

## **Committee on Economic, Social and Cultural Rights considers report of Paraguay**

25 February 2015

The Committee on Economic, Social and Cultural Rights today concluded its consideration of the fourth periodic report of Paraguay on how that country implements the provisions of the International Covenant on Economic, Social and Cultural Rights.

Hector Molinas Cardenas, Minister and Executive Secretary for Social Action of Paraguay, said that despite the improvements in income opportunities in the country, inequality continued to pose challenges. To address this, the Government had declared the reduction of poverty a national priority and adopted in 2014 the National Development Plan 2030 which strengthened a comprehensive social policy and addressed multidimensional aspects of poverty. Extreme poverty, which stood at 18 per cent in 2011, had been significantly reduced to 10 per cent in 2013. In 2014, the law on expropriation of ancestral lands of the indigenous community Sawhoyamaya had been enacted, and the first Workshop on Consultation and Free, Prior and Informed Consent had been organized in August 2014. At the same time, Congress was examining a law on indigenous health. Gender-based violence persisted and Paraguay was seeking to address it holistically and in a cross-cutting manner through its legislative agenda.

Among concerns raised by Committee Experts during the interactive discussion was the weakening of the national human rights institution, Paraguay's withdrawal from the International Coordinating Committee of national human rights institutions and the delay since 2007 in appointing a new Ombudsperson. Experts recognized the progress achieved in the enjoyment of the rights of indigenous peoples and asked about the demarcation of ancestral land and about legal, institutional and political guarantees in place to protect those without land deeds; the right to consultation and prior, free and informed consent, and the enjoyment of their economic, social and cultural rights, including the right to water, education and health.

In the context of the right to social security, a concern was expressed about the 61 per cent of families in the country which did not receive any kind of social assistance, benefits or pensions. An anti-discrimination act had been rejected by the Senate and the Experts wondered about the stumbling block and obstacles to its adoption, as well as the intended steps to pass the law to complement the anti-discrimination provisions in the Constitution. Other issues raised in the discussion included agrarian reform, forced labour and debt servitude, the situation of domestic workers, restrictions on freedom of association and the right to strike, the rights of persons with disabilities and minimum wage.

In concluding remarks, Mr. Molinas Cardenas regretted that there was not enough time to inform the Committee of all relevant and pertinent initiatives and said that the concluding observations would serve as guidance in organizing the work and allocating the budget.

Renato Zerbini Riberio Leao, Committee Expert and Country Rapporteur, in closing remarks expressed hope that the Committee's report would be helpful in further promoting the human rights of people in Paraguay.

Waleed Sadi, Committee Chairperson, thanked the delegation for being candid and highlighting the pressure of time, and said that the Committee's formal concluding observations would be released at the end of the session on 6 March 2015.

The delegation of Paraguay consisted of the representatives of the Secretariat for Social Action, National Parliament, Senate, Ministry of Women, Ministry of Foreign Affairs, the Paraguay Indigenous Institute, National Secretariat for Children and Adolescents, Ministry of Health, Ministry of Labour, Employment and Social Security, Ministry of Education and Culture, Supreme Court of Justice, Ministry of Justice and the Permanent Mission of Paraguay to the United Nations Office at Geneva.

The next public meeting of the Committee will be at 3 p.m. this afternoon when it will start its consideration of the combined second and third periodic report of Tajikistan ([E/C.12/TJK/2-3](#)).

### **Report**

The fourth periodic report of Paraguay can be read here: ([E/C.12/PRY/4](#)).

