

## **Presentation of the Human Rights Coordinating Committee of Paraguay to the United Nations Human Rights Council for the Universal Periodic Review of the State of Paraguay**

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- **Central activities of the organisation**

The Human Rights Coordinating Committee of Paraguay (CODEHUPY) is a network that brings together twenty-five social and non-governmental organizations, as entitled members, and counts also with the adherence of an additional eight member organizations as supportive entities<sup>1</sup>. All of its members have in common the defence of human rights within distinct spheres of action at the national level. CODEHUPY is a non-profit civil association, founded in 1999. It is non-denominational and non-sectarian as regards any particular political party. Since 2002, CODEHUPY has been the National Chapter of the Inter-American Platform for Human Rights, Democracy and Development (PIDHDD), an organisation currently comprised of eighteen American countries. The institutional mission of CODEHUPY is to promote the development and strengthening of a culture of peace, tolerance, respect and the integral enjoyment of human rights, based upon a democratic and participative society that guarantees human freedoms with no exclusions or discriminations of any sort. This mission envisions as well the full enjoyment of life with dignity, highlighted by the exercise of the Economic, Social and Cultural Rights (ESCR) of all the people living in our country and in the Americas.

The data and analyses that integrate this presentation are backed by official data, and in a fundamental manner are based as well on CODEHUPY's own sources compiled in the Annual Reports on the Situation of Human Rights in Paraguay that have been elaborated since 1996 with the contributions of the organisations that form part of the network. These Reports may be read in electronic format as found at the following website:

[http://www.codehupy.org/index.php?option=com\\_docman&task=cat\\_view&gid=18&Itemid=21](http://www.codehupy.org/index.php?option=com_docman&task=cat_view&gid=18&Itemid=21)

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<sup>1</sup> **Member Organisations:** Asociación Americana de Juristas, AAJ; Base Investigaciones sociales, Base/IS; Centro de documentación y estudios, CDE; Centro de estudios paraguayos Antonio Guasch, Cepag; Comité de América Latina y el Caribe para la defensa de los derechos de la mujer, CLADEM Py; Comunica, Asociación paraguaya de comunicación comunitaria; Coordinación de mujeres del Paraguay, CMP; Coordinadora nacional por la promoción de los derechos de las personas con discapacidad, Conaprodis; Coordinadora por los derechos de la infancia y la adolescencia, CDIA; Decidamos, Campaña por la expresión ciudadana; Fundación Celestina Pérez de Almada; Fundación Dr. Andrés Rivarola Queirolo, Fundar; Grupo acción gay lésbico transgénero, GAG LT; Instituto de estudios comparados en ciencias penales y sociales, INECIP-Paraguay; Movimiento de objeción de conciencia, MOC-Paraguay; Ñemongetara, Programa de educación popular; Servicio de educación popular, Sedupo; Servicio de educación y apoyo social / Área rural, SEAS-AR; Servicio jurídico integral para el desarrollo agrario, Seija; Servicio paz y justicia, Serpaj-Paraguay; Sindicato de periodistas del Paraguay, SPP; Sobrevivencia, amigos de la tierra Paraguay; Tierraviva a los pueblos indígenas del Chaco – **Supportive Member Organisations:** Amnistía Internacional Paraguay; Base educativa y comunitaria de apoyo, BECA; Coordinadora Nacional de pastorales indígenas, Conapi-CEP; Gente Ambiente y Territorio, GAT; Grupo Luna Nueva; Pastoral Social Nacional.

- **Basic Data about the Country under Review**

The Republic of Paraguay is a member State of the United Nations Organisation (UNO) and has ratified the principal instruments of the Universal System as well as other international treaties that are related to Human Rights. The list of the treaties which Paraguay has subscribed, together with the synthesis of the recommendations formulated by United Nations Committees and Rapporteurs charged with their supervision is presented in an attached document<sup>2</sup>. Within the region, Paraguay is also part of the Inter-American System of Human Rights, as it has been a State Party to the American Convention on Human Rights since 1989 and as of 1993 has accepted the contentious jurisdiction of the Inter-American Court of Human Rights (IACHPR).

The country is situated in the centre of South America [23 00 S, 58 00 W, GMT - 04:00], with a total surface of 406,750 Km<sup>2</sup>. Paraguay counts with a population of approximately seven million inhabitants, according to data of an official nature [6,996,245 people in 2009], including Indigenous Peoples estimated to comprise 108,308 persons. The seat of the branches of government [Executive - Legislative - Judicial] is the city of Asunción, Capital of the Republic of Paraguay. As of the promulgation of the National Constitution of 1992, the country adopted as its form of government that of a representative, participative and pluralistic democracy, founded upon the acknowledgement of human dignity. Said republican regime replaced the military dictatorship that had been in force in the country from 1954 until 1989, the year in which the dictator, General Alfredo Stroessner, was overthrown. In 2008, after the hegemony of the Colorado Party (National Republican Association – ANR) lasting sixty-two years, Fernando Lugo, candidate of a coalition front composed of opposition political parties, was elected as President of the Republic of Paraguay. President Lugo heads the first government of political alternation [Presidential term of office 2008-2013].

