

# COMMITTEE ON THE RIGHTS OF THE CHILD

## PARAGUAY – OPSC

25.09.2013

*Special Rapporteurs : Mr. NETO and Mr. CARDONA (co-Rapporteur)*

- **Head of delegation of Paraguay (Carlos Zarate Fleitas, Minister-Executive Secretary, Ministry for Childhood and Adolescence) :**

Programmes and strategies put in place by bodies, part of a national plan for 2009-2013, and we are working on a new plan for the future. Through law 1680, we established a national plan to protect children's rights. National Ministry for childhood and adolescence is the relevant body to put in place the policies. We are putting in place the new plan for childhood and adolescence: budget = increased by 10. President has taken some commitments to increase investment progressively.

But we have to say that members of the national council for childhood and adolescence have not really met, no positive outcome. Regional and local authority councils: not all are set up. Through decentralization, we want to make sure that local authorities are strengthened. But they must invest in childhood.

Poverty = cause for child pornography and sale of children. 18.8 % of the Paraguayan population live in extreme poverty = children vulnerable to be used for prostitution or pornography, or to be sold. Awareness rising is what we must do, and training must be provided for those working with children. Child domestic servitude: we are aware that a lot of work must be done in this area, and more training for people working in this area is needed.

Programme "creating opportunities" created: aim= to reduce the poverty level, through private partnerships. Priority for us: Health, education and protection for children. Greater investment is done for children under 8, because we believe that we must invest in the early childhood.

- **Question:**

Problem of the press in Paraguay: it is quite common to see erotic photos of adolescents circulating, and miss contests. 2 possible roots: you could introduce press legislation limiting the scope for their actions, and to work with them so that they have different conducts. Stereotypes are accepted that children can use their bodies to earn life.

- **Answer:**

You are right, the code says that it is prohibited, but we need some amendments to criminalize this. And the new plan for childhood will include training of journalists.

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Civil society was consulted for the UPR. The best work that has been done was carried out with civil society.

Law on adoption: we need to bring national legislation in line with principles on the rights of the child. The law takes into account the right to identity and to live with a family. Specific special procedure: keeping family ties (if parents go to court and they declare they want to put the child to adoption, timeline is set = 45 days in case the parents change their mind) and fully fledged adoption phase. To comply with the law, adoption process is long. People adopting cannot take contact before the situation of the child is analyzed. Many adoptions are not in compliance with the law because of the excessive waiting time. We make efforts to amend the law. Preadoptive guardianship is not the procedure, and is illegal, but it still happens.

- **Questions:**

1. We already asked for this situation to change in 2010. Our concern now on the OP is to prevent trafficking, do you envisage incorporating criminal measures for people involved in illegal adoption?
2. 540 children placed in foster care and only 9 of these are "real" adoption. How do judges take action? What measures do you take to prevent trafficking of children?
3. Intercountry adoption: possibility to control the situation?

- **Answers:**

Criminal code criminalizes trafficking of minors. Sanctioned, but it should be strengthened.

In 2010, we welcomed the recommendations of the Committee and 2 proposals to amend the adoption laws. We are currently studying this before the Parliament of the Republic. International adoption: specific mechanisms need to be established for a child who is adopted abroad. Adoption centre is the link with other associations. Adoption centre submits the adoption request to the court. We should not be so concerned about guardianship because no case of trafficking that we know today. But we are concerned for people under 18: periodic follow up has to take place to see how guardianship is going. International adoption: adoption agencies do not intervene in the process, and it is done only with countries that ratified the Hague Convention.

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When democracy took place in Paraguay, we implemented policies for adoption. Lawyers used to have lots of children and people were coming to see which child they wanted, and lots of parents came from abroad. International adoption is now at zero. So big transition with the law.

Children as victims of violence: interinstitutional guidelines put in place to make sure they would be protected. Special police units focusing on children and try to work specifically with victims to make sure that the service they receive are of good quality. Strategies put in place to tackle domestic violence (local authority level).

