

**ALTERNATIVE REPORT
OF THE COALITIONS OF ORGANIZED CIVIL SOCIETY OF PARAGUAY
ON THE IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL
FORMS OF RACIAL DISCRIMINATION**

Asunción, July 11, 2011

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SUMMARY

At last the Paraguayan State has met its obligation of presenting official reports relating to the application of the Convention on the Elimination of Racial Discrimination (CERD), albeit with a delay of more than 7 years and incomplete information, which hinders the evaluation of compliance with its obligations by virtue of this treaty.

The report has focused on detailing a legislation initiative relating to discrimination, fostered by organized civil society and shelved for more than four years in the Parliament. For the first time in the country's history, the bill against all forms of discrimination includes a definition of discrimination, including racial discrimination; mechanisms of protection, punishment and remedy in face of acts of discrimination, and institutions responsible for its application. The State has not provided any information on the steps and actions to ensure the approval and application of this bill.

Furthermore, the Paraguayan State has concentrated the information into two groups of population susceptible to racial discrimination: indigenous peoples and Afrodescendent communities, but has not included information on other ethnic, national and religious communities and groups, hence the report suffers of significant flaws in terms of the realities of racial discrimination in the country.

Regarding indigenous peoples, it has simply presented data relating to their living conditions, but not about the way in which these conditions express a clear situation of racial discrimination. Additionally, in its report, it presents the Paraguayan Institute of Indigenous Affairs (*Instituto Paraguayo del Indígena*-INDI) as an entity able to manage a public policy aimed at the sector, but this is not possible given its initial concept and institutional limitations. Lastly, the Paraguayan State has not mentioned the systematic failure to comply with the decisions of the Inter-American Court of Human Rights on the guarantee of the rights of indigenous peoples, whereby these communities still live in a situation of violation of their collective rights, as do many other indigenous communities that do not have an effective legal remedy to ensure their territorial rights, which are fundamental for the enjoyment of all their human rights.

Regarding Afrodescendent communities, the Paraguayan State has simply presented the results of the census undertaken by the Afro-Paraguayan organizations themselves, but makes no comparison whatsoever with the reality of the entire population of the country, so it is not possible to determine the impact of racial discrimination on their living conditions and the exercise and enjoyment of their rights, particularly in respect of health, education, housing, employment, social security, political participation and participation in the cultural life of the country.

Regarding other ethnic, national and religious groups susceptible to racial discrimination in the country, the State has not provided any information to determine which ones they are or their living conditions and exercise of their rights.

As in the case of the INDI, the information on public institutions simply describes their functions and, when statistical information is presented, it is not compared with the national results or with achievements in changing the living conditions of the affected persons. The Paraguayan State has no entity in place to address racial discrimination or data collection system to disaggregate information per ethnic, national and religious groups. Furthermore, there is no ethnic, racial, generational and gender perspective in the design of public policies for health, education, housing, political participation, protection of personal integrity and security, employment and communication; other than concrete, yet still isolated, efforts in relation to indigenous peoples and specific actions with Afro-Paraguayan organizations.

INTRODUCTION

1. This report is presented jointly by the Coordinating Council of Human Rights (*Coordinadora por los Derechos Humanos en Paraguay-Codehupy*), the Network against All Forms of Discrimination (RCTD, acronyms in Spanish), the Paraguayan Network of Afrodescendants (RPA), the Latin American and Caribbean Committee on the Defense of Women's Rights (Cladem-Py) and the Coordinating Council on the Rights of Children and Adolescents (CDIA)¹.
2. This document is based on the combined initial official Report, second and third reports of the Paraguayan State (CERD/C/PRY/1-3) and it is presented based on the structure of the reference articles of the Convention on the Elimination of All Forms of Racial Discrimination (CERD). It has also taken into account other sources as detailed along the text.
3. The organizations responsible for this alternative report congratulate the Paraguayan State for presenting the official report and applaud the updating of the country core document (HRI/CORE/PRY/2010). However, they regret the significant delay in respect of the date of submittal of the initial, second and third reports² and that the guidelines for the presentation of the reports were not adequately followed (CERD/C/70/Rev.5).
4. For each article of the CERD, this alternative report presents general information and successively information on Afrodescendent communities, on indigenous peoples and on other communities susceptible to racial discrimination.

GENERALITIES

5. The organizations responsible for this alternative report regret that the Paraguayan State has not referred to:
 - a. Children and adolescents of communities susceptible to racial discrimination, other than the statistics of access to schooling in the case of indigenous peoples and Afro-Paraguayan communities (CERD/C/PRY/1-3 paragraphs 124 to 132).
 - b. The way in which racial discrimination could affect women differently than men; it simply indicates the distribution per sex in indigenous peoples and in Afrodescendent populations (CERD/C/PRY/1-3 paragraphs 14 to 17)³.
 - c. The realities of migrant communities and other national and ethnic communities with presence in the country, such as those of Japanese, Korean and Chinese origin; Arab communities, Argentinean and Brazilian communities, Spanish, Italian, Greek, German, Polish and Ukrainian ones; or Mennonite, Muslim and Jewish communities⁴. Only a footnote reference has been made on a perception about discrimination towards persons of Asian origin or Brazilian-Paraguayan persons (called *brasiguayos*) (CERD/C/PRY/1-3, note 2), in spite of the fact that the latter group accounts for 47.1% of total migrants in the country⁵.
 - d. The vulnerability of the different ethnic and national groups and indigenous peoples to human trafficking; to their exploitation at work and to the contemporary forms of slavery; to sexual exploitation, including utilization in pornography.

¹ The Annex presents the participant coalitions and the persons who drafted this report.

² Which had to be submitted in 2004, 2006 and 2008, respectively.

³ As established in General Recommendation N° 25 relating to the dimensions of gender-based racial discrimination (2000).

⁴ General Recommendation N° 24 relating to Article 1 of the Convention (1999) establishes the importance of presenting information on all ethnic and national groups and on all indigenous peoples present in the State Party.

⁵ The official report to the CMW presents statistical information that is more updated (CMW/C/PRY/1, paragraphs 33-38).

Therefore, the Committee on the Elimination of Racial Discrimination (CERD Committee) is respectfully requested to ask for the following in its dialogue with the State:

- i. information on the reality of children and adolescents of all the communities susceptible to racial discrimination;**
- ii. information on the differentiated way in which racial discrimination affects women in relation to men;**
- iii. information on the modalities of racial discrimination to which the other ethnic, national and religious communities (Latin American, European, Asian and Arab; Muslim, Jewish and Mennonite) are exposed to;**
- iv. information on the vulnerabilities of the different ethnic, national and religious groups to exploitation and human trafficking.**

INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

Article 2

Legislation

6. The Paraguayan Constitution guarantees equality among all persons and prohibits discrimination (Art. 46). However, discrimination is not legally defined nor does it have legal mechanisms or public policies to eradicate it.
7. Although the Constitution recognizes the multicultural character of the Nation (Art. 140), it makes no reference whatsoever to the cultures that made it up historically, such as Afrodescendants one and migrants of European, Asian and Latin American origin. The only reference is recognition of indigenous peoples.
8. Legal protection of the Paraguayan State to indigenous peoples is basically expressed in an internal regulatory regime that, in its order of precedence, has the 1992 Constitution in first place which “recognizes the existence of indigenous peoples, defined as groups of culture prior to the formation and organization of the Paraguayan State” (Art. 62). Legally-speaking this implies that the original rights over their ancestral lands and territories as peoples supersede any title or legal action that third parties might file, including the State itself, as well as their right to internal free determination. The Constitution has been complemented with the ratification of Convention N° 169 of the International Labour Organization on indigenous and tribal peoples in independent countries (C169) (Law 234/93). Furthermore, the Statute on Indigenous Communities, Law 904/81, remains in effect. It was adopted during Stroessner’s dictatorship and establishes the administrative regime of the Paraguayan Institute for Indigenous Affairs (INDI), responsible for public policies and programs on the issue (Art. 32).
9. The coalitions presenting this report express their concern about legal recognition not being expressed in a State that guarantees respect for the rights of indigenous peoples and, in particular, the actual affirmation of their rights to possess and own their ancestral lands and territories. This means failure to comply with the CERD, especially Articles 2, 5, 6 and 7. This concern has also been expressed by the Inter-American Court of Human Rights, the rulings of which are not complied with by Paraguay, in spite of its ratification of the contentious jurisdiction of this international tribunal in 1993. Hence, sentences to the State in the cases of the *Yakye Axa*⁶, *Sawhoyamaxa*⁷ y *Xámok Kásek*⁸ indigenous communities are

⁶ Inter-American Human Rights Court (2005) **Case *Yakye Axa Indigenous Community vs Paraguay. Ruling of merit, remedies and court costs. Ruling June 17, 2005. Series C N° 125.*** San José de Costa Rica: Inter-American Human Rights Court. Available at: <www.corteidh.or.cr/docs/casos/articulos/seriec_125_ing.pdf>, consulted on June 30, 2011.

