

PARAGUAY

CCPR A/50/40 (1995)

192. The Committee considered the initial report of Paraguay (CCPR/C/84/Add.3 and HRI/CORE/1/Add.24) at its 1392nd and 1396th meetings, on 22 and 24 March 1995 (see CCPR/C/SR.1392 and 1396), and adopted 13/ the following comments:

1. Introduction

193. The Committee welcomes the initial report submitted by the State party and views with satisfaction the cooperative attitude of the delegation in engaging in the dialogue with the Committee. It regrets, however, that the report, while providing detailed information on prevailing legislation in Paraguay, does not adequately deal with the actual state of implementation of the Covenant in practice and the difficulties encountered during implementation. Although the information provided orally by the delegation has addressed some of the concerns of the Committee, the Committee has obtained only a partial picture of the human rights situation in the country.

194. The Committee commends the State party for the core document (HRI/CORE/1/Add.24), which has been drawn up in accordance with the consolidated guidelines for the initial part of reports to be submitted by States parties under the various international human rights instruments (HRI/1991/1).

2. Factors and difficulties affecting the implementation of the Covenant

195. The Committee recognizes that the State party, which is emerging from a change of government in 1989 that ended a long period of dictatorial rule, is undergoing a transition towards democracy in which the infrastructure necessary for the implementation of the Covenant has not been fully developed. The Committee understands that the many encouraging legislative initiatives with respect to human rights are being implemented with difficulty, and that a full assessment of such implementation is not yet possible.

3. Positive aspects

196. The Committee notes with satisfaction Paraguay's continuous progress since 1989 in its efforts to democratize and to match its level of human rights protection with international standards. It particularly welcomes the signing and ratification of a number of international human rights instruments, including the Covenant and the First Optional Protocol, and the legislative and administrative steps taken to advance their implementation. The Committee also commends the State party for ratifying the Covenant without entering any reservations.

13/ At the 1412th meeting (fifty-third session), on April 5 1995.

197. The Committee particularly welcomes the promulgation of the 1992 Constitution, which incorporates provisions for the protection of civil and political rights and grants constitutional status to a number of international human rights instruments, including the Covenant, thus elevating them above national law.

198. The Committee further welcomes the creation of machinery to receive complaints and manage various aspects of human rights issues, including the Directorate-General for Human Rights under the Ministry of Justice and Labour, the Office of the Ombudsman, and the Human Rights Commissions established in the two Chambers of Congress.

199. The Committee welcomes the amendments made to the Civil Code in 1992 and other relevant legislation that advanced the equal enjoyment of civil and political rights by women. It also welcomes the establishment of the Women's Secretariat.

200. The Committee appreciates the declaration made by the delegation according to which the Government will not enact any amnesty law, and that, on the contrary, concrete steps have already or are being taken to make accountable perpetrators of human rights abuses under the past dictatorial regime. It notes in this regard that such laws, where adopted, are preventing appropriate investigation and punishment of perpetrators of past human rights violations, undermine efforts to establish respect for human rights, further contribute to an atmosphere of impunity among perpetrators of human rights violations, and constitute impediments to efforts undertaken to consolidate democracy and promote respect for human rights.

201. The Committee notes with satisfaction the Government's initiative to make public the military's archives, thus enabling individuals to file complaints based on the information contained in those archives.

202. The Committee notes with satisfaction the incorporation of human rights issues into the formal secondary education curriculum.

203. The Committee welcomes Paraguay's efforts to modernize the judicial process with international assistance. It also notes that a revision of the Penal Code and the Code of Criminal Procedure is under way.

204. The Committee takes note of the will of the State party to ratify the Second Optional Protocol to the Covenant on the abolition of the death penalty.

4. Principal subjects of concern

205. The Committee regrets that no information was provided about the compensation of victims of human rights violations during the dictatorship.

206. The Committee expresses concern about the continuing occurrence of torture and ill-treatment of detainees, even after the restoration of democracy in 1989. In this connection, the Committee is concerned that there remain officials who are identified and committed to the authoritarian practices of the former regime.

207. The Committee is concerned that, despite constitutional guarantees for the rights of women, women continue to receive unequal treatment in Paraguay, owing in part to outdated laws that clearly contradict the provisions of the Covenant. These would include laws that are more lenient in instances of infanticide committed to protect the honor of a woman than in ordinary cases of homicide and laws that make distinctions in the punishment accorded to persons who rape or abduct women depending on the marital status of the victim. It further notes that labour laws do not adequately protect the rights of women. It notes that domestic work, which is a principal occupation among women, is excluded from minimum wage laws.