- **Key Words**

Security, Rule of Law, Criminalisation, Judicial Prerogatives, Due Process of Law, Arbitrary Detention, Torture, Extrajudicial Execution, Impunity, Indigenous Peoples, Territory, Discrimination, Women, Health, Violence, Gender.

- **Executive Summary**

Within the framework of the mechanisms foreseen for the Universal Periodic Review (UPR), this presentation is submitted in order to bring to the attention of the Human Rights Council (HRC) those matters that are of chief concern to the Human Rights Coordinating Committee of Paraguay (CODEHUPY) with respect to the fulfilment by the State of Paraguay of its obligations and commitments as bound by United Nations Human Rights treaties. Although works carried out by the

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<sup>2</sup> See *Sistematización de las recomendaciones al Paraguay de los Comités y mecanismos extraconvencionales del Sistema de Protección de Derechos Humanos de Naciones Unidas* (Systematization of the Recommendations to Paraguay by the Committees and Extra Conventional Mechanisms of the United Nations Human Rights System)

organisations that integrate the CODEHUPY network foster the protection of a wide variety of rights, three specific fields are of particular concern. In the process of elaborating this document, we have sought to bring to the attention of the HRC the following areas of concern: 1. Inadequateness and unsuitability of security policies as regards the observance of Human Rights norms and standards; 2. The denial of the rights of Indigenous Peoples, particularly the lack of guarantees for their rights related to the possession and ownership of their ancestral lands and territories; 3. Noncompliance with norms and standards as regards sexual and reproductive rights, as well as the persistence of discrimination based on gender.

- **Situations of Concern to the CODEHUPY as regards HUMAN RIGHTS in PARAGUAY**

1. Inadequateness and unsuitability of Security Policies as regards the observance of Human Rights norms and standards. International Covenant on Civil and Political Rights, especially Articles 2, 6, 7, 9, 10 and 14; Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, especially Articles 2, 4, 11, 12, 14.
  - 1.1 The National Constitution establishes the normative conditions in order that the National Police is structured in such a way as to provide security to the people, within the framework of a democratic State, respectful of fundamental rights and liberties, with specialised bodies for prevention, investigation and repression. However, the levels of protection or security guaranteed by the State vary according to the place of residence, socioeconomic strata, profession, sexual preference, gender, and even age. There is an enormous gap between the Constitutional mandate of security for all of the people and the configuration of the security policy, which privileges a few members of society.
  - 1.2 The security policy applied by the State in the last four years has not been suited nor been revised in such a way as to fit it in accordance with international standards regarding security, such as those established by the United Nations and the Inter-American Commission on Human Rights (IACHR). The paradigm inherited from years of the dictatorship of General Stroessner (1954 – 1989) continues in force and is built on the basis of brutality and police corruption as its structure, supporting itself ideologically on the doctrine of National security and the fight against the subversive enemy (now denominated terrorist). This apparatus gives privilege to public order tasks such as social control and public order, as well as the protection of the private property and real estate of large landowners. Indeed, these tasks have priority over the protection of the human rights of the citizenry. This model of security has been reaffirmed in the current government, and despite the criticism of the performance of the Minister of the Interior voiced by citizens – in this respect, *See* the public Statements issued by CODEHUPY<sup>3</sup> -, the abuse of human rights continues. Denunciations of the increase of crime associated with acts of corruption within the rank and file

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<sup>3</sup> *See*

[http://www.codehupy.org/index.php?option=com\\_content&view=category&layout=blog&id=9&Itemid=9](http://www.codehupy.org/index.php?option=com_content&view=category&layout=blog&id=9&Itemid=9)

of the National Police continue to grow in number, and there are constant denunciations of systematic practices of torture, and cruel, inhuman and degrading treatment on the part of police members. Furthermore, extrajudicial executions also take place, principally against peasant leaders and organized social groups.

