



**Economic and Social
Council**

Distr.
GENERAL

E/C.12/2007/SR.44
12 December 2007

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Thirty-ninth session

SUMMARY RECORD OF THE 44th MEETING

Held at the Palais Wilson, Geneva,
on Tuesday, 13 November 2007, at 3 p.m.

Chairperson: Mr. TEXIER

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GE.07-45249 (E) 151107 131207

The meeting was called to order at 3.20 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (continued)

Second and third periodic reports of Paraguay (E/C.12/PRY/3; E/C.12/PRY/Q/3 and Add.1; HRI/CORE/1/Add.24)

1. At the invitation of the Chairperson, the members of the delegation of Paraguay took places at the Committee table.
2. Ms. RUIZ DIAZ DE ESPINOLA (Paraguay), introducing her country's second and third periodic reports (E/C.12/PRY/3), which covered the period from 1994 to 2006, pointed out that the Committee's 1999 recommendations had been incorporated into the report. The various State institutions responsible for ensuring respect for economic, social and cultural rights had coordinated actively in the preparation of the report, and civil society had also participated.
3. The most important legislative developments in the reporting period included the entry into force of a new Penal Code and Code of Criminal Procedure in 1998; the adoption of the Domestic Violence Act in 2000; and the entry into force of the Code on Children and Adolescents in 2001. A law had also been passed in 2006 prohibiting the commercial or non-commercial dissemination of any type of pornographic material which used the image or representation of a minor. The new Adoption Act incorporated the principle of the best interests of the child and provided that the child could only be put up for adoption once it had been confirmed that it was not possible to maintain links with the biological family.
4. Paraguay had ratified the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities in 2004, and had signed the United Nations Convention on the Rights of Persons with Disabilities and its optional protocol in 2007. The establishment of the Office of the Ombudsman in 2001 had provided Paraguayan citizens with a competent institution for the defence of human rights, to which complaints and claims for compensation for the violation of human rights during the dictatorship could be submitted.
5. The establishment of the Agrarian Statute was of vital importance for the promotion of the economic, social and cultural rights of rural populations. In addition, the Rural Welfare Institute had become the National Institute of Rural and Land Development (INDERT), with a view to giving renewed impetus to social programmes to address the complex rural situation. As a result of the adoption of Act No. 2524/04, known as the "zero deforestation" act, and the implementation of specific programmes, the level of deforestation had been reduced by 85 per cent, and Paraguay was now in a process of recovery. Paraguay had been awarded the international WWF Leaders for a Living Planet award in recognition of that achievement.
6. The various sectoral institutions responsible for promoting and protecting the economic, social and cultural rights of vulnerable groups included the ministerial-level Secretariat for Childhood and Adolescence and Secretariat for Women, and the Paraguayan Indigenous Institute (INDI), which were involved in the implementation of such programmes as the campaign against

domestic violence and the campaign to combat discrimination against women. The national plans for the prevention and eradication of child labour and the protection of adolescent labour and for the prevention and eradication of sexual exploitation of children and juveniles had been developed under the National Plan of Action for Children and Adolescents. The National System on the Comprehensive Protection and Advancement of Children and Adolescents was based on multisectoral participation in national, departmental and municipal councils on childhood and adolescence.

7. The State's social policies aimed at the most vulnerable sectors of society included the Abrazo programme for street children, the national programme of insurance for mothers and children, the Community Improvement Programme of the National Housing Council, the Food and Nutrition Assistance Programme, and the Teko Porã programme.

8. Paraguay's health policy focused on the development of relevant legislation, the democratization of information and knowledge of health and human rights, community and social participation and access to equitable health care.

9. The Ministry of Education and Culture was currently implementing a series of educational reforms, and there had been an increase in enrolment in preschool, primary and secondary education. In addition, children were remaining in school longer, thus reducing the illiteracy rate. The principal challenges in the education sector were to universalize the preschool and third cycle of basic education, increase coverage of secondary school education, reduce the number of pupils repeating years, reduce the dropout rate in the third cycle of basic education and secondary school, increase retention and school performance, and improve quality, efficiency and equality of education at all levels. She went on to outline the goals at the macro-educational level, as set out in the State party report.

