



**International covenant
on civil and
political rights**

Distr.
GENERAL

CCPR/C/SR.2315
25 October 2005

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Eighty-fifth session

SUMMARY RECORD OF THE 2315th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 19 October 2005, at 3 p.m.

Chairperson: Ms. CHANET

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (continued)

Second periodic report of Paraguay (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.05-44380 (E) 211005 251005

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS (agenda item 6)
(continued)

Second periodic report of Paraguay (continued) (CCPR/C/PRY/2004/2;
CCPR/C/85/L/PRY; HRI/CORE/1/Add.24)

1. At the invitation of the Chairperson, the members of the delegation of Paraguay resumed their places at the Committee table.
2. Sir Nigel RODLEY said he regretted that the second periodic report had failed to provide sufficient information on the implementation of the Covenant and the difficulties encountered during that process. That was particularly regrettable as it hindered the Committee's ability to provide appropriate assistance to the State party.
3. While the information supplied by the delegation on prosecutions of perpetrators of human rights violations under the previous regime had been extremely useful, no adequate reply had been given to question 1 of the list of issues.
4. Turning to question 8, he said that the problem of preventing excessive use of force and firearms appeared to exist at the institutional, and not the normative level. He referred to a 2001 National Police report, prepared with UNDP assistance and quoted in the report of the Paraguay Human Rights Coordinating Office, an NGO. It stated that at least 90 per cent of police officers acquired their own firearms, and that there were no standard specifications for those weapons, many of which were inappropriate for police work. There was no mechanism to verify the extent to which officers complied with the rules of necessity and proportionality. Given that 14.5 per cent of police officers killed on duty between 1996 and 2000 had inadvertently shot themselves or been accidentally shot by a colleague, it was clear that some civilian deaths might have been the result of poor handling of unsuitable firearms. It would be useful to know whether specific steps had been taken to follow up that report.
5. The reporting State should be more specific about action taken against law enforcement personnel for excessive use of force. It would be particularly interesting to hear its response to the allegations, cited in the same NGO report, of extrajudicial killings by police officers and the acquiescent attitude of law enforcement personnel to killings during demonstrations by farmers and in prisons.
6. He requested additional information on measures that would be taken to address the fact that about three quarters of the prison population had not been tried. The delegation should clarify at what point in proceedings a public defender could assist a person being held in police detention. It was unclear whether a lawyer who had been privately appointed by a detainee had immediate access to his client.
7. Mr. RIVAS POSADA requested additional information on the division of work between the Office of the Ombudsman and the Truth and Justice Commission, particularly since the task currently facing that Commission appeared to be almost insurmountable.

8. It would be interesting to learn the State party's reaction to the ratification of the Rome Statute of the International Criminal Court.

9. The delegation should be more specific about the circumstances in which states of emergency had been declared and what limitations had been placed on government powers at such times. It would be interesting to learn the State party's position on the obligation under article 4 of the Covenant to inform other States parties to the Covenant, through the Secretary-General of the United Nations, of the provisions from which it had derogated and of the reasons for declaring a state of emergency.

10. Mr. KHALIL asked whether any affirmative action had been taken in domestic legislation to increase the participation of women in public life. He wondered whether the current electoral quota for women was sufficient, and whether the Government intended to review it. Despite positive amendments to the Labour Code there were still serious problems of discrimination against women in employment, and he wished to know what measures would be taken to ensure that legislation was effectively enforced. Legislation on domestic work contained discriminatory provisions, and he asked on what basis the figure of 40 per cent of the minimum wage had been set as remuneration for female domestic workers. Although a department of social advancement for women had been established, the Committee had been informed that it lacked the resources to fulfil essential parts of its mandate, such as monitoring discrimination. He wished to know how the Government could ensure that legislation was respected and enforced, since there was no effective monitoring, and what measures were being taken to rectify that situation and increase funding for that department.

11. According to the Inter-American Commission for Human Rights, private teaching and domestic work, which were predominantly female occupations, were not covered by social security benefits. He asked whether that situation was being remedied in the social services reform currently under way. The delegation should clarify the meaning of the statistics provided on domestic violence, and the impact of new legislation on them. He asked whether the domestic violence situation was genuinely improving. What efforts were being made to raise public awareness and change social and cultural attitudes? Because of the patriarchal society in Paraguay, domestic violence often went unreported or was not addressed by judges or law enforcement officials. He asked whether the definition of domestic violence contained in the Criminal Code would be broadened, since it currently referred only to habitual or ongoing violence, and why penalties for persons convicted of domestic violence comprised only fines.

