

SUPPLEMENT TO THE INITIAL REPORT BY PARAGUAY TO THE COMMITTEE ON RIGHTS OF CHILDREN (CRC)

Comments by the
Coordinadora por los derechos de la infancia y la adolescencia (CDIA)
Asunción - Paraguay April 1997

CDIA encompasses 14 organizations that work to update and enforce Rights of Children.

It presents to CRC the following documents to support and update the May-June 1997 session.

- a) Comments to some answers of the government report to CRC questionnaire aimed at Paraguay.
- b) Annexes:
 1. "Rights of Children". Report published in December 1996, in Asunción.
 2. Indigenous Children
 3. The Situation at Panchito López (jail of male minors)
 4. Children in the Military Service
 5. Newspaper cuttings

Question 1

For third time Paraguay makes the same mistake of presenting a report to CRC which has been prepared by an official institution without much knowledge about the situation, that reduces its consultations to a reduced number of players in the field of childhood and that ignores concepts that reinforce the convention of rights of children and the doctrine of integral protection. (See Annex 1:1.3).

DRAFTING: The CRC report is drafted by the Department of Human Rights, an organization aimed at this specific purpose that reports to the Ministry of Justice and Labor. It uses several organizations as sources of information but the General Directorate for Protection of Minors (DGPM), reporting to the same Ministry, is the main source. DGPM performance in relation to rights of children is practically nil although the government report indicates otherwise. This institution does not play its roles regarding protection of minors minimally or efficiently, it does not enjoy official or unofficial recognition and it hinders the coordination between official and non-government agencies.

The report does not take into account the involvement of the Committee of NGOs for Rights of Children and Adolescents (nor of any of its members) in any part of the report. It lacks sufficient information on programs and activities of both governmental and non-governmental organizations in the field of dissemination, prevention and enforcement of the Convention in the country.

Several items of the report grant government agencies greater influence over rights of children than is actually true in relation to activities carried out in coordination with civil organizations. For example: the annual campaigns for dissemination of the Week of Rights

of Children, the Forum on Rights of Children for the preparation of the draft Code for Children, encounters of worker boys and girls. This attitude does not match the spirit of cooperation with which these activities are carried out, specifically between the Centro Nacional de Defensa Infantil - CENADI (National Center for Defense of Children) (governmental) and the Committee of NGOs (CDIA).

PRESENTATION: Official representation at the CRC session in May implies the same problem for the government in 1997 as the 1994 session did. It is unlikely that an institution will defend a report that it has not prepared itself, and even less in the case of a report prepared by persons who are unable to defend it as they do not have enough knowledge on the issue. For the first time, consultation takes place in this regard. The National Commission of the National Action Plan for Children (PNAI), coordinated by the Minister of Women, summoned a timely meeting to be held on 23 April 1997 together with the Technical Committee to prepare a representation for CRC. Although belated, this represents a new and different predisposition to address the commitments taken on by Paraguay upon signing the Convention.

DISSEMINATION: None of the three CRC reports were distributed by the government to the public in general or to public and private institutions. CDIA distributed these reports only within member institutions. The Minister who was on duty as CDIA chairwoman gave a copy to each member institution April 23rd 1997.

Comment

Repeated problems with reports on Paraguay to the CRC reflect lack of governmental determination regarding responsibility and coordination of official agencies that should assist children and adolescents.

CENADI (or National Center for Defense of Rights of Children) reporting to the Ministry of Health and Social Welfare has covered the void left by DGPM in the field of rights of children. Of government institutions, CENADI is the governmental institution that is most active in dissemination and enforcement of these rights. It has qualified and interdisciplinary personnel and works closely with other governmental and non-government agencies in joint programs. If CENADI had participated more substantially the report on Paraguay for CRC would have had higher quality.

The Secretariat for Social Action (SAS), reporting to the Executive, began its activities in 1996. It administers IDB (International Development Bank) funds for the program called "Niños de la Calle" (Children of the Street) and funds from the European Union for the program "Children of the Street and Minors at Risk". It also administers Social Investment Funds (FIS). It is the new player in the field of rights of children. It finances projects for children and adolescents for an approximate value of forty million dollars.