- 1.3 The constant factor in this panorama of police abuses is the affectation of the rights of persons found in situations of vulnerability. Thus, children are not excluded from practices of State repressive violence. According to denunciations, backed-up by photographs received by the Union of Journalists of Paraguay (SPP) and which were released to the public in June, 2010, rural peasant children were treated as guerrilla warfare members - “guerrilleros” - during incidents and operations involving the search, trespass and examination of premises carried out by members of the judicial staff reporting to the district attorney and special police operations forces (FOPE), in addition to police force staff attached to the Anti-sequestration Division (DASP). The raid operations were carried out in dwellings located in a farming settlement known as Sidepar (situated near the border of two Departments: Caaguazú and Canindeyú). Eye-witness accounts and photographs of the procedures, in which minor children were ordered to throw themselves face down on the ground, were not published nor broadcast in the mass media. The information became public through the efforts of independent journalists living in the interior of the country.
- 1.4 As pointed out in the above paragraph, CODEHUPY denounced publicly on June 26, 2010 the violent search and unlawful trespass procedures utilised by the FOPE police force, in which several minors were injured and subjected to psychological trauma as a result of the illegal police actions that took place in Kurusu de Hierro (Department of Concepción). An adolescent boy, 15 years old, identified by the initials A.M., received brutal treatment, leaving him with multiple bruises and excoriations according to medical reports. In another reported case, a couple and their young children (ages 11, 10, 8 and 5) as well as two other minors were present when their home was raided by the police. They fled upon hearing weapon shots, yet were detained by strongly armed police, whose identities were camouflaged by ski masks. These civilians were ordered to throw themselves to the ground and were beaten, stepped on and kicked, particularly the father, who was kicked in the head upon asking why he and his family were being subjected to such treatment.
- 1.5 The current Minister of the Interior, upon assuming his position, had elaborated a plan for the first one hundred days of office, in which was included the improvement of the working conditions and the development of the human resources of the National Police. Although some progress has been made, such as the creation of Directorates of Human Rights in various Ministries, including that of the Interior, the situation continues to be critical. No changes may be observed in the composition of the police forces or as regards police procedures. In addition, there has been no integration of the efforts of various State or governmental agencies as regards the protection of human rights. Efforts take place in the context of a multiplicity of

administrative, judicial and legislative offices and entities that do not operate jointly within a common framework, for many reasons. The chief motive may be the fact that the country still does not count with a National Plan for Human Rights. The Executive branch of government has not complied with the recommendation related to the establishment of a National Secretariat of Human Rights, as formulated in a report elaborated by the Truth and Justice Commission (*Comisión de Verdad y Justicia* - CVJ, 2008), with the purpose of granting hierarchy and centralising tasks in this field of endeavour.

- 1.6 In this sense, CODEHUPY brings to the attention of the HRC the necessity of the adoption by the State of a National plan for democratic security in accordance with human rights guidelines and standards, and warns the HRC of inherent dangers if the current government strengthens a “heavy-handed” policy in lieu of a democratic one. With regard to this, the security agreements with the State of Columbia are of particular concern, as these arrangements have received constant denunciations resulting from abuses committed under the same and the violation of fundamental human rights. The militarised concept of security must definitely be overcome through an improvement of the internal investigation system, since the former has done nothing more than legitimise the impunity of grave abuses perpetrated by State agents.
- 1.7 Notwithstanding the advances registered by the enactment of the Code of Criminal Procedures (Law Number 1286/98), the progress made has already been the object of legislative reforms of a regressive nature (Law Number 2493/04). Such legislation contributed towards the application of preventive imprisonment as the norm, rather than the exception; the length of the duration of proceedings was increased from three to four years; the right to defence was damaged and diminished through the suspension of periods, entailing the temporary privation of rights, in the case of incidents and exceptions, without any distinction for those cases in which the defendant acted in legitimate defence of his or her interests. This legislative reform provoked an immediate increase of the number of persons being sent to imprisonment while waiting for trial.
- 1.8 The norm referred to above is not the only example of regressive legislation observed in Paraguay during the period under review. In June, 2010, the President of the Republic of Paraguay, Fernando Lugo, promulgated Law Number 4.005, related to kidnapping and sequestration cases. Among its provisions, this law opens the door to arbitrary interferences of public powers in the field of civil rights. Thus, Article 4 states: “in the area of telecommunications, the providers of basic landline services and those related to mobile cellular phones, must adapt or suit their equipment and technology, according to the regulations that shall be dictated by the Executive branch of government and the National Telecommunications Commission (CONATEL), to the effects of cooperating with the State in national defence and internal security”. Such statements ignore the Constitutional provision that authorises the intervention of the private communications of the people only if carried out by judicial order

