

## CODEHUPY Alternative Report

### Introduction

1. The Human Rights Coordinator of Paraguay (Coordinadora de Derechos Humanos en Paraguay - CODEHUPY) places before the Human Rights Committee an alternative report for consideration during the 126th period of sessions in which Paraguay will be examined on the occasion of the presentation of its fourth periodic report. CODEHUPY is a network founded in 1999 that brings together 24 social and nongovernmental organizations and 10 adherents, which have in common the defense of human rights in different areas of national events. It was founded in 1999 as a non-confessional and apartidary Paraguayan Chapter of the Inter-American Platform of Human Rights, Democracy and Development (Plataforma Interamericana de DDHH, Democracia y Desarrollo - PIDHDD).
2. For the preparation of this document, the communication provided by the institutions that take part in the network and others, and which annually publish a report on human rights regarding an analysis of the State annual behavior, was taken into consideration<sup>1</sup>. The institutions that collaborated with specific contributions are: **AIREANA**, a feminist group that works for the rights of lesbians and of all people in sexual and generic dissidence for life in freedom and without violence of sexualities and identities; **TIERRAVIVA**, a human rights institution that accompanies claims of indigenous peoples; and, the **LEGAL TEAM** of the **EXECUTIVE SECRETARIAT** of **CODEHUPY**.
3. The information provided is specific, reliable and objective, and following the instructions provided in the "Note for NGOs", this alternative report will follow the same outline as that presented by the State. It will take into consideration the amount of time gone by between the third report of the State (2013) until the present day and in will make reference to the following topics.

### A. General information on the national human rights situation, including new measures and developments relating to the implementation of the Covenant

4. **Issue 1.** On case 1828/08 "Eulalio Blanco Domínguez c. Paraguay "we confirmed the information provided by the State related to the working table, the agreement reached and the signing of a decree. We inform that in December 2018, the State complied with the payment of the amount agreed for compensation. The agreement reached was published in the official gazette, however, there is no record of the point reported by the State about the actual expert opinion publication and its wide dissemination. On the other hand, since the signing of the agreement at the end of 2017, the only significant progress done is the

---

<sup>1</sup>Paraguay 2014, 2015, 2016, 2017, 2018 Human Rights Reports. Recovered from:  
<http://codehupy.org.py/wp-content/uploads/2017/04/INFORME-2014.pdf/>  
[http://codehupy.org.py/wp-content/uploads/2017/03/DDHH-2015\\_web.pdf/](http://codehupy.org.py/wp-content/uploads/2017/03/DDHH-2015_web.pdf/)  
<http://codehupy.org.py/wp-content/uploads/2017/03/Informe-derechos-humanos-2016-1.pdf/>  
[http://codehupy.org.py/wp-content/uploads/2017/12/DDHH-2017\\_Web.pdf/](http://codehupy.org.py/wp-content/uploads/2017/12/DDHH-2017_Web.pdf/)  
[http://codehupy.org.py/wp-content/uploads/2018/12/DDHH\\_2018\\_web.pdf/](http://codehupy.org.py/wp-content/uploads/2018/12/DDHH_2018_web.pdf/)

payment of compensation, the other issues: a public act of recognition and its respective dissemination; investigation of the facts that led to the complaint and socialization by the Public Prosecutor's Office of the "United Nations Manual on Effective Prevention and Investigation of Extra-legal, Arbitrary or Summary Executions"; proposals for legislative reforms that in turn contain dissemination proposals and measures for training public officers; assistance for the victims' health ; among other points, remain unfulfilled and there is no timetable thereunder.

5. The case 1829/08 "Ernesto Benítez Gamarra c. Paraguay" does not register any concrete progress despite the collaborative effort made by the author and his representatives. The Public Prosecutor's Office (Ministerio Público – MP) refuses to investigate the facts, it is worth emphasising, it refuses to comply with the provisions established in the paragraph 9 of the judgement, based on the principle of non bis idem or the prohibition of double jeopardy. It persists in the refusal, even having heard the opinion of the representatives of the Supreme Court of Justice that the case can be investigated again having found so many violations in the previous procedure. Since the MP is the head of the investigation action - since Paraguay lacks the possibility of an autonomous complaint - it can not be advanced without its assistance. It is not known that, in the resolutions of the control bodies to which Paraguay submitted the will and compliance disposition, there are operative paragraphs, imposed obligations, clauses that determine the need to reopen judicial processes in order to avoid impunity and achieve reparation of human rights violations, in addition to existing doctrines such as "fraudulent res judicata" and the concrete experience of other countries, as the author's representation has approached. It asks to know how the State will get out of this situation so as not to evade the clarity of the opinion given by the Committee.
6. Case 2372/2014 "Evelio Ramón Giménez c. Paraguay" whose legal opinion was issued in 2018, is being worked on the arrival of an agreement that would be communicated to the Committee within 180 days of notification to the State and that will be completed in August 2019. Two meetings have been held, and the State has offered specific measures related to guarantees of non-repetition. In this last meeting it is worth mentioning the open attitude of the State and the interest of authorities of different entities in the call made by the Human Rights Unit of the Ministry of Foreign Affairs.
7. **Issue 2.** Within the institutional framework there are also setbacks, especially in terms of gender and comprehensive sexuality education, which will be detailed in the specific items where these issues are addressed.

