INTERNATIONAL FELLOWSHIP OF RECONCILIATION (IFOR) and CONSCIENCE AND PEACE TAX INTERNATIONAL (CPTI)

Submission to the 107th Session of the Human Rights Committee

PARAGUAY

(Military service, conscientious objection and related issues)

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Summary

Since its previous report under the International Covenant on Civil and Political Rights (ICCPR), Paraguay has made vigorous efforts at the legislative level to deal with the problems of juvenile recruitment and ill-treatment in the armed forces. Vigilance is still called for to ensure that these advances are indeed reflected in practice, particularly in remoter parts of the country.

Legislation has also been brought in to regulate the implementation of the constitutional recognition of conscientious objection to military service, but some of the practical implications, particularly for the situation of those who had already been recognised as conscientious objectors are unclear.

In the List of Issues on the Third Periodic Report, the Human Rights Committee addressed both these topics; juvenile recruitment in para 12 and arrangements for conscientious objectors in para 23. Unfortunately, the written replies on these points add little to the information already given in the report itself, in response to the Committee's previous Concluding Observations, and further clarifications would be welcome.

“Please provide information on the status of persons who were recognised as conscientious objectors prior to the implementation of Act No. 4013 and explain how the State party goes about ensuring that conscientious objectors are not penalised”

Although giving some details of the provisions of Act No. 4013, Paraguay’s written replies indicate only that the law is not clear in this respect. Moreover at the time when the written replies were drafted it was clear that the provisions of the law had yet to be implemented in

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1 CCPR/C/PRY/Q/3, 27th April 2012, para 23.
2 CCPR/C/PRY/Q/3/Add.1, 6th August 2012
practice. Further clarifications and updates would therefore be desirable.

PARAGUAY: Basic Information

Population (November 2011, estimated\(^3\)) 6,459,000

Military service obligatory -12 months service.
Conscientious objectors exempted since right included in 1992 Constitution.
New provisions, including alternative service, set out in Law 4013/10 (see text)

Minimum recruitment age\(^4\): 18 (but see text)

Manpower reaching “militarily significant age” in 20105: 73,637

Armed forces active strength, November 2011(of whom conscripts):\(^6\) 10,650 (2,550–23.9%)
as a percentage of the number of men reaching “military age” 14.5% (6.2%)\(^7\)

Military expenditure US $ equivalent, 20118 $250m
Per capita $38
As % of GDP 0.9%

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\(^3\) Source: The Military Balance 2012 (International Institute of Strategic Studies, London), which bases its estimate on “demographic statistics taken from the US Census Bureau”.


\(^5\) Source: CIA World Factbook. https://www.cia.gov/library/publications/the-world-factbook/index.html. The male population reaching “militarily significant age” - defined by the source as 16 - is more meaningful than total population in assessing the comparative impact of military recruitment in different countries.

\(^6\) The Military Balance 2012 (International Institute of Strategic Studies, London)

\(^7\) Including 4,000 conscriptsserving in the paramilitary National Police.

\(^8\) Stockholm International Peace Research Institute (SIPRI), April 2012
Background

Paraguay retains a system of obligatory military service, governed by the Law on Compulsory Military Service (Ley del Servicio Militar Obligatorio or LSMO), Act No. 569 of December 1975, as amended by Act No. 3360 of 6th November 2007.

Article 3 of Law 569/75 sets the ages of liability as from 18 to 50; all male citizens are required to register at the age of 17. “Twice a year (in February and August) a call-up to appear at the recruitment offices is publicly announced in the press and on billboards. This call-up applies to all young men who have reached the age of 17 and to older men who have not yet presented themselves.” Article 129 specifies that in time of war women may be called up to serve as auxiliaries outside the front line. Under Article 67 of the 1992 Constitution indigenous peoples (2% of the population) are exempted from military service, and from certain other obligations.