- 1.9 In the same way, towards the end of June, 2010, the President of the Republic promulgated Law Number 4.024, which originated in Executive Message Number 312, dated December 21, 2009, under the denomination of a draft bill “That chastises the punishable acts of terrorism, terrorist association and the financing of terrorism”.
- 1.10 With respect to this, CODEHUPY is concerned that in the aforementioned legislation, the definition of the crime of terrorism infringes the principle of penal legality, as contemplated in the Magna Charta and the Paraguayan Penal Code, which guarantees that sanctioned conducts must be strictly defined in the law. In this case, whether an act constitutes terrorism, or not, is left to judicial discretion. The definition of terrorism as a crime encompasses, under a new label, innumerable types of misconduct, criminal offense, felony and misdemeanour that are completely uneven or unmatched, one with another, whereas these conducts are autonomous penal offences. Therefore, by remission to other Articles of the Penal Code, the result is the increased severity of the penalty due to the single fact of being carried out under certain circumstances.
- 1.11 Under Law Number 4.024, the legitimate conduct of the citizenry, as manifested in the form of a demonstration or protest march, may be deemed and declared by the State as terrorist acts. There is a lack of precision in the definition of terrorism that is currently employed. Upon studying through cross-references the conducts that are prohibited, one finds the conformation of an open mesh leading intrinsically to an open penal offence, whereby any of the conducts previously mentioned as being of an autonomous character, may be considered terrorism. To sum up, the language of the text of this legislation facilitates the discretionary interpretation of the law, thereby opening the door to the arbitrary utilisation of the punitive powers of the State. Only two years ago, the Truth and Justice Commission (Law Number 2.225), presented to the State of Paraguay its Final Report on the devastating social, cultural, economic and political effects of similar laws (Law Number 294 on the Defence of Democracy, October, 17, 1955, and Law Number 209 on the Defence of Public Peace and Liberty of Persons, dated September 15, 1970) that supported the long dictatorship of Alfredo Stroessner. The impunity of said laws was detrimental to – perhaps, permanently – the strengthening of democratic practices.
- 1.12 In the same manner, during late April, 2010, the Government in agreement with Congress dictated a Declaration of State of Exception in five Departments of the country for a period of thirty days. For CODEHUPY, the very text of this disposition, marked by the connotation of martial law, represented a violation of Constitutional provisions. 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. In addition, the rights that would be affected or restricted by this provision were also not determined within the text. In turn, under the State of Exception, the Constitutional guarantees of those arrested, including both men and women, were infringed upon and violated, as regards their ability to leave the country as an alternative to measures depriving the person of his or her freedom.

1.13 All that expressed above must be read by the Human Rights Council within the National context in which CODEHUPY, for the past two years, has been registering and denouncing illegal detentions, physical punishment, trespass and unlawful entry into premises and homes, illegal searches, torture, and other cruel, inhuman or degrading treatment or punishment that have been carried out by State agents and which have been taking place in a systematic manner precisely in the interior areas of the country.

2. The denial of the Rights of Indigenous Peoples, particularly the lack of guarantees for their rights related to the possession and ownership of their ancestral lands and territories. International Convention on the Elimination of All Forms of Racial Discrimination, especially Articles 2, 5, 6 y 7; International Covenant on Economic, Social and Cultural Rights (ICESCR), especially Articles 2, 6, 7 11, 13 and 15; International Labour Organisation (ILO) Covenant Number 169.

2.1. Official data updated by the State of Paraguay's General Directorate of Statistics, Surveys and Censuses (DGEEC) indicate that the Indigenous Peoples are distributed in 17 Pueblos, and are sub grouped in five linguistic families. It should be noted that according to recent census data, some officials indicate that there are 20 distinct Peoples. A demographic summary, based on the Chief Results of the Survey of Indigenous Households (*Principales Resultados de la Encuesta de Hogares Indígenas*) published in 2008 by the DGEEC, indicated that the indigenous population reaches 108,308 persons, with the ratio of males and females divided in similar proportion.

2.2. As regards illiteracy, 38.9% of the indigenous people aged 15 and over come under this category. Meanwhile, for this same age span, the data show that there is a marked difference in the educational levels of the Indigenous Peoples in comparison with the national population, as measured by the average of years of study. The members of the indigenous population with ages of 15 and more had three years of schooling on the average, whereas 8.0 years of study was the average for the population at large, according to the last survey. Only 12.2% of the indigenous peoples count with some form of medical care insurance. Access to potable water supplied by the Sanitary Services Company of Paraguay (*Empresa de Servicios Sanitarios del Paraguay - ESSAP*) and by the National Environmental Sanitation Service (*Servicio Nacional de Saneamiento Ambiental - SENASA*) reaches only 1.4% of the indigenous households, while the Community Water Network provides potable water to 4.5% of these homes. The great majority of the indigenous population only has access to reservoirs of rainwater, or water extracted from ponds or rivers (37.8%). On the other hand, electrical power service reaches only 21.3% of the indigenous households (UNDP, 2010).

