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Summary record of the 2953rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 12 March 2013, at 10 a.m.

Chairperson: Sir Nigel Rodley

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Paraguay (continued)

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Third periodic report of Paraguay (continued) (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. **Ms. Segovia Azucas** (Paraguay) said that the Inter-Agency Commission on the Enforcement of International Judgements (CICSI) had been restructured and that its role had been expanded. As a result, the process of implementing judgements and amicable settlements, particularly those involving indigenous communities, had been streamlined since the beginning of 2012. Noting several cases in which the Government was helping indigenous communities to recover their ancestral lands, or was buying them from their current owners in order to pass them back to such communities, she said that it had been determined that prices for such land would not exceed current market value. In the case of the Kelyenmagategma people, the Ministry of Education and Culture and the Ministry of Public Health and Social Welfare were considering building schools and a clinic on their land. The possibility of building housing appropriate to that community's cultural values was also being examined.
3. The Government was considering a general review of legislation regarding indigenous peoples. The Ministry of Finance had also been instructed to look at the establishment of a mechanism for the provision of funds for projects in indigenous communities. Under a presidential decree, the implementation of recommendations by the Committee would be given the same level of attention as that applied to decisions handed down by the Inter-American Court of Human Rights and recommendations issued by the Inter-American Commission on Human Rights. The Government was also examining the possibility of elevating the National Institute for Indigenous Affairs (INDI) to the rank of a ministry.
4. **Mr. María Aquino** (Paraguay) said that a human rights network had been established by the State, contributing to the mainstreaming of a human rights perspective across the public administration, parliament and government offices. The Government was consulting civil society groups with a view to drafting a national human rights plan. Work was being done to strengthen recognition of the reproductive rights of women, although deeply-rooted cultural values were slowing progress in that area. The Secretariat for Women of the Office of the President of the Republic had been elevated to the rank of ministry and greater attention was being paid to the needs of people with disabilities.
5. **Mr. Shany** said that statistics provided by the Development Centre of the Organization for Economic Cooperation and Development indicated that the number of abortions carried out in the State party was 10 times higher than the figures suggested by the State party. He asked the delegation to explain the difference between the two sets of figures.
6. **Mr. Salvioli** welcomed the decree of 5 March 2013 on the implementation of recommendations by the Committee. He asked, with regard to the Committee's Views on communication No. 1407/2005, *Asensi v. Paraguay*, how long it took for an application for access arrangements to be resolved in the State party. He noted that the Views had been issued in 2009 and had still not been given full effect. He said that he was concerned that the Ministry of Education and Culture had dropped sexual and reproductive education from school curricula in 2012. The Committee was struck by the fact that the penalties imposed under the Criminal Code for seeking professional help to carry out an abortion were stiffer

than in cases where the woman concerned attempted to have an abortion by herself. Finally, he said that the State party had been unable to disprove allegations that INDI had attempted to sell indigenous land to private purchasers.

7. **Ms. Silvero Salgueiro** (Paraguay) said that, bearing in mind that abortion was illegal in the State party, the Government was working on ways of reducing the incidence of abortion. The Ministry for Women was working with the Ministry of Education and Culture and the Ministry of Public Health and Social Welfare to improve the situation. The latter had issued rulings in 2011 and 2012 prohibiting doctors from refusing to treat women who had had abortions. She confirmed that the statistics on abortion provided by the OECD Development Centre were broadly correct. The figures provided by the State party accounted only for those women who sought medical assistance after having abortions. While it was true that the Ministry of Education and Culture had dropped sexual and reproductive education from the school curriculum, all three ministries were working together to finalize a new approach to the provision of sexual education in schools.

8. **Mr. Orué** (Paraguay) said that ordinarily an application for access arrangements took from 6 to 12 months to process. It resulted in a court order assigning custody to one of the parents concerned. In the event of non-compliance with the court order, custody could revert to the other parent, in accordance with article 95 of the Code on Children and Adolescents. However, the terms of the article were not sufficiently clear and its application could lead to delays. Amendments to article 95 were therefore currently being studied.

9. **Mr. Núñez** (Paraguay) said that, in the case of *Asensi v. Paraguay*, the courts had ruled in favour of authorizing the daughters of the author of the complaint to travel. They had been prevented from doing so because of the mistaken application of interim measures blocking travel, which had in fact already been lifted by the courts. The State party had recommended to the girls' father that he should apply for access arrangements but no such application had been lodged.