**B. Specific information on the implementation of articles 1 to 27 of the Covenant, including that related to previous recommendations of the Committee. Constitutional and legal framework of the Covenant application (articles 2, 3 and 26)**

8. **Issue 3.** The State's report does not indicate the manner in which the courts will make room for the inclusion of the Covenant. On the other hand, the State's affirmation regarding the extension of the CICSI (Interinstitutional Commission for the Enforcement of International Sentences) competence on the United Nations recommendations is correct. Although in practice, organs depending on the Supreme Court of Justice and organs extra powers go to the calls made by this space emerged from the Executive Power, the same does not happen with the members of the National Congress, which is why the Executy Power should urge the Legislative Power to provide structural channels for participation that do not depend exclusively on the good will of those who eventually attend the calls.

**C. Specific information on the implementation of articles 1 to 27 of the Covenant, including that related to the Comitee previous recommendations.**

- 9. Issue 4.** The state report indicates measures regarding internal organization and the creation of infrastructure to supervise the National Human Rights Plan (PNDH). However, the plan is not being promoted or applied. The State does not mention any specific measure of application or adaptation of practices to the PNDH postulates in its report, for which, to date, it is a merely declaratory effort. On the other hand, the PNDH was not revised to include the agreements and consensus reached with civil society before its adoption, not only related to the matter of interruption of pregnancy as indicated in the state report but also on the exclusion of specific recommendations regarding equality and non-discrimination, as concrete measures to promote and protect the rights of LGTBI people and suffer from significant protection deficits in the area of Indigenous Peoples' rights. The State must also provide an effective budget for measures aimed to the National Human Rights Plan (PNDH)
- 10. Issue 6.** There has been no progress in the investigation of the trial and punishment of those responsible for serious human rights violations during the dictatorship. As part of the reparations to the direct and indirect victims of the dictatorial regime, the implementation on the creation of a Vice Ministry of Human Rights is pending; a firm support to a plan to search disappeared people; a recovery program of some of the 7 million hectares of illegally grabbed lands; a rehabilitation program for victims due to the consequences of torture and incorporate into the educational mesh of secondary education the subject "Authoritarianism in recent history", to have a youth with an awareness of their past. Also, the withdrawal of names of people and tributes of works in public institutions vindicating the dictatorial era has not been completed. In schools, public institutions and even in the Ministry of Foreign Affairs, authorities have been witnessed to recall that period and / or its main figures. With respect to the compensation of victims, irregularities are presented to the detriment of the victims when retroactive operations are carried out contrary to their rights. Law 838/96 was amended several times; in 2011 (Law 4381), the binding nature of the opinion of the Attorney General's Office (PGR) was established for the final resolution by the Office of the Ombudsman (DP). However, all cases must follow the criteria of the law in force at the time of the start of your claim; but, in order to evade payment, the Ministry of Finance applies the law after the start of the claims, rejecting all payments with rulings against the PGR even when they have favorable resolutions from the DP. The cases add up and should be judicialized, so an important deterrent mechanism in the repair of rights would be operated.
- 11.** At the end of May 2019, the extinction of criminal case 5366-40-01 against persons referenced at the time of the dictatorship, Alfredo Stroessner, Augusto Montanaro and others, and its consequent definitive dismissal, due to the inaction of the Public ministry. The case initiated by one of the victims, for torture that occurred between 1976 and 1979, was installed in 1995; the last procedural impulse was registered in 2002 by the Public Prosecutor's Office, the holder of the criminal action. This inaction on the part of the Public Ministry was described by civil society organizations as "fraud in criminal prosecution", leaving serious crimes in the most absolute impunity; and, in addition, setting a negative precedent for other causes that are still being processed and evidencing an inadmissible delay for the achievement of justice and historical truth.

**Non-discrimination (articles 2, 3, 25, 26 and 27)**

- 12. Issue 7.** Paraguay has still not passed a law against all forms of discrimination, despite having received seven recommendations from treaty bodies (CDN, 2010, CERD 2011

and 2016, CEDAW, 2011, Human Rights Committee, 2013, CDPD, 2013; CDESC, 2015) and other mechanisms such as the UPR (2011 and 2016). The lack of a law against all forms of discrimination prevents the application of a simple mechanism of denunciation, sanction and reparation in cases of discrimination.