10. There had been a sustained increase in social expenditure on children since 2004, with 24 per cent of the State budget being allocated to child-related investment in 2006. In 2007, an amount of some \$552 million was being allocated. That figure included resources for primary and secondary education, drinking water and basic sanitation and nutritional programmes. Between 2003 and 2007, there had been a 3,033 per cent increase in the budgetary resources allocated to combating poverty. In the same period, there had been a 93 per cent rise in public spending on education, and a 167 per cent increase in spending on health. Between 2005 and 2007, there had been a 36 per cent increase in budgetary resources for the purchase of land. The Programme for Regularization of Settlements was currently being implemented and, since 2001, 290 settlements had been regularized, benefiting more than 13,000 families. To date, 44 settlements had been regularized in 2007.

11. There had also been a sustained increase in social spending since 2004. In 2007, social spending had made up 47.3 per cent of the budget for the Central Administration, and that figure was forecast to increase to 50 per cent for 2008. There had also been a 33 per cent increase in spending on environmental programmes.

12. At the regional level, Paraguay had been undertaking joint activities with neighbouring countries to address the problem of transnational crimes against children and women, such as trafficking in persons and sexual exploitation. In Paraguay, all of the national State institutions

maintained constructive relations with civil society organizations, as demonstrated by the implementation of joint activities between the State and non-governmental organizations (NGOs).

13. The CHAIRPERSON invited members of the Committee to raise questions of a general nature and questions pertaining to articles 1 to 5 of the Covenant.

14. Mr. ATANGANA, noting that Supreme Court judges were called “ministers”, asked whether that did not lead to confusion with Government ministers. He wished to know whether the Superior Court of Electoral Justice was permanent or simply convened when an election was planned. With respect to the number of cases dealt with by the Ombudsman, he noted that the reply to question 2 on the list of issues referred only to the last two years, and not five years as requested, and asked what the principal violations of economic, social and cultural rights referred to the Ombudsman had been, and what follow-up those cases had received.

15. Ms. BARAHONA RIERA commended the progress made in connection with zero deforestation. She noted that the Constitution recognized equality between men and women, but asked whether there was any specific legislation on the prohibition of discrimination or on equality of opportunities between men and women. She wished to know whether there were any proposed amendments to the section of the Penal Code on domestic violence, as, in her view, the new Domestic Violence Act was weak. She asked whether the Office of the Ombudsman had been involved in the preparation of the State party report.

16. Mr. RIEDEL associated himself with Mr. Atangana’s remarks on the State party’s reply to question 2 on the list of issues and requested information on cases regarding economic, social and cultural rights that were specifically relevant to the Covenant. Turning to question 3 on the list of issues, he asked what specific measures were being taken in schools and universities to teach economic, social and cultural rights, as opposed to human rights in general.

17. Mr. PILLAY said that, although Paraguay had made progress in implementing the Covenant, much remained to be done, and certain recurring problems had not been adequately addressed. One such problem, which had persisted over the past 11 years, concerned restrictions in indigenous communities’ access to their ancestral lands, and despite the existence of INDERT, progress in processing indigenous land claims was slow. That body did not have adequate funds to repurchase land that was being used for cattle ranches and industrial enterprises. He asked what steps were being taken to ensure that indigenous people would be able to return to their lands. He observed that land seizures by landless peasants, as mentioned in paragraph 64 of the State party report, should be construed as a cry for land reform, since according to the Committee’s information 1 per cent of the population owned 70 per cent of the land in Paraguay. He asked whether the agrarian reform had yielded any positive results in that regard. In June 2006, the Inter-American Court of Human Rights had ruled in favour of the Yakye Axa indigenous community, and had ordered the State to return the ancestral lands of that people by 2010. He wished to know what measures were being taken to ensure that ruling was respected.

18. According to the Economist Intelligence Unit, the judiciary in Paraguay was not free from corruption, and there was political interference in the selection of judges. An independent judiciary was indispensable for the promotion and protection of all human rights. He would appreciate the State party's comments on that issue.

19. Mr. RZEPLINSKI asked what was the size of the population of Paraguay, since he had received estimates varying from 5.3 million to 8.7 million. He would appreciate information on the outcome of the census that had been held in 2002. The Committee had been informed that many children were not registered at birth, and he asked why that was. He wondered whether it was fear on the part of the parents, or whether the State did not have sufficient public offices to ensure registration services for all. He wished to know whether the Government had any plans to rectify that situation.

20. Regarding the judicial system, he asked what was being done to ensure that the judiciary was free of economic and political corruption. He wondered to what extent the public authorities could guarantee access to legal aid, enabling poor people to have recourse to justice, and how NGOs that provided legal assistance for the poor were supported.