⁷ Inter-American Human Rights Court (2006) **Case *Sawhoyamaxa Indigenous Community vs Paraguay. Ruling of merit, remedies and legal cost. Ruling March 29, 2006. Series C N° 146.*** San José de Costa Rica: Inter-

a tangible sample of disrespect for the rights of indigenous peoples in spite of formal recognition in the legislation.

10. The State has ratified almost the entirety of international treaties on human rights, however, it has yet to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Right, which would limit the possibility of its citizens to present individual communications to the respective oversight body for failure to comply with the obligations undertaken in the Covenant, including in relation to racial discrimination; and the same occurs with the International Convention on the Prevention and Punishment of the Crime of Genocide.
11. As the State details in its official report (CERD/C/PRY/1-3 paragraphs 21-25), the bill against all forms of discrimination is under study; it was prepared based on a broad consultation process initiated in 2003 with different social sectors, civil society organizations and the participation of public institutions. The report uses the definition of discrimination provided in the CERD and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) as reference and even includes race, color of the skin, ethnic and national origin among the prohibited reasons for discrimination.
12. The coalitions express their concern because the State has only detailed the process carried out to date, mainly on the part of social organizations and some legislators (CERD/C/PRY/1-3, paragraphs 21-25), but has not identified the obstacles impeding their treatment and approval by the Congress or the actions undertaken to minimize them.

Institutionality

13. The only institution in charge of ensuring the rights of some of the groups most susceptible to racial discrimination is the Paraguayan Institute of Indigenous Affairs (INDI); however, its institutional and political capacity is restricted because it has to relate to the other State bodies through the Ministry of Education and Culture (MEC). Additionally, although the greatest concentration of the indigenous population is located far from the capital city of the country, the only headquarters of the INDI are in this city (CERD/C/PRY/1-3 paragraphs 41).
14. The Federation for the Self-Determination of Indigenous Peoples (FAPI)⁹ believed that during successive governments the INDI has proven its operational ineffectiveness, it continues to be an assistential body and has made no effective commitments or undertaken

American Human Rights Court. Available at: <www.corteidh.or.cr/docs/casos/articulos/seriec_146_ing.pdf>, consulted on June 30, 2011.

⁸ Inter-American Human Rights Court (2010) **Case *Xákmok Kásek Indigenous Community vs Paraguay. Ruling of merit, remedies and court costs. Ruling August 24, 2010. Series C N° 214.*** San José de Costa Rica: Inter-American Human Rights Court. Available at: <www.corteidh.or.cr/docs/casos/articulos/seriec_214_ing.pdf>, consulted on June 30, 2011.

⁹ Federation for the Self-Determination of Indigenous Peoples (2009) **Proposals for the preparation of public policies for indigenous peoples in Paraguay.** Asunción: Federation for the Self-Determination of Indigenous Peoples. The Coordinating Council for the Self-Determination of Indigenous Peoples (CAPI), today called Federation for the Self-Determination of Indigenous Peoples (FAPI) groups several associations and indigenous peoples of both regions of Paraguay: the Coordinating Council of Indigenous Leaders of the Bajo Chaco (Coordinadora de Líderes Indígenas del Bajo Chaco) (CLIBCH, acronyms in Spanish), the Union of Ayoreo Natives of Paraguay, the Commission of the Indigenous Peoples and Communities of the Paraguayan Chaco (CPI-Chaco), the Regional Indigenous Federation of the Central Chaco, the Payipie Ichadie Totobiegosode Organization (OPIT), the Organization of the Enlhet Peoples of the North (OPEN), the Angaité Association for Community Development (ASADEC), the Organization of the Guaraní People (OPG), all of them in the Western Region or Chaco; the Association of Ava Guaraní Communities of the Alto Paraná (ACIGAP), the Association of Ava Guaraní Indigenous Communities of Alto Canindeyú, the Association of Mbya Guaraní Communities *Cheirõ Ára Poty*, the Association of Mbya Guaraní Indigenous Communities of Itapúa, the Association of Mbya Guaraní Indigenous Communities *Teko Yma Jehe'a Pavẽ*, the Indigenous Association Pãi Tavytera *Reko Pavẽ* and the Association of Mbya Guaraní Indigenous Teachers, all of which in the Eastern region. The CAPI/FAPI has been working for more than ten years in the advocacy and defense of the fundamental rights of indigenous peoples. For more information see: www.capi.org.py.

actions aiming at change. It seems to be a terminal entity, without mandate to apply or measures to execute in the framework of a government policy. Meanwhile, the Coordinating Council of Indigenous Organizations of Paraguay (*Mesa Coordinadora de Organizaciones Indígenas del Paraguay-MCOI-Py*)¹⁰, has indicated the same stating: “The State has not strengthened its democratic culture in respect of indigenous peoples, and each government has repeated the same discriminatory practices and simply implemented palliative/discursive actions” (2011).

15. The weakness of the INDI and the lack of institutional reforms to overcome this structural shortfall mean that the State has no organ or articulation of capacities and public resources for the effective application of the aforementioned legislation, whereby the coalitions presenting this report understand that Paraguay fails to comply with the duty of adopting effective measures to review national and local government policies, and amend, repeal or abrogate the laws and regulatory provisions conducive to racial discrimination or its perpetuation wherever it exists (CERD, Art. 2). Even when the State declares that the INDI is part of the Human Rights Network of the Executive Branch (CERD/C/PRY/1-3 paragraphs 44), this mere inclusion is futile for indigenous peoples.
16. The coalitions participating in this report consider that the Paraguayan State should incorporate the "Draft Proposal for a process of consultation and consent with indigenous peoples of Paraguay"¹¹ into domestic laws, to be used in the adoption of public policies and other measures aimed at ensuring the enjoyment of their rights in concordance with the obligations assumed upon ratification of the CERD and with the provisions of the Declaration on the Rights of Indigenous Peoples. Furthermore, the State is expected to incorporate the National Plan for Good Living (*Plan Nacional del Buen Vivir*) into the design of public policies. This Plan was presented by MCOI-PY in 2011 as a proposal to the Paraguayan State accomplish integral development with indigenous identity.
17. The other ethnic and national groups, including Afrodescendent persons, do not have specific entities to protect them against acts of racial discrimination, other than some administrative departments in charge of protecting the entire population, such as the Ombudsman's Office, the independent national human rights institution in Paraguay – or of administrative services for issues relating to racial discrimination such as the Vice Ministry of Culture, Human Rights and Communication of the MEC and the Human Rights directorates of the different ministries.
18. Lastly, as there is no criminal classification of discrimination in general, or racial discrimination in particular, it cannot be judicially pursued and the actions of judicial organs are limited to other associated crimes, such as the disruption of coexistence and abuse of others based on their beliefs (cf. *infra* paragraph 31).

Data Collection and Production of Information

19. It is cause for concern that no statistical data are available to allow quantification of the realities of Afrodescendent populations. In 2007, the same Afro-Paraguayan organizations generated said data in three communities as a point of departure to raise awareness on their existence. One of the associations sought to sign an agreement with the Directorate of Statistics, Surveys and Censuses (*Dirección General de Estadística, Encuestas y Censos-DGEEC*), dependent on the Technical Planning Secretariat and central authority on the issue, but it did not happen. Even so, with the support of international cooperation, the study

¹⁰ The MCOI-Py is made up of the Coordinating Council of Indigenous Leaders of the (CLIBCH), the Federation of Associations of Indigenous Communities of the Eastern Region, the Union of Indigenous Communities of the Ishir Nation (UCINI), the National Organization of Independent Aborigines (OANI), the Association of Indigenous Peoples of Bajo Canindeyú (APIBC) and the Movement of Urban Indigenous Peoples (MPO).

¹¹ Federation for the Self-Determination of Indigenous Peoples (2011) **Draft Protocol for a process of consultation and consent with the indigenous peoples in Paraguay**. Asunción: FAPI and United Nations Development Program-UNDP.

was completed and published with information on which the official report is based (CERD/C/PRY/1-3 paragraphs 16).

20. The RPA is negotiating the inclusion of race and ethnic variables with the DGEEC in order to include the Afrodescendent identity in the upcoming National Population and Housing Census scheduled for 2012. However, the institutional response is not definitive, financial difficulties have been alleged and that “the issue is not yet embedded in the social imaginary”.
21. As the State reports (CERD/C/PRY/1-3 paragraph 69), the results of the II National Indigenous Census (2002) indicate that there are 420 indigenous communities in the country, of which 185 (45%) still have no legal and definitive assurance. Additionally, the indicators of the “Draft Public Policy for Social Development for All in 2010-2020”, prepared by the Technical Unit of the Social Cabinet of the Presidency of the Republic, show that the surface area of the lands registered as legitimate real estate for indigenous communities to 2008 reaches 55,970 has., i.e. a recognized deficit of 279,850 has. for 2013¹².
22. In this rural context, in the last five years a distinct increase of migration towards cities has been observed and today indigenous families are living on the streets. According to the DGEEC, in 2009 there were 561 indigenous settlements of 20 different indigenous peoples. Both in rural areas as in cities, extreme poverty would be leading to situations of serious violation of their rights, in particular of women (adults, adolescent girls and children) in the departments of Alto Paraná, Caaguazú, Central, Presidente Hayes, Boquerón and Chaco.
23. In its report the Paraguayan State has not presented data on the other populations and communities susceptible to racial discrimination,. However, data of the DGEEC indicate that the community of Brazilian origin is the largest community of immigrants in the country (accounting for 47.1% of the total immigrant population), followed by the Argentinean community (36.5%). The Brazilian communities reside mostly in rural areas¹³. The coalitions participating in this alternative report did not have access to data on other communities.

