

unpunished; two Supreme Court judgements upheld the decisions of lower courts declaring the offence of torture to be imprescriptible; measures related to states of emergency; details of provisions in the draft Penal Code related to the question of torture; the creation of the Judiciary Documentation Centre for the Protection of Human Rights; the establishment of a Committee on Justice and Truth related to conditions and events in Paraguay prior to 1989; human rights education initiatives; and, the development and implementation of the National Plan for the Promotion and Protection of Human Rights.

The Committee's concluding observations and comments (A/52/44, paras.189-213) welcomed: the fact that Paraguay has not adopted any "clean slate" or amnesty act; that article 5 of the Constitution gives constitutional rank to the prohibition of torture and ill-treatment and stipulates that there is no statutory limitation on judicial proceedings intended to punish those offences; that under article 137 of the Constitution, international treaties, conventions and agreements, including the Convention against Torture and the Inter-American Convention to Prevent and Punish Torture, once approved and ratified, form part of domestic law and rank higher than the laws and immediately below the Constitution; the guarantees applicable to arrest and detention which provide a legal framework that can and should help to prevent torture; and constitutional provisions governing states of emergency which are consistent with the non-derogability provision of the Convention.

Among the factors and difficulties hindering implementation of the Convention, the Committee noted that there has been no implementation of the decision to establish an ombudsman and there has been insufficient activity on the part of the Public Prosecutor's Department with regard to the initiating of criminal proceedings in respect of physical ill-treatment by public officials.

The subjects of concern identified by the Committee were, *inter alia*: the lack of a definition of torture in existing legislation and the fact that the definition contained in the original form of the draft Penal Code was inadequate and the revised one even more so; the fact that while torture and ill-treatment are no longer official state policy, they are still practised by public officials, particularly in police stations and primary detention centres, in order to obtain confessions or information which are accepted by judges as grounds for instituting proceedings against the victims; the frequent physical ill-treatment of soldiers during their compulsory military service; that paramilitary groups in the service of major landholders have been evicting people from land they have occupied for many years and that this activity appears to be tolerated by the state; that many arrests are made without a previously issued warrant from the competent authority which facilitates torture and ill-treatment; lack of information on any programmes for the compensation and physical and mental rehabilitation of victims, thus suggesting that there are no such programmes; the fact that the state has only subsidiary responsibility for the actions of its officials, as stated in article 106 of the Constitution, which makes victims responsible for laying claim to the assets of their torturers in order to exercise the right to compensation; that domestic law includes insufficient provisions prohibiting the expulsion, refoulement

or extradition of persons to other states where there are substantial grounds for believing that they would be in danger of being subjected to torture; and, that domestic law contains no provisions on the universal prosecution of torture or on judicial cooperation for that purpose.

The Committee recommended that the government:

- ▶ separate the provisions on torture from the new Penal Code and include all matters related to torture and ill-treatment in a special act containing the provisions necessary to give effect to the provisions of the Convention, in particular related to: (a) the definition of torture; (b) making the practice of torture punishable by law, independently of any effects on or consequences for the victim and without prejudice to any increase in penalties; and, (c) inclusion of provisions to facilitate the prosecution of the use of torture at the international level;
- ▶ implement promptly the provisions establishing the post of ombudsman and promulgate relevant constitutional provisions;
- ▶ improve the physical conditions in prisons and ensure that the conditions of prisoners in detention are compatible with human dignity;
- ▶ develop and include in the training of civil and military law enforcement personnel, medical personnel and public officials involved in such areas as detention and interrogation systematic programmes of education and information regarding the prohibition of torture; and,
- ▶ provide to the Committee official information on the enforcement of penalties against public officials who have engaged in the practice of torture and ill-treatment.

#### Rights of the Child

Signed: 4 April 1990; ratified: 25 September 1990.

Paraguay's second periodic report was due 24 October 1997.

Paraguay's initial report (CRC/C/15/Add.75) was considered by the Committee at its May/June 1997 session. The report prepared by the government includes information on, *inter alia*: general implementation measures; the National Centre for the Protection of the Rights of the Child; training for professionals working with and for children; the Juvenile Code; the situation of children speaking Guaraní; civil and political freedoms; measures to ensure implementation of economic, social and cultural rights for children; agencies responsible for the protection of children; maternal and child health policy; forced enlistment of children into the armed forces; the system of juvenile justice; the exploitation of children; and, the situation of indigenous children.

The Committee's concluding observations and comments (CRC/C/15/Add.75) welcomed: the fact that the 1992 Constitution stipulates that not less than 20 per cent of the national budget must be devoted to education; an ambitious school-building programme and efforts to improve the quality of education; efforts by the government to reduce the very high drop-out rate by grade six as an important component of a strategy to limit phenomena such as child labour and children working and/or living on the street; the provision in the 1992 Constitution that in the early years of schooling teaching shall be in the student's native language, the provision of instruction in both Spanish and Guaraní, and the measures that have