21. He wished to know how many cases the Ombudsman had referred to the Supreme Court, particularly in respect of land disputes, and whether there had been any judgements handed down on land disputes over the past two years. Moreover, noting that Act No. 2532/2005 established security zones in national border areas, he asked how far the border of the security zone was from the country border.

22. Ms. WILSON said that, according to the Committee's information, there had been police intervention and the use of force in incidents involving landless peasants and indigenous people. She would appreciate the delegation's comments on those incidents. She also asked whether the agrarian reform had had any positive results.

23. She expressed concern regarding discrimination against persons in rural communities, particularly since there appeared to be no real policy on housing or employment for those people, and therefore no real guarantee of a decent standard of living. She wondered what measures were foreseen to improve that situation. She also asked whether there was any legislation in place to prohibit discrimination, whether poverty had declined since the institution of State poverty programmes and projects, and whether there was a programme for the redistribution of wealth among the different categories of the population, to the particular advantage of disadvantaged sectors of society. Although there were a number of gender equality programmes in place, she wondered what specific measures had been taken to prevent gender-based discrimination, and whether those programmes had been truly successful. She further asked whether women in rural areas were subjected to double discrimination, and what measures were in place to protect them. The Committee on the Elimination of Discrimination against Women had noted with concern the trend for indigenous women to leave rural areas and move to towns, where they became more vulnerable to discrimination and had considerable difficulties integrating into society. She would appreciate further information on the situation of those women, and the measures being taken to protect them.

24. Ms. BONOAN-DANDAN asked what model of rural development was being used in Paraguay's development projects, and whether economic, social and cultural rights were respected and taken into consideration in those projects. On the issue of agrarian reform, the State party had provided information on property acquisitions in 2005 and 2006. She wished to know how and from whom that property had been acquired, and for what purpose.

25. She had understood from the information at her disposal that the rural-urban migration of women was involuntary, and took place as a result of their expulsion from the countryside. She wished to know whether that was indeed the case, and if so why they were being expelled and who was expelling them. She asked whether NGOs had been consulted during the process of drafting the State party report, and if so, what comments they had made. She enquired whether the public was aware of the reporting process.

26. Mr. DASGUPTA asked whether there was specific legislation in place to criminalize discrimination on grounds of race, colour or ethnicity, in view of the information that the draft law on all forms of discrimination had not been adopted, owing to opposition from certain religious groups. He asked what the State party was doing to expedite the adoption of that legislation. He enquired how much of the land acquired as a result of the land reforms of 2005 and 2006 had been redistributed to the landless, and what the results of that redistribution had been.

27. Mr. ZHAN Daode asked whether the draft legislation on parental responsibility mentioned in the report had been adopted. He would appreciate information on specific examples of discrimination against women, and in particular double discrimination against indigenous women.

28. Mr. SADI asked to what extent the Committee's earlier recommendations had been distributed to Government agencies. He also requested the State party to describe the relationship between its many ethnic groups, which numbered over 20. Since the Paraguayan economy was primarily agricultural, he further asked if the State party had signed economic agreements with its two main trading partners, Brazil and Argentina. Noting that 35 per cent of the Paraguayan population was under the age of 15 years, he enquired what proportion of children had been born out of wedlock. He would also like to know whether the high inflation rate had impeded enjoyment of economic, social and cultural rights. Finally, referring to paragraph 134 of the State party report (E/C.12/PRY/3), he asked why the Secretariat for Women was attached to the Office of the President of the Republic and to what extent the Secretariat's various plans had achieved their aims.

29. Mr. KOLOSOV, noting that cooperation with NGOs was vital in order to overcome the difficulties existing in modern Paraguay, asked the delegation to indicate two or three paragraphs in the report where the position of NGOs had been taken into account. He also asked it to describe specific provisions in the new Penal Code that had not existed previously and that promoted the economic, social and cultural rights of Paraguayan citizens and those living under the State's jurisdiction.

30. Mr. KERDOUN, noting that paragraph 118 of the report referred to State protection of indigenous peoples from environmental contamination, asked whether there was legislation in force in the State party on the protection of the environment and of natural resources, including water, and whether such legislation would promote Paraguay's agricultural development.

31. He further asked why the Secretariat for Women was not attached to the Office of the Prime Minister or to a ministry. Noting from paragraph 148 of the report that the Secretariat was involved in various programmes for the protection of the environment and of natural resources, he enquired why women had been associated in such a way with the environment.