12. Turning to the issue of abortion, he asked whether restrictive legislation would be amended so as to enable women to avoid the hazards of clandestine abortion, which often resulted in death. He wished to know whether the increased distribution of contraceptive devices mentioned by the delegation was being carried out in rural as well as urban areas.

13. Mr. SOLARI-YRIGOYEN said that the delegation had not provided any information on the 56 torture cases mentioned in question 9 of the list of issues. The Committee had been informed that the persons responsible for committing those acts of torture had not been brought to justice, and he wished to know why that was the case. What measures were being taken to protect women, who were often sexually abused as well as tortured? He wondered whether measures were being taken to combat the impunity of military personnel who committed acts of cruelty, torture and sexual abuse. He asked how many torture cases brought before the courts

had resulted in the award of compensation to victims, and whether an independent mechanism for receiving and investigating complaints about violence committed by law enforcement officers had been established.

14. On the recruitment of children into the armed forces, he said that although the State party had reported that the problem had been eliminated, the Committee had received information from other sources which stated that the practice had still been in effect in March 2005. Recruitment staff did not comply with legislation prohibiting the recruitment of children, and the Committee had at its disposal a list of military institutions in Paraguay that recruited minors. Complaints about the forced recruitment of children into the armed forces raised issues of forced labour and also of corporal punishment. He asked what measures were being taken to ensure that legislation criminalizing the military recruitment of minors was being effectively enforced, how legislation was applied, how many times it had been invoked in the courts, and what the outcomes of those cases had been. Since under international law the recruitment of children must be authorized by a juvenile court judge, he wished to know how many cases had been brought before judges for authorization, and of those cases, how many had been authorized and how many rejected.

15. Mr. JOHNSON LOPEZ said that although important changes had been made in the Code of Criminal Procedure regarding alternatives to pretrial detention, precautionary detention was still common. The Committee was aware that a bilateral agreement on extradition had been concluded between Paraguay and Brazil, but wished to know whether such agreements had been concluded with other countries. He asked whether the Government intended to shorten the standard period of pretrial detention in order to bring it into line with article 9 of the Covenant.

16. On detention conditions, he said that the Committee had been informed that all detainees - adults, adolescents, children, pretrial detainees and convicted criminals - were held together in prisons in the provinces, and that food and medical care were lacking. He asked when the new Esperanza prison would come into service. He wondered whether the Government had set aside funds for the construction of new penitentiary facilities and to cover the needs of detainees.

17. Turning to question 19, he asked what measures were being taken to overcome the difficulties in applying the rules governing the protection of children. Were there any programmes to assist street children? He asked for further statistics on the number of street children, and requested information on any rehabilitation programmes for them. The delegation had mentioned a comprehensive policy on street children, and he asked how that had been reflected in the Childhood and Adolescence Code.

18. Ms. PALM said that, notwithstanding Paraguay's rebuttal of the assertion in question 10 of the list of issues (CCPR/C/85/L/PRY) that it was a country of origin for trafficking in human beings, trafficking was an important issue in Paraguay. She therefore wished to know more about implementation of the range of measures introduced to combat trafficking. Given the important deterrent effect of criminal prosecution, she asked to be updated on the development of the cases pertaining to human trafficking for sexual exploitation referred to in paragraph 254 of the report. She asked how many such cases were pending, how many prosecutions for trafficking had taken place, and what the outcome of those cases had been, including what sentences had been handed down. She asked whether the maximum penalty of six years'

imprisonment applied to trafficking of any kind, and what the minimum penalty was for such offences. She also wished to know more about implementation of the measures introduced to eliminate child labour and the economic exploitation of children.

19. Mr. AMOR asked the delegation to comment on the extent to which the principle of equality between spouses, which was enshrined in law (paras. 118-120 of the report), was reflected in the reality of everyday life. Did schools present an image of a wife as being anything other than housewife or mother? Given the separation of the Paraguayan State and the Catholic Church (para. 603), he wished to know the justification for abortion being illegal.