### **Presentation of the Report**

HECTOR MOLINAS CARDENAS, Minister and Executive Secretary for Social Action of Paraguay, said that in order to strengthen the institutional capacity of the State, Paraguay had developed and installed an innovative and pioneering tool called "Recommendation monitoring system" (SIMORE), which facilitated access to information regarding the degree of compliance with international recommendations and simultaneously visualized the great challenges to ensure unrestricted access to human rights in the country. The new Government, which had been in place for 18 months, had shown its commitment to the improvement of the living conditions of the population. Because inequality continued to be a challenge despite the improvement in income opportunities, the reduction of poverty had been declared a national priority in August 2013. The Government had adopted the National Development Plan 2030 in December 2014, which continued and strengthened a comprehensive social policy and addressed multidimensional aspects of poverty. In this context, the Government was also contemplating the "National Extreme Poverty Reduction Plan - Planting Opportunities", which aimed to increase incomes and access to social services for poor and vulnerable families. Extreme poverty, which stood at 18 per cent in 2011, had been significantly reduced to 10 per cent. Adult pensions for the poor covered 90,000 recipients in 2013, and the coverage had been almost doubled in 2014.

The national campaign to reduce maternal and neonatal mortality aimed to cut avoidable deaths and had reduced maternal mortality by 38 per cent and neonatal mortality by 18 per cent in 2013. The challenge in ensuring access to education was the coverage and quality and in 2013, \$ 322 million had been added to the national budget for education, while the Law on School Feeding and Health Control had expanded the coverage in these services and contributed to universal access. The "ABRAZZO" Programme aimed at the progressive elimination of child labour and the protection of girls, boys and adolescents. Turning to the situation of indigenous peoples, Mr. Molinas Cardenas said that there were over 100,000 indigenous persons in Paraguay today, representing 1.8 per cent of the total population. Indigenous peoples were recognized by the Constitution, which guaranteed their right to preserve and develop their ethnic identity and to freely apply their systems of political, social, economic, cultural and religious organization.

In 2014, the law on expropriation of ancestral lands of the indigenous community Sawhoymaxá had been enacted. The First Workshop on Consultation and Free, Prior and Informed Consent had been organized in August 2014, which proposed a legal framework for the consultation process, while Congress was examining a law on indigenous health. Gender-based violence persisted and was being dealt with in a cross-cutting manner, and Paraguay was seeking to bring about a holistic approach to this issue through its legislative agenda. Job creation had been fostered and some 20 job centres had been opened in the capital and the cities, and training, retraining and specialisation activities aimed to ensure that the labour force had the skills relevant to the labour market. Paraguay was aware of the obstacles in the implementation of the Covenant, but nevertheless, it had made significant efforts and had demonstrated the will to improve its human rights policies.

### **Questions from Country Rapporteur and Committee Experts**

RENATO ZERBINI RIBERIO LEAO, Committee Expert and Country Rapporteur, asked the delegation to provide more information about the consultations that had been employed for the preparation of the National Development Plan 2013, the support and resources provided to strengthening the institution of the Ombudsman and the action taken to address corruption. The delegation was also requested to comment on the rights of indigenous peoples and the demarcation of their ancestral land, the delay in the passing of the bill on discrimination, the policy to promote trade union membership among workers and how the Government was dealing with strikes. The Country Rapporteur noted, on the subject of the right to social security, that 61 per cent of families did not receive any kind of social assistance, benefits or pensions, and asked the delegation to comment.

Another Committee Expert recognized the progress achieved in the improvement of the rights of indigenous peoples, particularly the right to be consulted and to give their prior consent, but noted the absence of guarantees to backstop those measures. What other areas of progress were there to ensure that indigenous peoples enjoyed their economic, social and cultural rights, such as the right to water, education or health? Further, 45 per cent of indigenous peoples did not have deeds or any other land ownership documents, which exposed them to eviction, and the Expert asked about legal, institutional and political guarantees which were available to indigenous peoples in this regard. What was the current status of the measures adopted by the National Centre for Indigenous Peoples to assist indigenous peoples notably in the inscription of land ownership in land archives and cooperation on indigenous issues with other countries in the region?