¹² Social Cabinet of the Presidency of the Republic (2009) **Plan for Social Development with Equity Paraguay 2020**. Asunción: Social Cabinet, p. 119.

¹³ Republic of Paraguay (2011) *Initial official report of the Paraguayan State to the Committee on the Protection of the Rights of All Migrant Workers and their Families*. CMW/C/PRY/1, February 28, 2011, paragraphs 38.

Ethnic Perspective in Public Policies

24. The ethnic perspective in public policies of the Paraguayan State has focused mostly on the development of policies, programs, plans, provisions and guidance specifically for indigenous peoples. In fact, different ministries, such as the MEC and the Ministry of Public Health and Social Welfare (MSPBS), have specialized departments to ensure a comprehensive rights-based response, culturally appropriate for indigenous peoples¹⁴.
25. Additionally, the Secretariat of Civil Service (SFP) has approved a “Guide for Inclusive and Non-discriminatory Practices in Civil Service”. This guide recalls the duty of avoiding discrimination for whatever reason and refers to the causes of discrimination in particular, envisaging good practices in relation to indigenous peoples; however, it does not analyze the issue of racial discrimination in depth.
26. The Department of Lifelong Education of the MEC has prepared the National Public Policy on the Education of Young and Adult Persons in a participatory manner with content specific to indigenous peoples and Afro-Paraguayan communities.
27. At the local level, in 2008 the Secretariat for Afro-descendent Affairs was created in the Municipality of Paraguari, Department of Paraguari, location where one of the best-known Afro-Paraguayan communities lives. However, unsuitable and insufficient material or human resources have been allocated to it for compliance of its goals¹⁵. This initiative has not been replicated in the municipalities of Fernando de la Mora or Emboscada, where organized Afro-Paraguayans maintain their traditions, or in the Departments of Paraguari, Central and Cordillera where these municipalities are located.

Therefore, the CERD Committee is respectfully requested to recommend the following to the Paraguayan State:

- i. Approval of the Law Against All Forms of Discrimination;**
- ii. Ratification of the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Prevention and Punishment of the Crime of Genocide;**
- iii. Incorporation into domestic laws of the Draft Proposal for a process of consultation and consent with the indigenous peoples of Paraguay, proposed by the Federation for the Self-Determination of Indigenous Peoples (FAPI);**
- iv. Designation of an autonomous institution responsible for assistance in situations of racial discrimination and promotion of coexistence between the different cultural, ethnic, national and religious identities in the country, with powers to follow-up and support the implementation of the Durban Action Program;**
- v. Creation of a new institutionality replacing the INDI and able to comply with the function of dialogue with indigenous peoples and implementation of a respectful public policy, particularly right to the land and to the territory, and respect for self-determination;**
- vi. Incorporation the National Plan for Good Living, proposed by MCOI-Py into the country’s public policies;**

¹⁴ Ayala Amarilla, Oscar (2010) *La cuestión indígena y los derechos humanos frente a los privilegiados de siempre... El Estado declina su imperio. Derechos de los pueblos indígenas*(The Indigenous Issue and Human Rights in face of the Privileged People of Always... The State declines its empire. Rights of Indigenous Peoples) in: Coordinadora por los Derechos Humanos en Paraguay (2010) **Derechos humanos en Paraguay – Yvypóra Derécho Paraguáipe 2010**. Asunción: Codehupy, p. 428.

¹⁵ Carrizo, Monín y Celma, Luis Claudio (2010) “*Kamba ñemoñare Paraguáipe*” *Discriminaciones hacia las comunidades Afro-Paraguayans* (in: Coordinadora por los Derechos Humanos en Paraguay (2010) **Derechos humanos en Paraguay – Yvypóra Derécho Paraguáipe 2010**. Asunción: Codehupy, p. 251.

- vii. Creation of a Specialized Indigenous Jurisdiction in order to judicially ensure the restitution of indigenous lands and the protection, compliance, control, monitoring and delimitation of areas corresponding to indigenous peoples living in voluntary isolation or in the phase of initial contact, so as to ensure their fundamental rights, among which life, health and the right to live without association to non-indigenous society.**
- viii. Compliance with all the provisions of the rulings of the Inter-American Court of Human Rights relating to guaranteeing the rights of indigenous peoples;**
- ix. Inclusion of ethnic and racial variables in the 2012 National Population and Housing Census, particularly ensuring the identification of Afrodescendent persons and the differentiation of other ethnic, national and religious communities;**
- x. Raise the awareness and train civil servants through a comprehensive program based on human rights and aimed at the eradication of racist ideas and conducts which generate discrimination and violence, ensuring an evaluation of the changes that have taken place;**
- xi. Promotion of the creation of local offices for Afrodescendent affairs in the cities and departments with significant presence of Afro-Paraguayan communities, in order to promote the exercise of their rights and their quality of life.**

Article 3

- 28. The Paraguayan State only presents information on rules and regulations and institutional provisions to act against the discrimination of indigenous peoples (CERD/C/PRY/1-3 paragraphs 45 to 47, 49 and 50). However, only rules and regulations for affirmative actions for indigenous peoples are described, and nothing is said about their effective implementation by persons or the barriers that hinder the exercise of this right. Lastly, it does not provide information on affirmative actions aimed at communities susceptible to racial discrimination.
- 29. The departments for Indigenous Peoples and Action against Racial Discrimination in the Ombudsman's Office depend on the Department of Delegations of Asunción (CERD/C/PRY/1-3, paragraphs 54 and 56), which would limit their territorial jurisdiction to the capital city. The information presented by the State is simply a narration that lacks quantitative and qualitative information to allow estimates on the impact of these actions on the daily life of indigenous communities y of other groups susceptible to racial discrimination, particularly Afro-Paraguayan communities. Where quantitative information is provided it is limited to the complaints filed, but not to their settlement (CERD/C/PRY/1-3, paragraphs 60).

Therefore, the CERD Committee is respectfully requested to strengthen the dialogue with the Paraguayan State on:

- i. The impact of affirmative actions aimed at indigenous peoples on the effective enjoyment of their rights;**
- ii. The affirmative actions aimed at other communities susceptible to racial discrimination and their impact on the daily life of their members;**
- iii. The advances in the settlement of complaints filed at the Ombudsman's Office for reasons of racial discrimination.**

Furthermore, the CERD Committee is respectfully requested to recommend to the Paraguayan State:

- i. To perform a study on the impact of affirmative actions on the enjoyment of the rights of members of indigenous peoples;**

ii. To initiate affirmative actions for the elimination of discrimination against Afrodescendent persons in respect of education, health, employment and housing.

Article 4

Mass Communication Media

30. In its report the Paraguayan State presents the validity of the Code for the Self-Regulation of Publicity of the Center of Communication Regulations, Standards and Studies (CERNECO), prepared in 1998 and which has never been revised (CERD/C/PRY/1-3 paragraphs 37). In practice, the mass media continue to reinforce racist attitudes and prejudices. Racist jokes are common in TV entertainment shows and in radio programs. Furthermore, expressions such as “working like a nigger” and “denigrate” are commonly used and their streak of racial discrimination is not questioned. Institutional responses are timid and isolated and mostly occur in cases of “over-the-top” racist publicity¹⁶.

Apologia of Racial Discrimination

31. As there is no definition of racial discrimination in the body of laws of the country, any other information relating to ways in which it could be limited and punished through other criminal classifications is futile to effectively protect persons against acts of racial discrimination. Hence, Article 233 of the Criminal Code to which the State refers (CERD/C/PRY/1-3 paragraphs 38 to 40) makes no reference to discrimination, and even less to racial discrimination, because it is limited to disruption of coexistence and abuse of others due to their beliefs, which is only one of the possible components of racial discrimination.

32. Afro-Paraguayan communities have confirmed that racist ideas and prejudices in the social communication media are twice as strong regarding Afrodescendent women, as they maintain alive the prejudices on their alleged sexual conduct, making them common victims of verbal violence with sexual overtones and places women in situations of greater vulnerability to other forms of sexual violence¹⁷.

The CERD Committee is respectfully requested to recommend the Paraguayan State to establish a regulation, jointly with organizations representing communities susceptible to racial discrimination and with companies and organizations working in social communication, to enable appreciation for the different cultures of the country and eradicate racial prejudices conducive to discrimination.