13. The State report includes the regulatory framework but not its scope or the concrete steps taken for its implementation, thus making a compliance evaluation impossible. For instance, even though there is a resolution stating that transsexual people may be called by their social name in help centers, this is not fully applied; lesbian individuals are not allowed to have intimate visits in prison. Another consequence is lack of registration and assistance in case of violence and discrimination towards LGTBI individuals. Registration is handled by civil society organizations, with all the scope limitations this situation encompasses. However, they report violence against lesbians, work discrimination, arbitrary detentions, whereas the intervening authorities that received formal complaints do not provide answers efficiently. There were also hate crimes against transsexual people. Item 47 of the State report mentions the National Plan for Sexual and Reproductive Health; this document includes the right to equal treatment and no discrimination for several social groups, including LGTBI, indeed; but organizations do not know its real implementation scope or if there is a no discrimination application plan in the new 2019-2023 National Plan for Sexual and Reproductive Health.
14. Upon request of self-called “pro-life and pro-family” anti-right conservative groups connected with municipal and departmental politics, the approval of resolutions that declared municipalities and cities as “pro-life and pro-family” started to spread across the country some years ago. There are close to ten cities that have currently joined the campaign through resolutions and interest statements with a unified speech, together with the two houses of the National Congress which have claimed to be “pro-life and pro-family”. Even though these are statements and not laws, the fact they stand for a single type of family cannot be underestimated, since they portrait other families as a threat and, therefore, they legitimize hatred and violence. At an international level, the State has undertaken the task of blocking or preventing any progress. It translates into a constant opposition to proposals that guarantee LGTBI rights. In the 48<sup>th</sup> OAS General Meeting held in Washington in 2018, a human right promotion and protection resolution was approved. Not only did the State oppose any advances in relation to LGTBI rights, but it also included a footnote saying “The Republic of Paraguay reaffirms its commitment to the principles of the Universal Declaration of Human Rights and international conventions signed on this matter, confirming the precepts in Title II “About Rights, Duties and Guarantees”; Chapter III “About Equality” and Chapter IV “About family rights” of its National Constitution and other concordant norms. Therefore, it expresses its caution in relation to the text of number XII “Human Rights and the prevention of discrimination and violence against LGTBI people”. Likewise, the reference to “gender identity or expressions” in the paragraphs of this resolution shall be interpreted according to its internal legal statutes”.

#### **Equality between men and women (articles 3, 25 and 26)**

15. **Issue 8.** The obligatory nature of a minimum 20% quota in the lists of candidates for internal elections of the political parties (Law 834/96, article 32, section r) has been used mainly as a limit in relation to the percentage of participation of women in those lists, and not as a basis for progressive increase in terms of the number of women in those lists. Also, taking into consideration that the application of this quota is mandatory only for internal elections, in the lists that come as a result of such elections, the number of women

is dramatically lower, and at the same time most of them end up in spots that are not electable.

16. In the quest for turning list of candidates equality into reality – as well as getting equality in other governmental instances – the Democratic Equality Project was prepared, which, in its original draft, included the mandatory nature of establishing equality in lists, both at internal election level (“entry equality”) and in the lists created as a result of those elections (“exit equality”), and those would be the ones to compete during general elections (including departmental and municipal elections). Two years after its introduction, in March 2018, it was approved by the Senate, but with a modification, which was setting equality only in internal election lists. Later, the House of Representatives eliminated any dispositions that had to do with equality from the project. During the second study round in the Legislative branch, the Senate managed to include the equality disposition for internal election lists again, but later, the House of Representatives – acting as editing chamber – ratified the exclusion of it, thus a project with complete absence of any disposition about equality was approved. That project was completely vetoed by the Executive in November 2018, and the Legislative branch could not reject the veto. The total veto decision was considered favorable by the Democratic Equality Promotion Group (DEPG), who were responsible for writing and promoting the original project. At that time, the DEPG “...requested the President of the Republic to veto the version approved by the House of Representatives, since it did not comply with the goals set and it did not suggest any mechanisms to increase politic representation and finally fulfill the equality principle set in article 48 of the National Constitution”. For many years, several international organizations have shared their concern about women’s low access to electoral positions as a persistent rule in the country. Steps need to be taken in order to increase the number of women in electoral positions so as to guarantee equality and rotation between women and men in internal election lists for political groups.
17. In relation to breastfeeding, as it is mentioned in the State report, there was a case in 2016 which caught the public eye; the case of a lieutenant, who was penalized by her superiors due to the demands she made to have the right to breastfeed her son. She was prosecuted under other charges (falsehood) but the bottom line was she was penalized by requesting her 24-hour duty be changed so she could breastfeed her son, who at that time ate breast milk only. She was finally forced to offer a public apology to the head of the Army and was penalized with 45-day home arrest, to be “partially” pardoned later, in April 2019, by the President of the Republic, who reduced the arrest to 22 days. This case settled a negative precedent. It joins others, such as the case of a civil servant at the Ministry of Agriculture and Livestock who filed a complaint because the institution did not allow her what was set by law; later the Secretary for Public Work clarified that the dispositions rule on all kinds of contracts. In Paraguay, exclusive breastfeeding is 31.3%, the lowest rate in the region, since 50% is advisable.

#### **Violence against women, including domestic violence (articles 6, 7, 14 and 26)**

18. **Issue 9.** In 2014, the bill against all forms of discrimination was rejected, and in 2016 the “Women Comprehensive Protection Law against all Forms of Violence” was enacted, but all references to gender concept and procedures for proper law enforcement were eliminated. The growing number of femicides does nothing but give evidence of a reality that is increasingly neglected. Denial policies such as the ones used by the State only create more threats for women, harassment and hate crimes; they worsen the vulnerability, promote intolerance on other subjects such as family composition by limiting it to the marriage between a man and a woman, whereas in Paraguay official data show 75% of births are out of wedlock. Regarding Woman City, even though it is a good initiative, it is

centralized and thus is not available for many women who cannot get to the center. On the other hand, transsexual people are not welcomed in Woman City and are denied assistance.