2.3 In terms of assuring the rights of possession and ownership of the indigenous lands and territories, there is a deficit. In 2008, the total surface of landed property with registered title deeds belonging to indigenous communities, amounted to 55,970 hectares, according to indicators of the "Proposal of Public Policies for Social Development 2010-2020 - *Paraguay para Todos y Todas*" elaborated by the Technical Unit of the Social Cabinet, Presidency of Paraguay. Officials indicated that just for the year 2013 there is an acknowledged shortage of 279.850 hectares.

2.4. Faced with this panorama, it is impossible to affirm that the situation of the indigenous peoples has improved at all during the last few years, particularly with respect to the enjoyment of their rights. To the contrary, there are alarming signs of the deterioration of their situation. A combination of factors increases the vulnerability of indigenous families: the noncompliance of the sentences handed down by the Inter-American Court of Human Rights that recognised the violation of indigenous rights and ordered reparation, the institutional crisis of the Paraguayan Institute of Indigenous Peoples (INDI), the scarce impact of social programmes, the ecological threat of the clearing of forests intended to be under the stewardship of isolated indigenous populations, the conflicts caused by evictions and forced displacements – all together, these factors give shape to a milieu of great concern.

2.5 In this context, CODEHUPY is especially concerned about the fact that even though two judgements related to territorial restitution of indigenous lands, *Yakye Axa*, 2005 and *Sawhoyamaxa*, 2006, have been sentenced by the IACHR, the State of Paraguay has not complied with the mandates imposed by said Court. The State laid aside the inclusion of the issue of restitution of indigenous lands according to obligatory criteria of ancestral residence and cultural ties of the community with their traditional communal lands. At the same time, the State pressures these peoples to accept other property, different from their ancestral lands, taking advantage of the extreme precariousness of the living conditions in which these communities must currently survive.

2.6 Concern persists as regards the protection and legalisation of the Southern Zone Core lands that constitute the natural and cultural patrimony of the Ayoreo Totobiegosode people situated in the Department of Alto Paraguay, in the Western Chaco region. Successive sightings of this population living in isolation have taken place in recent months. At the time of writing the present report, the last sighting of the Ayoreo Totobiegosode took place in May, 2010. Initial contacts and dealings began in 1993 and are still inconclusive. This indigenous group is particularly fearful of the threats and incursions into their remaining forest areas by persons associated with the Brazilian-owned business firm Yaguarete Pora SA.

2.7 It is notorious that there has been no real prioritisation by the Executive branch of government for the coordination of actions in compliance with the international sentences emanating from the Inter-American Court of Human Rights. This is indeed striking in consideration that there has been an establishment of a sphere of action within official circles vested with authority for decision-making. Likewise, the Judicial branch of government has maintained absolutely no linkage or connection with these tasks, whereby there has been evasion as regards compliance with the sentences through means of actions that directly constitute the disobedience of the IACHR mandate. The issues of indigenous restitution depend entirely on the will of private parties and expropriation proceedings are rejected on the grounds of protection of the ownership of private property. Authorities in Paraguay thus ignore the criteria furnished by the IACHR in those cases in which there is an apparent collision of rights. At the same time, the revision and modification of current legislation and/or administrative provisions for their adequateness in terms of the proposed mechanism to insure that indigenous peoples own their lands still has not been carried out, even though there is an express mandate of the IACHR involving both sentences. The procedure in force in 1981, before reaching the standards

obtained in the Constitution of Paraguay that was enacted in 1992, was sentenced as inefficacious by the IACHR.

3. Noncompliance with norms and standards as regards sexual and reproductive rights, as well as the persistence of discrimination based on gender. Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW), especially Articles 1, 2, 5, 6, 10, 11, 12 and 14; International Covenant on Civil and Political Rights, Article 3; International Covenant on Economic, Social and Cultural Rights, Article 3.

3.1 In spite of the **inclusion of guarantees regarding equality and non-discrimination**, within the framework of the National Constitution, the laws currently in force in Paraguay and the international instruments related to Human Rights ratified by the State, the discrimination and systematic violation of the Human Rights of women continues to be a prevailing reality that affects the right to lead a life of dignity.

3.2 Paraguay maintains the highest rate of **adolescent pregnancy** registered within the region: 26 pregnant teenagers or adolescents for each 1.000. The mortality rate in such a situation is also high, as "25 per cent of the pregnant women that die are comprised of adolescents or young women under the age of 19".<sup>4</sup> Furthermore, sex education in school curricula lacks the incorporation of perspectives regarding lay society, gender and Human Rights.

