

STATE PARTY EXAMINATION OF PARAGUAY INITIAL PERIODIC REPORT ON THE OPTIONAL PROTOCOL ON THE INVOLVEMENT OF CHILDREN IN ARMED CONFLICT

64TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

16 SEPTEMBER – 4 OCTOBER 2013

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Paraguay ratified the Optional Protocol on the Involvement of Children in Armed Conflict (OPAC) on 27 September 2002. On 24 September 2013, the Committee on the Rights of the Child (the Committee) examined the initial periodic report of Paraguay.

Opening Comments

The delegation of Paraguay was led by Carlos Zarate Fleitas, Minister and Executive Secretary of the National Secretariat for Children and Adolescents. He was supported by a high-level delegation consisting of representatives of the Ministry and National Secretariat for Childhood and Adolescence, the Ministry of External Relations, the Supreme Court, the Ministry of Justice and Labour, and the Permanent Mission of Paraguay to the Office of the United Nations at Geneva.

Mr. Fleitas highlighted that the protection of human rights in the State Party had been prioritised in regard to the governmental policies, as demonstrated by the constant interaction with United Nations and the Inter-American Commission on Human Rights (IACHR), the frequent visits conducted by Special Rapporteur and the establishment of the Office of the High Commissioner in the State. Furthermore, the State recognised the prevalence of international law on domestic legislation, the principle of self determination of all people, the legal equality among states and the importance of international solidarity. The State had ratified the Rome Statute of the International Criminal Court and was preparing a draft law to ensure its effective implementation. Furthermore, human rights' indicators were put in place in the fields of education and health.

Mr Fleitas declared that the President of the Republic had made childhood and adolescence a priority and that the State had implemented all the recommendations received in the past sessions, especially focusing on the need to make the best interest of the child the underlying principle of all the national policies. He also highlighted the importance of making the recommendations more visible in order to facilitate their implementation, and thanked the civil society organisations for their precious collaboration in this regard. However, he

recognised that many challenges had still to be met by the State Party, especially in terms of amending the current legislation and strengthening the policies.

Concerning the OPAC, Mr Fleitas highlighted that no under 18 years old children could be enlisted in the armed forces either as soldier or as officer, and that the State had promoted full dissemination of the humanitarian law and human rights through training sessions. Furthermore, the serious commitment made by the State Party in guaranteeing the protection of the rights enlisted in the OPAC had been demonstrated by the four cases of OPAC violation which had been judged by the Inter-American Commission on Human Rights (IACHR) and included in the State Report.

Mr Wanderlino Nogueira Neto, the Country Rapporteur for the OPAC, recognised the significant progress made by the State in terms of reaching democratic standards and congratulated the State on the measures taken to ensure that its legislation was in line the prescriptions made by the United Nations and the Inter-American Commission on Human Rights (IACHR). Furthermore, he highlighted the importance of using a critical mind in the preparation or the State Report in order to guarantee its full transparency. Mr Neto highlighted the importance of promoting measures ensuring the fully and effective implementation of the OPAC.

Mr Jorge Cardona Llorens, the Country Co-Rapporteur for the OPAC, appreciated the frankness and clarity of the State Report and touched some important issues, such as the military schools' regulation, the importance of inserting human rights education into the national curriculum, the need of the criminalisation of people recruiting under 18 children in the armed forces, the issue of the militaristic mindset of the society and the problem of extraterritorial jurisdiction.

General Measures of Implementation

Dissemination

The Committee asked the delegation whether the domestic bodies responsible for the implementation of the OPAC were easily identifiable and accessible by all the population, especially by children and adolescents.

Awareness-raising campaigns

The Committee inquired the delegation whether the State had taken awareness-raising measures addressed to police officers, psychologists, health and social workers in order to promote the OPAC.

Monitoring

The Committee asked whether there were mechanisms of monitoring put in place in the State Party. The delegation answered that in 2011 the law No. 4288 had established the National Preventive Mechanism against Torture and other Cruel, Inhumane or Degrading Treatment and Punishment, whose task was to independently monitor the government's actions in this context.