19. 2018 ended with 50 femicides and 4,490 offenses against children and adolescents during the first ten months of that year, as indicated by the data registered by different public institutions. During the first three months of 2019 there were 17 femicides. It is necessary to use education to transform this culture of violence and chauvinism. In relation to the Gender Secretary of the Prosecutor's Office (PO), it does not have direction status and is managed by a person that works part time in that secretary and part time in the press department. Even though the PO has a Specialized Unit against Domestic Violence with three prosecutors and a group of technicians formed by psychologists and social workers assigned to it since May 2019, its scope is limited since it investigates acts of violence in Asuncion only. Those units need to be decentralized. The fact that the Judiciary does not to have any specialized courts is also critical, because investigation tasks are controlled by judges who are competent in common offenses and have no special training on gender perspective.
20. In issue 83, the State report mentions that a step taken to prevent and penalize violence and discrimination against LGTBI population, is the holding of a public audience and the formation of an interinstitutional work table on human rights for transsexual people together with the Panambi organization. During 2018 and 2019 there is no information that such initiative has continued nor that it referred to Lesbians, Gays, Bisexuals or Intersex. This table is previous to the 2019 Senate declaration as "pro-life and pro-family", thus limiting the human rights of LGTBI individuals and women, and annulling ideological plurality. Among the activities, it mentions the creation of an "Interinstitutional Action Protocol for Violent Death, Attempted Murder and High Risk Violence against Women, PROMUVI – WOMAN". Such protocol makes no reference to violence against LGTBI individuals.

#### **Right to live, ban on torture and other cruel, inhuman or degrading treatment, and penalties (articles 3, 6, 7, 9 and 14)**

21. **Issue 10.** The context mentions that two girls aged 10 and 14 gave birth in Paraguay as a consequence of sexual abuse. According to UNFPA, Paraguay is the second country in the Southern cone with the highest number of adolescent pregnancy. 20 out of every 100 births are from adolescents aged between 15 and 19. The rates have remained unchanged for many years. Back in 2011 the Ministry of Education and Sciences refused to apply the integral education policy on sexuality it had prepared together with other State institutions and civil society organizations. Also, several foundations or religious organizations control educational spaces and provide biased information, reinforcing stereotypes and denying rights. "Decisions" is an organization identified by students that promotes sexual abstinence as the only "healthy" and valid option, and considers homosexuality a disease. This organization received public funds until a complaint was made public.
22. In 2017, after pressure from self-proclaimed "pro-life and pro-family" anti-right conservative groups, and on the assumption that there were materials that contained "gender ideology", or gender theory, equating both concepts, the Ministry of Education (MEC) issued a resolution (29,664) which has not been abolished yet, "which forbids spreading and using printed or digital material referring to gender theory and/or ideology in education institutions under the Ministry of Education". That year, during constructive talks between the State and the CEDAW Committee, the Secretary of Women expressed she was "worried" about the MEC's decision and that the Minister had expressed that such decision was "temporary". These statements prove that the MEC's decision was made



without consulting with the State institution in charge of gender mainstreaming. The Resolution formed a material reviewing committee in order to determine whether the materials contained “gender ideology/theory” or not, which is evidence that this decision was made without their fully understanding what they were forbidding. There is no information about the formation of this committee or the outcomes of its management. The approval of this resolution came at a time when anti-right expressions against women and hatred speeches towards LGTBI people became tougher. In early 2019, the MEC rejected distributing a sexual education guide book for teachers, through resolution 1761, by saying it underrates the concepts of femininity and masculinity and promotes a “dissolute” sexual identification; that it works on sexuality concepts and topics from kindergarten and it promotes autonomy in teenagers’ decisions concerning the development of sexual education contents.

**23. Issue 11.** Four years after its presentation, the bill referred to by the State report as the one “That abolishes Law 5,036/2013 that modifies and extends articles 2, 3 and 56 of Law number 1,337/99 for national defense and internal security” has not been approved yet, and remains with the single decision of one of the committees it was sent to. The State does not provide data on the number of complaints received about possible human rights violations committed by the Joint Task Force (JTF), any investigations carried out in relation to them, any eventual penalties for the responsible parties, nor any protection and compensation measures taken for the victims. One of the cases with the highest media coverage was the one of a Captain and duty NCO, who were killed in November 2014, in Cuero Fresco town, when an explosive exploded on the vehicle they were traveling on. That explosive was to be placed in a camp site of the Armed Countrymen Group (ACG). Their relatives complained that the official version was ambiguous. Also the Captain had mentioned that the JTF commits extortion, collects money for protection and patrolling, and other acts of corruption. In Arroyito town, in 2014, there were complaints of statements made under torture, scare tactic shoots, bomb explosions, the execution of a farmer, and other cases of abuse. In Kurusu de Hierro town, in 2014, the Social Concerns Ministry of the Concepcion Bishopric reported the deaths of two farmers which were not the result of a confrontation, but of a JTF execution. In 2015 the execution of another farmer from that location was reported, and another one in 2017. They got together with the reports made by an interinstitutional team doing field work which mentioned searches without warrant, night searches without warrant, arbitrary detentions, torture, maltreatment, not only from officers but also tolerated by participating prosecutors. They also threatened to press charges before taking people into custody. In 2016, eight young military men from the JTF were reported dead during events that were ambiguously and imprecisely described. In 2014, the National Mechanism for Torture Prevention studied the performance of the Prosecutor’s Office and the Judiciary branch in relation to the JTF, and reported that they do practice legalizing the actions of the JTF, initiating investigations without evidences and ordering pretrial detentions without taking into account the legal requirements demanded. Also, the JTF has no results and it has not been able to provide new information about the current situation of the two people kidnapped by the self-proclaimed Army of the Paraguayan People (APP).