3.3. A recent study revealed the **educational consequences of a first pregnancy during adolescence**: 51.1% of the young women interrupt their studies after becoming pregnant. Within the labour market, some 55.7% continued with their work activities. A total of 44.3% of these adolescents ceased to work after becoming pregnant for the first time, only 7.2% returned to their work activities and 37.1% stopped working. The consequences of adolescent pregnancies affecting teenage girls in such important spheres of action as those related to study and work pose the need for an effective policy of family planning.<sup>5</sup>

3.4 Official estimates of **maternal mortality** range from 150 - 170 per 100.000 live births and the percentage of childbirth deliveries attended by qualified staff is estimated to reach 86 per cent.<sup>6</sup> During the period 2007-2008,<sup>7</sup> 733 maternal deaths were registered, involving women between the ages of 10 to 54 years. Abortion was one of the main causes of maternal deaths, and in these circumstances, 70.3% of the women had no education beyond the primary level and a full 79% were occupied

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<sup>4</sup> Interview with Jesús Irrazábal, Head of the Program for Adolescents at the Ministry of Public Health and Social Welfare (MSP y BS), in a radio interview held in 2009. Quoted by Javier Chamorro and Hebe Otero (2009) "*Pendientes con más de veinte años para quienes todavía no tienen dieciocho...*" in CODEHUPY (2009) *Derechos humanos en Paraguay 2009*. Asunción, pages 379-392).

<sup>5</sup> ENDSSR 2008. Table 4.1. "*Tendencias de la tasa global de fecundidad y tasas específicas de fecundidad por edad, según varias fuentes y períodos: mujeres de 15 a 44 años de edad.*" (Trends of the global fecundity rate and specific rates by age, according to various sources and periods: women between the ages of 15 – 44)

<sup>6</sup> Ministry of Public Health and Social Welfare (MSP y BS). 2005-2008. *Guía de planificación en Salud Sexual y Reproductiva*. (Planning Guide for Sexual and Reproductive Health) Paraguay 2009-2013. Page 21.

<sup>7</sup> Ministry of Public Health and Social Welfare (MSP y BS). *Proyecto Ramos Prospectivo en el Paraguay*. October, 2007 and September, 2008. Paraguay, July, 2009.

with domestic work, working either in their own homes or as domestic staff. It is a matter of concern that there be such a lack of compliance with the recommendations formulated by various United Nations Committees<sup>8</sup> in the sense that the State of Paraguay revise its legislation that punishes abortion, that it carry out a round of consultations with civil society, and that it act without delay to adopt efficient measures to solve the problem of high maternal mortality rates. Likewise, it should be noted that the State has not complied with the recommendation that to protect women from negative effects against their health, it should impede situations in which adolescents and women resort to dangerous abortions.

3.5 The **sexual and reproductive health of women** faces, among other obstacles, those related to the feminisation of HIV and AIDS. Due to the influence of fundamentalist groups, the draft bill on sexual, reproductive and perinatal maternal health, associated with childbirth, pregnancy, and the puerperal stage, has yet to win passage in Congress. The approval is needed in order to regulate Article 61 of the Constitution of Paraguay and guarantee entitlement to, and enjoyment of, sexual and reproductive rights.

3.6 **Violence against women** is a grave violation of human rights in Paraguay. There are no unified official statistics that account for this problematic issue. The National Survey of Reproductive Health<sup>9</sup> reveals that 36% of women currently or previously married, or who live or previously lived in common law unions, report suffering verbal violence. Two of every ten women reported physical violence. Up until the present, the State has not complied with the recommendations formulated by United Nations Committees as regards the revision and modification of the Penal Code and related laws dealing with violence against women, and the increase of the penalties for such criminal conduct<sup>10</sup>. The modifications of Article 229 of the Penal Code, enacted in 2008, provide penalties entailing deprivation of freedom for periods of up to two years. In addition, current legislation includes psychological violence as grounds for penalisation. However, the law continues to require that such violence be of a “habitual nature” and that the aggressor be “cohabitating or lodging together” in order for this criminal offense to be covered by the provisions of said legislation<sup>11</sup>. The trafficking of women, boys, and girls for purposes of sexual exploitation continues to persist, especially in the triple border region that connects Paraguay with Brazil and Argentina.