Exemptions from military service were also granted in the 1920s to members of historic peace churches whose immigration was encouraged, ironically, to help repopulate a country still largely deserted as a result of the War of the Triple Alliance half a century earlier, which according to some estimates may have resulted in the deaths of as many as 60% of the population, including 90% of the men. Law 514 of 26th July 1921, began:

“Members of the community known as Mennonites, who come to the country as constituent elements of a colonisation enterprise, and their descendants, shall enjoy the following rights and privileges: 1)To practise their religion and to worship without any restrictions and consequently to make affirmations by simple “yes” or “no” in courts of justice, instead of by oath, and to be exempt from compulsory military service as combatants or non-combatants both in time of peace and in time of war...”,

and Law 914 of 29th August 1927 reportedly reaffirmed these provisions, extended them to other similar groups (eg. Hutterians), and confirmed that they applied to the descendants of such communities, whether or not they claimed membership of the church. It is not clear whether these exemptions were retained in Law 567/75.

The act of registration, and subsequently of incorporation into active service, has important implications for the status, rights and freedoms of those affected. Under Article 23 of Law 569/75, citizens may not leave their area of residence between registration for military service and the medical examination, except for very good reason, with the permission of the judicial authorities, and subject to registration with those authorities in the temporary location. Under various articles of the Electoral Code, soldiers lose all political rights; the right to exercise their vote, to stand for public office, to be a member of an electoral authority, or to have membership in any political party or movement. (In paragraph 214 of its Final Observations on the Initial Report of Paraguay, in 1995, the Human Rights Committee stated that the extension of this prohibition to students of military schools “seems to be an unreasonable restriction on article 25 of the Covenant on the right to participate in public life.”) Under Article 134 of the Military Personnel Statutes (Estatuto del Personal Militar) conscripts lose the right to marry.

Obligatory military service can be performed in the Armed Forces or in the paramilitary Policía Nacional. Article 36 of Law 569/75 sets its length at 24 months (12 months for those stationed in the Chaco region of the west). It would seem that for the army this period was reduced to 18 months at some time during the 1980s. The 1992 Constitution (Article 129) however stipulated that obligatory service could last no more than 12 months in peacetime. The duration of service in the

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navy, however, is still quoted as 24 months. \textsuperscript{11}

On completion of military service, men have reserve obligations until the age of 50; until 32 they form part of the Standing Reserve, from the age of 33 to 44 the National Guard and from 45 to 50 the Territorial Guard. \textsuperscript{12} There is however no indication that anyone has been called up for reserve service in the last couple of decades.

It is reported that in addition to the armed forces of the State, other armed groups exist in the country, and may be responsible for human rights violations. In its Initial Report to the Committee on the Rights of the Child under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPCAC), Paraguay referred to the activities of a shadowy “revolutionary political-military organisation” with links to organised crime, known as the EPP (Paraguayan People's Army), supposedly descended from Patria Libre, a political party which had been banned after it had contested the 2003 general election. It is claimed that it was the activities of this group which necessitated the declaration of a state of emergency in five departments in April 2010. \textsuperscript{13} Civil society organisations alleged however that “Neither the reasons for the declaration of such a state of exception nor the acts that were invoked in order to obtain its adoption were established in a precise manner.” \textsuperscript{14}

Of more concern are reports that in 2005, in the context of the “Safe Paraguay Plan” of the establishment of government-sanctioned “neighbourhood security commissions” (comisiones vecinales de seguridad ciudadana) in the departments of Caaguazu, Canindayu and San Pedro. Some 13,000 persons were armed and supplied with mobile phones; “according to reports these commissions were increasingly involved in illegal detentions, death threats, house raids, killings and attempted killings, torture and ill-treatment. They also offered protection to drugs traffickers and cigarette smugglers.” Luis Martinez, a peasant leader from the Kamba community in Rembe, San Pedro Department, who had been critical of the commissions was murdered in June 2006, and as of the end of the year investigations into the murder had apparently stalled. Meanwhile other families from the community had left their homes, allegedly as a result of death threats by members of the commissions. \textsuperscript{15} Unfortunately, it has not been possible to trace more recent information.