Complaints: child under 18 can complain without the presence of an adult. Some police stations have personnel on duty 24h / 24h and they focus on children. 13% of victims of domestic violence are under 18. Children's ombudsman: code of childhood and adolescence sets up the ombudsman. They are under the Ministry for public defence, they can act in cases of family guardianship and help a child in no specific guardian. They can receive complaints and initiate the adequate proceeding, represent the child in Court, protect children's rights, suggest appropriate measures, ensure that deadlines are respected by authorities. Also empowered to ask for reports from different bodies. Through Court, they can ask for information from private sector bodies, and they can provide assistance to children. They have special staff: teachers, sociologists, social workers (multidisciplinary team). They provide reports and follow up to take measures.

"Fono ayuda program" = hotline to help children, with anonymity.

- **Questions:**

1. Are there any programmes of rehabilitation of child victims of pornography, prostitution, or trafficking? What are the resources / measures of the rehabilitation plan? What is the budget of the hotline?
2. Art. 9 of OPSC calls for provision of compensation to the victims of offences. How are you organized to ensure that victims will receive damages?

- **Answers:**

Rehabilitation: Ministry for childhood has a unit for support of victims during trial, but we don't have enough resources to provide appropriate support after trial. We are committed to fight for more budget resources to do so.

Free phone hotline: 24h / 24h, but not enough resources to cover demand in recent time. We know that we need proper training for people working there and more resources. Compensation for victims: criminal code does provide for compensation, but very often judiciary authorities don't ask for it during criminal proceedings. We need to put in place programmes to make sure that children can continue with their life with the appropriate resources.

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Bribes to the police: ministry for home affairs has put in place a phone line when complaints about police corruption, with privacy guaranteed.

10 year sentence when minors under 15 are involved in pornography, but 5 year sentence if under 18.

Criminalization of sale and forced labour: 12 year sentence if forced labour.

- **Questions:**

1. Sale of organs: classified as a crime, but sale of organs of children is also a crime?
2. In your legal order, no criminal responsibility for legal persons with respect to pornography.
3. Territorial jurisdiction: is your jurisdiction competent beyond acts committed outside of your country if the child is from Paraguay?

- **Answers:**

Criminal code enables punishment of acts committed abroad if against a citizen. But sale of children not explicitly classified as a criminal act in the code.

Cultural beliefs regarding the work of teenagers: seen as a factor of training and development. State has tried to change this mind set, but difficult to change mentalities of people. Exploitation of children and domestic child labour (practice of "criadazgo"): we try to tackle this in changing the criminal code.

Ministry of education and culture: awareness raising campaign on the importance of school.

Many families depend on the money that the child brings in, so we try to hold family programmes. If they are in extreme poverty, they receive vouchers. We have also ratified ILO Convention 189 on domestic servitude.

- **Question:**

Child labour in terms of sale of children: "criadazgo" = economic exploitation. What sanctions do you have for people putting a child on "criadazgo"?

- **Answer:**

"Criadazgo": this is not a crime in our criminal code at the moment. We need to think again and prevent this phenomenon.

- **Question:**

Is there any code of conduct on sex tourism for hotel industry?

- **Answer:**

National Ministry for tourism exist, and they handle information (which hotels are accredited, etc) and they try to produce data. We are working on such a code at the moment.

Criminal code considers children as victims if prostitute.

- **Question:**

Is it a crime for a child to prostitute?

- **Answer:**

No, the child is considered as a victim, and it is not classified as a crime.

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Child marriage: can get married when 16, but we don't know if there is a link with the sale of children. Indigenous persons: we need to respect the culture of these people (they marry early).

- **Question:**

Timeline (2 years) for adoption. Very long period of time for a child. Any legal review being envisaged? What can be done on more investigations to locate families who could take care of children put up to adoption?

- **Answer:**

Adoption centre: foster care provided.

- **Special Rapporteur's concluding observations:**

- Mr. Cardona:

Peace education and measures to protect victims are key challenges. We trust that the concluding observations will be taken into account.

- Mr. Neto:

Paraguay is well aware of the challenges that it has to overcome. The Committee will help you by issuing recommendations. We know that it will be difficult to take them on board and to make them becoming more and more important for the govnmnt. We ask you to ratify OP3 (only 2 more ratifications and it will enter into force, and Paraguay has signed already).