**24. Issue 12.** The State’s structural measures clash for lack of application and variation from a reality where torture is still current and not penalized. The last case of impunity affected several adolescents who were inmates at the Sembrador Educational Center in Villarrica between 2014 and 2016; they were hit with pipes filled with cement, received blows to the soles of their feet and to their hands. All the people involved were absolved, claiming there were no witnesses besides the victims, the statements of the adolescents were not taken into consideration and the Istanbul Protocol was not applied. The National Mechanism for Torture Prevention does not have enough funds and between 2013 and 2017 it underwent cutbacks. They expect to find the way to go back to their original budget. There is no

information about the eradication of this practice for citizen awareness. On the contrary, such as it happened with the case of Ernesto Benítez filed before the Committee, the Prosecutor's Office refuses to reopen torture cases in order to avoid impunity. On the other hand, the PO is in charge of Human Rights specialized groups in all the districts of the country, since the only specialized prosecutor's office is in the capital city, and the reports are from the country side mainly. To this date, the Prosecutor's Office has presented no method to implement the suggestion of setting an independent, effective and direct mechanism for torture and maltreatment imprisoned victims to report complaints directly to the Prosecutor's Office. No report of human rights violation, including acts of torture by members of the JTF, was under investigation or penalization. The PO reported that 711 complaints were received between 2011 and 2016. To this date, there is not a single sentence for torture. Progress was made on the bill in process that intends to modify the crime of torture (Article 1 of Law 4614/12) in order to adapt the legislation and include discrimination as criminal behavior, so that the definition agrees with article 1 of the Convention against Torture.

25. The only protest mechanism imprisoned people have is riots. There was one in the Misiones Regional Prison in 2018, when over 100 people participated in a riot to protest for the bad quality of the food (too much fat, almost no meat and a smell that indicated rotting), together with the fact that all of them had been assaulted by the guards as their "welcome" to prison. There are people imprisoned in a vulnerable situation, among them, transsexual people, elderly people, people with disabilities, indigenous people and adolescents who do not have special exclusive care for their protection, they live with the general population and suffer multiple types of violence. Transsexual people are not allowed to wear clothes that identify them or make up, or access to medicines for their hormonal treatment, and are subject to maltreatment and sexual abuse. According to the census of imprisoned women carried out by MNP in 2015, 80% of them said they were subject to physical and psychological maltreatment: fingering, forced nakedness, rape threats, verbal aggression, punching, kicking, groping, nightsticks, handcuffs, among other harassment. 2018 reports by the civil society mention that the first contact adolescents have with the State is through repressive forces: most of them say they suffered some kind of violence at the time they were apprehended (physical and verbal violence, punches using firearms, nightsticks). The second moment of contact is through police violence during detention at police stations (hit with wet towels, they sleep on the floor, kicking, punches on the face). Finally, during their detention, guards and educators give physical punishment to adolescents for getting into fights with other inmates, for not following instructions properly or for talking back in an arrogant manner. Adolescent girls also reported being subject to sexual abuse (touching their breast, kissing against their will), and also being subject to physical and psychological violence, and extortion.
26. **Issue 13.** The only case mentioned by the State crashes with an overwhelming reality of impunity in all other cases reported. The 1989-2013 Chokokue Report by CODEHUPY, mentions 115 cases of death and/or torture of farmer leaders while defending their land. No mastermind was ever punished. Victims and witnesses are harassed and threatened. Prosecutors act in ways that spoil evidence and cover up for perpetrators, the crime scene is contaminated, the custody chain is broken, evidences get lost and mandatory evidences are not produced. Investigations are inefficient and have no due diligence. The Judge Indicting Board leaves reported judges and prosecutors unpunished. Cases are closed through fraudulent sentences.
27. A woman indigenous leader of the Sauce community, received threats from rangers of Itaipu binational entity, but there were no concrete steps taken for her protection or to punish the responsible people. Leaders of the Itakyry community were victims of an



extortion prepared so that they would have to give up their land in exchange for their separation from criminal proceedings in course; this done with the support of high State authorities while the Prosecutor's Office knew about the case. A student leader, is still indicted for demanding the right to education. In 2017, university teachers and students were indicted for demanding the right to education; one woman is still indicted on this case. Gender equality cause mentors are harassed and stigmatized. A physician hired by the Ministry of Health, was separated from his job in 2017 after he filed complaints about the extreme situation of members of indigenous communities. There are also cases of lawyers who have been administratively and criminally prosecuted for defending rights. Two of the judges who acquitted the farmers who were wrongfully prosecuted in the Curuguaty case, are currently facing trial before the Judge Indicting Board after a report filed by the Attorney General, with the intention to punish the legal criteria of these judges.

28. As a delegitimation strategy of the work of human rights defense attorneys, there is a speech comparing human rights to terrorism, delinquency, backwardness and even alleged involvement with armed groups. That has gotten more serious, especially when examining the State from organizations that belong to the Inter-American System of Human Rights. Paraguay does not have any specific system or mechanism to protect the work of human rights defense attorneys.