10. **Ms. Segovia Azucas** (Paraguay) said that the proposed national human rights plan would address many issues, including the matter of sexual education in schools and the protection of vulnerable population groups such as indigenous communities. It was a State plan and would remain in place regardless of the colour of future governments. All the recommendations of the Committee, the Inter-American Commission on Human Rights and civil society organizations were being taken into account in its development.

11. **Mr. Neuman** said that he would like to know whether prisons in the State party, including Tacumbú prison in the capital, Asunción, were still operating beyond capacity. Noting that a third of people held in prison in the State party were awaiting trial, he asked why more use was not made of alternatives to pretrial detention and what alternative measures were in fact available. The Committee was concerned that more members of the juvenile prison population were being held in pretrial detention than had been convicted. He expressed concern about the conditions of detention and asked whether the delegation could provide specific information on any improvements made. He asked whether prisoners held in pretrial detention were housed separately from convicts and observed that the former should not be deprived of their right to vote.

12. He wondered how serious the Government of the State party considered corruption in the justice and prison systems to be and asked whether it was acting to combat the problem by, for instance, inquiring into the unjustified wealth of certain prison officials. Could the delegation provide more information with regard to convictions of judges and officials in corruption cases?

13. Aside from geographical hindrances and bureaucratic barriers, it appeared that birth registration was hampered by a regulation under which underage mothers were not allowed

to register the birth of their children. He asked whether there was indeed such a regulation and, if so, whether the State party was considering its abrogation.

14. Turning to the matter of conscientious objection, he asked the delegation to clarify whether people who had conscientiously objected to military service in the past would be retroactively affected by more recent legislation. He also wished to know whether new regulations on the nature and length of alternative civilian service had been put into place. Finally, he asked how the deadline, which was extremely short, for declaring oneself a conscientious objector was implemented.

15. **Mr. Salvioli** said that the information provided by the State party in its report, its replies and the oral presentation of the report in connection with articles 7 and 10 of the Covenant was encouraging; it had introduced a new definition of torture and had taken steps to deal with torture under the Optional Protocol. However, it remained unclear how many convictions, if any, had been handed down in cases of torture. He asked the delegation to clarify how complaints were processed by the Special Human Rights Unit, and to supply information about the compensation or reparation provided to victims of torture. Was reparation limited to medical and psychological assistance? Moreover, he asked whether the State party had taken action against vigilante groups conducting private security operations, who had, allegedly, committed a number of violations including illegal arrests and raids, acts of torture and murder. Were allegations against such groups duly investigated?

16. He asked for further information on how the criteria used to calculate compensation due to victims of human rights violations perpetrated under the Stroessner dictatorship were applied impartially. Furthermore, he requested more detailed information on the reparations available apart from compensation, as well as a more detailed reply to the question contained in the list of issues concerning defamation suits. Although the delegation had provided some information in connection with the Curuguaty massacre, the investigation appeared to be focused on pinpointing the responsibility of the peasants. It would be helpful if the delegation could, in addition, provide information relating to progress made in respect of complaints of torture and extrajudicial executions perpetrated by State officials.

17. Lastly, he noted that since the submission of the State party report, the Senate had ousted the former President in a rapid impeachment trial. The fact that the trial had taken no longer than three hours raised questions about whether due process had been guaranteed.

18. **Ms. Motoc** said that the Committee would appreciate information on the measures taken by the Public Defender Service, which would indicate the impact of that judicial body on the country. In addition, she asked for information about the conditions in which children were kept in prison with their mothers and for statistical information on the number of children in that situation.

19. The Committee had received reports of a criminal investigation opened in 2010 into four members of a group defending the human rights of indigenous peoples; the Office of the Public Prosecutor had decided in 2012 that there was insufficient evidence to indict those concerned and that the case would be suspended, but not dismissed. Given the lack of evidence, she asked for further information as to why that approach had been followed as it would appear to indicate a lack of respect for the right of association.

20. **Ms. Chanet** said that a clear evolution in the human rights situation in the State party was discernible from its reports and replies. She asked whether there was a maximum duration for which a person could be held in police custody and whether that limit could be extended for administrative reasons.

21. The national legislation provided for alternative penalties; since some three quarters of persons in custody were in pretrial detention, she asked whether alternative measures

were also applicable in such cases. At what point in the proceedings could legal counsel intervene? Was it possible to go to court to decide on the lawfulness of an arrest? What was the law in such cases, and was it applied?

22. There appeared to be substantial regional and other discrepancies in the application of the law, particularly in relation to access to legal counsel and the provision of information to detainees about the reason for their arrest. It would be helpful to the Committee if the delegation could clarify the situation so that potential remedies could be proposed.

