



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Summary record of the 1029th meeting

Held at the Palais Wilson, Geneva, on Friday, 4 November 2011, at 3 p.m.

Chairperson: Mr. Grossman

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

Consideration of reports submitted by States parties under article 19 of the Convention *(continued)*

Fourth to sixth periodic reports of Paraguay (continued) (CAT/C/PRY/4-6; CAT/C/PRY/Q/4-6; HRI/CORE/PRY/2010)

1. *At the invitation of the Chairperson, the delegation of Paraguay took places at the Committee table.*
2. **Mr. González** (Paraguay) said that a bill that was currently before Parliament provided for amendments to articles 236 and 309 of the Criminal Code in order to incorporate the definition of torture contained in article 1 of the Convention against Torture and to align the provisions concerning enforced disappearances with relevant international norms. The bill had already been approved by the Senate and was currently before the Chamber of Deputies.
3. Paraguay had decentralized the public services that were responsible for looking after women and child victims of violence and human trafficking and was setting up a unified system for the collection of data that would be accessible to all such services. In the area of legislation, progress had been made in drafting a comprehensive bill on action to combat violence against women. The task had been assigned to a drafting committee composed of members of the Senate Committee on Equity, Gender Equality and Social Development, the Chamber of Deputies Committee on Social Equity and Gender Equality, the Secretariat for Women and the Secretariat of the Supreme Court of Justice. In addition, Act No. 3440/08 amending the Criminal Code had prescribed harsher penalties for acts of domestic violence, which would in future be punishable with a prison term of up to two years.
4. The budget of the Secretariat for Women had tripled since 2008 and its activities had been boosted throughout the country. Four regional reference centres were being constructed for the Secretariat in the departments bordering on Argentina and Brazil, and “women’s houses” would be opened in the departments of Alto Paraná and Canindeyú to provide temporary shelter for women victims of domestic violence or trafficking. The first shelter for women victims of violence and their children under the age of 14, which provided psychological, social and legal services, had been inaugurated in December 2010.
5. Special support units for women, child and adolescent victims of violence had been set up in five police stations. The groups looked into complaints lodged by the victims. Between February 2010 and March 2011, 7,066 complaints concerning psychological violence (almost 54 per cent of cases), physical violence (29 per cent), death threats (11 per cent) and other forms of abuse had been recorded; approximately 87 per cent of the victims were women and children. The complaints had led to 55 arrests and 36 removal measures. Seven additional police stations would shortly be provided with similar units.
6. The Ministry of Public Health and Social Welfare was also implementing a national programme to prevent violence against women and to provide comprehensive care for victims of such violence, with the assistance of trained staff assigned to specialized units in seven reference hospitals. Arrangements for the protection of victims would also be introduced in the judicial branch.
7. The Inter-Agency Committee to Prevent and Combat Human Trafficking in Paraguay had developed, with the assistance of various public bodies and civil society organizations, a national policy to prevent and combat trafficking in persons which was currently before the Office of the President for consideration. In addition, the Aid Centre for Victims of Trafficking, which had now become the Directorate for Prevention and

Support for Victims of Human Trafficking, had been mandated to develop prevention strategies and to set up a reference centre offering adult victims of trafficking comprehensive support and temporary housing.

8. The Secretariat for Women, together with the Directorate-General of Statistics, Surveys and Censuses, had produced a map showing the route followed by human traffickers, which had been published in the country and distributed to the MERCOSUR countries and to Spain. Furthermore, in 2009 it had submitted for examination to the Legislation Commission of the Inter-Agency Committee a special draft bill to prevent, repress and punish trafficking in persons, which would shortly be submitted to Parliament for consideration.

9. **Mr. Martínez** (Paraguay) said that the Paraguayan judicial system and criminal legislation were based on recognition of and respect for all the rights enshrined in the Constitution and that an underlying principle of Paraguayan law was that not every means used to uncover the truth was necessarily valid. Members of the judicial system were liable to administrative sanctions for undue delays and to criminal sanctions for offences such as corruption, abuse of authority, assault while engaged in the performance of official duties, use of coercion to obtain statements, torture or persecution of innocent persons (arts. 300 to 311 of the Criminal Code).