There are 43 more institutions in the country that work with children and adolescents in some way or another. They are not connected to each other nor do they have a common orientation.

Recommendations:

- a. Restructure the current official system
 - a.1 Establish a decentralized system to care for children and adolescents based on municipalities and departmental governments.
 - a.2 Appoint an institution to be charged with coordinating.
 - a.3 Eliminate unnecessary institutions (for example, DGPM).
 - a.4 Improve collaboration between different government agencies.
 - a.5 Launch a system to connect government agencies with organized civil society.
- b. Bring together the efforts of government institutions for a decentralized and dejudicialized assistance for children and adolescents and connected with other institutions and organizations.
- c. Support approval and promulgation of the new Code for Children and Adolescents, the law on adoption and penal law for adolescent transgressors.
- d. Train institutions of the Legislative, the Executive and the Judiciary in relation to the new doctrine of integral protection and the new system to interconnect institutions.
- e. Ensure that the Secretariat of Social Action (SAS) is clearly part of these efforts and directs project funds accordingly.

Question 2

Contrary to statements, the Department of Human Rights has not disseminated the Convention to all the Republic including to children in rural areas as well as indigenous groups, as of 1993. The election campaign that is mentioned in the report was carried out in 1992 and 1993 but had no continuity as a campaign. Nor did it encompass indigenous groups.

4. To date the National Action Plan for Children (PNAI) does not disseminate the Convention. In March 1997 it started to disseminate the National Plan in three departmental governments. It is a new experience in institutional coordination of plans and programs. (See Annex 1: Chapter 1.1).
14. The Week on Rights of Children is held each year from 10 to 16 August. CENADI (governmental organization) and CDIA (NGO) annually foster activities during this week. The CDIA is supported by Radda Barnen in relation to didactic manuals for teachers, posters and toys for children of all schools in the country. In 1995, 25,000 didactic manuals were published and 35,000 in 1996. UNICEF gave support with spots on a TV channel. CENADI managed to publish vignettes on Rights of Children in the two largest newspapers. (See Annex 1: 1.2).

The Educational Reform implements human rights and rights of children as the transversal axis. Theoretical knowledge on rights of children has increased in schools, but not enforcement in practice as may be observed by authoritarianism of teachers and their deficient use of participative methods due to lack of training.

To date **didactic materials** for schools are drafted in Spanish. Only a small brochure of the Week on Rights of Children was written in Spanish and Guaraní.

To date agencies that finance programs related to rights of children have not expressed interest in providing support for material in Guaraní. In very restricted experiences the institution called PLAN International has started to incorporate bilingual (Guaraní-Spanish) material on rights of children in programs for schools in the countryside. GLOBAL...Infancia is doing the same in municipalities. FE Y ALEGRÍA promotes schools in the countryside in which reading and writing is taught in Guaraní.

16. CENADI replaces DGPM in the field of Rights of Children at the governmental level. The Municipality of Asunción is developing the program called CECODIN (Community Center for Defense of Children) in two communal centers based on training and performance of neighbors who defend rights of children. In 1995, 30 Municipalities of the countryside started to work on rights of children at the level of the community through Councils for Rights of Children (CODENI) with a training and follow-up program supported by Radda Barnen via GLOBAL...Infancia (NGO).
24. Seminars were held on proposals for the new Code for Children and Adolescents in 1995 and 1996 in relation to:
 - a. doctrine of integral protection
 - b. adoption
 - c. children and youths in conflict with the law
 - d. udeudicialization of care for children and adolescents
 - e. draft project of code for childhood and adolescents

It was carried out by CDIA and CENADI in the framework of the FORUM with support of RADDA BARNEN and UNICEF.

In September 1996, CDIA and the Commission on Legislation of the Senate organized a seminar "For Adoption With Ethics" with the attendance of the Secretary General of The Hague Conference on private international law, Mr. Hans Van Loon, experts from neighboring countries and an abundant delegation of representatives from different national institutions. After three days of hard work, the foundation was ready to prepare the future law on adoption.