3.7 The **structural obstacles that hinder access to justice** continue to persist, bearing a direct influence on judicial responses, which is often of slight significance, resulting also in the discriminatory treatment of those women that do resort to the justice system, especially in the cases of victims of domestic and intra-family violence. Women victims of violence are subject to revictimisation when they

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<sup>8</sup> CCPR/C/79/Add.48, October 3, 1995, paragraph 28; E/C.12/PRY/CO/3, November 22, 2007, paragraph 32; CEDAW/C/PAR/CC/3-5, February 16, 2005, paragraphs 32-33).

<sup>9</sup> ENDSSR. 2008. CEPEP.2009. Asunción, Paraguay.

<sup>10</sup> A/51/38, paragraph 127. E/C.12/PRY/CO/3, November 22, 2007, paragraph. 23.d.

<sup>11</sup> The penal disposition respective to family violence requires modification in order to be in accordance with the provisions of the Belem Do Pará Convention: 1) Eliminating the requirement of habitual behaviour and permitting women victims to denounce aggression within the penal system as of the first event of violence to which they are objected; at the same time eliminating the provision that the aggressor be living together with the victim. This is necessary, since records kept at the Attention Centres show that the aggressors include former spouses or boyfriends, as well as current partners or friends that live apart<sup>11</sup>; 2) Including all the types of violence against women that are contemplated within the Convention.

appeal to the judicial system. Even though Law 1600/00 against domestic violence contemplates protection measures for victims, diagnostic studies reveal that a full 71% of the resolutions wind up without the adoption of contemplated measures of protection. Likewise, there are no effective mechanisms of appeal given the noncompliance of the emergency measures adopted by Magistrate courts. The Justice of the Peace courts, municipal, and district courts that have been monitored<sup>12</sup> have made no application of international human rights instruments in the judicial resolutions involving domestic violence, and discriminatory practices persist when women who are victims of violence resort to officials in charge of the administration of justice.

**3.8 Gender and Human Rights perspectives have not been included in the curricula at the university level** and this impedes future operators of justice, litigating lawyers, judicial auxiliary staff and professionals in general from acquiring an adequate higher education that will allow them to design and implement public policies and guarantee the removal of discriminatory practices in all spheres. Sexist education is embedded in the hidden curricula of formal education.

**3.9 As regards the labour situation**, women receive only 31 % of the salary paid to men who occupy similar work positions. Non-remunerated domestic work is not recognized nor is its value appreciated at the national level. In spite of the recommendations of United Nations Committees<sup>13</sup>, domestic employment meets with legal discriminations and is performed principally by women. The Labour Code establishes salaries for domestic workers that amount to only 40% of the minimum legal wages currently in effect for workers in other sectors. Furthermore, this Code does not legally recognise the obligation to pay overtime wages for extra hours of work nor does it provide for any type of retirement system. The discrimination is not only of a legal nature, given that the inspection of work sites is null since domestic work is carried out within the realm of private homes.

**3.10 The deficient living conditions of peasant and indigenous women** are of great concern. Mention must be made of various factors, including the prevalence of many women that speak only the Guaraní language, and who are affected by an illiteracy rate far higher than the national average; the low rates of school enrolment; the limited access to health care services; and, the significant levels of poverty. These factors impulse the migration of rural women to urban areas where they in turn are exposed to greater situations of vulnerability and submitted to multiple forms of discrimination. The Paraguayan State lacks public policies to promote the access of women to the ownership of land and real estate, and to guarantee women the means to settle on their own property through the awarding of title deeds, the extension of credit and the provision of technical support. In the face of the serious problem of the unequal distribution of land, the State has implemented repressive policies involving violent eviction procedures, whereby rural peasant women are the victims of torture, and cruel, discriminatory treatment.

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<sup>12</sup> Applied in the period 2007-2009 within the framework of the MAJUVI Project carried out with Justices of the Peace, municipal courts and district courts located in the capital city of Asuncion.

<sup>13</sup> Committee in E/C.12/1/Add.1, May 28, 1996, paragraph 24.