10. Article 12 of the Constitution and article 298 of the Code of Criminal Procedure established the rules applicable to police inquiries: they regulated the conduct of police officers and specified the rights of arrested persons and persons in police custody. The principle of the presumption of innocence was enshrined in the Constitution and legislation, and the rights of accused persons were set out in article 17 of the Constitution and articles 6 and 75 of the Code of Criminal Procedure, which stipulated, for instance, that they had the right to remain silent and the right to the assistance of a lawyer of their choice or an officially assigned lawyer from the outset of the proceedings.

11. The Public Prosecution Service must be informed of all cases of detention within 24 hours. An accused person was entitled to choose whether or not to make a statement to the public prosecutor at the investigation stage and before the judge at subsequent stages of the proceedings. An accused who decided to make a statement must be assisted by counsel. Any statement obtained by coercion was inadmissible, and failure to respect procedural safeguards rendered the investigation null and void. Articles 481 and 485 of the Code of Criminal Procedure, which governed applications for retrials, provided for the possibility of having a judgement annulled and having the proceedings terminated or the sentence revoked.

12. Legislative action had been taken to remedy the practice that some commentators characterized as “judicially scandalous”. It consisted in using pretrial detention as an instrument of social control and penalization, thereby undermining the system of procedural and constitutional safeguards. Article 236 of the Code of Criminal Procedure stated both the principle of proportionality applicable to the placement or maintenance of a person in pretrial detention and the principle of a “reasonable time limit”, fixing the maximum duration of the period running from detention until trial at two years. The same Code contained a list of alternatives to pretrial detention, which was warranted in legal terms only where there was a risk of flight or obstruction of justice.

13. The strategic plan for 2011–2015 that had recently been adopted by the Supreme Court of Justice set forth concrete strategies aimed at reducing delays in dealing with cases brought before the courts. The expansion of the Public Defender Service would lead to an increase in the number of public defenders, which should speed up the administration of justice. Admittedly in some cases, partially on account of poor judicial practices and the slow pace of administrative procedures, accused persons had reoffended upon release even

before having been tried for the first offence, which tended to create a sense of insecurity in society. Act No. 4431/2011 amending article 245 of the Code of Criminal Procedure had been adopted to address that concern by ruling out the possibility of alternative measures in certain clearly defined cases.

14. **Mr. Miranda** (Paraguay) said that Paraguay was currently engaged in a comprehensive review of the legislation governing its armed forces, which included Organization Act No. 840 concerning the military courts, Act No. 843 concerning the Military Criminal Code and Act No. 844 (Military Code of Criminal Procedure in times of peace and war), all three of which had been promulgated in 1980. A commission had been set up for the purpose by Decision No. 620 of the Ministry of Defence, dated 24 July 2011. The commission had produced a preliminary draft military criminal code, setting out military duties and obligations and prescribing penalties for offences committed in the performance of such duties, drawing on the provisions of the international instruments to which Paraguay was a party.

15. All students at military training centres were required to attend a course in human rights and international humanitarian law. Furthermore, Paraguay continued to grant all requisite reparations, pursuant to relevant international agreements, to members of the families of child soldiers who had died while on active service, in the form of financial damages, pensions and comprehensive health care. Public apologies were also offered to the families concerned.

16. **Ms. Montiel** (Paraguay) said that recently adopted Organization Act No. 4423 granted functional and financial autonomy to the Public Defender Service. The role of the Service, which had previously been unable to secure the additional human and financial resources it required to provide free legal aid to all persons needing it, had thus been recognized and consolidated. She also informed the Committee that 56 new public defenders had been appointed in 2011.

17. With regard to the Trial Jury for Judges, article 253 of the Constitution stipulated that it would be composed of two judges of the Supreme Court of Justice, two members of the Judicial Service Commission, two senators and two members of the Chamber of Deputies, all four of whom should also be lawyers. The procedure for the trial and removal of judges was governed by Act No. 1084/97, a copy of which had been presented to the Committee.

18. Very strict rules and safeguards were applicable to legal proceedings involving children and adolescents. The Children and Adolescents Code established a special regime for delinquent adolescents, which respected their status as developing persons and sought to encourage them to assume responsibility for their acts, while facilitating their adjustment and reintegration into their families and society. Six courts for adolescents had been established since 2003 to deal with criminal cases involving persons who had been in the 14 to 17 age group at the time the offences were committed. The courts had multidisciplinary teams of advisers, who delivered opinions on the measures that ought to be taken in the light of the circumstances of the adolescent undergoing trial.