Rates of birth registration in the country were low, noted a Committee Expert and asked about measures to overcome the obstacles. What were the stumbling blocks within the Senate that had led to the rejection of the Anti-Discrimination Act? Paraguay had been unable to appoint the new Ombudsmen or Difensor del Pueblo since 2008 and had also withdrawn from the International Coordinating Committee of national human rights institutions, which was not a welcome development; what were the obstacles to the appointment of the new Difensor and what were the plans to re-institute the national human rights institution so that it could effectively work?

The delegation was asked about resources allocated to the provision of basic services to the population, the average tax burden on a citizen and plans to improve the tax collection system. In the context of anti-discrimination, Experts asked about the legislation in place to address all forms of discrimination, the intention to pass laws to complement the anti-discrimination

provisions in the Constitution, and the grounds for discrimination that would be included in the legislation.

Could the delegation assess the effectiveness of the Covenant in the protection of rights in Paraguay, explain the plans to return to the international system of national human rights institutions, and comment on the corruption of the judiciary and the attempts to interfere in the discharge of justice? What was the status of the recommendations concerning discrimination against indigenous peoples issued by the Inter-American Court of Human Rights and the Truth and Reconciliation Commission?

WALEED SADI, Committee Chairperson, asked to what extent was the Covenant meaningful to the direction of the Government in addressing pertinent issues, such as discrimination, poverty and others.

In a second round of questions and comments, Experts wondered about reasons to impose restrictions on freedom of association with trade unions and freedom to the right to strike. The gap in the economic activity by gender was more than 20 per cent in favour of men, and even higher in the rural areas; how was this huge gap reflected in the national system of micro and small enterprises? With regard to the situation of domestic workers, a Committee Expert noted their very difficult position with regard to working hours, pay, working conditions, pension and social security benefits, and asked about the bill on domestic workers, whether it covered them with any kinds of social security and what benefits they were entitled to?

Paraguay had a quota system for public employees positions, allocating five per cent of positions to persons with disabilities, but in reality only one tenth of those positions had been filled with persons with disabilities; what measures were in place to rectify this and to encourage private companies to hire persons with disabilities? How did the minimum wage relate to the cost of living? The delegation was also asked about inequality at work and in pay, and social security benefits for same sex couples.

### **Response by the Delegation**

Many of the measures taken by Paraguay were consistent with the provisions of the International Covenant and the recommendations of this Committee. The elimination of poverty was the priority for the Government, which had undertaken a series of consultations with various groups and with indigenous peoples to draft the National Development Plan. A major workshop, with the participation of over 300 persons, had been held in November 2013, which had defined main objectives and areas of action for the National Development Plan, adopted by a decree in December 2014.

Civil society, academia and representatives of states had been consulted in the development of the Human Rights Plan which was cross-cutting and included culturally sensitive issues such as reproductive health or lesbian, gay, bisexual and transgender persons. The Plan had been adopted by a decree, and later on a compliance framework, and because it was based on the recommendations by the international human rights bodies and the Inter-American Court of Human rights, its implementation could be monitored through SIMORE. The election of a new Ombudsperson was pending.

The Anti-Discrimination Act had been systematically reviewed by the Parliament since 2007, and the Human Rights Commission of the Senate had reviewed it in 2013. The mere fact that the discussions on the issue had taken place in the Senate reflected significant progress, and it

also had to be noted that there was a huge campaign against the Act by some strong elements of the society. The new anti-discrimination bill would be tabled in July this year; it would be based on the recommendations by human rights treaty bodies and the Universal Periodic Review, and would include discrimination against all civil, political, economic, social, cultural and environmental rights.

With regard to issues related to indigenous peoples, the delegation said that the setting up of a ministry dedicated to indigenous peoples would be welcome and stressed the need for indigenous peoples to be represented. Of the 493 indigenous communities in Paraguay, 351 had land deeds. The legal framework for consultations with indigenous peoples and free, prior and informed consent had been developed; the presidential decree on this framework was soon expected, which would enable the development of legislation on those issues. Major progress had been made in the appropriation of ancestral lands and in issuing or transferring land deeds to indigenous communities.