### **Recommendations to the State of Paraguay**

1. The State of Paraguay should sanction and promulgate the draft bill Against All Forms of Discrimination, which is currently paralyzed in Congress. It should be noted that Paraguay is the only country among the countries making up the Southern Cone Common Market (MERCOSUR) that does not count with a law against discrimination.  
In like manner, it is recommended that the State of Paraguay:
2. Categorize or typify as a punishable offense in its penal legislation any and all acts of discrimination and defence of the same, directed against persons for reasons related to race, colour, sex, language, religion, political opinion or an opinion of any other type, sexual option, national origin, ethnic or social group, economic position, birth or any other social condition.
3. Adapt its penal legislation as regards the constitutive elements of the type foreseen for the crimes of Torture, and other Cruel, Inhuman or Degrading Treatment, as well as the Forced Disappearance of Persons, in accordance with human rights treaties ratified at the United Nations Organization (UNO) and the Organisation of American States (OAS).
4. Approve and promulgate the draft bill on the “National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment”, in order to allow for the integration of local legislation to an international system of control, in accordance with the United Nation’s Convention Against Torture (CAT). This approval must be accompanied by the installation of other mechanisms for denouncing, monitoring, controlling and verifying these violations of human rights, with documentary rigour, through reports based on the examination of victims. Among such reports should be those based on men, women or youth detained at police stations or prisons, or of persons institutionalised because of their psychosocial incapacities, as well as those persons who are victims of police brutality in circumstances involving the exercise of the freedoms of assembly and manifestation.
5. Establish an Intervention Protocol or Handbook of Good Police Practices in which there shall be found an integration of factors involving the denial of economic, social and cultural rights with respect to the exercise of violence on the part of the system of repression.
6. Create, in coordination with the Ministry of the Interior and the Public Prosecutor’s Office, criminal investigation units or sections fundamentally based on scientific methods. We recommend that law enforcement authorities cease to use confessions obtained in interrogation sessions, under circumstances of torture, or cruel, inhuman or degrading treatment, for the purpose of obtaining evidence or proof, and in order to bring about punishment for acts that are under their investigation.
7. Guarantee the victims of torture and other cruel, inhuman or degrading treatment, and especially those affected by State repression for matters considered to involve public security (i.e. e., kidnapping, sequestration, terrorism), an effective judicial recourse of appeal and the right to obtain the trial of the supposed participants within a reasonable length of time, as well as to receive adequate measures of reparation and indemnity.
8. Typify Extrajudicial Execution as a crime in Paraguay’s penal legislation.

9. Investigate the arbitrary executions and forced disappearance of persons in an adequate manner, to the effects of punishing the responsible parties through sanctions, thus avoiding impunity and the chronic repetition of crimes. In particular, we recommend these measures in order to assure the investigation, sanction and reparation of all the cases referred to during this period of government and that of former governments, given that such punishable acts are not subject to withdrawal or revocation, due to their imprescriptible nature.
10. Regulate the intelligence services of the public forces, through legislation and administrative norms, by means of public proceedings and transparent and participative consultation with the citizenry, with due contemplation of the unrestricted respect for human rights. We recommend that the current focus on National Security of the State be replaced with that of Human Security, establishing mechanisms for the accountability of officials in charge of the internal security of the country.
11. Create an institutional mechanism, in accordance with the obligations deriving from International Labour Organisation Convention 169, which guarantees the consultation of indigenous peoples and their right to play their own leading roles in the definition of priorities as regards policies, plans, programmes and projects.
12. Elaborate a program for the restitution of land and territories and the recognition of collective property rights of the Indigenous Peoples, including those that live in voluntary isolation. In this sense, we urge the State of Paraguay to comply with the sentences of the Inter-American Court of Human Rights, dictated in cases involving the Yakye Axa and Sawhoyamaya communities.
13. Comply with the recommendations of UNO Committees to revise legislation that punishes abortion, to carry out national consultations within the civil society and to act without delay for the implementation of efficient measures to resolve the problem of high rates of maternal mortality.
14. Pass the draft bill related to Sexual, Reproductive, Maternal and Perinatal Health, which will permit the regulation of Article 61 of the Constitution of Paraguay and guarantee the right to, and enjoyment of, the sexual and reproductive rights of women.
15. Modify the Penal Code and connected laws as regards violence against women.
16. Adopt legislative measures or those of any other nature, in order to remove structural barriers to the access to justice, given that such obstacles do have a bearing, and result in the scarceness of adequate responses, as well as discriminatory treatment towards women that resort to the judicial system, especially in cases involving the victims of domestic and intra-familial violence.
17. Include gender and human rights perspectives in curricula at the university level, nationwide.
18. Comply with recommendations regarding domestic employment that have been formulated by UNO Committees. It should be noted that in Paraguay there is legal discrimination against domestic workers, a category comprised chiefly of women.
19. Adopt public policies to promote the access of women to the ownership of land, and guarantee their settling on landed property through the granting of

title deeds, credit and technical support, given the grave situation of the unequal distribution of land.

20. Dictate necessary measures, in coordination with the Paraguayan civil society, in order to comply with the recommendations of the United Nations Committee on the Rights of the Child, given on the occasion of the review of the Third Periodic Report of Paraguay (CRC/C/PRY/3), at the 1457<sup>th</sup> and 1459<sup>th</sup> sessions (CRC/C/SR.1457 and 1459), held on January 12, 2010, and the 1501<sup>st</sup> session, held on January 29, 2010.