#### **Elimination of slavery and serfdom (articles 7, 8, 14 and 24)**

29. **Issue 14.** No concrete results are known for human trafficking cases reported, such as what happened in some precarious settlements after the 2014 Marshlands flood, or the case of some indigenous girls that same year. In July 2018, The United Nations' Special Rapporteur on contemporary slavery presented her report after the 2017 mission, expressing concern for the children who are subject to practices that are similar to slavery, including violence, abuse and the worst forms of child work, protection gaps, especially in relation to vulnerable groups such as indigenous people, children who live in poverty, children from the country side, serfdom and household workers. There is no knowledge about any concrete steps taken towards the recommendations she issued.
30. **Issue 15.** Even though the Committee requested a report on concrete measures, the State report mentions the regulatory framework but not the measures to enforce it. The issue was also addressed by the Rapporteur mentioned in the preceding issue. Regarding this regulatory framework, the initiation process has not finished yet. Salary discrimination for household work is still legal in Paraguay. In 2015 some progress was made on household work when Law 5407/12 "Household Work" entered into force, together with its regulations by the Ministry of Work, Employment and Social Security (Resolution number 233/2016), which made it possible for household workers to have minimum legal protection to guarantee that they have the right to an 8-hour work shift, vacations, Christmas bonus, working contract and breaks, which are rights that did not use to be available for them. However, there is still discrimination in the regulation itself (article 10) in relation to the minimum legal wage for this sector, which is lower than the minimum wage in force (60% of the minimum wage). Several household worker organizations have produced a bill that intends to modify article 10 of Law 5407/12 "About household work", so that they can receive the minimum legal wage such as other workers do. This project has a preliminary approval, so it is necessary to request the State to approve it as soon as possible for salary equality in this sector.
31. **Issue 16.** Almost in its entirety, the State report mentions interesting measures for the institutional strengthening of the approach to this issue. It does not mention specific actions established by the Committee: supervision, penalty and elimination of child economic

exploitation, strengthening their families of origin, developing awareness campaigns and educational programs and professional training for children and adolescents from vulnerable families, it does not report either on the recommendations of the mentioned Rapporteur concerning serfdom, in order to define it in the regulatory framework including penalties for people who exploit children, and investing resources to understand and treat serfdom's fundamental socioeconomic causes. During these last years there have been reports, such as the murder of a girl in that situation and the torture another girl underwent. This last case reached the Inter-American System for Human Rights Protection. 2017 civil society reports say that over 45,000 children and adolescents live in serfdom.

32. Ten-year old and older indigenous women mostly work as “caregivers” such as “unpaid family work” or “household worker”. According to data from the General Direction of Statistics, Surveys and Census from studies on the Indigenous People Communities in 2012, published in 2014, 5,496 women stated they do “unpaid family work”. In the paid household work category, 900 out of the 960 people who do this for a living are women, and only 6.25%, it means, 60 people, are men. The census also revealed indigenous girls and female adolescents do household work in homes that are not theirs in exchange for food and shelter.

### **Freedom, personal safety and humane treatment of imprisoned people (articles 2, 9, 10 and 14)**

33. **Issue 17.** The report does not mention any steps taken towards or results aiming at avoiding overuse of pre-trial detention in Paraguay. In 2014, the National Mechanism of Torture Prevention (NMTP) said that instead of being used in extraordinary situations, it is applied with no grounds and no respect for the limits set by law; they use stereotypes to justify this measure, they do not present concrete, provable reasons as a basis for the sentence, the most minor offenses give rise to pre-trial detention. In 2018, the NMTP said that 7 out of every 10 men imprisoned, and 6 out of every 10 women imprisoned, are accused but still do not have a sentence, so the percentage of imprisoned people in pre-trial detention is as high as 73.5%. To this day, there is a law in force that prevents judges from applying alternative measures for offenses that qualify as crimes, even though they unsuccessfully tried to challenge this provision during several proceedings by filing an action of unconstitutionality.
34. **Issue 18.** There are still reports of inhumane imprisonment conditions, lack of natural light, precarious electricity connection, bathrooms in terrible conditions, bad quality of food, lack of space and medical assistance, also torturing and maltreatment, as part of inmates' everyday life. 99.96% of people are in critical overpopulation. 52.82% of the prison population lives in institutions that are located in a different location from their judicial district. In 2017, in complete opposition to Nelson Mandela's Rules that say that institutions with a high number of people are counterproductive because they do not facilitate individualized treatment, the State proposed building a prison complex for 5,000 people as an answer to the overpopulation problem.
35. The Paraguayan State does not allow lesbians to have access to intimate visits, while other imprisoned people have access to them, despite the fact the regulation in force enables them to. In April 2015, the new Sentence Execution Law entered into force and eliminated the restriction by acknowledging the principle of equality and no discrimination. Article 131 says that intimate visits shall follow the regulations. Since March 2012, Resolution number 72/12 of the Direction of Correctional Facilities and Sentence Execution of the Ministry of Justice and Labor set new ways for the functioning of private visit benefits in women prisons and correctional facilities in the Republic, and it opened the possibility of access to