Article 5

Right to equal treatment in the organs administering justice (Art. 5 subparagraph a)

33. The Paraguayan State does not provide information on the right to equal treatment in the organs administering justice, although traditionally indigenous peoples have been excluded from access to it, to the extent that the Paraguayan State has international rulings issued against it by the Inter-American Court of Human Rights establishing its responsibility for failing to comply with the rights of the indigenous peoples. The coalitions regrets having to

¹⁶ In the first days of May 2011, a commercial company encouraged the purchase of gifts for Mother’s Day through a campaign called “For Mum you will always be beautiful”, using an image associating indigenous or dark skinned children with ugliness. In a note to the manager of the company, the minister of the National Secretariat for Children and Adolescents indicated that “the interest of selling a product or service must not undermine the dignity of persons and humiliate children and adolescents due to the color of their skin, race, ethnic group, social status or any other reason”. The note is available at: <<http://files.snnapy.webnode.com/200000220-2402d24fd7/Nota%20a%20Facilancia%20-%2011%20de%20mayo%20de%202011.pdf>>, consulted July 5, 2011.

¹⁷ Results of the *Aty Kambakuéra Ñomongetarã* (conversational assemblies of Afro-Paraguayans) held in 2011 by the RPA.

inform that to July 2011 the none of the points of the rulings relating to indigenous peoples, that are of capital importance for victims and society as a whole, has been observed: restitution of the traditional territory and adoption of legislative measures in the *Yakye Axa*¹⁸ and *Sawhoyamaxa*¹⁹ cases. Furthermore, in August 2010, the Inter-American Court of Human Rights issued a new ruling of merit, remedies and court costs against the Paraguayan State in the case of the *Xákomk Kásek*²⁰ indigenous community for violations of the right to life, personal integrity, recognition of legal status, community property, court guarantees and judicial protection, as well as the rights of the child and the duty to not discriminate. Nor have its main points been observed to date.

34. Two examples showing that the Paraguayan State considers that anything associated with indigenous rights is irrelevant:
 - a. The Executive Branch had presented the bill to expropriate lands for restitution to the *Yakye Axa* community in November 2008 abiding by the ruling of the Inter-American Court of Human Rights. In October 2009, the Senate rejected this request with legal opinions against four advisory commissions, including the human rights commission, stating the alleged rational exploitation of the lands by their owners, the existence of other indigenous lands in the area, the alleged division of the community, the manipulation of non-governmental organizations and their ulterior motives, among others. Evidently the corporate interests of large-scale cattle producers prevailed over the rights of the victims, the obligations imposed by an international tribunal and those stemming from the ruling, favoring a hegemonic social sector over the traditionally discriminated one, in particular due to its ethnic identity²¹.
 - b. Dina Shelton, Rapporteur on the Rights of Indigenous Peoples of the Inter-American Human Rights Commission (IAHRC), visited the country in September 2010 and performed an onsite verification of the *Kelyenmagategma* community as it filed a complaint against the Paraguayan State before the Inter-American Human Rights Commission for failing to comply with their rights. Private security guards of the ranch that had fenced the indigenous community out of their ancestral territories, ignoring their right to the land and the territory, did not allow the delegation to enter although it included representatives of the State and all the members of the delegation were threatened, including the Rapporteur²².
35. There is no information on discriminatory practices toward Afrodescendent persons in the organs administering justice, however, it is only necessary to observe that the organs administering justice only use the Spanish language²³ while 37% of Afrodescendents persons speaks only Guaraní (percentage that increases to 43% in rural areas), and although 53% declared they spoke Guaraní and Spanish, there are no data available on their linguistic competence in the latter²⁴.

¹⁸ Inter-American Court of Human Rights (2005) *op. cit.*

¹⁹ Inter-American Court of Human Rights (2006) *op. cit.*

²⁰ Inter-American Court of Human Rights (2010) *op. cit.*

²¹ Ayala Amarilla, Oscar (2009) *Una política pendiente. Derechos de los pueblos indígenas* inn: Coordinadora por los Derechos Humanos en Paraguay (2009) **Derechos humanos en Paraguay – Yvypóra Derécho Paraguáipe**. Asunción: Codehupy, pp. 401-402.

²² *Visit to Paraguay by the Office of the Rapporteur on the Rights of Indigenous Peoples. Asuncion, September 7, 2010. Inter-American Commission on Human Rights. Available at. <<http://www.cidh.oas.org/Comunicados/English/2010/90-10eng.htm>>, consulted on June, 2011.*

²³ Verón, Miguel Ángel (2009) *Avances, estancamientos y retrocesos. Lenguas y derechos en el Paraguay* in: Coordinadora por los Derechos Humanos en Paraguay (2009) **Derechos humanos en Paraguay – Yvypóra derécho Paraguáipe**. Asunción: Codehupy, pp. 243-245.

²⁴ Data prepared based on the Afro-Paraguayan Kamba Cuá Association (2007) **National Population and Housing Census of the Afro-Paraguayan peoples. Final Results**. Fernando de la Mora: AAPKC, p. 26.

36. There is no information available on acts of discrimination against persons of communities susceptible to racial discrimination in the organs administering justice.

Right to personal security and protection against violence or bodily harm (Art. 5 subparagraph b)

37. In its official report the Paraguayan State does not present data on the guarantees of the right to personal security and protection against violence or bodily harm of members of communities susceptible racial discrimination.
38. The police practice of detaining somebody for “having the wrong face” is a story much told by Afrodescendent communities. When police officers encounter an Afrodescendent person in a public place, they request identity documents and ask questions as though Afrodescendents were persons “suspected” of committing or attempting to commit a crime. When these situations reach the public domain they usually do not go further than allegations in the media as there are no secure mechanisms to protect the victims. This significantly affects the right to freedom of movement and protection of persons against violence, as those in charge of ensuring their security are the first to violate this right with their racist prejudices.
39. The advances of extensive soybean and cattle production have generated significant deforestation in the country and driven out numerous indigenous from their ancestral lands as they are no longer able survive on them²⁵. Gradually the members of these communities moved to urban areas and a daily contact with western civilization took place and the acts of discrimination against ethnic groups increased, such as certain police raids. At present the Government is implementing some remedial action with the communities and groups settled in urban areas. However, whenever indigenous communities resort to occupation of lands, police and military forces intervene to evict them with violence.

Political Rights (Art. 5 subparagraph c)

40. The Paraguayan State does not provide sufficient information on the exercise of the political rights of the persons of communities susceptible to racial discrimination (CERD/C/PRY/1-3 paragraphs 77 to 89). In the elective positions of the State nobody can be identified as a member of indigenous peoples nor as an Afrodescendent. Furthermore, the incorporation of indigenous persons into civil service is recent and there is no policy to foster it, other than the aforementioned “Guide for inclusive and non-discriminatory practices in civil service” of the SFP (cf. *supra* paragraphs 25), and to include indigenous persons into the teams of the general directorates ensuring the policy aimed at their peoples in the different ministries. There is no statistical information on civil service that can be identified as Afrodescendent.
41. Access to documentation is one of the pre-requisites for the full exercise of civil and political rights. The Paraguayan State provides information on the number of identity cards distributed to members of indigenous communities (CERD/C/PRHY/1-3 paragraphs 75), but it does not provide information on the incidence of this number in relation to the total number of inhabitants of these communities, hence it is not possible to determine the results and effects that these acts would have on the entire indigenous population.

Other Civil Rights (Art. 5 subparagraph d)

42. The Paraguayan State simply mentions some organizations and association of members of indigenous peoples and Afrodescendent communities (CERD/C/PRY/1-3 paragraphs 77 to 89). However, it does not account for the diversity that these associations and organizations represent.

²⁵ Borón, Atilio (2011) *Las víctimas son culpables. Notas sobre la criminalización de los pobres y la protesta social en América Latina* in: Palau, Marielle – compiler (2011) **La dimensión represiva y militar del modelo de desarrollo**. Asunción: Base-IS, Diakonia, Serpaj-Py, pp. 69-76.

Economic, Social and Cultural Rights (Art. 5 subparagraph e)

Right to work and right to form and join trade unions (Art. 5 subparagraph e lit. i and ii)

43. The Paraguayan State only presents statistical information restricted to the Afro-Paraguayan community (CERD/C/PRY/1-3 paragraphs 93), but does not compare these data with the national population, whereby it is impossible to take stock and identify the situation of racial discrimination in the exercise of the right to work. The Afro-Paraguayan population is young (41.4 % is in the economically active age group), however there are gaps of significant inequality in the exercise of this right in relation to the national population.