19. **Ms. Vargas** (Paraguay) said that the National Secretariat for Children and Adolescents had undertaken various types of action to deal with the problem of street children. For instance, it had implemented the Integrated Care Programme for Street Children and Adolescents (PAINAC), which was established to provide alternative assistance and protection for street children and to encourage them to embark voluntarily on a process of removal from the street and maintenance or consolidation of family ties. The Programme ran a temporary protection centre and shelter called "La Casa", where children could participate in a family reintegration project or opt for placement in a care facility. The Government was also seeking to achieve a gradual reduction in child labour in the streets

through the Abrazo programme, from which 3,700 children and 2,280 families had benefited during the first eight months of 2011. It had also created a national commission for the elimination of child labour and the protection of adolescent labour. The commission had developed a plan to prevent and eliminate the sexual exploitation of children and adolescents, which was about to be adopted.

20. With regard to corporal punishment, in 2006 the National Secretariat for Children and Adolescents had organized the first subregional meeting on follow-up to the recommendations made in the World Report on Violence against Children, which had led to the establishment of a working group to prevent violence against children. The working group had drafted a bill on corporal punishment that was currently being discussed among the various institutions concerned and would be submitted to the National Congress in March 2012.

21. **Mr. Rivarola** (Paraguay) said that a state of emergency had been declared in October 2011 in the departments of Concepción and San Pedro pursuant to article 288 of the Constitution. The decision to take that step had been motivated by various serious criminal acts — abductions, murders and attacks on police stations that claimed the lives of police officers — committed by a criminal group. The state of emergency had been proclaimed for a period of 60 days, but it could be lifted at any time before that period expired if the situation so permitted. He stressed that the rights and guarantees contained in articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18 of the International Covenant on Civil and Political Rights had not been suspended. The only extraordinary powers conferred by the state of emergency on the executive were the authority to order an arrest without a warrant, to transfer a person to another part of the country, and to ban public rallies and demonstrations. Persons could be arrested only on grounds related to those that had warranted the proclamation of the state of emergency. Moreover, the executive had indicated that it would only exercise the powers conferred on it in cases of extreme need.

22. No case of excessive use of force or abuse of authority on the part of members of the police force or the army had been reported to date in the two departments concerned. The Government had instructed the Human Rights Network of the Executive Branch to coordinate oversight and to record complaints throughout the state of emergency. The Human Rights Directorate of the Ministry of the Interior had compiled documents for the general public explaining the nature and scope of the measures taken. Both the National Police and the Ministry of the Interior collaborated with the organizers of public demonstrations with a view to avoiding any disturbances.

23. While there had been isolated cases in which the police had broken up public demonstrations, such action had mostly been taken to deal with disturbances caused by football team supporters. A protocol governing the use of force by the police had been adopted as well as a new disciplinary regime applicable to the National Police. In addition, private security companies and the weapons used by their employees must be registered with the National Police. The companies' activities must be conducted in strict compliance with the law and were subject to police oversight.

24. **Ms. Vargas** (Paraguay) said that a law concerning a national mechanism for the prevention of torture had been enacted. The mechanism would consist of a national committee for the prevention of torture, whose six permanent members and three alternate members would be appointed by a selection panel composed of representatives of the three branches of government and representatives of civil society. The process of selection of committee members was scheduled to begin in 2012.

25. Visits to police stations by the Ombudsman's Office and parliamentary committees responsible for human rights issues, which could be unannounced, were not subject to any restrictions. The number of such visits was inadequate because of the lack of financial and

human resources. An inter-agency commission was responsible for conducting inspections and ensuring oversight of detention centres for adolescents; it paid regular visits to various detention facilities, including police stations.

26. The Paraguayan authorities were eager to conduct effective investigations into cases of torture, and a service with specially assigned prosecutors had been established for the purpose. In addition, a prosecution service specializing in investigations of human rights violations had been created in the Directorate for Police Justice. Moreover, the fact that the new disciplinary regime of the National Police covered acts of torture and ill-treatment constituted a major step forward.