intimate visits for same sex couples since it did not specify couple gender and it guaranteed no discrimination. However, the State does not refer to the regulation and denies imprisoned lesbians this right. In November 2015, 10 imprisoned women requested permission to receive intimate visits from their female partners to the director of the Good Shepherd Jailhouse. The director of the Jailhouse rejected the request on the basis of the 1970 sentence execution law, which has been repealed. Despite many lobbying actions and meeting requests with jail authorities, no concrete results were achieved. In October 2016, one of the inmates with the support of Aireana lawyers, filed a petition for judicial review before the Fernando de la Mora Execution Court under Judge Silvana Luraghi, requesting access to intimate visits with her partner, also an inmate. The judicial review was rejected by the judge, by saying since both partners were inmates, the “visit” requirement did not apply. The appeal filed on this case was rejected, with the argument that “same sex love bonds are not regulated by our legal regulations”. Thus they were out of internal jurisdiction resources; the case then was filed before the Inter-American Committee for Human Rights (Request P-2350-17).

### **Right to an impartial sentence (article 14)**

- 36. Issue 20.** The State report limits itself to mentioning the regulatory framework that is certainly not applied. The mentioned “wake up calls” and private talks by the ethics department crash into rude reality. On the one hand, they do not produce results in relation to the actions of the “complaints and reports” department. The report does not mention specific data pointed out by the Committee to assess the effectiveness of steps taken. At the end of 2017 and early 2018, some audios that critically involved ex-senator Óscar González Daher, then head of the Judge Indicting Board, and Raúl Fernández Lippman, secretary of the organization, were released, and showed the modus operandi of the political leadership in the justice system, who shamelessly issued customized jurisdictional decisions and favored all kinds of shady deals, as a clear sample of the corruption that took over the justice system. It is important to mention that one case of corruption got to a sentence; the case of the former president of the Paraguayan Indigenous Institute, who was sentenced to 10 years in prison for taking money from the funds aimed at developing indigenous communities with sentences by the Inter-American Court of Human Rights.
- 37.** From the Prosecutor’s Office (PO) the independence of judges is attacked, the last clear example of that was after the court room of the Supreme Court of Justice (SCJ) pronounced a verdict of not guilty in the case of the Curuguay farmers, the judges (after the inhibition of all the members of the SCJ) were subject to an incredible accusation by the Attorney General because he did not like the resolution. The judges are still prosecuted. It is important to mention that even though the ministers of the SCJ can be ousted through an impeachment, these appellate judges, even when acting as members of the SCJ, are applied the normal proceedings for first and second instance judges, which is a clear breach of regulations. This is not an isolated interference and threat by the PO. The same has already happened in other cases during the last years, such as in the case of 14 farmers accused by the PO in relation to the kidnapping of Mister Luis Lindstrom, or the 6 farmers sentenced in the Cecilia Cubas case, where the presiding guarantee judges, suffered retaliation for not following the PO’s illegal pretensions, in similar circumstances to the ones during the Curuguay case.
- 38. Issue 21.** As mentioned in previous issues, the 6 farmers were acquitted by the SCJ’s Court, sadly at a very high cost for the judges who presided the case, as reported previously. UPR’s recommendations were not followed efficiently and there is no concrete result from the Independent Committee. In relation to the Itaguá case, just one ranger was sentenced

and all the other ones were acquitted. The no repetition measures that should have been taken are unknown.

### **Freedom of expression (article 19)**

- 39. Issue 22.** There is still no regulatory framework to protect defense lawyers and journalists. Since 2013, the number of community radio stations closed and their equipment seized for not having the National Telecommunications Committee (CONATEL) license has increased, after the modifications to the telecommunications law. Among other cases, we would like to mention the only two radios in Arroyito town, which stopped broadcasting because of CONATEL's pressure. The first closure (FM radio Ka'aguy Poty) was in 2015 when CONATEL and Joint Task Force (JTF) officers executed the seizure. The second closure was in 2018, by CONATEL and JTF officers; two days after a confrontation between members of these forces and the so-called Army of the Paraguayan People (APP). The two closed radio stations stood up for their community's human rights against abuses committed by the JTF. On the other hand, in 2018, a young queer artist, was accused of "exhibitionism acts", based on a performance that condemned discrimination against the LGBTBI community. After going through the process and undergoing stigmatization, he accepted alternative measures to the conflict. He had to declare himself guilty of what he was accused of as a legal condition to have access to alternative measures.
- 40.** On April 2, 2019, the National Council of Science and Technology (CONACYT) decided that the awarding of research projects would be subject to previous analysis by Council members before an evaluation by international experts, and by that they eliminated having an accurate, transparent and independent selection process. CONACYT's reaction came after a fake news campaign by people close to agribusiness entrepreneurs and so called "pro-life and pro-family" anti-rights conservative sectors. The research works under scrutiny had to do with agrotoxic materials and their effect on farmers' children, consequences of inequality, abortion incidence rate, and HIV infections. Hence freedom of thought is restricted and Paraguay stays as the country with the lowest production of scientific research in the region.