As of this positive experience, CDIA and the Commission on Legislation of the Senate made a second summoning to study the code for children and adolescents. Joint inter-institutional work set the bases for reflective preparation of reforms to the draft code with practice and theory as it point of departure. UNICEF contributes partially with technical work.

The FORUM ON RIGHTS OF CHILDREN (1995-96 and supported by UNICEF) brought together governmental and non-governmental institutions, including the Government Attorney's Office and judges of the jurisdiction of minors, to reformulate the draft code. DGPM did not participate as a promoter but simply as another institution invited to participate in same. In 1996, DGPM organized an event on Worker Children together with DNI-Paraguay.

Comment

Rights of children in campesino and indigenous areas

Working with children in rural, campesino or indigenous areas implies having knowledge of the different cultures and use of methodologies that are adapted to same. It is necessary to carry out studies using their cultures as the point of departure to know how to deal with rights of the children on these communities. Respecting another culture does not mean simply translating contents that belong to another reality. Unfortunately, NGO proposed projects that help identify indigenous or campesino children in their social and cultural context have not received any response on the part of agencies that usually finance this sort of work. (See Annex 2 for information on indigenous children).

Question 3

The Government Attorney's Office, with cooperation of UNICEF, carried out full day training sessions on the issue: children and youths in conflict with the law, in four regions of the country: Coronel Oviedo, Encarnación, Pedro Juan Caballero and Caaguazú, in October and November 1995.

In September 1995 the Government Attorney's Office organized a debate-panel on "Youths at odds with the law and protection of privacy".

New judges and attorneys of the jurisdiction of minors of the capital and the countryside have been appointed by the Council of the Judiciary in 1996.

A group made up by a member of the senate, two prosecutors and one judge of the jurisdiction of minors visited the court of Childhood and Youth of Porto Alegre, Brazil (judge Marcel Hoppe) to study how decentralization was working, as well as, and particularly, the issue of adoptions. Experiences of this kind are extremely beneficial. These persons start introducing changes in their environment. On other occasions Brazilian judge Marcel Hoppe visited Paraguay to support promotion of, and training in, rights of children.

Judges, government attorneys of the jurisdiction of minors, as well as judges from the countryside, require training on the convention and the doctrine of integral protection as soon as possible. This training is a peremptory need that has not been met yet. Training for judges and government attorneys has been envisaged this year in the capital city and the countryside with the support of Radda Barnen. The Government Attorney's Office is also preparing to give courses on Rights of Children and Human Rights.

In terms of decentralization and in anticipation of code approval, officers from 30 municipalities receive training for municipal council activities related to rights of children which takes into account the levels of dissemination of rights of children, prevention of avoidable problems and assistance in cases of violation of rights of children. Radda Barnen provides support via GLOBAL... Infancia.

UNICEF and GLOBAL...Infancia have carried out the campaign "Majors who support childhood" before the 1996 municipal elections aimed personally at each candidate for the position of major, with five regional events and massive dissemination via different newspapers.

Question 4

Comment

NGOs carry out surveillance of enforcement of convention by means of their programs, the objective of which is to control and enforce rights of children.

- Periodically NGOs, particularly via CDIA, write reports on fulfillment of convention and make specific denunciations at the national and international levels.
- They prepare proposals for legislation (code, law on adoption).
- They prepare and promote programs and social policies that benefit children.
- They support mobilization and organization of children and adolescents, mainly of workers.
- They disseminate rights of children and denounce violations.

CDIA does not include all NGOs that work for children in Paraguay, it only includes those that identify rights of children and adolescents from the standpoint of the Convention. However, there are still NGOs with these characteristics that are not part of the Committee with which they carry out specific activities.

Most probably other organizations will become part of CDIA in so far as they focus their work on rights of children. On the other hand, CDIA must also expand from rights of children to other areas that are beyond classical issues.

CDIA is involved in several inter-institutional councils: the Municipal Council for Rights of Children of the Municipality of Asunción, the Consultative Council of UNICEF and the Technical Committee of the PNAI, plus the multi-sectorial meeting for preparation of code.

Currently, CDIA is an important reference for legislators belonging to the commission on legislation of the Senate, in relation to projects about rights of children.