**Forced and juvenile recruitment**

As elsewhere in the region, in the past the registration system for military service was in practice largely ignored, or circumvented by corruption, with the result that the military service obligation was generally enforced by spot checks of young men's military documentation, followed by the forced recruitment of those who could not prove they were not eligible. A notoriously high proportion of recruits were under-age.

“Child soldiers” were not a new phenomenon in Paraguay. In the disastrous War of the Triple Alliance of the 1870's, once the entire adult male population had been used, the recruiters filled the ranks with boys “armed” with painted wooden guns, and wearing false beards to disguise their age. Paraguay celebrates “Children's Day” on the anniversary of a battle in which some 2,000 children perished. \textsuperscript{16}

\textsuperscript{11} The Military Balance 2012, p.398.
\textsuperscript{12} CRC/C/OPAC/PRY/1, 20\textsuperscript{th} October 2010, p5, footnote.
\textsuperscript{13} CRC/C/OPAC/PRY/1, paras 37 – 42.
\textsuperscript{14} CODEHUPY, Submission for the Universal Periodic Review of Paraguay, January 2011 (“Joint Submission 2”), para.1.12
\textsuperscript{16} “Paraguay's Awful History: The never-ending war” in The Economist, 22\textsuperscript{nd} December 2012, pp.66-68.
However, in the modern era juvenile recruitment should have been obsolete. Article 56 of Law 569/75 states: “The authorities who recruit persons under 18 years of age or who keep in service persons who are exempted, except as provided by this Law, without prejudice to criminal liability, shall be removed or disqualified for five years from holding public office. The parents, guardians, or persons responsible for the person affected may denounce such a situation to the closest authority, who should immediately communicate it to the Commander-in-Chief of the Armed Forces.”

Article 5 of the Law, which allowed for exceptions, however undermined this. The Inter-American Commission on Human Rights observed, “though the law provides that in exceptional circumstances the age for military service can be brought forward, for justified causes and with parents’ consent, this exception is not unusual, becoming practically a rule.”

Paraguay argues that in some cases the pressure for juvenile recruitment comes from the family: “In some cases, military service by minors is seen as a means of survival for impoverished families; in others, it is a form of punishment or a way to access education.”

“Some families encourage their children to enlist in the Armed Forces or the police force in the belief that their children will have better prospects for personal and academic development if they do so and, to that end, lie about their age or falsify documents to show that a minor is old enough to enlist.”

The Inter-American Commission however “noted in relation to the recruitment of children for compulsory military service, (...) in many cases recruitment following intimidation of the parents whose sons have a good physique' for military service. In April 2000, the Committee on Human Rights of the Chamber of Deputies, (...) publicly denounced the psychological coercion used by the Armed Forces for purposes of recruitment in the city of Concepción.”

In the mid 1990's, Paraguay, representing a situation of massive recruitment of child soldiers into Government armed forces in time of peace, was selected as one of the case studies for the “Machel Report” on the involvement of children in armed conflict. In that study, the local ngo SERPAJ (Servicio Paz y Justicia) investigated the thirty reported instances of non-combat deaths during obligatory military service between the years 1989 and 1995. Twenty of the thirty are recorded as having been aged 17 or less at the time of death – for most of the others no age was noted. The youngest had been aged 14, two others had been 15.

In 2000, the same organisation analysed 137 complaints which had been lodged with the authorities over the period 1989-98 regarding human rights abuses suffered by conscripts in the course of their service, and found that no fewer than 84% of victims were under 18 at the time of the alleged abuse and that 35.8% were aged 15 or less, with the youngest being aged 12, and the median age being 16.2. They estimated that some 10,400 conscripts were aged below the official recruitment age of 18. Clearly the majority of conscripts were in fact completing their military service before that age.

Paraguay ratified the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPCAC) on 27th September 2002, but with a declaration establishing 16 as the minimum age for voluntary recruitment into the armed forces.