TABLE. Comparison of the Distribution of the Afrodescendent and National Labor Force

| | National Population | Afrodescendent Population |
|--|----------------------------|----------------------------------|
| Economically Active Population (EAP) | 62.9% | 54.00% |
| Occupation rate | 93.6% | 97.53% |
| Exploitation of Stones and handicrafts | n/a | 36.46% |
| Primary Sector | 29.5% | 10.12% |
| Employers | 5.5% | 1.00% |
| Employees (public, private and domestic) | 48.1% | 16.17% |
| Autonomous Workers | 34.9% | 42.21% |

Source: Preparation by us on the basis of the 2009 Permanent Home Survey (DGEEC, 2010) and the National Population and Housing Census of three Afro-Paraguayan communities (AAPKC, 2007)

44. The fact that the work done by Afro-Paraguayan persons is compared with the work of the entire national population implies a form of racial discrimination in and of itself because the main occupation of the Afrodescendent population is the exploitation of stones and handicrafts associated to the place of residence near this type of productive unit, which is not that relevant in terms of the economy as a whole. Furthermore, the difference in the capacity to employ other persons of the national population and of the Afrodescendent population is significant, while access to employment (in the public and private sectors) is two times less in the Afro-Paraguayan community. Furthermore, Afrodescendent communities themselves manifested that their greatest incorporation is into domestic service²⁶ (legally discriminated²⁷). It is necessary to point out that work in rural establishments and in domestic service is legally discriminated and exercised by members of indigenous peoples,²⁸ as well as by Afro-Paraguayan persons. If these conditions of labor law were to change, the conditions at work could be improved. At present work is being

²⁶ Carrizo, Monín y Celma, Luis Claudio (2010) *op. cit.*, p. 256.

²⁷ Bareiro, Line y González, Maridí (2009) *Lo que debe cambiar para la igualdad legal de las trabajadoras del servicio doméstico*. Asunción: CDE.

²⁸ Ocampos, Genoveva (2009) *Los extremos de la discriminación y la precariedad laboral. Trabajo doméstico y trabajo forzoso de indígenas* in: Coordinadora por los Derechos Humanos en Paraguay (2009) **Derechos humanos en Paraguay – Yvyypóra Derécho Paraguáipe**. Asunción: Codehupy, pp. 465-476. United Nations Permanent Forum on Indigenous Issues (2009) **Mission to Paraguay. Reports and Recommendations**. New York: UNPFII.

done at the level of the Executive Branch on a bill for domestic work, but it has not been disseminated yet.

45. More Afrodescendants work autonomously than members of the national community, but this employment has scarce protection in the country. The social security legislation should be modified to encompass autonomous work.
46. The Paraguayan State has limited its presentation on the work of indigenous peoples to salaried work (CERD/C/PRY/1-3 paragraphs 90 and 91), generally in conditions of slavery²⁹. The different conceptions of work of indigenous peoples are not taken into account in this description, which simply replicates sections of the report of the United Nations Permanent Forum on Indigenous Issues at the time of its mission to Paraguay. The differentiated impact on labor exploitation by gender, age and geographical location of the different indigenous peoples is not described.
47. Furthermore, the State affirms that it is achieving results upon the creation of the Interagency Commission to establish control mechanisms in relation to indigenous labor, but it does not provide comparative statistical information in order to prove this statement (CERD/C/PRY/1-3 paragraphs 92). The coalitions applaud the creation of this commission but would like to underscore that it shows the postponement that the oversight of indigenous labor has suffered.
48. It has been determined that 20% of indigenous children between 10 and 11 years work, and this percentage increases to 31% for the 12 to 14 age group and to 51% for adolescents between 15 and 19. The distribution at the registry shows that two times as many boys work out of home than girls³⁰.
49. In June 2008, the State was summoned to give explanations before the Committee on the Application of Standards of the International Labour Conference regarding the systematic failure to comply with ILO Convention N° 29 in spite of repeated observations on the part of control bodies, and once more it was requested to end the yoke of servitude for debts of the indigenous communities in the Paraguayan Chaco and other places of the country that might be affected.
50. In its official report, the State does not mention women's incorporation into labor, their vulnerability to human trafficking for sexual and labor exploitation, nor does it mention the exploitation of the work of children and adolescents, particularly in rural areas, nor the indigenous families that are cast out of their territories toward urban areas, nor the modality of child domestic labor in third family homes (*criadazgo*)³¹. Nor does the State present information on the exercise of the right to work in other communities susceptible to discrimination.

Right to Housing (Art. 5 subparagraph e lit. iii)

51. Although the Paraguayan State presents information on the housing of Afro-Paraguayan and indigenous families (CERD/C/PRY/1-3 paragraphs 94 to 96), it does not present the results of the actions undertaken, of the way in which the housing built with its sponsorship are appropriate to the cultural practices of the different indigenous peoples, or of their actual ownership of the housing. It is important to underscore that 58.6 % Afro-Paraguayan families own their houses³² in comparison with 76.2% of the national population as a

²⁹ Ocampos, Genoveva (2009). *op. cit.*

³⁰ United Nations Permanent Forum on Indigenous Issues (2009) *op. cit.*

³¹ Soto, Clyde *et alii* (2002) **Evaluación rápida sobre trabajo infantil doméstico en hogares de terceros en Paraguay**. Asunción: ILO; Soto, Lilian (2005) *La situación de las trabajadoras domésticas y el trabajo infantil doméstico remunerado* in: López, Verónica *et alii* (2005) **Trabajo doméstico remunerado en Paraguay**. Asunción: ILO, pp. 169-218; Celma, Luis Claudio y Francezón, Silvina (2010) **Acompañarnos para llegar a tiempo**. Asunción: Global Infancia.

³² Afro-Paraguayan Kamba Cuá Association (2007) *op. cit.*

whole³³, but it is impossible to compare the ownership of the houses by indigenous peoples with the national total because that datum is missing, so it is not possible to determine the situation of racial discrimination at this level. Neither do we have information on the right to housing in other communities susceptible to racial discrimination.

52. The National Secretariat for Housing and Habitat (SENAVITAT) was created in 2009 by Law 3909/2009, as a guiding institution responsible for the country's housing policy. SENAVITAT has "special programs", of which one is for indigenous peoples, but not for other racial groups, such as Afro-Paraguayan communities, so we can state that the ethnic perspective has not been incorporated into housing programs.

Right to public health and to social security(Art. 5 subparagraph e lit. iv)

53. 85% of the Afrodescendent population has no health insurance³⁴. Meanwhile the MSPBS does not include racial identity into the vital statistics, which means that there are no concrete data available to help formulate public policies that incorporate ethnic diversity.
54. Among indigenous peoples, only 1.4% of homes has access to drinking water services provided by the Sanitary Service Company of Paraguay (ESSAP) or by the National Environmental Sanitation Service (SENACSA), while 4.5% of homes receive drinking water through community networks. This means that the vast majority has access only to a pond or river (37.8%)³⁵.
55. While 61% of the poorest quintile of children of the country access medical consultations, only 37% of indigenous children do³⁶. While 55% of the poorest quintile of children access drinking water, among indigenous children the percentage is barely 6.8%³⁷. Furthermore, 14.2% of children suffer chronic malnutrition (less size than expected per age), while among indigenous children this percentage reaches 41.8%; in respect of global malnutrition (less weight than expected per age), and the ratio is 4.2% to 9.7%³⁸.
56. In spite of the high impact of disease, 87.8% of indigenous population have no access to healthcare. Only 2% is covered by public health insurance (the Social Welfare Institute-IPS), while the remaining 10% has another kind of insurance, such as Mutual Hospital Aid (*Ayuda Mutua Hospitalaria-AMH*). The United Nations Permanent Forum on Indigenous Issues recommended the immediate interruption of Mutual Hospital Aid in order to standardize healthcare to indigenous persons, expanding coverage of the national health insurance of IPS³⁹.
57. The State has not presented information on the exercise of the right to health of other populations and communities susceptible to racial discrimination.

Right to education and training(Art. 5 subparagraph e lit. v)

58. 60% of the Afrodescendent population older than 15 has completed sixth grade (incomplete primary education). Additionally, 1% of the population has reached university, but only 0.3% has been awarded a university degree. Those who have completed or are studying teacher training at present account for 1.15%. Indeed, of the total degrees obtained after

³³ General Directorate of Statistics, Surveys and Censuses (2010) **2009 Permanent Home Survey**. Fernando de la Mora: DGEEC, p. 48.

³⁴ Afro-Paraguayan Kamba Cuá Association (2007) *op. cit.*

³⁵ United Nations Permanent Forum on Indigenous Issues (2009) *op. cit.*, with data of the DGEEC.

³⁶ Data of the UNDP/UNICEF/UNFPA Joint Program "Investing in People", 2009.

³⁷ Data of the UNDP/UNICEF/UNFPA Joint Program "Investing in People", 2007.

³⁸ The data on non-indigenous children were taken from the General Directorate of Statistics, Surveys and Censuses (2005) **2005 Permanent Home Survey**. Fernando de la Mora: DGEEC. The data on indigenous children were taken from the General Directorate of Statistics, Surveys and Censuses (2008) **2008 National Survey of Indigenous Homes**. Fernando de la Mora: DGEEC.

³⁹ United Nations Permanent Forum on Indigenous Issues (2009) *op. cit.*

secondary school, 76% correspond to teacher training, with women receiving 80% of the degrees⁴⁰.

