducted by a national NGO with the support of UNICEF.

29. **Ms. Yambay** (Paraguay) maintained that article 2 of the Convention was fully respected. All hearings took place in the presence of the lawyer representing the child, whose best interests were a primary concern of the judges, who, in reaching their decisions, relied on evidence such as psychological examinations and social workers' reports.

30. **Mr. Zermatten** (Rapporteur for Paraguay), while welcoming the fact that children had the right to speak in legal proceedings, wished to emphasize that it was also important for judges to be trained in taking down their statements and wondered whether Paraguay was one of those all-too-few countries in which judges received specific training on how to listen and on the best interests of the child.

31. **The Chairperson** said that in many countries whose authorities wished to promote greater child participation the results were not very visible on the ground owing to resistance by the administration and also by teachers and families, among others. He would therefore appreciate details from the delegation as to how the State party was endeavouring to change attitudes.

32. **Ms. Torres** (Paraguay) agreed that the active participation of children, whose rights were recognized and whose views were routinely heard, was a major challenge for Paraguayan society. It was nevertheless the underlying objective of many programmes. As with participation, the principle of the best interests of the child was a conceptual precept that had to be translated into practical policies.

33. With regard to adoption, a law had put an end to the trafficking that had marked the 1980s. Granting guardianship before adoption, although not explicitly prescribed by that law, was a common practice by judges who, wishing to act in the interests of the child, made such placements in order to accelerate the adoption process, whereas that practice in fact ran counter to the system introduced by the new Government. The latter was thus arranging meetings with juvenile magistrates and Supreme Court judges to reaffirm its commitment to revising the Adoption Act so that all international adoptions, as opposed to 10 per cent currently, went through administrative channels, and consequently through adoption centres. Efforts were also being made to simplify procedures and reduce the number of institutions in favour of foster care. One centre accommodating children

provisionally pending adoption procedures had been closed and the authorities planned to close down all such centres.

34. **Ms. Yambay** (Paraguay) noted that the Code on Children and Young Persons, chapter V of which governed specialized jurisdiction, laid down the obligation that judges who were specifically trained in juvenile justice had to be appointed to the Supreme Court, ordinary courts and public defender offices.

35. **Ms. Monteil** (Paraguay) added that one of the objectives in creating the Human Rights Directorate was precisely the initial and continuous training of judges. Round-table discussions were accordingly being organized nationwide to improve children's participation and punishment decision-making.

36. **Mr. Zermatten** (Rapporteur for Paraguay) wished to know what percentage of judges were actually trained and when the authorities considered that the entire profession would be trained.

37. **Mr. Krappmann** also wished to know the proportion of children who had been made aware of their rights, for example through programmes implemented in schools or through youth organizations.

38. **Ms. Monteil** (Paraguay) said in reply that all specialized judges were trained and offered to provide the Committee subsequently with additional details of the content of the training programmes which they followed and their assessment, the results of which should be known by mid-2010.

39. **Ms. Torres** (Paraguay) wished to stress that ensuring children's participation was a long-term undertaking in a country where that required such a shift in mentality. One important stage was training; another was monitoring and supervision of judicial practice.

40. She did not know what percentage of children were aware of their rights but noted that a large investment had been agreed to in that area. Child rights week had been celebrated in schools since the mid-1990s. Children themselves were mostly quite familiar with their rights, including in remote areas; it was with adults that much remained to be done.

41. With the change of leadership team in 2008, the national action plan for children had come to an end. The new Government had been confronted with several problems: the absence of indicators to assess the impact of the plan, the limited budgeted funds to continue its execution and the lack of time to formulate an alternative. It had been decided to organize extensive consultations with civil-society organizations acting as a mouthpiece for children in order to identify priorities — in particular, street children, children in institutions and the creation of participatory bodies at all levels — which had then been integrated into a strategic action plan of the National Secretariat for Child and Adolescent Affairs, which incorporated core elements of the national plan, such as strengthening the national system for comprehensive protection, and would form part of a national policy for the advancement of children and adolescents, to remain in force until 2013. The operations and activities of the National Secretariat had thus not come to a standstill, but the new Government had considered it useful to overhaul the entire process, involving children in that work, primarily through the Coordination Unit for Children's and Adolescents' rights. At the same time, it had been decided, by decree, that the Social Welfare Office would be reconfigured, with decentralization as the main strategic line of action. The aim was to set up community welfare networks capable of responding effectively to the genuine needs of the population. It was intended that the new national action plan for children, with all the inputs from the 2009 consultations, would be adopted in February or March 2010. It would require budget allocations and also evaluation indicators.

42. Efficient use of resources also called for the creation of an information system and the Child Monitoring Centre, which had been established in October 2009 as a civil-society initiative with the support of the Inter-American Development Bank, would to that end develop a database on public entity management. Similarly, with United Nations assistance, Paraguay was taking steps to improve its database on beneficiaries in order to have a single centralized system for all means-based transfers. Those were important steps in promoting transparency of management and combating corruption and favouritism.

43. **Mr. Zermatten** (Rapporteur for Paraguay) was not sure whether there were still plans to create a ministry of social development and would like the delegation to specify whether the Monitoring Centre had simply an information role or whether it was empowered to intervene.

44. **Ms. Torres** (Paraguay) said that a legislative bill creating a ministry of social development had been submitted to Parliament in 2006 but had been rejected. In 2008, a new bill had been presented to the Chamber of Senators and another draft proposal had been submitted to the Chamber of Deputies. That proposal, which provided for the creation of a ministry of social development responsible for coordinating the operations of the various institutions of the Social Welfare Office and reductions in administrative costs, had been approved unanimously by the Chamber of Deputies. The National Secretariat for Child and Adolescent Affairs would thus come under that large ministry, together with the women's affairs, culture and civil service departments.