Question 6

International conventions approved by Parliament in 1996.

- The Hague Convention on Protection of Children and Cooperation in relation to international adoptions (Law 900/96)
- Inter-American Convention on Food Pension (Law 899/96)
- Inter-American Convention on International Restitution of Minors (Law 928/96)
- Convention on Civil Aspects of International Kidnapping of Minors (Law 986/96).

The legislative proposal has three main parts:

- a law on adoption
- a law for adolescent transgressors
- a code for children and adolescents

The division into these three legal parts is due to different reasons. The law on adoption (which has been approved by one of the chambers) responds to the decision of legislators to give way to pressure to renew international adoptions. The law for adolescent transgressors responds to a parliamentary strategy to approve laws in parts, starting with the less conflictive ones. The idea is to unify these laws into the new code once the same has been approved. Both chambers have promised to approve this code in 1997.

Code for Children and Adolescents

The proposed code for children and adolescents is being studied by the Commission on legislation, codification, justice and work of the Senate. CDIA is starting to set up contacts with the Chamber of Representatives. UNICEF promotes some national parliamentarians and enables contacts with Latin American parliamentarians who work in relation to rights of children.

The proposed code that emerged from the Permanent Forum on Rights of Children, and which is described in detail in the government report, has undergone several changes. One of them is that instead of a leading centralizing directive agency, a decentralized system is incorporated which dejudicializes assistance to children and interconnects institutions. This system is made up of three levels: national, departmental and municipal. All levels interconnect governmental institutions with civil society. An agency for coordination has yet to be defined.

Law on Adoption

It considers full adoption as the only regime. It suppresses consent of biological parents and replaces it with loss of parental rights and duties. It differentiates two processes: the one related to adoption itself, and a prior process that declares the child as ready for adoption after a clear end of parental rights and duties. Before declaration of child as ready for adoption there is a period of Maintenance of family bondage that lasts 45 days during which the right of the child to be brought up by his own family is guaranteed.

Penal Law

It guarantees rights of children or adolescents who have been charged with a given transgression by ordinary penal legislation. It regulates the guiding principles, establishes the applicable procedure and determines which measures must be taken.

Children and adolescents will enjoy the same rights and guarantees recognized by laws applicable to persons over 18 years old. Children under 12 are not subject to this law, but will receive integral protection.

In general terms, the three proposals for legislative reform include important progress in terms of basic rights and guarantees.

Foreign consultants from Peru, Brazil and Argentina have assisted in this process.

Question 9

As of 1990, international cooperation, specifically Radda Barnen and UNICEF, have aided national organizations in tasks related to dissemination and enforcement of the convention. They need to listen to local proposals.

Question 13

Not all schools teach reading and writing in Guaraní to children whose mother tongue is Guaraní, only those schools who decide to use this modality. There have been efforts in 150 schools but this number has diminished. (See Annex 2 and Comment to Question 2).

Question 14

In spite of efforts made since 1996, data gathered on the situation of children and adolescents are still very uneven. None of the sectors mentioned has sufficient qualitative and quantitative information, only based information. There is much work ahead to identify adequate indicators to measure progress and regression in fulfillment of rights of children. One of the basic issue is the deficient provision of public services in relation to vital statistics. (See Annex 1, item 2.1, 2nd paragraph).

Question 15

The higher interest of children is slowly becoming part of legal and administrative procedures, mainly in the capital but also in municipalities for non-judicial cases.

This concept is still immature and implies sad episodes of confusions and misinterpretations. For example: Does the child's higher interest mean staying with his poor family or being adopted by a rich family from the capital city or an American family?

Interpretation of this higher interest must be accompanied by training in terms of the doctrine of integral protection together with non-judicial alternatives to support children and adolescents and their families.

In the capital city, the new trend to start off with the child's interest, as his right to be brought up by parents or relatives, is influencing judicial proceedings in some of the courts of the capital city. Judges of Minors and mostly government attorneys are beginning to work for the rights of children. However, this is very incipient. In the countryside there is no knowledge of the higher interests of children, nor of the convention, with very few exceptions. The prevailing trend is to see children in terms of adults interests.