32. Mr. TIRADO MEJÍA asked why, given that in the Americas indigenous peoples were defined as those populations which had been present before the arrival of the Europeans, the significant Guaraní population was not considered to be indigenous.

The meeting was suspended at 4.50 p.m. and resumed at 5 p.m.

33. The CHAIRPERSON invited the delegation of Paraguay to reply to Committee members' questions on articles 1 to 5 of the Covenant.

34. Mr. ARCE (Paraguay), in response to Mr. Tirado Mejía's question, said that Spanish policy at the time of colonization had been to unify the Spanish colonial population with the native Guaraní population as one people. That strategy had been passively accepted by the Guaraní, since close union with Spain had provided them with sufficient weapons to fight enemy tribes. The fusion of the two peoples had led to miscegenation and was probably the strongest such union in Latin America, as there had been no record of battles between the Spaniards and the Guaraní. Most Paraguayans today were descendants of that miscegenation, and aspects of Guaraní culture and language had been incorporated into everyday life. While it was vital to maintain efforts to eliminate discrimination against Guaraní, and indeed other ethnic groups, it was important to understand that such discrimination was not a significant problem since most Paraguayans were descendants of the miscegenation.

35. As to why members of the Supreme Court of Justice were called "ministers", he said that that term was also used in other countries in the region, including Argentina and Uruguay. The Court had an administrative function, like any other ministry, as well as a judicial function.

36. The Superior Court of Electoral Justice had ongoing responsibilities to discharge. Elections in Paraguay were held regularly: during a five-year administrative term, elections would be held in the first year within parties to nominate candidates for town mayors, the mayoral elections would be held in the second year, party elections to decide on presidential candidates would be held in the third year and the presidential elections held in the fourth year. The Court would therefore carry out electoral duties throughout the five-year term, and it also had competence in the area of settlement of disputes between the State and civil servants.

37. In response to a question on whether access to justice was guaranteed to all citizens, he explained that the judiciary comprised the Supreme Court of Justice; the Public Prosecutor's Office, which prosecuted on behalf of society; and the Ministry of Public Defence, which was not an Ombudsman institution but an organ within the judiciary responsible for providing legal

representation in criminal proceedings for poor people, children and persons absent from the proceedings. Since there were public defenders throughout the country, access to justice was guaranteed.

38. The Secretariat for Women was attached to the Office of the President of the Republic because the Secretary had the rank of Minister. A body was necessary to develop, implement and comply with policy guidelines. The Secretariat was in effect a ministry for women, and was responsible for policies on equality in general and more specifically on women-related issues.

39. When the two major wars in Paraguayan history - against Brazil, Argentina and Uruguay in 1870 and against Bolivia from 1932 to 1935 - had led to high mortality among men, the tradition had been established for women to play the role of head of household, especially in rural areas. That situation also meant that there was no discrimination against children born out of wedlock, including in terms of inheritance. Furthermore, in the context of the Latin American tendency for a person to use two surnames, that of their father followed by that of their mother, the Civil Code provided that the mother's surname could be used twice in order to make it impossible to tell whether or not a child had a father and thereby to avoid discrimination on those grounds.

40. On the question of equality, he said that the Constitution contained many provisions on equality: for example, article 44 guaranteed equality in relation to tax, labour issues and access to public institutions. Those provisions were self-executing. Individuals who had suffered violations of the right to equality could apply for constitutional remedy.

41. Concerning new aspects of the reformed Penal Code, he said that the emphasis of the entire criminal process had been changed from written proceedings to oral proceedings, meaning that trials were concluded more quickly and less expensively than under the former Code. A second change was the move from an inquisitorial system to an adversarial system in which the prosecutor, not the judge, was responsible for investigation on behalf of the people. Thirdly, whereas under the previous Code, a man who raped a woman but then married her would not be subject to prosecution, that was no longer the case in the new Code, which took account of modern concepts such as sexual harassment.

42. In response to comments on the inadequacy of sentences for domestic violence, he said that, under the revised Penal Code, not only would sentences be heavier, but related offences such as bodily injury would also be punishable.

43. Lastly, in response to a question about legislation on the security zone, he said that, whereas the border between Paraguay and Argentina was clearly marked by three rivers, there was no physical boundary with Brazil. Consequently, many Brazilians had bought land on Paraguayan territory. Paraguay was therefore making provision for a 50-kilometre security zone in the interests of national sovereignty and international security.