27. **Mr. González** (Paraguay) said that Paraguay complied strictly with the provisions of article 36 of the Vienna Convention on Consular Relations concerning contacts between detained foreign nationals and relevant diplomatic missions. The Office of the Principal Public Prosecutor had instructed all deputy prosecutors and officers of the Public Prosecution Service in the country to promptly inform the diplomatic mission concerned whenever a foreign national was arrested or taken into custody, subject to the latter's consent.

28. Replying to questions about the situation of indigenous peoples, he stressed that the Paraguayan State had demonstrated its intention to act on the decisions handed down by the Inter-American Court of Human Rights in the cases brought against it by the Sawhoyamaxa and Yakye Axa communities, and on the recommendations of the Inter-American Commission on Human Rights. An inter-agency commission had been set up for the purpose, and a fund had been created for the purchase of land on behalf of the indigenous communities concerned. The budgetary funds allocated to the National Institute of Indigenous Affairs for land purchases had been increased from 4 to 22 million dollars. The communities participated fully in the various procedures concerning them, and the Sawhoyamaxa community took part in all negotiations on land purchases, in accordance with its expressed wish. Furthermore, the property consisting of 8,748 hectares of land had been transferred to the Kelyenmagategma community.

29. In general, the authorities, acting in conjunction with all parties concerned in a spirit of dialogue and compromise, sought to bring about a consensus on the measures to be taken to improve the situation of the indigenous communities and to gradually settle the complex cases that had led to the decisions by the Inter-American Court of Human Rights. In that connection, Ms. Shelton, the Rapporteur on the Rights of Indigenous Peoples of the Inter-American Commission on Human Rights and Chair of the Commission, had stated that Paraguay had made considerable progress in ensuring respect for the rights of indigenous peoples. A census of the entire indigenous population would be conducted in 2012. At the time of the last census, in 2002, the indigenous population had totalled 87,000. It was estimated that the figure had risen in the meantime to 106,000.

30. **Mr. Martínez** (Paraguay) said that the judicial authorities were aware of the shortcomings in the application of international instruments by domestic courts. In fact, one of the objectives of the Strategic Plan for 2011–2015 was the dissemination of human rights norms and the monitoring of respect for them in decisions rendered and policies adopted. Steps had also been taken to establish an in-service training centre focusing on human rights for judges and public officials.

31. The Public Prosecution Service had carried out an in-depth investigation into allegations of child pornography at the Tacumbú prison. After a thorough examination of the complaint filed against the former Director of the facility, the judge responsible for procedural safeguards had decided that it was not sufficiently substantiated to warrant a prosecution and had discontinued the proceedings. That decision was currently before the Appeal Court. The complaint against two prison inmates had been deemed admissible and

would give rise to a prosecution. The preliminary hearing concerning the complaints filed against wardens had not yet taken place.

32. Pursuant to the provisions of articles 43 and 254 of the Code of Criminal Procedure, the judge responsible for the execution of sentences was authorized to pay unannounced visits to pretrial detention facilities in order to ensure that detainees were not being treated in a manner that contravened the rights enshrined in the Constitution. Any violation that came to light was reported by the competent judge, who was required to visit the site within 24 hours. Any judge involved in a habeas corpus procedure could assess the lawfulness of the detention and order that the defendant should be brought before a judge within 24 hours.

33. **Mr. Mariño Menéndez** (Country Rapporteur) noted that, according to the delegation, almost all interrogations of suspects took place in the presence of a lawyer or public defender. According to information received by the Committee, however, there were only 129 defenders available for criminal proceedings in the country, although there were some 30,000 cases. The question therefore arose whether the defenders were really capable of attending almost all interrogations and whether they always signed the resulting records with full knowledge of the facts.

34. Having recently learned that decisions concerning habeas corpus petitions before the Supreme Court were sometimes rendered a month after their submission, he wished to know how many habeas corpus petitions were considered within the 24-hour period prescribed by law. With regard to Decision No. 176/10, whereby the National Police had established registers for persons deprived of their liberty, he said that the obligation to create such registers should be laid down in a legal enactment rather than in an internal decision that the National Police could amend whenever it saw fit.

