



**University of Oklahoma College of Law
International Human Rights Clinic
The United States of America**

Report on the Republic of Paraguay to the 24th Session of the Universal Periodic Review,
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Annex

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Annex

1. In January of 2015, the International Human Rights Clinic of The University of Oklahoma College of Law traveled to the Republic of Paraguay (“Paraguay”) for research purposes. The IHRC-OU was stationed primarily in Asunción, but also traveled to Concepcion. Clinic members visited and spoke with representatives from government, non-governmental organizations, and ingenious communities and peoples.
2. Located in South America, Paraguay borders Brazil to the north and east, Argentina to the south and west, and the Plurinational State of Bolivia to the north and west.¹ Paraguay has a surface area of 406,752 km² and is divided by the River Paraguay into two natural regions, the western, known as the Chaco, and the eastern.²
3. Paraguay is a multi-ethnic country, and Spaniards and Guarani Indians formed its population nucleus, making the total population 6,783,374, as of the 2013 census.³ As of 2011, approximately 519,000 of the population resided in the capital city of Asuncion.⁴ Paraguay’s two official languages are Spanish and Guarani, making it the only truly bilingual country in Latin America.⁵
4. As of the 2012 census, Paraguay has an indigenous population of 117,150 persons belonging to five linguistic families, each composed of different ethnic groups with their own cultures.⁶ The five families are classified as follows: Guarani, Maskoy language, Matakoy-Mataguay, Zamuco, and Toba-gaicuru.⁷
5. Paraguay became an independent State in May of 1811 and in 1992, the Constitution of 1970 was replaced by its current Constitution of the Republic of Paraguay.⁸
6. Paraguay is a republic, with three branches of government in accordance with “balance of powers” principles.⁹ The legislative branch is a bicameral Congress, consisting of the Chamber of Senators, with 45 members, and the Chamber of Deputies, with 80 members.¹⁰ Members are elected to the seats through a general election, under a “closed list”

¹ HRI/CORE/PRY/2010, para. 1.

² *Ibid.*, para. 2.

³ Poblacion 2013, page 19.

⁴ HRI/CORE/PRY/2010, Table 2.

⁵ HRI/CORE/PRY/2010, para. 64.

⁶ Pueblos indigenas resultados finales 2012, Page 17.

⁷ HRI/CORE/PRY/2010, para. 6.

⁸ *Ibid.*, para. 73 and para. 86.

⁹ *Ibid.*, para. 95.

¹⁰ *Ibid.*, para. 99.

system, to serve five-year terms, with a possibility of re-election.¹¹ The executive branch consists of the President, Vice-President, and Council of Ministers.¹² The President and Vice-President are elected together through a general election, by a simple majority vote, to serve five-year terms.¹³ The Council of Ministers is appointed by the President.¹⁴ In the judicial branch, the Highest Court in Paraguay is the Supreme Court of Justice.¹⁵

7. Paraguay is a party to many international treaties including: Convention on the Prevention and Punishment of the Crime of Genocide, International Convention on the Elimination of All Forms of Racial Discrimination, International Covenant on Economic, Social and Cultural Rights, International Covenant on Civil and Political Rights, Conventions on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, International Convention on the Suppression and Punishment of the Crime of Apartheid, Convention on the Elimination of All Forms of Discrimination Against Women, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Convention on the Rights of the Child, Agreement Establishing the Fund for the Development of the Indigenous Peoples of Latin American and the Caribbean, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance. Paraguay is also a party to the Universal Declaration of Human Rights.¹⁶

8. The Sowhoyamaxa, (which translates to “from the place where coconuts have run out”), community is an indigenous community, “typical of those traditionally living in the Paraguayan Chaco that has become sedentary.”¹⁷ The community is part of the Maskoy linguistic family; and as of the 2006 census, has 407 members, grouped in approximately 83 dwelling places.¹⁸ *Case of the Sawhoyamaxa Indigenous Community v. Paraguay* was heard in the Inter-American Court of Human Rights and judgment was rendered on March 29,

¹¹ *Ibid.*, para. 99.

¹² *Ibid.*, para. 110 and para. 116.

¹³ *Ibid.*, para. 112.

¹⁴ *Ibid.*, para. 118.

¹⁵ *Ibid.*, para. 121.

¹⁶ HRI/CORE/PRY/2010, Table 31-32.

¹⁷ *Case of the Sawhoyamaxa Indigenous Community v. Paraguay. Merits, reparations and costs. Judgment of March 29, 2006. Series C No. 146, para. 73(5).*

¹⁸ *Ibid.*, para. 73(5), and 73(8).