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18 CCRP/C/PRY/3 para 88
19 Ibid para 89; exactly the same wording may be found in paragraph 12 of CRC/C/OPAC/PRY/1, but without the subsequent text from para 89.
20 Inter-American Commission on Human Rights, 2001 op cit, para 38.
In its concluding observations on Paraguay’s Second Periodic Report under the ICCPR, the Human Rights Committee regretted “that the State Party has not provided detailed information on steps taken to abolish the recruitment of children for military purposes and is concerned about the persistence of this practice, especially in rural areas,” and recommended “The State Party should abolish the recruitment of children for military service, investigate cases of ill-treatment and death of conscripts, and compensate the victims.”

In its Third Periodic Report, Paraguay responded at length to this concluding observation, and some more details are given in its Initial Report under the OPCAC.

Crucially, on 22nd March 2006, Paraguay replaced its declaration under the OPCAC with the words: “it has been decided to set the minimum age for recruitment into the Armed Forces at eighteen (18) years. The measures to be taken for recruitment shall be brought into line with the provisions of article 3, paragraph 3, of the aforementioned Optional Protocol.” The necessary legislative changes with regard to obligatory military service were made in Act 3360/2007, and regarding the CIMEFOR cadet scheme for persons in higher education by Act 3485/08. In both cases, the legislative provisions were preceded by administrative edicts – a Presidential Order of 2006 (reputedly issued after the President had noticed how young the members of the guard of honour on his return from a foreign journey appeared to be, and had questioned them all about their age), reinforced by Special Order No.42 from the Commandant in Chief of the Armed Forces, and in the case of the CIMEFOR, the dismissal of all cadets aged under 18 following the public outcry over the hospitalisation of a 16-year-old Cimeforista, allegedly as the result of physical and psychological abuse by his superiors.

In the List of Issues the Human Rights Committee asked:
“Please indicate what steps have been taken to prevent the armed forces from recruiting children and adolescents. Also indicate how many cases of forced recruitment of children and adolescents by the armed forces and the police have been reported since the passage of Act No. 569/75 as well as the number of investigations carried out and the decisions taken in each case. Please specify the number of persons who have been found guilty of forcibly recruiting children or adolescents.”

Unfortunately, the written replies do not address these very specific questions, but instead simply repeat the information which had already been given in the Report itself.

In its Initial Report under the OPCAC, Paraguay referred not just to the fact that families sometimes wanted to enrol their sons early for military service, but also to the fact that “Implementation of the Optional Protocol was complicated (…) by the persistence of forced recruitment owing to the failure to amend domestic legislation in order to suppress the practice.” This seems somewhat at variance with the statement in the Report under the ICCPR that since the changes to the Laws on recruitment ages, “complaints concerning the unlawful recruitment of adolescents” had “proved to deal with isolated cases only.” It will also be noted that no detail is given of the action taken as a result of such complaints.

Regarding the complicity of families in juvenile recruitment, the wording of the suggestion in the

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25 CRC/C/OPAC/PRY/1, paras 50 - 84
26 See CCPR/C/PRY/Q/3/Add.1, page 29.
30 CRC/C/OPAC/PRY/1, para 12.
31 CCPR/C/PRY/3, para 88.
Report under the ICCPR that “in view of this situation and the lack of any provision in domestic law to address these types of circumstances, an effort has been made to devise an alternative approach that would make it possible to offer parents the possibility of allowing their children to enlist in a civilian national service programme once they have reached the age of 18.”\(^{32}\) does not seem to address the problem identified. Nor is it clear in what way such a “civilian national service programme” would relate to a similar programme proposed for conscientious objectors (see below) which has not yet been implemented.