35. He invited the Paraguayan delegation to comment on the disturbing information received by the Committee concerning the servitude to which indigenous people were allegedly reduced in parts of the country where Mennonite communities, who owned most of the land, had settled. He asked what measures had been taken by the authorities to halt such violations. Lastly, he wished to know whether all police weapons were logged in the register of the Ordnance Section mentioned in paragraph 121 of the report or whether the police could acquire weapons without having to record their purchases in an official register.

36. **Ms. Sveaass** (Alternate Country Rapporteur) asked whether there were arrangements in Paraguay to enable the bodies responsible for receiving complaints from women and child victims of violence to communicate directly with the bodies that took action on the complaints.

37. She asked the delegation to specify the circumstances in which the police and armed forces operated jointly and to clarify the details of the state of emergency. She also asked it to describe the measures taken to change attitudes and behaviour in the police force, the army and the prison administration, since according to the information provided in the report of the Special Rapporteur on the question of torture on his visit to the State party in 2006 (A/HRC/7/3/Add.3) and the report of the Subcommittee on Prevention of Torture on its visit in 2009 (CAT/OP/PRY/1), vigorous action was still required to eradicate the culture of violence inherited from the dictatorship. She would appreciate additional information on measures taken to tackle corruption in the country's prisons. Lastly, she wished to know whether the sanctioning of detainees by placing them in isolation cells was recorded in the prison registers.

38. **Mr. Bruni** noted that the State party had not replied fully to the questions concerning conditions of detention and prison conditions contained in paragraphs 24 and 25 of the list of issues prior to reporting. He would welcome any additional information that

the delegation could provide in that regard as well as a description of the results of the work undertaken by the National Commission responsible for reforming the prison system.

39. According to the statistics in table VII of the report (para. 141), 5 of the 15 detention facilities in Paraguay were severely overcrowded. Indeed some facilities accommodated three or four times as many prisoners as their official capacity. Other facilities, however, such as Esperanza prison which had only 43 inmates and a capacity of 288, were virtually empty. He asked whether any steps had been taken to remedy the imbalance.

40. **Ms. Belmir** said she understood that the age of criminal responsibility in the State party was 14 years. If that was the case, the relevant provisions should be amended to align Paraguayan legislation with international norms, in particular the Convention on the Rights of the Child. According to information received by the Committee, minors were recruited into the army, where they were exploited as domestic staff or trained for combat. She invited the delegation to comment on the allegations. Although the State party had endowed itself with a comprehensive legal framework, the large number of allegations received by the Committee concerning violations of the Convention implied that the guarantees intended to safeguard suspects' fundamental rights were not respected. The State party should therefore do its utmost to ensure that the relevant provisions of its legislation were applied in practice.

41. **Ms. Kleopas** asked the delegation whether it considered that the penalty of 2 years' imprisonment for domestic violence was sufficiently severe and whether there were any plans to amend the provisions in question.

42. **The Chairperson** asked the Paraguayan delegation for information on the number of cases in which a judge had visited a detainee within 24 hours to assess the legality of his or her detention, in accordance with the relevant provisions of the Code of Criminal Procedure. Noting that the procedure for the appointment of the future Ombudsman had been under way since 2009, he asked whether the State party intended to take steps to speed up the process. According to a shadow report submitted to the Committee, Paraguayan legislation concerning reparations for victims of the violations committed under the dictatorship excluded homosexuals from the scope of its provisions. He invited the delegation to comment on that information.

43. He asked how many of the persons who had been arrested during the state of emergency were still in custody. According to the delegation's oral replies, when foreign nationals were arrested, their country's diplomatic mission was notified of the arrest, subject to their consent. He was interested in hearing how their consent was obtained. As the Guaraní language was spoken by a large proportion of the population of Paraguay, he wished to know whether there was a Guaraní version of the leaflets concerning suspects' rights that were provided in police stations.

44. **Mr. Rivarola** (Paraguay) said that the delegation had taken note of the Committee's comments on Decision No. 176/10 concerning the register of persons deprived of their liberty and that Paraguay would consider the possibility of incorporating the register requirement in a legislative enactment. He added that the Human Rights Department of the National Police and the Human Rights Directorate of the Ministry of the Interior monitored compliance with the decision. According to its terms, police station chiefs were responsible for training police officers to maintain the register and ensure its proper use; they could be punished for failure to comply with Decision No. 176/10. While it was admittedly not yet applied systematically in all the country's police stations, concrete steps were being taken to remedy the situation. The adoption of a legislative enactment on the matter would certainly be a helpful step.