23. The alternative penalties system was good, but it was important to ensure that it was strictly enforced and closely monitored in view of the corruption to which Mr. Neuman had referred. How did the State party address that issue? It would be helpful to the Committee to know why some prisoners remained in prison after serving their sentences and how the State party intended to remedy that situation.

24. **Mr. Rodríguez-Rescia** said that according to some reports, detainees could be held in police custody in the State party for anything from a few hours to several months until their case came before a judge. The Committee would like to know what steps the State party was taking to rectify that situation. Although the basic services to which persons in the penitentiary system were entitled were protected by the Public Defender (Interim) Act, he asked the delegation to clarify whether that Act was applicable to the extremely high number of persons in pretrial detention.

25. The system for the enforcement of sentences as a whole could contribute to guaranteeing human rights. Was the State party considering improving that system? In addition, did the State party implement the Istanbul Protocol, or have any plan to do so?

26. Lastly, he noted that there was a history of violence in public demonstrations in the State party, which had an impact on the right to freedom of expression and opinion and the right to peaceful assembly. The ousting of the former President was an indicative instance of such demonstrations. Were violent acts committed at public demonstrations duly investigated? Impunity in such circumstances could serve to repress freedom of opinion and created problems of due process. The manner in which the former President had been ousted also raised the question of whether due process was guaranteed in the State party. The electorate should be able to hear at length the charges against him and the reasons why he should be removed from office. Were there plans to regulate such trials in the future?

27. **Mr. Bouzid** said that he would like the delegation to clarify the role of the Ombudsman's Office. Did it merely transmit complaints to the appropriate bodies?

28. **Ms. Seibert-Fohr** noted that the head of delegation had referred to challenges in implementing the Covenant in her opening statement. She invited the delegation to elaborate further on the main challenges that the State party faced and to specify the steps it was taking to address them.

29. **Ms. Majodina** said that in 2006, the Committee had recommended that the State party should improve prison conditions and bring them into line with article 10 of the Covenant. The State party report contained information on structural reforms of the prison system, but did not make any specific reference to prison overcrowding, regarding which she would like further information since it had a direct impact on the enjoyment of human rights by persons in detention. Moreover, she would be interested to hear the delegation's views on security in prisons and whether it recognized the validity of reports received by the Committee from non-governmental organizations with regard to inmate violence and deaths and injuries in custody.

The meeting was suspended from 11.40 to 11.55 a.m.

30. **Mr. Díaz Verón** (Paraguay) said that the delegation appreciated the Committee's interest in the sensitive issue addressed under question 14 on the list of issues. It should be noted that Paraguay had emerged from a dictatorship two decades previously and was engaged in the difficult process of strengthening institutions. State institutions demonstrated clearly the will to protect the progress achieved to date. The Office of the Public Prosecutor had established and structured institutions that were competent to guarantee the protection of human rights and transparent investigation and laid down the guidelines for the protection of human rights. Moreover, it had conducted a major study on the human resources and skills required in the specialized human rights units, on the basis of which it had introduced major changes and put in place committed staff with a vision for the protection of human rights.

31. Positive steps had been taken to ensure that investigations had positive outcomes and that the barriers to the proper investigation, prosecution and sentencing of cases of torture were removed. Prior to the May 2012 amendments to the Criminal Code, which made it possible to define torture precisely, there had been no penalty for torture and evidence of serious effects of torture was required before any case could be investigated; the removal of that major obstacle would make the outcomes of investigations more effective. Thirty-five cases of torture were currently under investigation.

32. Progress was being made with regard to the implementation of the Istanbul Protocol; the national manual on the investigation of torture was being made consistent with international documents and the officials concerned were to receive appropriate training in that respect. There was political will and commitment in Paraguay to the defence of human rights and the transparent investigation of cases of torture.

33. **Mr. María Aquino** (Paraguay) said that Tacumbú prison had originally been designed to hold 600 prisoners. Although modified to accommodate double that number, some 3,700 inmates were currently held there. Overcrowding was a serious problem and serious efforts had been made to gather all available domestic and multilateral resources to build a new facility. The President had given instructions in that regard and the construction of a new facility was planned. The lack of space prevented the separation of pretrial detainees from convicted prisoners, although they would be kept separate if the necessary facilities were available. A number of prisoners had been transferred to nearby premises to relieve the pressure on the system.

34. Seventeen children were currently incarcerated with their mothers; a pilot project for such women had been launched and the construction of a new facility that would ensure that they could raise their children in better circumstances was under way.