In its Initial Report under the OPCAC Paraguay referred not just to the Inter-American Commission case of Marcelino Gómez Paredes and Cristián Ariel Núñez, the follow-up to which is described in the ICCPR Report,\(^ {33}\) but mentioned three other cases which had been brought to the Commission: those of Gerardo Vargas Areco,\(^ {34}\) Víctor Hugo Maciel,\(^ {35}\) and Vicente Ariel Noguera,\(^ {36}\) all concerning conscripts who had died during their military service while aged under 18. Whereas in the first of those cases the State had unreservedly accepted - and taken action to implement - the judgement of the Commission, the accounts of the other two cases give rather less than the full story. Regarding Víctor Hugo Maciel, Paraguay reports under the OPCAC in October 2010 that negotiations towards a friendly settlement were in the final stages, mentioning only the legislative changes to prevent juvenile recruitment which had already been made and the question of financial compensation. The Inter-American Commission had however the previous year not only found violations of six articles of the American Convention,\(^ {37}\) and also that the State had only partially implemented an earlier recommendation of the Commission\(^ {38}\) concerning its obligation to investigate the facts denounced. The Commission's latest annual report indicates that “its recommendation regarding investigation, prosecution and punishment of the human rights violations committed against Víctor Hugo Maciel has not yet been complied with (and) therefore concludes that the Compliance Agreement that the parties signed on March 22, 2006, has been only partially carried out.”\(^ {39}\)

Failure to investigate has also been responsible for the long drawn out saga in the case of Vicente Ariel Noguera. Part of the complaint had been that the legal proceedings in the case had been) archived in 1997, the year after the facts, and no further investigations had been made with the aim of identifying the perpetrators. Although the State had from the outset indicated a willingness to proceed to a friendly settlement in this case, the petitioner (the victim's mother) had in 2005 indicated to the Commission that she was withdrawing from these discussions in view of the lack of progress; in 2007 the State had recommended that the Commission in turn archive the case. In an admissibility decision in 2011, the Commission instead decided to continue to analyse the merits of the alleged violations.\(^ {40}\)

It is however extremely disturbing that no information is given by the State in either of its reports to indicate that the domestic legal system has investigated other allegations of illegal recruitment, deaths or abusive treatment of conscripts, whether or not juveniles. All that is revealed is that 64 conscripts who died in active service had been posthumously awarded promotions, thus entitling their families to benefits.\(^ {41}\) (These had included Vicente Ariel Noguera.) However the number of such deaths which had been identified by “the government, working with the armed forces, the

\(^{32}\) Ibid, para 89.
\(^{33}\) CCPR/C/PRY/3, paras 92 – 94.
\(^{34}\) Case no. 12,300, CRC/C/OPAC/PRY/1, paras 50 - 55.
\(^{35}\) Case no. 11,607, CRC/C/OPAC/PRY/1, paras 56 - 59.
\(^{36}\) Case no. 12,329, CRC/C/OPAC/PRY/1, paras 60 – 70.
\(^{37}\) Informe no. 85/09, 6th August 2009.
\(^{38}\) Informe no. 34/05,
\(^{39}\) Inter-American Commission on Human Rights, 2011 Annual Report, Chapter III, D, para 1014, pps 275/6.
\(^{40}\) Report No.10/11, 22nd March 2011.
\(^{41}\) CCPR/C/PRY/3, para 95.
police and non-governmental organisations” had by October 2007 reportedly exceeded 250. The question arises of what action has been taken with regard to the others.

The Committee on the Rights of the Child has presented Paraguay with a List of Issues on its Initial Report under the OPCAC with a request for responses by 23\textsuperscript{rd} May 2013. They ask in detail about the safeguards in place to prevent the problem identified by the State of juvenile recruitment on the basis of forged documents\textsuperscript{43} and also for more information about military schools.\textsuperscript{44} Although the CIMEFOR cadet scheme now clearly applies to students over 18 only, the State Report had indicated that students were admitted to military schools from the age of 14.\textsuperscript{45} It is believed that students at such schools are classified as members of the armed forces.\textsuperscript{46} Among other aspects on which the Committee on the Rights of the Child seeks information through the List of Issues are the extent to which students are free to withdraw and not pursue a military career and on whether the military component of the education includes weapons training.