SIMORE, or Recommendations Monitoring System, was designed to build and strengthen the institutional capacity of Paraguay, to enable it to monitor progress in the implementation of the recommendations it had received from human rights bodies. The Constitution established horizontal and vertical independence of the judiciary; sitting judges were delivering judgments at three levels, and higher levels were not permitted to influence the rulings on lower levels.

National Plans for Equality of Opportunity were continuously assessed and realigned with international obligations and the National Development Plan, particularly in terms of indicators. Gender indices were mainstreamed in the national budget planning process, in local authorities and in legislation via for example specific laws for rural women, or laws on victims of trafficking.

### **Questions from Experts**

In a further series of questions and comments, a Committee Expert welcomed the establishment of the SIMORE mechanism which would improve the reporting to human rights bodies and, turning to issues of poverty and extreme poverty, asked when the evaluation finding of the “Tekopora” programme would be available. According to the recent Food and Agricultural Organization report, 22.3 per cent of the population was still suffering from malnutrition, and these levels were unacceptable. Paraguay was the fourth world exporter of soy beans which was cultivated on more than half of the land, and this had a considerable impact on small-holder farmers and food security. The delegation was asked how land users who were occupying the land without title were protected from having their land overtaken by large plantations, about the compensation of campesino families, the impact of the expansion of mono cultivation on inequality in the rural areas, and whether the benefits were equally shared within the society.

The next speaker asked about the steps being taken to set up a comprehensive land register and to implement agrarian reform which would result in fair distribution of land which was now concentrated in the hands of a handful of landowners; measures to deal with the housing deficit and provide access to affordable and adequate housing for poor and vulnerable families; and about the legislation on forced evictions.

The amendment of the Criminal Code for the punishment of perpetrators of domestic violence was progress, but there were limitations in the definitions used, such as habitual violence, cohabitation, etc., noted another Expert and asked about intentions to close this legal gap in

addressing domestic violence. How many perpetrators of domestic violence had been sentenced with prison sentence or fines? Abortion was legal only if a woman's life was threatened; abortion following rape or incest was not authorised, and this was a form of torture. The issue of unsafe abortion was closely related to the very high rates of maternal mortality in the country.

Other Experts asked how the right to health was guaranteed in Paraguay and about birth registration for refugee, asylum and stateless children, and also raised issues of education of indigenous peoples and the absence of sanitation services in indigenous schools, access to the internet for disadvantaged and marginalized groups in order to involve them in the processes in the country, debt servitude and forced labour, and access to basic sanitation for indigenous peoples.

### **Response by the Delegation**

Significant progress had been made with regard to legislation on the rights of persons with disabilities, for example the law on employment of persons with disabilities and protection from work-based discrimination, quotas for employment in public and private sectors, and the law on inclusive education. Law 4934 related to physical accessibility for persons with disabilities and law 3585 provided for all Government entities on all levels to ensure at least five per cent representation of persons with disabilities in their workforce.

Legislation had been proposed which would provide the protection of children and adolescents from violence and cruel and humiliating treatment and entitle them to proper and dignified upbringing.

Responding to the questions and concerns raised about labour and social issues, the delegation said that Paraguay was seeking to do the best it could with the available resources and to build an institution in charge of the protection of the right to work. The Ministry of Labour, Employment and Social Security arose with the aim to protect the rights of workers and to bridge the historical gap and protect the most vulnerable. Paraguay was a party to International Labour Organization Convention 87 on Freedom of Association and Protection of the Right to Organise, and had begun to formalize administrative functions to comply with this Convention and had established rules and procedures for trade union registration which did not violate the provisions of Convention 87.

The right to strike was enshrined in the Constitution, including for public servants, who had the responsibility to maintain essential services for the population during the strike. Minimum wage was established in the Labour Code and this concept needed updating to bring it in line with modern considerations and changes in the labour market, and this was one of the most pressing concerns of the State, particularly in the informal sector. Paraguay had been party to the International Labour Organization Convention on domestic work since May 2013, and had sought to establish minimum age for the sector; this was going to be debated in the Lower House. Forced labour was one of the key concerns of the Government and was focused on very specific areas such as sugar plants, quarries and indigenous areas; indigenous people made up the majority of victims caught in debt servitude. The Government would address the issue in cooperation with the Institute for Indigenous People, the International Labour Organization and the United Nations Development Programme.