45. He acknowledged that police stations were sometimes used for pretrial detention, a practice that contravened the basic purpose of Paraguayan legislation. The Committee

should be aware, however, that the Ministry of the Interior was keeping a close watch on the conditions in which detainees were held and that when such cases came to its knowledge, it asked the judges to take the necessary steps to ensure that the accused persons were transferred as speedily as possible to a detention centre. Major progress had been made in keeping a register of National Police firearms. The high command of the National Police had adopted a directive pursuant to which all firearms used by police officers, whether issued to them by the authorities or acquired privately, had to be registered. In addition, members of the armed forces who wished to obtain, keep in their possession and use a firearm were required to record the fact in a “weapons control” log kept by the Ordnance Directorate.

46. **Mr. Martínez** (Paraguay) said that the main reason for the inefficiency of the public defence system was the inadequacy of its resources. The planned increase in the number of public defenders should help to enhance the performance of the Public Defender Service, especially in the area of oversight of pretrial detention, and to facilitate detainees’ access to an officially assigned lawyer.

47. **Ms. Montiel** (Paraguay), referring to recourse to constitutional petitions such as *amparo* and habeas corpus, said that since 2004 the Constitutional Safeguards Office had received 635 petitions, which had been considered by the Criminal Division of the Supreme Court of Justice. The number of habeas corpus petitions had increased sharply since 2007, rising from an average of 60 per year to 90 in 2009 and 100 in 2010. It was often difficult in the present circumstances for judges to respect the time limit for issuing a ruling on such petitions. However, the Criminal Division made every effort to avoid delays in the procedure.

48. **Mr. Miranda** (Paraguay) said that most of the cases of forced labour reported to the authorities had occurred in the region of Chaco in western Paraguay. Vigorous action was being taken, in conjunction with the International Labour Organization, to establish the facts and bring the perpetrators to justice, and to ensure that employers in the region complied strictly with labour law. With regard to violence against women, it should be noted that an Inter-Agency Committee to Combat Violence against Women, Children and Adolescents had been established in 2009. It brought together representatives of the Ministry of the Interior, the National Police, the Public Prosecution Service, the Supreme Court of Justice, the Secretariat for Women, the Secretariat for Children and Adolescents and the Ministry of Public Health and Social Welfare. The process of installing such a framework took time. However, considerable progress had already been made in the area of coordination, and the Committee’s action would certainly yield concrete results.

49. **Mr. Rivarola** (Paraguay) said that the armed forces could not intervene alongside the police unless the latter required reinforcements to address an uncontrollable situation or in the event of external aggression. The mindset and conduct of the armed forces had undergone a fundamental change, partly as a result of the new recruitment procedures introduced in the 1980s. The recruitment of women and the organization of numerous human rights training courses had also contributed to that development. Moreover, every member of the armed forces was issued with a booklet, published in both Spanish and Guaraní, setting forth fundamental human rights.

50. Before the adoption of the Constitution in 1992, there had been a permanent state of emergency, which was no longer the case. A state of emergency could now be declared for a period of 60 days and could be lifted by a majority vote in Congress if the circumstances changed. He drew the Committee’s attention to the fact that nobody had been detained and no rally or demonstration had been prohibited since the declaration of a state of emergency one month previously in two departments of the country.

51. The bodies responsible for National Police oversight, i.e. the Department of Internal Affairs and the Directorate of Police Justice, had been reinforced and the financial and human resources at their disposal had been increased. The Human Rights Directorate of the Ministry of the Interior was responsible for receiving and taking action on complaints concerning police abuse. There was also a citizen oversight procedure, whereby any member of the general public with knowledge of misconduct on the part of law enforcement officers could file a complaint with the Citizens Complaint Centre at the Ministry of the Interior, which had set up a toll-free telephone hotline. In 2010 and 2011 the Directorate of Police Justice had instituted 139 disciplinary proceedings, including 30 for ill-treatment, 75 for assault and 17 for aggravated assault. The proceedings had so far led to 99 convictions entailing administrative sanctions.