Regarding adoptions, the pressure of international adoptions ended in September 1995 with their suspension, hence the higher interests of children are kind of safeguarded for the time being.

Question 16

These measures are included in the three proposals for legislation mentioned in Question 6.

Question 21

Inadequate, insufficient and expensive service of the Bureau of Vital Statistics reveals an indefinite number of children who have not been registered. The following contribute to this situation: inability of payment, lack of parental documents, misinformation regarding the procedure and the importance of registering children.

A census of the municipality in a neighborhood of Asunción in 1996 recorded that of every 4,000 children, 1000 are not registered.

Day long sessions at the Bureau of Vital Statistics in three neighborhoods of Asunción a few days before commencement of classes at schools in 1997 resulted in 355 children registered in 9 days. It was the result of joint work of the municipality of Asunción, the Bureau of Vital Statistics, and several community organizations.

Recommendation

Point out the need to adapt the service of the Bureau of Vital Statistics to the needs of the population.

Do campaigns for registration of children.

Question 23

CENADI and the Department of Mental Health of the Ministry of Public Health and Social Welfare are coordinating a process to set up a National Network for assistance in cases of child abuse.

CENADI and the Department of Assistance to Victims of Crime, reporting to the Government Attorney's Office, work in favor of the psychic and psychological recovery of victims and their families.

Question 24

On abuse at detention or rehabilitation centers. See Annex 3.

Question 25

Please refer to the heading on "Family" of the report in Annex 1, item 3).

Question 28

No programs have been prepared. Only a law on adoption was prepared. As it was not dealt with as part of the Code, it was necessary to include a treatment for prevention of abandonment of 45 days called Maintenance of the family bondage starting as of the moment in which a family or mother or father expresses the intention of giving the child to adoption.

Question 29

Somehow answers to this question and the following one completely justify an adoption procedure that encouraged countless irregularities and illegalities. Attorneys, lawyers and judicial and administrative employees are on trial, albeit with indecision. Some international adoption proceedings that had been initiated before the suspension in September 95 have been canceled and many more have been delayed in order to clarify apparent irregularities.

Measures taken include the following:

- The Council of the Judiciary changed the judges of minors in 1996.
- Parliament temporarily suspended international adoptions in September 95, in 1996 and in March 1997 until promulgation of a new law.
- Parliament approved The Hague Convention (93).
- Parliament has a law on adoption that is approved by one of the chambers.

Due to the suspension of international adoptions since September 1995, pressure of foreign families diminished to such a degree that there is not a single child who has been proved to be in need of adoption, who cannot find a family to adopt him/her.

National families have yet to carry out their own search to find children to adopt since there is no national organization to take care of these matters. Children who live in nurseries and the Home of Minors of the Nation have pending adoption proceedings.

New judges and attorneys guarantee more than the previous ones a procedure to evaluate parents and relatives of the child, as well as ensuring consent. However, this consent still lacks prior adequate unbiased counseling. Nor does it guarantee that the child will be heard or that he/she consents.

Question 30

Somehow, in spite of constant reminders and consultations from different organizations at the national level, until April 1997 the Ministry of Foreign Affairs had not provided The Hague with necessary instruments for Paraguay to sign the Convention on protection of children and cooperation in relation to international adoption.

Recommendation

That the Ministry of Foreign Affairs present the instruments to formalize Paraguay's membership of The Hague Convention. The law on adoption that has been approved by one of the chambers is based on said convention and is about to be approved by Parliament.

That the Central Adoption Authorities enjoy necessary support for fulfillment of their duties.

Question 31

If supervision of nurseries takes place as described by the report, how can one explain the recent judicial intervention that closes the Capullito nursery because nine children with pending international adoption proceedings were found in a complete state of abandonment with lack of hygiene and adequate basic food? (See press article in Annex).

Question 40

Regarding forced recruitment of children in the Armed Forces, deaths, abuse, kidnapping see Annex 4.

Question 41

Measures have been envisaged by penal law for adolescent transgressors in relation to alternative measures to loss of freedom.

Training of judicial and administrative employees is necessary in order to enforce these measures, as well as of governmental and decentralized organizations and civil organizations that will support the new system for assistance to children.