Conscientious objection to military service

A right of conscientious objection to military service was first recognised in the 1992 Constitution, article 129 of which “lays down the general principles governing the procedures involved, such as the simple declaration, the exclusive or exclusionary jurisdiction of civilian bodies, exemption from punishment and establishment of obligations for those who declare themselves to be objectors”\textsuperscript{47} and further stating (article 129.5): “Those who declare their conscientious objection are to perform service beneficial to the civilian population in aid centres designated by law and operated under civilian jurisdiction. The laws implementing the right to conscientious objection shall neither be punitive nor impose burdens heavier than those imposed by military service.”

In 1994, "in view of the lack of regulatory legislation, the Human Rights Committee of the Chamber of Deputies agreed (...) to receive declarations from conscientious objectors and to approve their registration on a provisional basis, thereby exempting the objectors from military service until such time as the law established a public body to take responsibility for organizing alternative service."\textsuperscript{48} Subsequently, the human rights commissions of Paraguay's local government departments also agreed to accept such declarations, reducing the discrimination in access to the constitutional right against those living in more remote parts of the country.

In many States, a delay in introducing implementing legislation meant that individuals were in practice unable to exercise the right of conscientious objection to military service even once this had been given constitutional recognition. In Paraguay, by contrast, for sixteen years conscientious objectors arguably encountered the most favourable conditions anywhere in the world; a simple declaration obtained official recognition of their status, including the issue of a carné de objeto which had the same function as the libreta militar in being accepted as proof that military service obligations had been fulfilled. Meanwhile, pending the establishment of an alternative service system, no compensating obligations were imposed. As Paraguay indicated in its Second Periodic Report,\textsuperscript{49} by 2002 the number of conscientious objectors declaring themselves annually was over 15,000, more than the number of conscripts performing military service each year.

\textsuperscript{43} CRC/C/OPAC/PRY/Q1, 19\textsuperscript{nd} November 2012, para 1.
\textsuperscript{44} Ibid. paras 2 and 3.
\textsuperscript{45} CRC/C/OPAC/PRY/1, para 35
\textsuperscript{46} Child Soldiers International (formerly Coalition to Stop the Use of Child Soldiers), Louder than words: an agenda for action to end state use of child soldiers, London, September 2012, p55.
\textsuperscript{47} CCPR/C/PRY/2004/2, para 457.
\textsuperscript{48} Ibid, para 459.
\textsuperscript{49} CCPR/C/PRY/2004/2, 9\textsuperscript{th} July 2004
The army has halved in size in the last 15 years, having already been greatly reduced from the days of the Stroessner dictatorship, when it was reportedly 30,000 strong. In peacetime it is now maintained on a cadre basis, with the nominal divisions maintained at company strength.\(^{50}\) The number of conscripts who actually serve has always been a small proportion of those nominally eligible, but in the past was believed to be effectively as many as the army could accommodate. It has however shrunk even faster than the overall total. In 1992 there were reportedly 17,000 conscripts in the armed forces, by 1997 this total had fallen to slightly under 13,000,\(^{51}\) by 2011 only some 6,500 conscripts were serving, the majority in the police, and conscripts no longer formed the bulk of the army. In mid-2012, shortly before the removal of President Lugo, the house of representatives responded to this by approving a draft law on professional soldiers, authorising the recruitment of 1,460 persons between the ages of 19 and 22 (reduced by the house of representatives from an original proposal of 26), at an initial salary equivalent to $300 per month, who would mainly be deployed on the country's borders. In the House of Representatives, the chairman of the parliamentary commission on national defence blamed the recognition of conscientious objection for leaving “some military barracks practically empty”. The House of Representatives was not however prepared to abandon the principle of conscription, stipulating that in principle “professional soldiers should not constitute more than 60% of the army.”\(^{52}\)

When the Human Rights Committee considered the Periodic Report of Paraguay in October 2005, the implementing legislation envisaged in the constitution had still not been promulgated, and all recognition of conscientious objectors remained on a provisional basis. In its concluding observations:

“The Committee welcomes the recognition in Paraguay’s Constitution of conscientious objection to military service and the provisional measures passed by the Chamber of Deputies to guarantee respect for conscientious objection given the lack of specific regulations governing this right. However, it regrets that access to information on conscientious objection appears to be unavailable in rural areas (article 18 of the Covenant). The State party should pass specific regulations on conscientious objection so as to ensure that this right can be effectively exercised, and guarantee that information about its exercise is properly disseminated to the entire population.”\(^{53}\)

In its Third Periodic Report, Paraguay responds directly to the concluding observation: “The Government has enacted Act No. 4013/06, which covers the exercise of the right to conscientious objection to obligatory military service and establishes community service as an alternative to military service. This law is designed to permit more accurate record-keeping and to make arrangements that will ensure that this right can be exercised and that broaden the application of guarantees of the right to enter a statement of conscientious objection. The Office of the Deputy Minister for Youth Affairs, which comes under the Ministry of Education and Culture, has, however, drafted a preliminary bill that would repeal this law because it is viewed by many citizens as violating constitutional guarantees of freedom of conscience, the principle of the non-retroactive application of the law and the right to the effective exercise of conscientious objection.

“Congress has availed itself of constitutional channels to approve regulations to safeguard the right to conscientious objection. In addition, for the purposes of improving coordination in the effective protection of the exercise of this right, the National Council on Conscientious Objection to Obligatory Military Service has been created.”\(^{54}\)

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\(^{50}\) The Military Balance 2012, op cit.

\(^{51}\) Horeman & Stolwijk, op cit


\(^{53}\) CCPR/C/PRY/CO/2 of 24 April 2006), para.18:

\(^{54}\) CCPR/C/PRY/3, 26th February 2011, paras 130, 131.
Although described as Law 4013/06, the Act concerned seems to have in fact come into force in June 2010, and its effect on the ground remains unclear. It however contains various worrying elements.

First, it retreats from the provisions in Article 129 of the Constitution (quoted above), which stipulate that conscientious objection should be recognised simply on the basis of a declaration and which establish the exclusive jurisdiction of civilian bodies. The National Council on Conscientious Objection to Obligatory Military Service, which came into being through Decree No. 6393 of 29th March 2011, is in fact a tribunal to adjudicate on applications for recognition as conscientious objectors. Its members are: the human rights ombudsman as chair, the president of the human rights committee of the Senate, the president of the human rights committee of the chamber of deputies, a representative of the Ministry of Defence, and what sounds suspiciously like a “token” conscientious objector, given that according to the State's own account the selection is made at random from those who have declared themselves in the last five years. Human rights bodies have expressed alarm that a supposedly civilian body should include a representative of the Ministry of Defence, even when counterbalanced by a conscientious objector.

Second, Article 4 of the Act requires applications for recognition as conscientious objectors to be lodged within 20 days of the initial call-up to military service. This is a retreat from recognised best practice that conscientious objections should be recognised at any time, including by those already performing military service.

Third, Article 20 of the act seemingly implied that even recognised conscientious objectors might be required to perform military service should they default on the alternative service requirement.

Fourth, it was reported at the time that under Article 21 of the Act, those previously recognised as conscientious objectors by the Human Rights Committee of the Chamber of Deputies, even if now past the age for military service, would now be required to perform an alternative service, or to pay a fee equivalent to five minimum salaries. Some 140,000 men would be affected. Even more disturbing was the situation of some 30,000 conscientious objectors who were recognised on the basis of declarations before Departmental Commissions, as the Act seemingly did not accord any recognition to such objections.

Fifth, Article 23 of the Act, dealing with civil defence in a time of national emergency or international armed conflict, seemed to imply that conscientious objectors might in such circumstances be required to carry out activities of a military nature.

Finally, it was also reported that knowledge of the procedures to be followed to apply for conscientious objector status under the new legislation was not widespread among those affected.