44. Ms. RUIZ DIAZ DE ESPINOLA (Paraguay) said that, according to one study, just 60 per cent of children in Paraguay were properly registered with the Government. State bodies such as the Ministry of Justice and Labour and the Ministry of Public Health and Social Welfare had made efforts to properly register children born in health establishments. However, many Paraguayan women gave birth outside such facilities, and the registration of

their children was to a great extent dependent on work with midwives, who often assisted in childbirth even in isolated areas. For a child to enjoy fundamental rights, including the right to education, he or she had to have proper documentation. Registration was also of vital importance in combating corruption and trafficking. In 2005, the Government, working with the United Nations Children's Fund and NGOs, had established the Secretariat for Childhood and Adolescence, inter alia to ensure that children were able to enjoy such rights. To that end, public awareness campaigns had been conducted to explain the importance of registering births, but the campaigns had had limited effect. In many cases the families did not have the birth certificates required for registration. The authorities had since modified the procedure so that in the absence of a birth certificate a parent could register a child by citing two witnesses to the birth.

45. The Government was aware of the double discrimination faced by indigenous women, particularly those living in urban areas, and was carrying out programmes to permit indigenous communities to recover their lands, so as to be able to relocate such women. It had to set priorities in drawing up the State budget, while establishing a clear vision of equal opportunities for men and women. The 2008 budget for social programmes was some 50 per cent higher than it had been for 2007.

46. Mr. GAUTO VIELMAN (Paraguay) said that Paraguay's population was estimated at about 6 million, and was different from those of other Latin American countries insofar as the extensive mixing of the people's Spanish and Guaraní ancestors had produced a relatively homogeneous group. In the strict sense of the word, there were only some 80,000 indigenous people in the country, amounting to about 1.3 per cent of the population, but in actual fact, it could be considered that the entire population was indigenous, as everyone spoke Guaraní. About 30 per cent of the people did not speak Spanish, although they understood it. While discrimination existed in Paraguay, it tended to be based not so much on race, nationality or religion as on other aspects of an individual's background; for example, in the cities there was indeed discrimination against rural people. It was necessary to take into account the specific nature of discrimination in Paraguay in order to devise appropriate measures to combat it.

47. Because it was landlocked, Paraguay had developed very close economic ties with Argentina, Brazil and Uruguay, whose ports it used to access world markets. It was a member of the Common Market of the South (MERCOSUR), which strived to ensure regional integration on the model of the European Union not only in economic relations, but also in other policy matters, such as crime control. Deforestation was a very serious problem that had originally been caused by the mechanization of agriculture and the extension of cattle-raising. More recently, the rise in the price of soya and the resulting massive expansion of its production had taken its toll. That problem had been identified, and energetic measures had been taken to reverse deforestation through legislation and cooperation with environmental NGOs. The rate of deforestation had been reduced by about 85 per cent in the past few years.

48. Intensive efforts were made inter alia by civil society to combat the inappropriate use of toxic inputs in agriculture, for example through the distribution of thousands of handbooks and brochures for farmers and agricultural extension agents.

49. Ms. RUIZ DIAZ DE ESPINOLA (Paraguay) said that when drawing up the periodic report the Government had concentrated on consulting the relevant State ministries and departments, and had subsequently made the report available to NGOs once it had been completed. Excellent

cooperation had developed with NGOs since the fall of the dictatorship, especially in work for children's rights and gender equity. The promotion of human and environmental rights was considered vital to ensuring a State based on the rule of law, and those subjects had been included in school curriculums at the pre-school, primary and secondary levels, and were in the process of being integrated into university programmes. They had also been incorporated in teacher-training programmes and in the courses given by police and military academies.

50. Mr. BARREIRO (Paraguay) said that the Paraguayan Government, in accordance with the State's legal obligations, was taking all possible measures to comply fully with the judgements handed down by the Inter-American Court of Human Rights, in particular in respect of the Yakye Axa and Sawhoyamaya indigenous communities. The enforcement of the judgements was complicated by the fact that they related to the restitution of ancestral lands currently under the ownership of private individuals, which meant that over and above the financial aspects of the case, there were legal hurdles to be cleared. The authorities were working with INDI and the Ministry of Finance to find a way to transfer the ancestral lands to the Yakye Axa community. As for the other case, the Government was complying with the provisions of the Court's judgement relating to medical and food assistance and the provision of specific education programmes for the indigenous community.

The meeting rose at 6 p.m.