

**PARAGUAY'S ALTERNATIVE REPORT TO THE
OPTIONAL PROTOCOL TO THE CONVENTION ON
THE RIGHTS OF CHILD ON THE INVOLVEMENT OF
CHILDREN IN ARMED CONFLICT**

**Presented by Plan Paraguay and the Coalition
for the Rights of Children and Adolescents
(Coordinadora por los Derechos de la Infancia y
la Adolescencia - CDIA)**

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Julio - 2012

ALTERNATIVE REPORT

PARAGUAY

**OPTIONAL PROTOCOL TO THE CONVENTION
ON THE RIGHTS OF CHILD ON THE
INVOLVEMENT OF CHILDREN IN ARMED
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**Alternative Report to the first report of the
Paraguayan State, presented by the Coalition for
the Rights of Children and Adolescents**

July - 2012

Introduction

This alternative report was elaborated by the Coalition for the Rights of Children and Adolescents (Coordinadora por los Derechos de la Infancia y la Adolescencia - CDIA). CDIA is defined as an "association that brings together non-governmental institutions dedicated to promoting and defending the rights of children and adolescents in Paraguay."

CDIA's principles, objectives and responsibilities provide it with an institutional identity bearing a groundbreaking leadership in promoting and defending the rights of children and adolescents, as well as monitoring and enforcement thereof, prioritizing the areas of design, implementation and monitoring of public policies. It is currently composed of 26 civil society organizations. In this manner, CDIA has become a space for coordination of strategies necessary to influence public policy and the monitoring for enforcement of rights, creating strategies that enable the comprehensive development of children and adolescents. It is a legal entity governed by statutes and bylaws.

The CDIA is a member of the Association of Non-Governmental Organizations of Paraguay, **POJOAJU**; of the Human Rights Coordinating Group of Paraguay **CODEHUPY**; and is part of the Network Against All Forms of Discrimination. At the regional level, CDIA is a member of the Latin American and Caribbean Network for the Defense of the Rights of Children and Adolescents (REDLAMYC). At the international level it is recognized as a national coalition of NGOs by the NGO Group for support to the Committee on the Rights of Children of the United Nations.

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PRESENTATION

As part of our monitoring and enforcement roles, we have assumed the responsibility to report since Paraguayan State ratification of the Convention on the Rights of the Child, Law 57/90. We have reported on 3 occasions to the Committee on the Rights of the Child through reports produced by this coalition. This report is elaborated based on the experience from member organizations of the CDIA coalition and other civil society organizations and observing the response given by the Paraguayan State to children and adolescents who are under the protection of the Optional Protocol to the Convention on the Rights of Child on the Involvement of Children in Armed Conflict (OPAC).

The Optional Protocol to the Convention on the Rights of the Child on the **involvement of children in armed conflict** was signed by Paraguay on September 13, 2000 and became effective on October 27, 2002, having been incorporated into the Paraguayan legal system by Law No. 1897 of 2002.

For the preparation of this report, we have reviewed information contained in official publications and publications on the matter that systematized the experience of civil society organizations. In addition, interviews were conducted with members in non-governmental organizations related to the issue addressed in the Protocol.

At the time of the writing of this report it is important to note that the State of Paraguay has suffered an institutional rupture on June 23, the result of a rapidly executed presidential impeachment of President Fernando Lugo. The events that are happening now reflect a growing crackdown on individual liberties, such as in the rights to freedom of expression, freedom of opinion, freedom of movement and this represent a setback in the democratic process. At the time of writing this report, we have received an invitation from the new authorities of the National Secretariat for Children and Adolescents (SNNA), that this institution will organize a *retreta*¹ involving children on August 16, 2012, date of remembrance of the Week

¹ The week for the Rights of Children is celebrated as a national campaign since 1994 to give visibility to the rights of this sector and promote democracy. Organized initially by the CDIA, in the last seven years it has been to co-organized with state institutions

for the Rights of the Children. A “retreat” is related to military tradition. As you will be able to see in this report, Paraguay still maintains a culture of militarism. This culture was being dealt with during the term of the former government elected by popular vote in 2008, but after its downfall, we fear the resurgence of events described earlier. This planned activity of involving children in a military parade is distant from the promotion of democratic values and peace.

The government agencies we consulted were:

Supreme Court of Justice – Human Rights Office
National Secretariat of Children and Adolescents, SNNA

The civil society organizations we consulted were:

SERPAJ Py
AFAVISEM
Movement for Peace, Disarmament and Liberty (Movimiento para la Paz, el Desarme y la Libertad - MPDL)

Retreta is the name given to a series of military bugle calls, common to infantry and cavalry, which generally indicated orders to turn around and retreat to a troop formation which was still or advancing. The *retreta* also served as a signal for soldiers to withdraw to their barracks, tents or shelter. It is also played at the beginning of the night shift and during military formations. An example from Paraguay can be seen here. In Latin America is also used to describe an evening party in which a military band, or band of other institutions, walk through the streets offering a musical or outdoor concert, usually in public squares, parks and promenades. Source:

<http://es.wikipedia.org/wiki/Retreta>.