35. **Ms. Segovia Azucas** (Paraguay) said that the issue of prisons was of major importance to the Ministry of Justice and Labour. A substantial budget had been allocated for the construction of the new prison in Embuscado and work had begun on the construction of the women's prison in Coronel Oviedo. However, radical changes in the Ministry's budget were required to reform and restructure the prison system and relieve overcrowding. In addition to new, expanded facilities, more human resources and improved training opportunities for inmates were needed in order to attain the objective of social reintegration for prisoners.

36. Prison health care was being restructured and brought under the national health plan in order to improve access to health care for prisoners. Other budgets needed to be reviewed, including technological safety, security and weapons budgets. Under the current Government, prison system issues had been given priority and a number of persistent problems had been addressed successfully. However, it was not easy to obtain the financial and human resources required to address the remaining issues, although periodic

coordination meetings were held with other concerned ministries and bodies for that purpose.

37. **Mr. Victor Núñez** (Paraguay) said that under article 19 of the national Constitution, preventive detention was an exceptional measure and was limited to the period of time for which the suspect could be sentenced by a court, up to a maximum of 2 years. Until 1998, all persons charged had been remanded in custody pending trial; under the new Constitution, alternative measures were available for lesser offences, although that policy was not well understood by the public, which favoured pretrial detention for all persons charged.

38. Prior to recent legislative amendments, persons convicted of an offence had made up only 4 per cent of the prison population. That figure currently stood at 30 per cent, and efforts were being made to establish more courts throughout the country so as to further decrease the number of persons in pretrial detention. Budget limitations were hampering those efforts, however. The police could not detain individuals without a warrant, unless they were arrested in flagrante delicto, in which case they must be turned over to the Public Prosecution Service within 6 hours. After a maximum of 24 hours they would be brought before a judge, who would decide whether or not to place them in pretrial detention.

39. The Constitution fully guaranteed the right to defence. Individuals had access to a lawyer from the moment they became aware that they might be the subject of investigations by the Public Prosecution Service. If they did not have a lawyer then the State must appoint one for them. Persons who believed they were being detained illegally could file a petition for a writ of habeas corpus before any judge in the country.

40. Previously, the Public Defender Service had come under the authority of the Supreme Court. However, in 2011 a law had been adopted granting the Service autonomy, and it now administered its own budget, which had been set at US\$ 50 million for 2013. The Service employed about 400 public defenders. Some 50 new posts had been added in 2012, with more posts in 2013, though the latter had not yet been filled because the competitive examination process had not yet been established.

41. **Mr. Duarte Van Humbeck** (Paraguay) said that, in the light of its obligations under international and regional agreements, the State had strengthened its domestic bodies engaged in monitoring corruption. A number of anti-corruption offices had been established in all three branches of Government, one of which had recently been elevated in rank to become the National Secretariat for Anti-Corruption. A delegation from the Follow-up Mechanism for the Implementation of the Inter-American Convention against Corruption had recently visited Paraguay for the fourth time. Recent legislation included a decree establishing an internal monitoring body for the executive branch and a law on asset freezing that would help to combat money laundering and terrorist activities. The State was cooperating with the United Nations Office on Drugs and Crime and other organizations to combat problems such as drug and human trafficking.

42. **Mr. Díaz Verón** (Paraguay) said that the Public Prosecution Service had established an internal inspectorate that handed down administrative sanctions for petty corruption, while in more serious cases of corruption offenders were dismissed from their posts. A specialized unit comprising 11 public prosecutors investigated cases involving financial crimes and corruption, and as a result of those investigations several public officials, including 16 public prosecutors, had been convicted of corruption and removed from their posts.

43. **Mr. Núñez** (Paraguay) said that cases of corruption involving judicial officials and even judges had been investigated and punished. Many of the judges charged with corruption had been dismissed from their posts and even sentenced in criminal courts. Measures were also being taken to prevent corruption, and an integrity unit had been

established for that purpose. Regulations had been passed in 2010 according to which judges must submit an annual declaration of their assets, and thus far all judges had fully complied with that measure. Paraguay had received development aid from the United States of America in recognition of the fact that its Supreme Court had met all the requirements established under the Threshold Program Paraguay with regard to combating corruption.

44. Act No. 3603/08 established the criteria for determining the amounts to be awarded as compensation to victims of human rights violations committed during the Stroessner dictatorship. If the victims were not satisfied with the amount awarded, they could lodge an appeal through the Ombudsman's Office. A separate law also provided for compensation to be granted to the victims' descendants. Even before the Ombudsman's Office had been established, as early as 1996 the courts had handed down sentences against police officers for the detention and torture of victims during the dictatorship.