Medical doctors had an obligation to provide satisfactory care to all women victims of rape without discrimination on any grounds. Further, adequate care must be provided to all

women, including for complications following abortion. Maternal mortality rates showed steady decline, and in 2013 stood at 96.5 deaths per 100,000 live births, representing a reduction of over 44 per cent since 1990. Disparity existed between rural and urban areas in both maternal and neonatal mortality and in 2012 the Government adopted a strategy to address this problem, focusing particularly on preventable causes.

Poverty was a very complex and multi-dimensional problem and the only way out was to ensure that families had the conditions and capacity to generate their own income. The Government was providing more sustainable support to families with the objective to generate revenues through micro-enterprise and support for small producers. Extreme poverty was apparent through children living in the street; the ABRAZZO programme addressed this issue by providing integral care, access to education, strengthening the capacity of these children and providing support to their families. The National Secretariat for Children supported the bill which would identify predictable funding for plans and programmes of such nature. The programme called BINAC addressed children living in the street that had no families and had addiction problems.

The Paraguayan Institute for Indigenous Populations (INDI) looked into the situation of forced labour of indigenous peoples in the country, and was preparing a survey on this issue which would take place in the Chaco area. INDI was working on supporting food security of indigenous peoples and was supporting traditional forms of food production, for example the maintenance of ancestral seeds. Water was a very important resource in Paraguay, which had large reserves in the East; in Chaco, a large and sparsely populated area inhabited by indigenous peoples, fresh water was scarce and the Government was constructing an aqueduct to provide 100 indigenous communities in central Chaco with fresh water. It was important to say that 93 per cent of indigenous peoples were located in rural and remote areas; in order to support civil registration, a mobile registry system had been set up, which provided birth registration, and also issued identity cards.

Turning to the right to education, the delegation said that 4.4 per cent of the gross domestic product was invested in education, which represented 13 per cent of total public expenditure. The law enacted in 2013 had established a new scheme for financing of education by earmarking funds for school improvements, meals and training of teachers. A project to repair and extend indigenous schools in rural areas was underway, and included building of classes and canteens, and provisions of basic furniture and equipment. The implementation of the 2010 Language Law had been undertaken through the secretariat established in 2012, while the Education Law provided for education in the mother language since early childhood education, and by grade six all children were functionally bilingual, speaking Spanish and Guaraní.

A law had been tabled in March 2014 to amend certain articles of the Penal Code and create an offence of domestic violence; the amendment removed the requirement of cohabitation in order to qualify domestic violence as an offence. The amendment was part of an effort to bring about institutional changes to better define violence against women; there was a need to provide resources, include femicide in the legislation, establish unified register and improve institutional linkages. According to the 2013 survey, 18.5 per cent of people had suffered domestic violence and psychological violence was the most prevalent form.

### **Questions from Experts**

Noting the delegation's response about the criminalization of domestic violence, an Expert

asked about the intention to remove the requirement of habitual violence in order to consider it an offence. Paraguay should revise the Criminal Code which still punished women for abortion even for a pregnancy caused by rape; this would go a long way in reducing maternal mortality, which was still rather high.

Answers were outstanding on a number of key issues raised by Experts, including that of social security, tax collection, agrarian and land reform which was directly linked to rural poverty and inequality, ownership of land by rural poor who were not indigenous peoples, access for same-sex couples to social security and benefits and measures to counter discrimination on the grounds of sex orientation, and corruption.

The delegation spoke about the reduction of poverty in the country, and an Expert asked for additional information about measures undertaken in rural and urban areas, main achievements and challenges.