59. At present, the Kamba Cuá in Fernando de la Mora has no establishments for complete primary education because the institution in that location only covers pre-school to sixth grade.
60. The low rate of schooling and retention among Afro-Paraguayan communities is cause for concern. It is urgent to adopt affirmative measures to increase the schooling and school retention rates of Afrodescendent children⁴¹.
61. Additionally, 38.9% of indigenous persons who are 15 years old or more is illiterate, while the average of years of study of the 15 year-old population shows a strong contrast with between the national population and the indigenous population, with 8 and 3 years of study, respectively. The comparison per linguistic family shows no significant differences⁴². In practice this situation would be due to the absence of school establishments in indigenous communities or to the fact that they only cover the first grades of primary education. In 2008, 12,227 indigenous children enrolled for the first, second and third grades of primary education, 6389 for the fourth, fifth and sixth grades of primary education and only 1768 for the seventh, eighth and ninth grades of primary education⁴³.
62. The State does not provide information on the exercise of the right to education among the other communities susceptible to racial discrimination. In his mission to Paraguay, the Special Rapporteur on the Right to Education reported that the children of migrant Brazilian families in rural areas “lack adequate access to education due to the fact they live in remote areas and do not speak or understand Spanish”⁴⁴.

Right to participate in cultural activities (Art. 5 subparagraph e lit. vi)

63. In its official report the Paraguayan State does not present information on the exercise of the right to participate in cultural activities without discrimination due to race, ethnic group or national origin. However, this right is fundamental to the development of the individual and collective identity of each group and for the construction of diverse and multicultural national identities.
64. Most of the Afro-Paraguayan organizations began as initiatives of their own members to promote and develop cultural expressions of Afro origin. Progressively these organizations recognized the need to work on the consolidation of Afro-Paraguayan identities in the country, both within the communities and in society as a whole.
65. Some efforts have been made in terms of culture to incorporate the racial perspective into public policies and since 2009 Afro-Paraguayan organizations have been carrying out joint activities with the National Secretariat for Children and Adolescents (SNNA) in order to incorporate the ethnic variable into national action plans. A project aimed at Afrodescendent children was implemented through this initiative in order to strengthen their identities from the rights perspective.
66. The National Secretariat of Culture (SNC) organized the IV Meeting of the Cultural Heritage Commission of Mercosur, during which the joint project Afrodescendent Cultures was approved to promote Afrodescendent cultural identity in the region, which is “the result of fruitful debating to finally decide that the initiative required greater analysis of the

⁴⁰ Afro-Paraguayan Kamba Cua Association (2007) *op. cit.*

⁴¹ Ditto.

⁴² UNDP data, 2010.

⁴³ General Directorate of Statistics, Surveys and Censuses (2009) **2009 Statistical Yearbook**. Fernando de la Mora: DGEEC, pp. 94-96.

⁴⁴ Muñoz, Vernor (2010) **Report of the Special Rapporteur on the Right to Education – Mission to Paraguay**. Geneva: Human Rights Council. A/HRC/14/25/Add.22 paragraphs 52.

approach so as to generate a common perspective, in accordance with the similarities and the differences that characterize the country”⁴⁵.

Right of access to places and services (Art. 5 subparagraph f)

67. In its official report the Paraguayan State provides no information on the exercise of this right, and although it is an expression of the consequence of the exercise of other rights and their limitation, it is a concrete form of racial discrimination when it takes place systematically against a group or sector due to their ethnic or national identity.
68. In the context of the Guaraní Universe Project of the aforementioned Cultural Heritage Commission of Mercosur, a dialogue has been established with the Guaraní communities of Argentina, Bolivia, Brazil and Paraguay, who in March 2011 demanded these States to provide “freedom of movement throughout the territory which belonged to the Guaraní Nation in times immemorial and that today go beyond the borders of Mercosur countries”⁴⁶.
69. As indicated above, the “having a face” limits the access and permanence of Afrodescendent and indigenous persons in public spaces, such as streets, squares, businesses, among others (cf. *supra* paragraphs 38). Furthermore, access to healthcare and to organs for the protection of rights, in particular the judicial system, is limited by this very situation (cf. *supra* paragraphs 33-36). There is no information on access to places and services by the members of other communities susceptible to racial discrimination.

The coalitions presenting this alternative report respectfully request the CERD Committee to further analyze the following in its dialogue with the Paraguayan State:

- i. Detention practices due to “having the wrong face” aimed at dark-skinned persons by police and military forces;**
- ii. The violent practices of forced eviction of indigenous communities practiced by the police, military and private forces;**
- iii. The presence of members of indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups in the civil service;**
- iv. The prevalence of conditions similar to servitude and slavery which most members of indigenous peoples experience in the Paraguayan Chaco and in the departments of Concepción, Canindeyú, Caaguazú and Alto Paraná;**
- v. The vulnerability of the women of all ages and children and adolescents of indigenous peoples and Afrodescendent communities to labor exploitation, human trafficking and the traditional harmful practice of criadazgo (domestic child labor in homes of third families);**
- vi. The cultural adaptation of the housing provided to families of indigenous communities and their balance with decent life conditions.**

Furthermore, the CERD Committee is respectfully requested to recommend the Paraguayan State to:

- i. Ensure without delay the implementation of the Law on Tongues, in particular in relation to the equal use of both official languages in the organs administering justice;**
- ii. Perform a study on the barriers to access the justice system associated with racial discrimination, which include indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups and communities;**

⁴⁵ *The IV Meeting of the Cultural Heritage Commission of Mercosur*. Available at: <<http://www.cultura.gov.py/lang/es-es/2011/06/culmculmino-iv-reunion-de-la-comision-de-patrimonio-cultural-del-mercosucult/>>, consulted on July 6, 2011.

⁴⁶ Ditto.

- iii. Establish a policy to eliminate the barriers of access that have been detected, paying special attention to the conditions of availability, accessibility, adaptability and cultural adjustment;**
- iv. Perform a study on the barriers to the political participation of indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups and communities;**
- v. Establish public policies adapted to the results of the study that allow elimination of the barriers to political participation and favor the access of members of indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups and communities to elective posts and positions in civil service;**
- vi. Promote the association and organization of indigenous and Afrodescendent communities and other ethnic, national and religious groups and communities, establishing a constructive dialogue with already existing ones to advocate the exercise of their rights and the improvement of their quality of life;**
- vii. Approve specific laws on domestic work and rural work to eliminate the situation of legal discrimination which these sectors experience in comparison with the general labor regime, and to enable the access of workers -usually of indigenous peoples or Afrodescendent communities- to decent employment.**
- viii. Reinforce labor inspection of the work done by members of indigenous peoples and of rural work and domestic work, in order to ensure the adequate protection of workers in these sectors;**
- ix. Reform the social security regime to include autonomous workers into the benefits, given the high proportion of the labor force, particularly Afro-Paraguayans, that work in this modality and lack social protection.**
- x. Include the ethnic perspective into the housing programs of SENAVITAT, into the vital and health statistics of the MSPBS, into the programs of direct attention and social promotion of the SNNA and into the programs of cultural promotion of the SNC, taking into account the entirety of ethnic, national and religious groups and communities;**
- xi. Standardize healthcare of indigenous peoples with that of the rest of Paraguayans, expanding coverage of the national IPS health insurance;**
- xii. Ensure the availability and accessibility of educational institutions with complete primary education in all indigenous and Afrodescendent communities of the country;**
- xiii. Establish affirmative measures to ensure retention in school of children and adolescents of Afro-Paraguayan communities and indigenous communities;**
- xiv. Establish a modality of educational response for the children of Brazilian migrant families setting up temporarily in rural areas;**
- xv. Undertake literacy programs aimed at indigenous peoples that takes into account cultural adaptation, the linguistic realities of each community and the gender perspective; and perform an impact assessment.**

Article 6

70. The Paraguayan State does not present information on the presence of adolescents of indigenous peoples and Afrodescendent communities in the centers of deprivation of freedom, nor disaggregating of the other communities susceptible to racial discrimination in the entire penitentiary system (CERD/C/PRY/1-3 paragraphs 117 and 118). Nor does it indicate the exact proportion of indigenous peoples deprived of their freedom in the literacy programs, nor does it establish the effects of this literacy program in the later social

reinsertion of other indigenous persons who would have been deprived of their freedom and would have learnt to read and write during that period (CERD/C/PRY/1-3 paragraphs 120). In this way, the data provided do not report on the conditions of racial discrimination in the centers of deprivation of freedom, on discrimination according to age, nor on the effect of the social reinsertion programs on the daily life of persons.

71. Although the work to train police staff to avoid racial discrimination is praiseworthy (CERD/C/PRY/1-3 paragraphs 121 to 123), it is not clear how police staff is trained and updated to avoid actions of racial discrimination, particularly in relation to indigenous peoples, Afrodescendent communities and other communities susceptible to racial discrimination. Nor are there rules and regulations for police procedures explicitly prohibiting racial discrimination, criminalize and punish it adequately.
72. Lastly, it is important to underscore that there are no compensatory and remedial mechanisms in respect of the damage caused to the perception of the value and reputation of the person offended by an act of racial discrimination⁴⁷.