20. Mr. BHAGWATI asked whether steps were being taken to address inequality in the remuneration of male and female domestic workers and whether any new legislation to prevent the exploitation of women in domestic service was planned. He also asked what was being done to improve the poor representation of women in the two houses of parliament and whether affirmative action had been considered as a means of ensuring adequate representation of women. He had noted that measures to address domestic violence against women had been targeted at women in urban areas. What was being done to help women in rural areas? He also wished to know whether the Government had considered setting up a national commission for women.

21. The CHAIRPERSON invited the delegation of Paraguay to respond to the Committee's questions. Any information the delegation could not provide immediately would be taken into account in the Committee's concluding observations if submitted to the Committee in writing before Tuesday, 25 October 2005.

The meeting was suspended at 4.30 p.m. and resumed at 5.05 p.m.

22. Mr. SANDOVAL (Paraguay) said that his Government appreciated the Committee's comments, which were helpful in outlining the measures needed in order to ensure full respect for human rights in his country. Many of the measures described had been in place only since 2003, the transition process having taken rather longer than initially anticipated.

23. With regard to the prevention of the excessive use of force by the police, he said that police training aimed to inculcate the need for proportionality. Since 2003, there had been no official complaint, or unofficial allegation through the media or NGOs, concerning excessive use of force by law enforcement officials; had there been such a complaint, it would have been processed through the appropriate channels and the officials concerned would have been brought to trial. He confirmed that police officers did have to purchase their own weapons, and said that the same was often true of persons undergoing military training. Although funding had been allocated for the purchase of firearms for the police in the 2006 budget, it would not be sufficient to purchase the full number of firearms required and so would not eliminate the problem completely. Statistics on the number of police officers killed by colleagues would be submitted in writing, as would full statistics on cases of arbitrary or extrajudicial killings by the police or in prisons, including information following up allegations made in the NGO report cited by Sir Nigel Rodley.

24. In connection with question 14, he noted that only 25 per cent of the prison population had in fact been sentenced; facilities for the separation of convicted prisoners from remand prisoners had recently been set up.

25. The resources available to the Truth and Justice Commission were scant, whilst the objectives set by the members of the Commission were ambitious. It had been recommended that the Commission should shorten its list of objectives in order to allow it to focus on practical, achievable goals; however, as members of the Commission were well known public figures who had been tortured under the previous regime, it had proved difficult to persuade them to shorten the list. Although the Office of the Ombudsman was obliged by law to investigate cases relating to victims of the 1954-1989 dictatorship, it was free to consider other human rights cases and had authority to examine both past and present violations. The work done by the Ombudsman and the Truth and Justice Commission was complementary. He confirmed that Paraguay had ratified the Rome Statute of the International Criminal Court. His delegation's answers to question 6 of the list of issues would be submitted in writing.

26. On the situation of women, he said that the structural and legislative changes introduced were showing tangible results as reflected in a fall in the number of domestic violence complaints by members of the public. Cases of domestic violence were recorded in a single register; the fall in the number of complaints was attributed to the increased prominence of such issues. His Government was aware that drawing up new legislation was not in itself enough to tackle issues that necessitated a change in cultural attitudes. The problem of domestic violence was more prevalent in rural areas, but tackling the phenomenon would mean raising the awareness of society as a whole. The Executive Secretariat for Women was an effective lobbyist for women's issues and had a reasonable budget at its disposal; it had submitted a bill to change the social security system for women, which would provide for equal remuneration in domestic service. The problem of women being unable to report domestic violence because the police viewed such matters as private had been remedied by efforts to raise police awareness of that question. Although the rate of abortion was high and clandestine abortions resulted in many deaths, he was not aware of any move to decriminalize abortion. A family planning programme that had distributed contraceptives in rural areas, where the problem of clandestine abortions was most acute, had proved a great success. A list of cases concerning women who had been tortured would be submitted in writing.

27. He said that the cases of the 71 soldiers mentioned by the Committee were old cases. That issue was being monitored closely within the Ministry of Foreign Affairs. Contrary to claims by some NGOs, his Government had not been aware of any complaints concerning soldiers under 18 years of age; he appealed to the NGOs in question to submit their information on the subject to the Government. Information on court cases concerning the recruitment of persons under 18 into the armed forces would be submitted in writing.

28. In addition to the agreement with Brazil, Paraguay had entered into extradition agreements with a number of other countries. Details would be provided in writing. At present, there were no plans to shorten the period of provisional detention of extraditable persons.