2006.¹⁹ The Court ordered the Paraguayan government to take all the necessary steps to return to the community the ancestral lands, which they had previously been forced to leave.²⁰

I. Education.

Best Practices:

9. Based on a 2010 United Nations Statistical Division source, the total net enrolment ratio in primary education was 90.7 per cent in 2007²¹ and the literacy rate was 98.3 percent for 15 to 24-year-olds in 2008.²²

10. For indigenous children, Article 76 of the Paraguayan Constitution provides for initial schooling in their mother tongue, and they may choose Spanish or Guarani as their second language.²³

11. In 2007, The Directorate-General for Indigenous Schooling established Act No. 3231/07

(Department of Indigenous School Education)²⁴ “to foster and develop education with the participation and for the benefit of indigenous peoples through an inter- and multicultural approach.”²⁵ And independent operating budget was provided to “enable indigenous communities to manage their own education policies autonomously.”²⁶

12. The Indigenous Teachers’ Association was created to help train and fulfill educational responsibilities for indigenous teachers,²⁷ as well as promote the teaching of indigenous children and adults by indigenous teachers.²⁸

13. Act No. 3733/2009 allocates 1 per cent of scholarships for higher education to the indigenous population.²⁹ Additionally, the Minister of Interior has awarded members of indigenous communities 22 scholarships for free admission to the Sargento Ayudante Jose Merlo Saravia police training college.³⁰

Challenges and Obstacles:

¹⁹ Cf. *Case of the Sawhoyamaya Indigenous Community v. Paraguay. Merits, reparations and costs. Judgment of March 29, 2006. Series C No. 146.*

²⁰ *Ibid.*, para 210.

²¹ A/HRC/WG.6/10/PRY/2, para. 63.

²² HRI/CORE/PRY/2010, para. 54.

²³ A/HRC/WG.6/10/PRY/1, para. 144; E/C.19/2010/12/Add.2, para. 5.

²⁴ E/C.19/2010/12/Add.2, para. 5.

²⁵ A/HRC/WG.6/10/PRY/1, para. 149.

²⁶ *Ibid.*

²⁷ E/C.19/2010/12/Add.2, para. 5.

²⁸ CERD/C/PRY/1-3, para. 129.

²⁹ E/C.19/2010/12/Add.2, para. 14.

³⁰ CERD/C/PRY/1-3, para. 130.

14. Although there is a high rate of enrollment in primary education and a high literacy rate, rural dwellers and indigenous communities have fallen into neglect in nearly all aspects of development.³¹ Whereas the non-indigenous population attends an average of 8 years of schooling, the indigenous children aged 10 and over attend on average 3 years of schooling.³² The indigenous illiteracy rate is 38.9 per cent and exceeds 40 per cent in some ethnic groups.³³
15. It is difficult for The Ministry of Education and Culture to make textbooks available in all indigenous languages of Paraguay.³⁴
16. There is not a school in every community and where there is, facilities are seriously inadequate.³⁵ Only 25 per cent of indigenous schools have electricity and only 5 per cent have mains water supplied from a public or private grid.³⁶ Only 7 percent have toilets with septic tanks.³⁷ Further, there is a sufficient inequality in the provision of school materials, and only 30 per cent of the approximately 900 teachers working in indigenous schools have completed basic education.³⁸

II. Food and Agriculture.

Best Practices:

17. The National Plan for Food and Nutritional Sovereignty (PLANAL) was established by Decree No. to eliminate malnutrition among children under 5 years of age by 2025. It is implemented through plans of action in the urban and rural areas of three departments.³⁹
18. The National Programme to Provide Comprehensive Support for Indigenous Peoples (PRONAPI), was set up by Decree No. 1945/09.⁴⁰ It involves a number of State agencies for the purpose of implementing measures to meet the urgent needs of indigenous people through a three-tier approach: emergency response and mitigation; rehabilitation (securing the communities and meeting the needs detected in them) and ensuring their needs are addressed by institutions.⁴¹

³¹ A/HRC/WG.6/10/PRY/2, para. 64.

³² *Ibid.*, para. 65.

³³ HRI/CORE/PRY/2010, para. 39.

³⁴ A/HRC/WG.6/10/PRY/3, para. 41.

³⁵ *Ibid.*, para. 37.

³⁶ A/HRC/14/25/Add.2, para. 58.

³⁷ *Ibid.*

³⁸ *Ibid.*, para. 57.

³⁹ A/HRC/WG.6/PRY/1, para. 126.

⁴⁰ *Ibid.*, para. 127.