Prevention

Military schools

The Committee asked for clarification about secondary schools depending on the Ministry of the Defence rather than on the Ministry of Education and Culture. In particular, the Committee asked whether these schools were private or public institutions, whether the

standard national curriculum or a special curriculum was taught, whether students received weapons training, about the discipline methods and the students' origin.

The delegation answered that out of the eleven military academies only one enrolled students under the age of 18 years old and that this public institution was constantly monitored by both the Ministry of Education and Culture and the National Preventive Mechanism against Torture and other Cruel, Inhumane or Degrading Treatment and Punishment. The school was attended only by males between 15 and 18 years old and it was required to teach the standard national curriculum established by the Ministry of Education and Culture, which played a very influential role both in terms of administrative and teaching issues. Furthermore, concerning the disciplinary measures, the delegation stated that all forms of corporal punishment were completely banned in the State, while in regard to weapons' training, that students received only a theoretical training since handling weapons was strictly prohibited under the age of 18 years.

The Committee expressed concern about the deeply rooted military mindset characterizing the State and inquired whether training on human rights had been included in the national curriculum. The delegation declared that the national human right education plan was cross cutting through all the schools including the secondary military college and that the Ministry of Education and Culture was responsible for the monitoring on its effective implementation.

The Committee asked why the military secondary school was not replaced by a standard school since the same curriculum was taught. The delegation explained that students attending that school were no longer required to do the military service which would have prevented them from continuing their studies at the University. Moreover, the delegation declared that this school represented the best opportunity for those who wanted to have a military carrier and that for such reason many parents tried to enrol their children there.

The Committee asked the delegation to explain how it was possible that students of that school were deemed as having fulfilled their military obligation since they did not learn how to handle weapons. Furthermore, the Committee expressed concern that 15 years old children were too young to take an important decision about their future carrier and asked to what extent the views of the child were taken into account in this context. The delegation stated that the best interest of the child as well as the right of the child to be heard were two principles fully respected by the State Party in all setting, including the choice of the future carrier. The helpline AIUDA was only one of the services available to children to express their opinion in this and in other issues affecting them.

The Committee asked whether there was an independent complaint mechanism allowing children to report cases of abuse within that military secondary school. The delegation acknowledged that the current complaint system was established by the armed forces themselves and that more efforts were needed in this regard.

Militaristic mindset

The Committee was concerned by the militaristic mindset characterizing the society of the State and asked whether a culture of peace was promoted through human rights training addressed to all the population, including children. Furthermore, the Committee inquired whether the marching bands were really needed. The delegation explained that the State had promoted a culture of peace at all levels but that it was also important that people were aware of the national history and of the need to defence the territory, sovereignty and dignity of the State against aggressions. Regarding the marching bands, the delegation affirmed that the band had the same characteristics of other countries' band and that there was no military culture in it.

Birth certificate falsification

The Committee welcomed the progress made in terms of legislation which prevented children under 18 years old from being recruited in the army, but asked whether the State had taken measures to avoid that children were enrolled through falsification of birth certification

. The delegation answered that a campaign of 18 month had been conducted by the Ministry of Justice in order to raise awareness about the importance of birth registrations. Additionally, the falsification of a birth certificate aimed at enrolling a child in the army was a serious offence penally punished up to 15 years of prison.

Complaint mechanism

The Committee highlighted the importance of establishing an effective complaint mechanism which would have allowed children to report human right violations. The delegation declared that a national system for the protection and promotion of human rights was based on a decentralised strategy which gave the local offices the responsibility of receiving complaints.

The Committee asked whether the complaint mechanism in the State Party had relied only on civil society organisations and explained that the legal establishment of an independent centralised body would be strongly advised. The delegation stated that there were several mechanisms put in place by the State: all the major ministries had a special unit devoted to receiving complaints; the free helpline AIUDA, part of the Public Prosecution Office, covered all the child rights violations; the Municipal Councils for Children and Adolescent received complaints as well; a human rights unit had been established within the armed forces and the Ministry of Justice.

The Committee asked whether the Ombudsman for Children was effectively operational given that this institution would have played a significant role in the promotion of the rights of the child, including in guaranteeing the functioning of the complaint mechanism. The delegation declared that, since the last consultation with the Committee in 2010, the Ombudsman had been boosted but highlighted the importance of the decentralised strategy for the State Party.