The comprehensive food and nutrition programme PANI had been in place since 2005, said a Committee Expert and noted that malnutrition rates stood at 22 per cent, which were extremely high, and asked why the PANI programme, implemented for 10 years, had not been performing better. What was the future of the PANI programme, should it not be transformed into permanent binding legal and policy measures?

### **Response from the Delegation**

Members of the public sector had an obligation to provide statements of incomes, which were placed in the public domain. The National Anti-Corruption Office spearheaded the fight against corruption and by decree all executive organs had to set up offices for reception of claims of corruption. The Prosecutor's Office and the judiciary had in place specially trained judges to deal with corruption and economic crimes; currently, 37 persons had been convicted for corruption.

The amendment of the Criminal Code had removed the requirement of repetition in order to consider violence as an offence.

Social security was traditionally institutionally weak and not given due attention by previous Governments, said a delegate, adding that enterprises which did not contribute to the social security system were sanctioned. The Ministry of Labour was working with others to improve the register of enterprises and planned to address the problem of under-recording and the gap between the Ministry and the Institute of Social Security. Self-employed workers, who represented 35 per cent of the workforce, could join the system on a voluntary basis. The Central Bank had put forward a proposal for the creation of the Social Security Fund, with joint oversight with the Ministry of Labour. The Cabinet had recently adopted the list of 25 pre-requisites which would serve as a basis for the creation of the social protection floor and set the minimum standards in basic services which all families in the country must enjoy.

In terms of measures to address poverty, the head of delegation said that the food programme for poor adults covered 136,000 individuals, while Tekopora programme provided cash transfers to more than 100,000 families. Some 700,000 persons lived in extreme poverty in Paraguay and the programmes together reached 240,000 families, meaning that all people living in extreme poverty received some form of support. Combating poverty was the major component of the National Plan for Human Development, and the major challenge was that of adequate financial resources. A major achievement in the fight against poverty was the

coverage and fine tuning of those programmes, including the incorporation of indigenous and older persons.

Intensive cultivation of soybeans had caused significant environmental degradation in the country over the past 10 years. A draft bill on food sovereignty and the right to food had been presented to Congress in order to protect small-scale agriculture and farmers who had been displaced by monoculture. The law was before the Senate Committee and it was hoped that it would be promulgated.

A Committee Expert quoted the malnutrition rate of 22.3 per cent, but this data did not correspond with the data provided by the statistical agencies in Paraguay. The PANI programme focused on children under the age of five and mothers for six months following the birth, and currently 75,000 children were included. The programme was active in the eastern part of the country, while other programmes, such as ABRAZZO were available elsewhere.

### **Concluding Remarks**

HECTOR MOLINAS CARDENAS, Minister and Executive Secretary for Social Action of Paraguay, in his closing statement, said that Paraguay was a rich country, with a range of institutions and initiatives undertaken by Ministries; unfortunately, there was not enough time to inform the Committee of all those that were relevant and pertinent. The Committee's concluding observations would serve as guidance in organizing the work and allocating the budget, said Mr. Molinas Cardenas and, recalling that only during the dialogue yesterday, Paraguay had received 148 questions, suggested that the Committee reconsider the method of works and how questions were asked.

HUGO RICHER, Human Rights Commission of Paraguay's Senate, said that all countries made huge efforts to attend the meetings with the Committee and that not much time was given to the delegation to answer the questions.

RENATO ZERBINI RIBERIO LEAO, Committee Expert and Country Rapporteur, said that it had been a constructive, frank and open dialogue and expressed hope that the Committee's recommendations would be helpful in further promoting human rights in Paraguay.

WALEED SADI, Committee Chairperson, in his closing remarks, thanked the delegation for being candid and highlighting the pressure of time, and said that the Committee's concluding observations would be adopted at the end of the session on 6 March. As a reference for future reports, Paraguay should anchor its answers in the provisions of the Covenant, and the general comments of the Committee which were an attempt to put more substance on the skeleton provided by the Covenant.

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