The coalitions responsible for this report respectfully request the CERD Committee to recommend the following to the Paraguayan State:

- i. **To gather statistical information on the presence of persons of communities susceptible to racial discrimination in the criminal and penitentiary system of the country, additionally disaggregating the data per sex, age and procedural status, in order to establish differentiated penitentiary policies responding to these realities and which are coincidental with the human rights based approach;**
- ii. **To ensure, within the police system, a mechanism of complaint and reporting of acts of racial discrimination practiced by police officers for alleged victims to receive adequate remedy for the damage caused.**

Article 7

Teaching and Education

73. The State has limited its information on the application of Article 7 to the sphere of teaching and education, and to education in the mother tongue (CERD/C/PRY/1-3 paragraphs 124 to 132) which, although it is an essential component to address racial discrimination, it is not sufficient to eliminate it.
74. At the national scale, one of the consequences of the invisibility of national and ethnic diversity in Paraguay is the lack of incorporation of the study on this diversity into the official curriculum of the different modalities of education. It is a priority to incorporate the study of history and situation of the ethnic and national diversity into schools, particularly of indigenous peoples and Afrodescendent communities, as a useful tool to eradicate racist prejudices.

The CERD Committee is respectfully requested to recommend the Paraguayan State to include an ethnic perspective in the development of the national official curriculum so as to allow understanding and appreciation of the contributions of each cultural, ethnic and national group to the makeup of Paraguayan identity.

Culture

75. The SNC is the body responsible for the cultural public policy (National Law on Culture 3051/06) and, among others, it is in charge of protecting tangible and intangible cultural assets; developing production, transmitting and disseminating culture; and guaranteeing equal opportunity in the participation of the benefits of culture (Art. 1 subparagraph c and e). In the SNC, the promotion of community culture, cultural heritage and creation and

⁴⁷ General Recommendation N° 26 on Article 6 of the Convention (2000).

diversity, in general encompass actions promoting and disseminating indigenous cultural manifestations, but do not have a specific provision in relation to Afrodescendent communities nor other ethnic and national communities of the country.

The CERD Committee is respectfully requested to recommend the Paraguayan State to include an ethnic perspective in the programs of cultural community promotion, preservation of the cultural heritage and promotion of the creation and diversity of the SNC, with special emphasis on the cultures of indigenous peoples and Afrodescendent communities.

Information

76. In Paraguay, the state mass media are administrated by the Secretariat of Information and Communication (SICOM), dependent on the Presidency of the Republic. There are six media to July 2011: Radio Nacional del Paraguay (AM y FM), in the city of Asunción; Radio ZP 12 Carlos Antonio López in the city of Pilar, department of Ñeembucú; the Public Information Agency of Paraguay (available at: <www.ipparaguay.com.py>); the Semanario República and Arandu Rape – the educational public television of the country. There is also a project for public television in general. This project and the three latter media listed above were created by the government that came into office in 2008. There is no information on the dissemination of information to combat racial prejudices.

The CERD is respectfully requested to recommend the Paraguayan State to include an ethnic perspective into the development of the public communication policy, allowing understanding and appreciation of the contributions of each ethnic and national group to the makeup of Paraguayan identity and aiming at the elimination of racial prejudices leading to discrimination.

COMPILATION OF SUGGESTIONS TO THE COMMITTEE

1. The coalitions responsible for this report respectfully request the Committee on the Eradication of Racial Discrimination (CERD Committee) to strengthen the dialogue with the State on:
 - 1.1. The reality of children and adolescents of all communities susceptible to racial discrimination;
 - 1.2. The differentiated way in which racial discrimination in the country affects women in relation to men;
 - 1.3. The modalities of racial discrimination to which ethnic, national and religious communities, that are not indigenous peoples or Afrodescendent communities, are exposed to, i.e. Latin American, European, Asian and Arab; Muslim, Jewish and Mennonite;
 - 1.4. The vulnerabilities of the different ethnic, national and religious groups to exploitation and human trafficking;
 - 1.5. The impact of affirmative actions aimed at indigenous peoples for the effective enjoyment of their rights;
 - 1.6. The affirmative actions aimed at other communities susceptible to racial discrimination and their impact on the daily life of their members;
 - 1.7. The advances in the settlement of complaints filed at the Ombudsman's Office for reasons of racial discrimination;
 - 1.8. The detention for “having a wrong face” aimed at dark-skinned persons by the police and military forces;
 - 1.9. The violent practices of forced eviction of indigenous communities by police, military and private forces;

- 1.10. The presence of members of indigenous peoples, Afrodescendent communities, and other ethnic, national and religious groups and communities in civil service;
 - 1.11. The prevalence of conditions similar to servitude and slavery in which most members of indigenous peoples work in the Paraguayan Chaco and in the departments of Concepción, Canindeyú, Caaguazú and Alto Paraná;
 - 1.12. The vulnerability of the women of all ages and children and adolescents of indigenous peoples and Afrodescendent communities to labor exploitation, human trafficking and the traditional harmful practice of criadazgo (domestic child labor in homes of third families);
 - 1.13. The cultural adaptation of the housing provided to families of indigenous communities and their balance with decent living conditions;
 - 1.14. The follow-up to the application of the Durban Action Program in the country.
2. Furthermore, they respectfully request the CERD Committee to recommend the following to the Paraguayan State:
- 2.1. Approval of the Law against all forms of discrimination;
 - 2.2. Ratification of the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Prevention and Punishment of the Crime of Genocide;
 - 2.3. Incorporation into domestic law of the Draft Protocol for a Process of consultation and consent with the indigenous peoples of Paraguay, proposed by the Federation for the Self-Determination of Indigenous Peoples (FAPI);
 - 2.4. Appointment of an autonomous institution charged with giving attention to situations of racial discrimination and promotion of the coexistence between the different cultural, ethnic, national and religious identities of the country, with powers to follow-up on and support the implementation of the Durban Action Program;
 - 2.5. Creation of a new institutionality replacing the INDI, to comply with the function of dialogue with indigenous peoples and implement a public policy that respects their human rights, particularly their right to the land and territory, and respect for their self-determination;
 - 2.6. Incorporation of the National Plan for Good Living proposed by MCOI-Py into the design of the country's public policies;
 - 2.7. Creation of an Indigenous Specialized Jurisdiction to judicially guarantee the restitution of indigenous lands and territories, and the protection, compliance, control, monitoring and delimitation of areas corresponding to peoples living in voluntary isolation or in the phase of initial contact, so as to guarantee their fundamental rights, among them, to life, health and to live without association to non-indigenous society.
 - 2.8. Compliance with all the provisions of the rulings of the Inter-American Court of Human Rights relating to the guarantee of the rights of indigenous peoples;
 - 2.9. Inclusion of racial and ethnic variables in the 2012 National Population and Housing Census, particularly ensuring the identification of Afrodescendent persons and the differentiation of other ethnic, national and religious communities;
 - 2.10. Raise awareness and train civil servants through a comprehensive program based on human rights and aimed at the eradication of racist ideas and conducts that generate discrimination and violence, ensuring an evaluation of the changes produced;

- 2.11. Promotion of the creation of local offices of Afrodescendent affairs in the cities and departments with significant presence of Afro-Paraguayan communities, so as to promote the exercise of their rights and their quality of life;
- 2.12. Performance of a study on the impact of affirmative actions on the enjoyment of the rights of members of indigenous peoples;
- 2.13. Initiation of affirmative actions to eliminate the discrimination of Afrodescendent persons in relation to education, health, employment and housing.
- 2.14. Together with organizations representing the communities susceptible to racial discrimination and with companies and organizations working in social communication, establish rules and regulations to enable appreciation of the different cultures of the country and the eradication of racial prejudices leading to discrimination;
- 2.15. Without delay ensure the implementation of the Law on Tongues, in particular in relation to the equal use of both official languages in the organs administering justice;
- 2.16. Perform a study on the barriers of access to justice associated with racial discrimination, which include indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups;
- 2.17. Establish a policy to eliminate the barriers of access detected, paying special attention to the conditions of availability, accessibility, adaptability and cultural adjustment;
- 2.18. Carry out a study on the barriers to the political participation of indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups and communities;
- 2.19. Establish public policies adjusted to the results of the study so as to eliminate the barriers to political participation and favor the access of members of indigenous peoples, Afrodescendent communities and other ethnic, national and religious groups and communities to elective posts and positions in civil service;
- 2.20. Promote the association and organization of indigenous and Afrodescendent communities and of other ethnic, national and religious groups and communities, establishing a constructive dialogue with those already in place to promote their rights and the improvement of their quality of life;
- 2.21. Approve the specific laws on domestic work and rural work so as to eliminate the situation of legal discrimination legal of these sectors in comparison with the general labor regime, so as to enable workers – usually indigenous peoples and Afrodescendent communities- to access decent employment.
- 2.22. Reinforce labor inspection of the of rural work and of domestic work carried out by members of indigenous peoples, in order to guarantee the adequate protection of the workers of these sectors;
- 2.23. Reform the social security regime so as to include autonomous workers among the beneficiaries, given the high proportion of the labor force that works in this modality and lacks social protection, specially among Afro-Paraguayans.
- 2.24. Include the ethnic perspective into the housing programs of SENAVITAT, into the vital and health statistics of the MSPBS, into the programs of direct care and social promotion of the SNNA and into the cultural promotion programs of the SNC, bearing in mind the entirety of ethnic, national and religious groups and communities;