29. Paraguay was a country of origin for trafficking in persons, for which the maximum penalty was six years' imprisonment. Factual information on the status of investigations into cases involving trafficking and on the implementation of relevant international instruments would be provided in writing.
30. The practical application of legal guarantees of gender equality was a gradual process. While efforts to eradicate cultural traditions contrary to that principle had led to attitudinal changes in urban areas, in rural areas gender-specific role models continued to persist. The Executive Secretariat for Women was conducting awareness-raising activities to promote gender equality.
31. The 1992 Constitution stipulated the strict separation of Church and State, and the statutory prohibition of abortion had no religious motivation. While the right to life was enshrined in the Constitution, the issue of illegal abortion had not been taken into consideration. For the time being, there were no plans to decriminalize abortion.
32. Inequalities in remuneration for male and female domestic workers continued to exist. A bill to amend relevant legislation and thereby rectify the situation was currently before Parliament. The Government had stepped up efforts to increase the representation of women in Parliament and the Executive Secretariat for Women had tabled a bill proposing to raise the quota for women in Parliament to 50 per cent. Although the existing 20 per cent quota was not being achieved in Parliament, women's representation was higher in other branches of government. The Executive Secretariat functioned in practice as a national commission for women; consequently, the need to establish such a commission did not arise.
33. Mr. BARREIRO (Paraguay) said that the body mandated to monitor juvenile detention centres and the human rights division of the Public Prosecutor's Office carried out regular visits to detention centres and made recommendations to the prison authorities. As a result, conditions of detention in prisons had improved. One of the main achievements had been the separation of minors from adult inmates. While the process of separating accused persons from convicted prisoners had not been completed, a new wing had been built for that purpose in Tacumbu prison in Asunción with a capacity for approximately 250 prisoners. However, the problem of overcrowding persisted and the Government had formulated short and medium-term strategies to refurbish and expand existing facilities and build new prisons. Considerable improvements had been made in terms of infrastructure and sanitation, although budgetary constraints hampered progress. The improvements in Tacumbu prison included the renovation and construction of detention facilities; the construction of new visitors' facilities; the introduction of a new access control system to facilitate access for relatives and lawyers; the refurbishment of the lawyers' visiting room; and the transfer of mentally ill prisoners to a psychiatric hospital.
34. The non-profit association TRASOL operating in Casa del Buen Pastor women's prison provided technical and financial assistance and vocational training for prisoners. TRASOL also administered revenue generated within the prison and funds obtained from outside sources. A fixed percentage of the revenue generated by the on-site clothing factory was distributed among working prisoners. In order to ensure further improvements to places of detention, budget allocations for prison maintenance, rehabilitation and the treatment of juvenile offenders would be increased.

35. The Government had embarked on far-reaching reforms of the judiciary to combat corruption. Its efforts had received broad popular support and impeachment proceedings had been brought against six Supreme Court judges. New judges had been appointed to the courts of first instance and courts of appeal. To date, there was no evidence suggesting that the disciplinary powers of the Judges Investigation Panel infringed the independence of the judiciary. One positive outcome of the reforms had been a considerable reduction in the backlog of cases before the constitutional division of the Supreme Court. However, further measures, including improvements to administrative facilities, were required to speed up the processing of cases and deal with the backlog which had accumulated over the years.

36. The right of conscientious objection was guaranteed in the Constitution; applications were handled by the relevant committee of the Chamber of Deputies.

37. The report of the Supreme Court contained no information on cases involving threats to or assaults on journalists. No libel suits had been brought against journalists. However, according to the Union of Journalists, the restrictions on the provision of information concerning government activities contained in the 2001 Civil Service Act, the ban on publication of information about the private life of individuals contained in the 1998 Criminal Code, and the restrictions on the publication of certain material laid down in the Labour Code prior to elections undermined press freedom. The Union had further referred to lawsuits, repression and severe threats against investigating journalists. His delegation had no information on such cases.

38. The right to demonstrate was guaranteed by law. Demonstrations required prior authorization by the police and applications must be made at least 12 hours prior to the event. Demonstrations were restricted to certain public places and must not block bridges, railways or public roads. Those conditions had been set in order to prevent infiltration by persons seeking to disrupt peaceful demonstrations, as had occurred in the past.

The meeting rose at 6.05 p.m.