Question 42

No system to check the conditions or any pedagogical or social activity may be addressed in the current subhuman conditions of the jail for adolescents from 14 to 18 years of age. See Annex 3.

Recommendations

1. Approve a new penal law for adolescent transgressors or include it in the Code for Children and Adolescents.
2. The Supreme Court of Justice must exercise a strict surveillance of the work of criminal courts and courts for correction of minors. Both the sluggishness of judicial proceedings as well as abuse of prisons for prevention are the causes of overcrowdedness of the Panchito López Juvenile Reformatory.
3. Close the National Institute for Re-education of Minors "Coronel Panchito López". Study case by case to relieve minors from prison. The current situation is kin to throwing confined adolescents to delinquent marginality.

4. On par with relieving prisons of excessive amount of prisoners, new jails must be planned in terms of humane and professional education and training.
5. Ensure that children and adolescents at police stations of the capital city and the countryside as well as at jails do not share the same enclosure.

Question 43

Persons under 20 face a more threatening situation than adults in relation to illegitimate loss of freedom. Law 903/81 enables judges of minors to take appropriate measures for protection of children and youths who are in a state of abandonment or danger. The aforementioned law does not define what must be understood as state of abandonment or danger so the Judge must decide. It establishes that state of abandonment or danger means a situation in which persons under 20 “manifest a trend to delinquency” or “have other vices or behavioral disorders”.

In practice “adequate” protection measures end up becoming loss of freedom. Thus, the Institute of Tomorrow (Instituto del Mañana), the 12th and 17th Police Stations and María Reina Home are full of confined 20 year old minors in a state of abandonment or danger.

This law allows victims (youths) to be subjected to same treatment and procedure as a person accused of committing a crime. In this way children or youths who inhale carpenter’s glue, beggars, prostitutes (minors) or minors accused of homicide and robbery are equally deprived of their freedom and all end up in the same jails or alleged reformatories.

(Extracts of chapter “Illegal and Arbitrary Detentions”, Carlos Abadie Pankow. Tekojoja Foundation, from the book Human Rights in Paraguay 1996).

Question 44

1.8% of adolescents who are deprived of their freedom and confined to Panchito López have a sentence. The majority belong to poor families so do not have lawyers to defend them and on many occasions spend months imprisoned without a declaration before the judge. (See Annex 3).

The Institute of Tomorrow hosts minors under 14 years old who are completely at the disposal of the Judge of Minors and the director of the institution. They are deprived of freedom and have not gone on trial to acknowledge guilt in relation to some transgression, thus have not been sentenced (they do not know how long they will stay there) and are subjected to an imposed two year regime of education.

The building itself and the educational programs are interesting as long as one does not take into account the previous paragraph.

Question 50

There are no measures to guarantee enforcement of this legislation. They will be included in the new code for children and adolescents.

For first time Atyha and UNICEF carried out an interesting research on the “criaditas” (young maids) or adolescents or girls that work in households in exchange for a bed, food and sometimes school.

Question 51

There is no institution in charge of working on the issue of sexual exploitation of girls and adolescents underscoring prostitution. UNICEF contributed with a partial research on the issue in 1996, which provided some reference data on the issue in Asunción and Ciudad del Este.

Some institutions partially discuss the issue of sexual exploitation, such as CENADI (governmental), the Department of Mental Health and BECA (NGO), that are organizations working with child abuse and sexual abuse emphasizing the issue of gender. These organizations expect to expand and reach other cities as a network in the countryside and neighborhoods of the capital city.

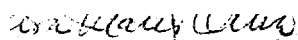
Question 52

The WHO-PSA project called “Children in the street and use of psychoactive substances” worked efficiently, mainly as prevention by means of focus groups with non addicted worker children. Adolescents and children who addicted to drugs and exploited by trade of these substances have not had a great involvement in this program. There is no institution that provides rehabilitation programs for drug addicts. Trade continues to use children who are exploited for this purpose.

Consumption and trade of drugs has expanded to a large extent to schools, neighborhoods, without distinction of social classes. To date the situation is beyond control.

Question 53

See Annex 2.



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