- 2.25. Standardize healthcare to indigenous peoples with that provided to the other Paraguayans, expanding the national health coverage of the IPS;
- 2.26. Ensure the availability and accessibility of educational institutions with complete primary education in all indigenous and Afrodescendent communities of the country;
- 2.27. Establish affirmative measures to ensure the retention at school of children and adolescents of Afro-Paraguayan and indigenous communities;
- 2.28. Establish a modality of educational response to children of Brazilian migrant families setting up temporarily in rural areas;
- 2.29. Undertake literacy programs aimed at indigenous peoples that take into account cultural adaptation, linguistic realities of each community and the gender perspective, and make an impact assessment;
- 2.30. Compile statistical information on the presence of persons of communities susceptible to racial discrimination in the criminal and penitentiary system of the country, additionally disaggregating the data per sex, age and procedural status, in order to establish differentiated penitentiary policies responding to these realities and which are coincidental with the human rights based approach;
- 2.31. Ensure, within the police institution, a mechanism of complaint and reporting of acts of racial discrimination by police officers allowing alleged victims to receive adequate remedial action for the damages caused;
- 2.32. Include an ethnic perspective into the development of the national official curriculum, to help understand and value the contributions of each cultural, ethnic and national group to the makeup of Paraguayan identity.
- 2.33. Include an ethnic perspective into the programs of cultural community promotion, preservation of the cultural heritage and promotion of the creation and diversity of the SNC, paying special attention to the cultures of indigenous peoples and Afrodescendent communities.
- 2.34. Include an ethnic perspective in the development of a public communications policy so as to understand and appreciate the contributions of each cultural, ethnic and national group to the makeup of Paraguayan identity and eliminate racial prejudices leading to discrimination.

ANNEX

COALITIONS RESPONSIBLE FOR THE REPORT

The **Coordinadora por los Derechos Humanos en Paraguay (Codehupy)** is a coalition that groups 28 social and non-governmental organizations that share advocacy for human rights in the different spheres of national action. It was founded in 1999 as a non-profit civil, a-religious and a-political association. As of 2002 it is the national chapter of the **Inter-American Platform of Human Rights, Democracy and Development (PIDHDD)** made up of eighteen countries of the American continent. Its institutional mission is to promote a culture of peace, respect and full enjoyment of human rights, in a democratic and participatory society that ensures human liberties without exclusions or discriminations, as well as the enjoyment of a decent life with full compliance of economic, social and cultural rights. As of 1999, it coordinates the preparation and publication of the annual human rights report that acts as reference for the State, other civil society organizations, the mass media, academic institutions and international agencies. As of its foundation, it has presented alternative reports to the different mechanisms of protection of human rights in the Inter-American and universal system.

The member organizations of the Codehupy are: Asociación Americana de Juristas – Chapter Paraguay (AAJ); Base Investigaciones Sociales (Base IS); Centro de Documento 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 – Paraguay (Cladem-Py); Comunica – Asociación Paraguaya de Comunicación Comunitaria; Coordinación de Mujeres del Paraguay (CMP); Coordinadora por los Derechos de la Infancia y la Adolescencia (CDIA); Coordinadora Nacional por la Promoción de Derechos de las Personas con Discapacidad (Conaprodís); Decidamos – Campaña por la Expresión Ciudadana; Fundación Dr. Andrés Rivarola Queirolo (Fundar); Fundación Celestina Pérez de Almada; Fundación Vencer; Instituto de Estudios Comparados en Ciencias Penales y Sociales – Paraguay (Inecip-Py); Movimiento de Objeción de Conciencia – Paraguay (MOC-Py); *Ñemongetarã* – Programa de Educación Popular; Servicio de Educación y Apoyo Social – Área Rural (SEAS-AR); Servicio de Educación Popular (Sedupo); Servicio Jurídico Integral para el Desarrollo Agrario (Seija); Servicio Paz y Justicia – Paraguay (Serpaj-Py); Sindicato de Periodistas del Paraguay (SPP); Sobrevivencia – Amigos de la Tierra – Paraguay; Tierraviva a los Indigenas peoples del Chaco. Son organizaciones adherentes: Amnistía Internacional – Paraguay (AI-Py); 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.

For more information see: www.codehupy.org.

The **Latin American and Caribbean Committee for the Defense of Women's Rights (Cladem)** is a regional feminist network created in 1987 that works to contribute to the full validity of women's rights in Latin America and the Caribbean, using law as a tool for change. As of 1995 it has a consultative status before the United Nations and as of 2002 it enjoys recognition to participate in the activities of the Organization of American States. Cladem is present in Argentina, Bolivia, Brazil, Colombia, Ecuador, El Salvador, Honduras, Mexico, Panama, Paraguay, Puerto Rico and Uruguay and has a liaison group in Dominican Republic.

For more information see: www.cladem.org.

The **Network Against All Forms of Discrimination (RCTD)** is a collective of 25 social organizations, institutions and individuals that foster and support the approval of the Bill Against All Forms of Discrimination and work to generate a current of opinion and action favoring non-discrimination in Paraguay. It was established in 2007 and the Network organizes working teams at the political, organizational, argumentative and communicational levels for the achievement of its objectives.

The RCTD is made up of: Agrupación de Familiares de Detenidos Desaparecidos y Asesinados por Razones Políticas del Paraguay - Aireana, Grupo por los Derechos de las Lesbianas -

Amnistía Internacional Paraguay - Asociación Unidas en la Esperanza - Asociación Tatarendy - Católicas por el Derecho a Decidir, Paraguay - Centro de Documentación y Estudios - Coordinadora Nacional de Mujeres Rurales e Indígenas - Coordinadora por los Derechos de la Infancia y la Adolescencia - Comité de América Latina y el Caribe para la Defensa de los Derechos de la Mujer, Paraguay - Coordinadora de Líderes Indígenas del Bajo Chaco - Coordinación de Mujeres del Paraguay - Coordinadora de Derechos Humanos del Paraguay - Coordinadora Nacional por la Promoción de los Derechos de las Personas con Discapacidad - Decidamos, Campaña por la Expresión Ciudadana - Equipo Feminista de Comunicación - Fundación Vencer - Fundación Yvy Marãe'y, - Grupo de Acción Gay, Lésbico y Transgénero - Grupo Luna Nueva - Las Ramonas, Organización de Feministas Jóvenes - Panambi, Asociación de Travestis, Transexuales y Transgénero del Paraguay - Paraguay - Red Paraguaya de Afrodescendientes - Tierraviva, a los indigenous peoples del Chaco. Es apoyada por: Fondo de Población de las Naciones Unidas - ONU Mujeres, Entidad de las Naciones Unidas para la Igualdad de Género y el Empoderamiento de las Mujeres - Organización Internacional del Trabajo - Sistema de las Naciones Unidas en Paraguay - B'nai B'rith Internacional - Comisión de Equidad, Género y Desarrollo Social de la Honorable Cámara de Senadores

For more information see: www.nodiscrimines.org.

The **Paraguayan Network of Afrodescendants (RPA)** is a coalition of three associations created at the beginning of 2008 by leaders and members of grassroots organizations in order to fight against racism and all forms of discrimination, understanding the need to cooperate with Afrodescendent communities and influence the State in respect of the implementation of specific policies for this sector. The member organizations are the Afro-Paraguayan Kamba Cua Association (AAPKC), the Kamba Kokue Association and the Pardos Libres Association.

The **Coordinating Council for the Rights of Children and Adolescents (CDIA)** is a coalition that groups 28 NGOs working in the promotion of the rights of children and adolescents in Paraguay. The CDIA articulates actions of promotion, defense and oversight to contribute to the effective compliance of the rights of children and adolescents, strengthening the concept of comprehensive development of children and adolescents as subjects with rights, with emphasis on their prominent participation. It is a member of the Latin American and Caribbean Network for the Defense of the Rights of Children and Adolescents (Redlamyc).

The following are member organizations of the CDIA: Acción Comunitaria (ACOM); *Atyha* – Centro de Alternativas en Salud Mental; Base Educativa y Comunitaria de Apoyo (BECA); Callescuela; Centro de Apoyo Mutuo Salud para Todos (Camsat); Centro de Apoyo y Protección a Víctimas de Explotación Sexual y Trata de Personas (Ceapra); Centro de Educación, Capacitación y Tecnología Campesina (Cectec); Centro de Estudios en Derechos Humanos, Niñez y Juventud (Ceniju); EnfoqueNiñez – lazos para crecer; Fundación Alda; Fundación Apamap para la atención a personas con discapacidad; Fundación R. P. Rafael Torres Ortega; Fundación Solidaridad; Fundación Vida Plena; Global Infancia; Grupo Luna Nueva; Hermanas del Buen Pastor; Hogar Santa Teresa; Instituto de Estudios Comparados en Ciencias Penales y Sociales (Inecip-Py); Paraguay Educa; Rondas – construyendo en grupos perspectivas psicosociales; Plan – Paraguay; Servicio Paz y Justicia – Paraguay (Serpaj-Py); Aldeas Infantiles SOS – Paraguay; VinculArte asociación civil.

For more information see: www.cdia.org.py.

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