### **Participation in public life (article 25)**

- 41. Issue 25.** Paraguay's legislation on electoral matters establishes the disenfranchisement of imprisoned people with no sentence. This provision is established in section d) of article 91 of the Electoral Code (Law number 834/96). Meanwhile, the Paraguayan National Constitution, on the one hand establishes presumption of innocence (section 1 of article 17); and on the other hand, article 153 indicates three situations by which a person may be deprived of his/her citizen's rights, especially section 3 of that article says: "when a person is incarcerated and serving sentence". Therefore, it is clear to see that the restriction in section d) of article 91 of the Electoral Code does not agree with the two provisions mentioned. This restriction imposed by the Electoral Code also disagrees with recommendations of international organizations/agencies, including the Human Rights Committee itself: one of the recommendations is in the last part of paragraph 14 of General Comment Number 25; and the other one is in paragraph 11 of their final observations for the Paraguayan State in 2013. Also, the Inter-American Committee for Human Rights (ICHR) expressed the same as in the abovementioned recommendations of the Human Rights Committee about this issue in a document published in 2013.
- 42.** In 2014, two members of the Parliament made a presentation before the House of Representatives, of a proposal sent to the Supreme Electoral Justice Court (SEJC), which had to do with the modification of several provisions in two electoral laws, one of them the



Electoral Code. Such project proposed repealing section d) of article 91 of the mentioned Code. In relation to the Senate, the issue of voting rights for imprisoned people with no sentence has been favorably received by the Special Committee in charge of studying and correcting Law number 834/96 “Which established the Paraguayan Electoral Code”, the creation of which was decided by the Senate in August 2018, and which is formed by senators from different political groups. In their final report sent to the President of the Senate in October 2018, the Committee included a proposal to eliminate section d) of article 91 of the Electoral Code.

43. The 2018 electoral elections hosted EU and OAS observation missions, which have made recommendations that the State has not yet indicated how it will incorporate them and which concern the obligation not to infringe the right of persons with disabilities to participate in elections, detained persons, recruited soldiers and students from military and police educational institutions; It was also recommended that provisions be adjusted to facilitate the participation of indigenous peoples, implement transparency measures such as allowing the possibility of counting ballots in the case of discrepancies in the results reports and greater control over campaign finance, among other points.

#### **Rights of people who belong to minorities (article 27)**

44. **Issue 26.** The Paraguayan Indigenous Institute (PII) has not received more human resources or materials and it still bears the responsibility of answering all the requirements without having the necessary tools. In the case of Yakye Axa indigenous community, it has not been able to get possession of the land purchased in 2012 yet. Seven years after that purchase, the State has still not transferred the land to the name of the community, nor has it finished the transit rights lawsuit that started in December 2017. The community still lives in precarious conditions on the edge of the road in identical circumstances as they did in 2005, when the Inter-American Court of Human Rights saw their case. Sawhoyamaya was granted an expropriation law in 2014, but the land has not been transferred to the name of the community yet, and during a very irregular trial, the holder of the land tried to increase the price set by the expropriation law. At the court of first instance, the judge ruled in favor of the cattle raisers by increasing the amount to be paid by the State exponentially. The case has been under appeal since February 2018. The case of the Xákmok Kásek community, who were granted part of their lands, had irregularities during the stage of granting property deed, since in the Public Registry those lands are not in the name of the community yet. There has been no progress in relation to the land that has yet to be returned. In May 2019, the Xákmok Kásek and Yakye Axa communities were granted part of the funds they were supposed to invest on development projects. Due to their precarious living conditions, the Yakye Axa have been forced to use part of those resources to buy food and improve their running-down houses, instead of investing on their own land for the purposes stated in the sentences.

45. On the other hand, it is important to mention that Chaco’s current flood situation greatly increases the vulnerability of indigenous communities, since, even though the situation was foreseeable, the State has not invested in creating minimum infrastructure, like roads, to assist them. Children have passed away for lack of roads to allow transportation and emergency assistance. One case that shocked public opinion was the case of a five-year old who died during the first quarter of 2019 because cattle raisers refused to let the child go through their private roads. The State needs to invest purposefully in order to build all-weather public roads so that the indigenous communities are not isolated anymore. Also, in case of emergency, all roads, including private ones, need to be open for transit.



46. Even though there is not a legal obstacle preventing indigenous people from participating in public life, neither are there any facilities for them to do so. An indigenous political movement participated in the last elections with good results, although it did not get any senator elected. However, for the legalization of their movement, participation criteria were not taken into account and they were demanded the same conditions as traditional movements, without regard to their vulnerability and to the inequity they face, also ignoring measures that had already been mentioned by human rights monitoring organizations about this issue.

#### **Disclosing information about the Agreement and its Enforcing Protocols (article 2)**

47. **Issue 27.** Despite recognized efforts promoted through the tools mentioned in the State report, human rights have not been proactively promoted, not only towards civil society and the general population, but also the State has taken advantage of every questioning or criticism made by governing authorities, by civil society organizations or by judgement where its responsibility was evaluated in relation to certain cases, to strongly question the legitimacy of these supranational organizations or the enforceability itself of human rights, from a fake sense of “sovereignty”. Human rights institutions and advocates are constantly stigmatized and there is a strong campaign, with the support of the authorities themselves, to influence the general population against them. Last April, the government of Paraguay together with Colombia, Argentina, Chile, Brazil, signed a document questioning the labor of the organizations in the Inter-American System for Human Rights Protection, giving up any criticism or self-criticism even though the population in these countries struggle against extremely high levels of poverty, marginalization and right violation, as well as high levels of complete disregard to sentences and recommendations from supranational organizations. -