52. **Ms. Vargas** (Paraguay) acknowledged that there was a problem of prison overcrowding in Paraguay, since 7,247 persons were currently deprived of their liberty, while total Paraguayan prison capacity amounted to some 5,345 beds. Steps had been taken to improve sanitary conditions in prisons, and considerable amounts had been invested in projects to renovate existing facilities and to construct new ones. The imbalance between the existing facilities, in particular the small number of detainees in Esperanza prison, was due to the criteria applicable to the placement of detainees, which took into account first and foremost the place in which accused persons were to be tried and the place of residence of their relatives. It should further be noted that Paraguay had ratified the Brasilia Rules regarding Access to Justice for Vulnerable Persons and was in the process of implementing them.

53. With regard to the case of Mauricio Maya, who was being held in Tacumbú Prison for drug trafficking, he had been placed in solitary confinement as a disciplinary sanction for using his mobile phone to issue threats against the prosecutor who was running the investigation into the charges against him. The sanctions applicable to detainees were specified in Prison Act No. 210 dating from 1970, which was admittedly somewhat outdated. That was why the executive had established a National Commission responsible for reforming the prison system. It should be noted that each prison facility kept a register in which it was required to enter the date and time of placement in solitary confinement as well as the grounds for and duration of confinement. With regard to detainees' right to intimate visits, while such visits were permitted by law or by prisons' internal regulations, they were not always guaranteed in practice when the visits involved persons of the same sex.

54. The age of criminal responsibility was 14 years. In accordance with the international norms in force, Paraguay had established a justice system for minors, which was governed by the Children and Adolescents Code. Minors therefore enjoyed special protection. With regard to the Ombudsman, whose term of office had expired, it should be noted that a list of candidates had been drawn up and would be considered shortly by Parliament.

55. Lastly, with regard to the concerns expressed about access to reparations for homosexual persons, he pointed out that Act No. 838/96 on payment of compensation to victims of human rights violations committed during the dictatorship of 1954 to 1989 made no distinction based on sexual orientation.

56. **Mr. Miranda** (Paraguay) said that the penalties prescribed in the draft military criminal code that was currently under consideration did not include the death penalty. The death penalty had already been abolished by article 4 of the Constitution of 20 June 1992. While it was true that the Military Criminal Code still omitted to mention the offence of torture, he drew the Committee's attention to the fact that a special Commission had been established to remedy the omission. With regard to the recruitment of children for military service, Act No. 3369/07 repealing article 19 and amending article 5 of Act No. 569/75 on compulsory military service stipulated that military service could not under any

circumstances be performed before a person reached 18 years of age. The practice of *descuereo*, a form of hazing which consisted in requiring a person to perform extremely demanding physical exercises, was prohibited by law.

57. **Mr. Martínez** (Paraguay) said that posters and booklets in Spanish and Guaraní designed to inform the general public and persons in police custody of their rights had been distributed to all Paraguayan police stations. Moreover, suspects could be orally informed of their rights in the two languages, since police officers generally spoke both Guaraní and Spanish. Clarifying the constitutional provision setting a 24-hour time limit for habeas corpus petitions (art. 133), he said that all detainees must be brought before a judge before the time limit expired. With a view to ensuring that such procedural safeguards could be respected, the judicial system operated 24 hours a day, 7 days a week, which meant that judges and defenders were available at all times.

58. **Mr. González** (Paraguay) said that article 229 of the Criminal Code, as amended in 2008, stipulated that anyone who, in the family context, habitually inflicted physical violence or severe mental suffering on another person with whom he or she was living would be liable to a prison sentence of up to 2 years, or to a fine. It should not be inferred that the article precluded the imposition of harsher penalties for other offences, such as rape or sexual assault. Lastly, he emphasized that Paraguay fully complied with the provisions of article 36 of the Vienna Convention on Consular Relations inasmuch as any foreign national who was placed in detention was systematically informed of his or her right to communicate with the relevant consular authorities. It sometimes happened in practice, however, that the person concerned did not wish to exercise that right for family reasons or on grounds of confidentiality.

59. **The Chairperson** thanked the Paraguayan delegation for its replies and announced that the Committee had thus concluded its consideration of the fourth to sixth periodic reports of Paraguay.

The meeting rose at 6.05 p.m.