The Committee asked whether children had an actual and effective access to the complaint mechanism and whether the State had conducted some campaigns aimed at increasing the awareness of children on this issue. The delegation recognised the importance of having a widespread knowledge of the complaint mechanism and explained that teachers and other people responsible for taking care of children were required to report cases of human rights violation that they had witnessed. Moreover, teachers and health care staff had been trained on all the different typologies of complaint.

Prohibition and related matters

Criminalisation

The Committee committed the State Party for the prohibition of recruitment into the armed forces under the age of 18 year old but asked whether this prohibition was contained in the Criminal Code (Law No. 1160/97) and to which legal consequences its infringement would have led. Furthermore, the Committee asked for details on the number of persons convicted for having enlisted children in the armed forces.

The delegation declared that enlisting children in the army was no a stand-alone crime defined in the Criminal Code, but assured the Committee that the State Party would have taken this issue in account in emending the current legislation. However, the delegation stated

that the Special Order No. 42 of 2006 defined that members of the armed forces who did not comply with this order were sanctioned with military, criminal and administrative measures.

Extraterritoriality and extradition

The Committee expressed concern about the lack of extraterritorial jurisdiction against violation of the OPAC perpetrated by a citizen of the State Party on the territory of other country. Concerning extradition, the Committee asked whether the State would remove the double criminality requirement. The delegation explained that since such violation was not defined as a crime offence by the Criminal Code, there was no basis for apply extraterritorial jurisdiction in this matter.

Protection, recovery and integration

Compensation and rehabilitation programmes

The Committee welcomed the efforts made by the State in ensuring that children victims of violation of the OPAC received a financial compensation through the intervention of the Inter-American Commission on Human Rights (IACHR), but clarified that there was a significant difference between financial compensation and rehabilitation programmes which had to be guaranteed in order to successfully reintegrate victims in the society. The delegation explained that the Ministry of Health was in charge of providing child victims with mental health services and that it was collecting data on the number of children involved in order to ensure effective rehabilitation programmes.

The delegation inquired the delegation whether mental health services were accessible to all children, including those living in rural areas, and whether such programmes were mandatory or voluntary. The delegation answered that the approach of the Ministry of Health was based on a decentralised strategy, according to which the services were provided at the community level, including remote areas.

Foreign children identification

The Committee asked whether the State had measures to identify children soldier coming from other countries and whether a system to support them had been put in place. The delegation acknowledged the lack of an appropriate system and assured the Committee that efforts would be made in this regard.

Child domestic labour "Criadazgo"

The Committee inquired whether cases of domestic child labour, known as "criadazgo", and sexual exploitation of children working for members of the armed forces or military officers had been recorded. The delegation declared that the State had ratified the ILO Convention No. 182 on the Worst Forms of Child Labour, which include "criadazgo" in the list of the worst forms of child labour. Furthermore, the delegation stated that there was no knowledge of cases of sexual abuses perpetrated by militaries.

Militarisation of a region

The Committee expressed concern about the decision taken by the President of the Republic of increasing the presence of the Paraguay's People Army (EPP) in the northern region, and asked the delegation what measures had been implemented to prevent children from being affected by the current situation. The delegation clarified that the President of the Republic was empowered to move the army where needed within the national territory, and that such area could not be defined as militarised zone since the army was there to fight against the violence perpetrated by criminal groups.

Concluding Remarks

Mr Neto congratulated the State for the demonstrated efforts made to improve the situation in several sectors and declared his trust that the conclusive observations would be taken into account by the State Party.

Ms Llorens thanked the delegation for the constructive dialogue and for the sincere and transparent Report. He recognised the challenges faced by the State in implementing the OPAC and highlighted the importance of taking the recommendations of the Committee into account. Furthermore, he encouraged the State to ratify the Third Optional Protocol of the CRC on a Communications Procedure which only needed two more ratifications to enter into force

Mr Fleitas thanked the members of the Committee for their collaboration and declared the full willingness to implement their recommendations. Concerning the ratification of the Third Protocol, he declared that the State had made the first step in this direction through the signature of the Third Optional Protocol.