208. The Committee expresses its concern about the high level of deaths among expectant mothers referred to in the report. In this regard, it regrets that the State party could not provide information about the effect of the enforcement of abortion laws on this high level of deaths.

209. The Committee is concerned that national laws in conflict with the Constitution remain on the books. In addition, some constitutional provisions, such as the right to compensation for violation of rights (art. 39), still require implementing laws.

210. The Committee notes with concern the practice of not separating accused from convicted persons in prisons, which violates article 10, paragraph 2 (a), of the Covenant. The Committee also notes with concern that there are not sufficient measures to limit pre-trial detention, which makes such detention a common practice rather than an exceptional measure. In the view of the Committee, the conditions in the law do not provide sufficient justification for pre-trial detention in the absence of a reasonable possibility of escape from justice or danger to the community.

211. The Committee expresses concern about the lack of information regarding the independence of the judiciary, principally as to the security of tenure.

212. The Committee is concerned that the predominant role of the Catholic Church in Paraguay appears to lead to certain de facto discrimination against other religions.

213. The Committee is concerned that poverty and lack of education, particularly among indigenous people, adversely affect many people in their ability to enjoy civil and political rights.

214. The Committee notes that the restriction on voting for students of military schools seems to be an unreasonable restriction on article 25 of the Covenant on the right to participate in public life.

5. Suggestions and recommendations

215. Regarding the application of the Covenant, the Committee requests that it be informed in future periodic reports of the State party of any instances that may arise where the Covenant was directly invoked in the courts, as well as the results of any such proceedings.

216. The Committee commends the State party, in accordance with article 2, paragraph 2, of the Covenant, for its efforts to bring to justice perpetrators of past human rights abuses. It urges the State party to continue to investigate allegations of human rights violations, past and present, for which purpose all archives of the past regime should be carefully explored. It further urges the State

party to act on the findings of its investigations, to bring to justice the perpetrators and to provide proper compensation to the victims, particularly with respect to continuing occurrences of torture and ill-treatment by the police and security forces. The Committee recommends that an independent and credible mechanism be instituted for dealing with complaints of police violence and that the existence of this mechanism be publicized.

217. The Committee urges the State party to comply with article 10, paragraph 2 (a), of the Covenant by separating in prison accused persons from convicted prisoners. The Committee further recommends that the State party review its laws and practices concerning pre-trial detention to ensure that such detention is not regarded as the general rule and that, where it is imposed, its period is subject to strict limits, in conformity with article 4 of the Covenant.

218. The Committee recommends that all national legislation on women be reviewed with a view to modernizing the outdated legal standards currently in force to bring them into line with the relevant provisions of the Covenant. The Committee recommends in particular that the State party review its laws on criminal offences committed against women and all labour laws that discriminate against women and take the measures necessary to overcome traditional attitudes concerning the role of women in society. It further recommends that the State party encourage the political participation of women in public, particularly in political life, which remains low despite the legal advances that have reduced restrictions in this area.

219. The Committee requests the State party to provide information in its next report about the incidence of illegal abortion, the relationship between illegal abortions and the high incidence of maternal mortality, and its implementation of article 61 of the Constitution.

220. The Committee recommends that the State party undertake a thorough review of its national legislation to ensure conformity with the standards set by both the Constitution and the Covenant. It recommends in this connection that the Covenant and the specific recommendations made in the present comments be taken into account in the revision of the Penal Code currently under way.

221. The Committee recommends that the State party include in its next report comprehensive information on the issues raised during the consideration of the report, particularly on the effectiveness of the laws under review or in existence, the evolving roles of the institutions established for the protection of human rights, and the system of coordination of the various institutions.

222. The Committee recommends that the State party include information in its next report on the procedures established to ensure compliance with the views and recommendations adopted by the Committee under the First Optional Protocol, also bearing in mind its obligations under article 2 of the Covenant.

223. The Committee recommends that the Covenant, the Optional Protocols and the Committee's comments be widely disseminated among the Paraguayan public and that the scope of human rights education be extended to members of the police and security forces, the legal profession and other persons involved in the administration of justice, with a view to making it a part of their regular training.