Fundamental Analysis

II. General Measures for the Application

The optional protocol has constitutional status, as under the Article 137 of the Constitution of the Republic of Paraguay, "The supreme law of the Republic is the Constitution. This, the treaties, conventions and international agreements approved and ratified, the laws enacted by Congress and other legal acts of lower rank, sanctioned accordingly, form the national positive law in the order of precedence." Furthermore, Article 141 states: "International treaties validly concluded and approved by act of Congress, and whose instruments of ratification have been exchanged or deposited, shall form part of domestic law, with the rank specified in Article 137".

The Paraguayan state is empowered to implement the optional protocol throughout the territory of the Republic, and in relation to all the people who inhabit it, regardless of nationality. While initial reservations on the Protocol were made so adolescents, ages 16-18 years, could be recruited for periods of three months, for three years (three summers), the reserve was finally withdrawn in 2004 and the protocol is fully in force for Paraguay.

The report of the Paraguayan State conducted a thorough description of all the existing regulatory framework to be applied to the different aspects covered in the protocol.

III. Prevention

The historical reasons why families gave their sons to the Armed Forces, relate with the existence of the idea of authority and protection provided by the figure of the military, an idea engrained in the collective imagination of certain sectors of the population. It was common to hear some parents say that the child went to the barracks "to become a man." These ideas have been reinforced by orders of former dictatorship governments, in which these authoritarian models were chosen to be promoted and encouraged.

But the primary reasons why families hand over their sons to the Armed Forces relate to the state of economic vulnerability, poverty and inequality, in which families are in. The possibility that a child could "go to the barracks", implied that he would be fed, educated, provided health services, in addition to the possibility of a salary that in the future would allow him to collaborate with his family's support.

While Paraguay has adapted its legislation fully, in the sense that no minors are admitted at military installations, regardless of exceptional circumstances, and it is unacceptable for young soldiers to work as domestic servants in officer's private residences or in military installations; it is important that the different sectors involved in the design of public policies, undertaking a civic approach, should be fully aware of the primary causes in order to formulate prevention policies which provide families with all community resources so that their children remain with them within an environment that promotes their integral development.

There is no information on the existence, or not, of the recruitment of children and adolescents, younger than 18 years, by illegal armed groups, the only reported group denominated the Paraguayan People's Army (EPP). There have been arrests of adolescents during the state of emergency declared in two departments and during social conflicts (especially those related to rural land disputes). Some of these legal processes eventually proceed to the arrest of some teenagers. This information should be understood as the mere presence of teenagers, as unsuspecting bystanders, during any eventual conflicts between police and civilians, being in the scene developing a routine task or as relatives of detained farmers.

The *Intervention Protocols for Large Scale Evictions and Land Invasions* of the Ministry of Interior, which systematizes the experiences of police forces in the handling of critical situations, accounts for the presence of children and adolescents in so-called "lines of fire", reason why the National Police has incorporated intervention strategies taking in account the need to work with children and adolescents in such situations.

We understand that this would be a different situation than being enrolled in an armed group, since the presence of children and adolescents in these situations originates from the need to stay close to their parents. However, it represents the same risks under the Optional Protocol and therefore requires that the situation be given visibility and studied in depth.

IV. Prohibition

As mentioned earlier, the Paraguayan legal system has fully complied with the objectives of the Optional Protocol with regard to prohibiting compulsory recruitment into military service of minors younger than 18 years. Officially, it is impossible for a child or adolescent to provide compulsory military service in a Paraguayan military installation.

Doubts remain about the Military High School, which, according to the report of the Paraguayan State, operates in coordination with the Ministry of Education and Culture in terms of academic content and other educational issues.

Nevertheless, CDIA has taken note that during Thursday June, 21 and Friday June, 22, 2012, dates on which the impeachment of President Fernando Lugo was held, the cadets of the Military High School, including 15 year-old teenagers, were garrisoned and their families unable to communicate with them.

CDIA has also noted the presence of non-recruited children and adolescents in the barracks. Indeed, sometimes they are sons and daughters of people who are employed in the domestic service in the offices and installations of the detachment. At other times, they are also the sons and daughters of people who provide domestic services in the homes of the officers who are within the property, or they are bound under the figure of *criadazgo*².