45. The issue of children's rights was one of the cross-cutting themes of social development policy. In the interests of long-term sustainability, the Government was still looking for ways not set out in the legislation to share resources with the municipal authorities with a view to successfully completing the decentralization process, in order to reach the most vulnerable population groups, including child workers, who, according to estimates, represented 8 per cent of the total child population. Unfortunately, the current State reform did not form part of a consultation exercise and the Committee on the Rights of the Child might consider making a recommendation with a view to supporting the National Secretariat.

46. **Mr. Zermatten** (Rapporteur for Paraguay) wondered whether the State party was intending to amend the 1997 Act, which, while putting an end to the practice of international adoption and the trafficking in children that had resulted from it, allowed for misinterpretation with regard to temporary guardianship before adoption.

47. He would like to know whether any projects on special care for children with disabilities or policies or action plans for their benefit had been developed to address the recommendations made by the Committee in 2001.

48. Surprised by the low exclusive breastfeeding rate (7 per cent) during the first six months of a newborn's life, he wished to know what the State policy was in the matter.

49. The delegation could provide information on the current projects to reduce poverty, addressing, in particular, issues concerning malnutrition, difficulties in accessing drinking water and the lack of sanitation facilities, which affected primarily the inhabitants of remote areas and indigenous population groups.

50. Given the lack of statistics on child labour exploitation (in particular the number of children involved and their age), of mechanisms to control the phenomenon in the formal and informal sectors and of sanctions imposed on persons employing children, the delegation was invited to provide information on the matter and on the *Abrazo* programme and its results.

51. The delegation could also indicate whether the State party planned to ban the allegedly cultural practice of *criaditos*, i.e. children who were entrusted to families to work as domestic servants and who suffered sexual and labour exploitation.
52. The Committee, while welcoming the adoption of the law on refugee children, which placed emphasis on the best interests of the child, would like to know the number of child refugees and asylum-seekers, and, where applicable, of stateless children, and also whether the activities of the National Refugee Commission were coordinated with those of the National Secretariat for Child and Adolescent Affairs.
53. It would be useful to have information on the State policy in favour of indigenous children, in particular on the measures taken to resolve the problems of malnutrition, infant mortality, labour exploitation and lack of access to health and education services.
54. **Mr. Koompraphant** wondered whether any capacity-building programmes were in place to better respond to children's developmental needs and what measures were being taken in collaboration with local authorities and teachers, among others, to protect children in the home, at school and within the community. He would like additional information on the implementation of policies in the matter and to know, for example, whether any mechanisms had been put in place for reporting abuse and whether violent parents received any support in learning to change their behaviour.
55. **Ms. Herczog**, having noted that only 3 per cent of children had access to childcare services, would like to know whether the State planned to extend those facilities to children in rural areas or from indigenous families.
56. She wondered if there were any national plans for the development of programmes at the institutional, family and community levels for the benefit of mentally disabled children and if the joint specialized commission had taken steps to obtain data and assess the progress made in that area.
57. With regard to the computerized child database scheme, the delegation could indicate whether the information on mental health was protected and provide details of the contents of the therapy programme in place. It would also be useful to have information on the mental health problems of children living with their family (depression, attempted or actual suicides, use of tobacco, alcohol or drugs) and on the preventive measures taken to support the families.
58. It would be beneficial to have information on foster families and alternative care facilities, particularly on the method for selecting foster families, and to know whether indigenous families could accommodate indigenous children, how decisions to place children in care facilities were made, whether the State intended to strengthen the networks of foster families and whether it planned to provide training for parents and potential foster families. It would be appreciated if the delegation could indicate whether support was given to children placed with foster families and whether children's rights were included as part of the training received by psychologists and social workers.
59. **Mr. Pollar** wondered what measures were being taken to protect adolescents from the consumption of harmful substances and prevent HIV/AIDS among young people, and whether HIV/AIDS prevention measures gave rise to cultural or religious conflicts.
60. He would like to know the status of the legislative bill on enlistment in the army, which set the recruitment age at 18 years, and how the State ensured that young persons recruited were of age, given that 22 per cent of Paraguayans under 18 years were without identity documents.
61. **Mr. Krappmann**, concerned about the high number of children who repeated or abandoned school, wished to know the content of basic teacher training and if there were

continuous training programmes for teachers; also whether children who dropped out had the opportunity to re-enter the school system, whether street children had access to education and whether children who failed school could work while following courses. In that regard, it would be useful to know whether there were any programmes combining education with vocational training and whether many children had access to them within and outside the school system.

62. **Ms. Varmah**, having noted weaknesses in the health-care system, wished to know what programmes the State was implementing to ensure that free access to health services continued and that coverage was extended to all regions within the country, whether measures were taken to identify children who consumed alcohol or drugs or were HIV-positive and provide them with treatment and rehabilitation services, whether there were antenatal and post-natal care training programmes for mothers and whether any measures were being taken to end illegal abortions, which were a cause of mortality.

63. It would be useful to know whether there were sports facilities for children, how children spent their free time and what was being done to prevent them from descending into alcoholism or drug dependence.

64. **The Chairperson** wondered what the State was doing to overcome the shortage of human and financial resources in the area of juvenile justice, how judicial cases involving children were handled in regions without a juvenile court, whether judges were specialized in juvenile justice and whether the reforms planned by the State party favoured restorative justice over punitive justice. The delegation was invited to provide information on the conditions under which minors were detained with adults and on how conditions of detention were monitored.

*The meeting rose at 1 p.m.*