These concerns were addressed by the Special Rapporteur on Freedom of Religion or Belief on his Mission to Paraguay from 23rd to 30th March 2011. In his report he observed: “that conscientious objectors should be exempted from combat but could be required to perform comparable alternative service of various kinds, which should be compatible with their reasons for

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55 War Resisters International, “Paraguay: Law on Conscientious Objection as backlash”, CO Update No.73 / 74 (June / July 2012)
56 According to the description in Paraguay's written replies (CCPR/C/PRY/Q/3/Add.1, p40) the Commission simply includes representatives of these two Committees, not the Chairs.
57 CCPR/C/PRY/Q/3/Add.1, p40
58 War Resisters International, CO Update No 57, op.cit.
59 See, for example the preamble to Commission on Human Rights Resolution 1998/77.
60 War Resisters International, CO Update No 57, op.cit
conscientious objection. They could also be asked to perform alternative service useful to the public interest, which may be aimed at social improvement or at the development or promotion of international peace and understanding. The decision concerning their status should, when possible, be made by an impartial tribunal set up for that purpose or a by a regular civilian court, with the application of all the legal safeguards provided for in international human rights instruments. There should always be a right to appeal to an independent, civilian judicial body. The decision-making body should be entirely separate from the military authorities, and the conscientious objector should be granted a hearing, be entitled to legal representation and be able to call relevant witnesses. With regard to strict time limits for applying for conscientious objector status, the Special Rapporteur recalls that conscientious objection may develop over time, sometimes even after a person has already participated in military training or activities; strict deadlines should therefore be avoided.”

In his recommendations, the Special Rapporteur encouraged Paraguay “to continue to recognize the right to conscientious objection in law and in practice; this includes the independent functioning of the newly established National Council on Conscientious Objection, ensuring fair and transparent procedures while maintaining non-punitive principles for alternative non-military civilian service.”

The Special Rapporteur did express his appreciation of “the clarification made by the Government that the new alternative service will have no punitive purpose or effect.”

Sadly, though no specific details are given. This is also true of the Paraguay's replies to the Human Rights Committee's “List of Issues”, dated August 2012. These state that the Act “is not clear” regarding whether alternative civilian service at might be required of conscientious objectors who had been recognised before the passage of the Act, but indicate that one problem is the lack of unified national records of such recognitions. Rectifying this situation is to be one of the tasks of the National Commission. It is also indicated that the local branches of the ombudsman's office will collect declarations of conscientious objection from outlying parts of the country in order to submit them for consideration to the National Commission; it is not clear whether this refers only to new declarations or is also records of past recognitions are to be assembled.

Meanwhile, it seems that at the time the written replies were prepared even newly-declared conscientious objectors remained in limbo. The National Commission, it is reported, registered some 615 declarations of conscientious objection between January and April 2012, but no budgetary provision having been made for alternative civilian service no objectors had embarked on such service and no one had under the new arrangements been issued with the “carnet de objetor” which confirms that the person concerned has no outstanding military service obligations.

Clear answers to a number of questions are therefore still required:

what action it the State Party taking to ensure that all those affected by military service have full and timely information on the opportunity to apply for a civilian alternative provided by Act 4013/10.

whether the arrangements for an alternative civilian service envisaged in this Act have now been implemented in practice, and how the required duration of such service compares with that of military service and how many conscientious objectors have now successfully completed the service and been awarded the carnet de objetor?

whether the carnet de objetor issued by the Human Rights Commission of the Chamber of

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61 A/HRC/19/60/Add.1, 26th January 2012, para 56.
62 Ibid, para 64 (g).
63 Ibid, para 56.
64 CCPR/C/PRY/Q/3/Add.1, pp. 39 -41
Deputies before the passage of Act 4013/10 is still recognised as granting complete exonerat

to holders from the military service requirements, or whether they are now required to
perform the civilian service or (as was suggested at one stage) to make a substitute payment?

to clarify the status of the estimated 30,000 persons who over the years had been recognised
as conscientious objectors by Paraguay's departmental human rights commissions, which
under Law 4013 no longer have any function in this respect.

in the light of the comments of the Special Rapporteur on Freedom of Religion or Belief,
whether consideration is being given to removing the time limits for applications, and to
ensuring that under no circumstances would someone who has once been recognised as a
conscientious objector be required to perform any service of a military nature.