⁴¹ *Ibid.*

19. The Ñemity (Sow) project to provide basic tools and seeds for indigenous communities was carried out as part of this Programme.⁴² Around 365 indigenous communities in nine departments were assisted through PRONAPI. A total of 11,392 families received 31, 291 subsistence food kits, 2,852 toolkits, and 11,392 seed kits for their own consumption.⁴³

Challenges and Obstacles:

20. The lack of funding and interagency collaboration in Paraguay's nutritional security efforts presents a major factor in the furtherance of governmental efforts.⁴⁴ National budget constraints prevent adequate funding from being allocated to these endeavors, greatly hindering their effectiveness.⁴⁵

21. As a result of these aforementioned challenges, the Government's efforts tend to be fragmented, unstructured, and internally disjunctive.⁴⁶

III. Healthcare.

Best Practices:

22. The ministry of Public Health and Social Welfare recently adopted General Secretariat resolution No. 311 creating the Directorate-General for Indigenous Health. The resolution stipulates that the mission of the new Directorate-General shall be to "implement the most appropriate strategies and actions for achieving the objectives established in the National Policy on Indigenous Health."⁴⁷

23. These policies are implemented through an integrated system of health-care networks composed of a primary care network, a specialist clinic network, an emergency care network, and a hospital network, and coordinated by means of a communications and transportation system.⁴⁸

24. The system will bring direct health-care benefits for members of indigenous communities, and will include reproductive health-care services for indigenous women.⁴⁹

⁴² *Ibid.*, para. 128.

⁴³ *Ibid.*, para. 201.

⁴⁴ Personal Interviews, January 6, 2015, record on file with the University of Oklahoma College of Law.

⁴⁵ Personal Interviews, January 6, 2015, record on file with the University of Oklahoma College of Law.

⁴⁶ A/HRC/WG.6/10/PRY/2, para. 56.

⁴⁷ CERD/C/PRY/1-3, para. 98.

⁴⁸ *Ibid.*, para. 99.

⁴⁹ *Ibid.*, para. 100.

25. The program will aim to achieve an intercultural focus and respect for diversity, adjust the care structure to the needs and culture of indigenous patients, designate a focal point for indigenous health responsible for coordinating and overseeing implementation of the National Policy on Indigenous Health in each facility, Provide family health-care units, appoint indigenous health promoters to work within indigenous communities, and guarantees access to programmes, drugs and treatments at all levels, irrespective of complexity.⁵⁰

Challenges and Obstacles:

26. There is evidence of serious, persistent inequalities with regard to access to healthcare for indigenous peoples in Paraguay.⁵¹
27. Paraguay is a mostly rural country with infrastructure lacking in these rural areas, making it difficult to establish clinics and hospitals closer to the indigenous communities.⁵²
28. The lack of literacy and education amongst the indigenous communities makes it difficult to increase knowledge in regards to healthcare.⁵³

IV. Land Security.

Best Practices:

29. During a 2011 meeting with the CERD committee, Paraguay expressed that INDI had adopted a strategic action plan under which, by 2013, 90 per cent of indigenous peoples should have titles for the land on which they lived.⁵⁴
30. In 2010 and 2011, land titles had been issued to 18 indigenous communities and the INDI budget allocated to land acquisition had increased from US\$ 4 million to US\$ 22 million.⁵⁵
31. At the beginning of August, Paraguay, which was committed to complying with all judgments handed down by international courts in relation to Paraguayan indigenous communities, had received a delegation from the Inter-American Commission on Human Rights. On 3 August 2011, an agreement had been signed to transfer over 8,000 hectares of

⁵⁰ *Ibid.*, para. 101.

⁵¹ Personal Interviews, January 5, 2015, record on file with the University of Oklahoma College of Law.

⁵² Personal Interviews, January 5, 2015, record on file with the University of Oklahoma College of Law.

⁵³ Personal Interviews, January 5, 2015, record on file with the University of Oklahoma College of Law.

⁵⁴ CERD/C/SR/.2094, para. 7.

⁵⁵ *Ibid.*

land situated in the west of the country to the Kelyenmagatema indigenous community, whose situation was being closely monitored by the Inter-American Commission.⁵⁶

Challenges and Obstacles:

32. The state continues to delay restitution of ancestral lands to the indigenous communities and has not complied with the judgments of the Inter-American Court of Human Rights in relation to Yakye Axa, Sawhoyamaxa and Xamok Kasek indigenous communities in accordance with an established timetable.⁵⁷
33. Although the state has increased the budget for the purpose of purchasing the land for the indigenous communities, the owners of the land have yet been persuaded to agree to the sale.⁵⁸
34. The Office of the Ombudsman has yet to make a stronger commitment to working with the communities closely and implementing the necessary plans to address their concerns.⁵⁹
35. The executive had submitted two applications for expropriation on behalf of the Yakye Axa, Xákmok Kásek and Sawhoyamaxa communities, but the applications had been turned down by the National Congress.⁶⁰

⁵⁶ *Ibid.*

⁵⁷ CERD/C/PRY/CO/1-3, para. 17.

⁵⁸ E/C.19/2010/12/add. 12, para. 10.

⁵⁹ CCPR/C/PRY/CO/3, para. 7.

⁶⁰ E/C.19/2010/12/add.12., para. 10.