However, in March 2012, the NGO SERPAJ Py, has received a request for help from a mother whose teenage son had disappeared while he was providing military service in a detachment located in a suburb of the capital. The mother stated that after realizing her son's disappearance, she went to the barracks and an officer informed that her son had left the service and returned her the only document they had about her son, a certificate of live birth³.

² This concept means children living with other families in an exchange of work for food and education, with no judicial or formal figure.

³ The certificate of live birth is the first document issued to a citizen in the hospital one was born in. With this document, the parents must go to the Civil Registry Office to register a birth and later, with the birth certificate, process identity cards with the Department of Identifications of the National Police. Only after a person obtains an identity card has the person concluded the processing of civil

Later, in a meeting with a colonel in the Armed Forces, which was attended by the mother and SERPAJ Py members, the colonel spoke to the mother and admitted her son had been in the barracks, but in the year 2010. He was then asked in what character the teenager was in the barracks, if he had been enrolled, the officer said that the teenager came because he felt at home in the barracks. Later he showed a photograph of the teenager dressed in military uniform and carrying a rifle, to which he stated that "we men like guns" as the reason the teenager was allowed to be taken such picture.

On July 13, 2012, SERPAJ received the communication from the mother that her son had been located, by the same military officers, in the city of Coronel Oviedo, located about 180 kilometers from the capital.

This shows us a pattern of adolescents that are still living in military barracks without being registered in any database, with no identity card (even Paraguayan kindergarten schools require for admission that children have identity cards) and handling high-caliber weapons with the ironic complicity of the highest-ranking officials.

The report of the Paraguayan State outlines in exhaustive detail the standing of the four legal cases of child soldiers killed and missing while undertaking military service. These four cases were presented before the Interamerican Court of Human Rights.

In the case of **Gerardo Vargas Areco**, a 15 year old adolescent who died in 1989, the verdict against the State of Paraguay has been fulfilled, except for the fact-finding and the penal sanction of those responsible for the acts of torture.

In the case of **Victor Hugo Maciel Alcaraz**, 15 year old who died in 1995, the case has reached an agreement for an amicable settlement, which has met all the points except the State's obligation to promote mechanisms for a penal sanction.

documents. Only the identity card is what enables a person to undertake all paperwork and activities with public or private sector institutions.

In the case of **Marcelino Gomez Paredes** and **Cristian Nunez Ariel Lugo**, both 14, whom disappeared in the Chaco in 1998, there was also an agreement for an amicable settlement that was fulfilled in all its parts, except for the fact-finding and criminal punishment of those responsible. Although a Commission for Truth and Justice was formed to clarify the events that led to the disappearance of both teenagers, to date the Commission has not yet submitted a report.

On July 12, 2012, Congress approved a political pension for the mothers of the two adolescents.

The case case of **Vincent Ariel Noguera**, who died in 2000 when he was 17 years, is currently under negotiation for amicable settlement. This case has also not obtained the criminal sanction of those responsible.

V. Protection

The organization SERPAJ has registered more than **149 deaths in military barracks**, with the identification of victims, the circumstances in which the events occurred and the state in which the investigations are in.

The AFAVISEM (Association Family of Victims in the Military Service) record a total of **156 deaths of children soldiers in barracks of the Armed Forces and 30 at the National Police**.

In the case of victims who have not died but have been left with serious injuries, the organization reported **approximately 400**. The injuries suffered include loss of limbs, loss of mobility due to beatings, gun wounds and injuries from extreme physical activities. Other injuries include psychological and psychiatric problems due to beatings, abuse, stress, humiliation and excessive physical exertion.

It should be noted that all these victims come from very poor families, who are severely affected when one of their member is unable to fend for himself, demanding that another family member stay home to take care of them, with devastating consequences for the family's survival due to the unavailability of earning an income through work.

The two organizations working with issues related to child soldiers, have all stated in agreement that since the ratification of the Optional Protocol on Involvement of Children in Armed Conflict, the problem should not only be addressed to resolve the causes that led to the deaths of the child soldiers mentioned above, but in raising the visibility of the families of those killed and those victims who have been left with serious injuries, and in many cases, been left prostrated, absolutely dependent on their families.

An article titled "Process of growing militarization, while human rights are in retreat," written by Vidal Acevedo from SERPAJ Py and the Conscientious Objection Movement (MOC-Py) and published in the 2011 Human Rights Report of CODEHUPY (Human Rights Coordinating Group of Paraguay) cites:

"In relation to these cases, until now we have not see an efficient Military Justice determined to clarify the facts of corruption in the Armed Forces, as well as complaints of human rights violations, as certain practices such as covering up for comrades, are highly institutionalized, preventing the punishment of those responsible for illegal acts."