45. **Ms. Segovia Azucas** (Paraguay) said that about 280,000 persons were still not registered in the national civil registry, though much progress had been made in that regard with help from the Organization of American States and various NGOs. Efforts were under way to computerize the civil registry. The main challenge with regard to civil registration was a lack of financial and human resources; for example, 100 posts in civil registry offices were currently vacant. The Government hoped to begin offering civil registration services in hospitals, but doing so would require even more resources.

46. **Mr. Núñez** (Paraguay) said that, in the absence of any specific regulations on conscientious objection, the Supreme Court had granted conscientious objector status to a number of individuals between 1995 and 2010, the year Act No. 4013 had been passed. Under the Constitution, the Act could not be applied retroactively. He could not comment on cases currently before the Constitutional Chamber questioning the constitutionality of the Act on various grounds.

47. **Mr. Saguier Carmona** (Paraguay) said that due process was guaranteed under the Constitution and domestic legal norms. The Constitution also stipulated which public officials, including the President, were subject to impeachment proceedings. That process was intended to safeguard State institutions in the face of officials who failed to fulfil their duties. Of the 80 members of the Chamber of Deputies, only one had voted against the motion to begin the impeachment trial of former President Lugo. At the trial, 39 of the 45 members of the Senate had voted to dismiss the former President. The impeachment trial had been fully covered by the media and had met all the requirements set out in the Constitution. The former President's lawyers had been allowed three hours to present their defence, a period of time that was in line with the nature of the proceedings. The current Constitution granted more powers to parliament than to the President, on the understanding that members of parliament exercised their powers as representatives of the people. The impeachment of former President Lugo did not violate any legal or democratic norms and had been accepted by the former President himself. It was not until later that controversy had arisen, when it had been discovered that the Venezuelan Minister for Foreign Affairs had been meeting with senior military commanders at the time of the impeachment trial.

48. **Mr. Díaz Verón** (Paraguay) said that the Public Prosecution Service enjoyed full operational and administrative independence. It fulfilled its duties in accordance with the law and approached its investigations scientifically, analysing all the evidence in order to clarify the facts as far as possible. It had assigned some of its most capable prosecutors to the Curuguaty case and had provided them with all the necessary support. The conclusions reached by the team investigating that case were based on many different forms of evidence. In addition to that primary investigation, a specialized human rights unit of the Public Prosecution Service was conducting a separate investigation into complaints of abuse and torture by police officers. Information on the matter had already been provided to

several of the Human Rights Council special procedures mandate holders, and further information could be provided to the Committee if desired.

49. **Ms. Segovia Azucas** (Paraguay) said that a few of the Committee's questions had not yet been answered and that, due to time constraints, her delegation would have to provide those answers in writing.

50. **Mr. Salvioli** reminded the delegation that all legal proceedings must respect the rights enshrined in international human rights instruments. He asked if any budget had been allocated to identify the remains of victims of human rights violations committed during the dictatorship.

51. **The Chairperson** said that, while he was impressed with the high-level delegation and appreciated the constructive dialogue, much of what had been said during that dialogue concerned plans for the future and was therefore difficult to evaluate. He welcomed the efforts to implement the recommendations of international bodies, including the Committee. It would be interesting to see how the National Human Rights Plan was implemented at the ministerial level. The high number of clandestine abortions in the country was very worrying.

52. The impeachment of the President raised questions under article 14 of the Covenant, read in conjunction with article 25, and he wondered how the rights of defence could be guaranteed during proceedings of a length that would be more appropriate for the trial of a pickpocket than for the impeachment of a President. While members of parliament were not judges, during impeachment proceedings they must base their decisions on the evidence. He welcomed the Government's commitment to combating corruption and hoped that over the forthcoming year action plans would be implemented to address some of the issues of concern regarding the human rights situation in the country.

53. **Ms. Segovia Azucas** (Paraguay) said that the Government had not only established plans and programmes but was also taking specific actions to protect and promote human rights. The three branches of Government were cooperating closely in that area, and her delegation's high-level representatives from all three branches were a testament to the State's political will. A bill had been submitted to Congress to divide the Ministry of Justice and Labour into two ministries, a ministry of labour and a ministry of justice, human rights and transparency in relation to corruption.

54. The Government was working to establish human rights indicators in various sectors such as health and education. The National Human Rights Plan set out strategies to address priority human rights issues over the next five years. The Government eagerly awaited the Committee's recommendations and was committed to implementing them.

The meeting rose at 1.15 p.m.