



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article  
9 of the Convention**

**Initial and second and third periodic reports due in 2008\***

**Paraguay\*\***

[26 July 2010]

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\* This document contains the initial and second and third periodic reports of Paraguay, due on 17 September 2004, 2006 and 2008, respectively, submitted in one document.

\*\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited before being sent to the United Nations translation services.

## Introduction

This report was prepared by the National Institute of Indigenous Affairs with input from the:

- (a) Executive branch of government:
  - (i) Human Rights Directorate of the Ministry of Foreign Affairs;
  - (ii) Human Rights Directorate of the Ministry of the Interior;
  - (iii) Directorate-General for Human Rights and Directorate-General for Indigenous Schooling of the Ministry of Education and Culture;
  - (iv) Human Rights Technical Unit of the Ministry of Public Health and Social Welfare;
  - (v) Directorate-General for Statistics, Surveys and Censuses;
  - (vi) Secretariat of the Civil Service;
- (b) Legislative branch of government: Human Rights Commission and Equity and Gender Commission of the National Senate;
- (c) Judicial branch of government: Human Rights Directorate of the Supreme Court of Justice;
- (d) Ethnic Rights Directorate of the Public Prosecution Service (*Ministerio Público*);
- (e) Ombudsman's Office.

Cooperation was provided by the United Nations Development Fund for Women, which coordinates the regional programme "Incorporating Gender, Racial and Ethnic Equality Dimensions into Poverty Eradication Programmes".

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## **I. Background**

1. Paraguay ratified the International Convention on the Elimination of All Forms of Racial Discrimination by Act No. 2182 of 7 July 2003 but has not yet recognized the competence of the Committee.
2. Paraguay acknowledges that it did not submit the initial report due in 2004 and the periodic reports which should have been submitted in 2006 and 2008. For this reason, it is submitting a single report covering the period from 2004 to 2010.

## **II. Preparation of the report**

3. This participatory report is divided into two parts and has been prepared on the basis of information provided by government bodies and consultation with civil society organizations. The first part contains general information while the second provides more specific information on compliance with the Convention.
4. Methodologically, the report is organized in accordance with the structure and indicators proposed in the compilation of guidelines on the form and content of reports to be submitted by States parties to the international human rights treaties (HRI/GEN/2/Rev.6).

### **A. Participation of government bodies**

5. The Ombudsman's Office and various bodies within the three branches of government took part in the preparation of this report. The contributing bodies within the executive branch were the National Institute of Indigenous Affairs, the Human Rights Directorate of the Ministry of Foreign Affairs, the Directorate-General for Statistics, Surveys and Censuses, the Human Rights Directorate of the Ministry of the Interior, the Directorate-General for Human Rights and the Directorate-General for Indigenous Schooling of the Ministry of Education and Culture, the Human Rights Technical Unit of the Ministry of Public Health and Social Welfare and the Secretariat of the Civil Service. Within the legislative branch the participating institutions were the Human Rights Commission of the Senate, while the agencies of the judicial branch involved were the Human Rights Directorate of the Supreme Court of Justice and the Ethnic Rights Directorate of the Public Prosecution Service. The working group was chaired by the National Institute of Indigenous Affairs.

### **B. Participation of indigenous peoples and Afro-descendant communities**

6. The participatory approach adopted for the preparation of this report included consultation with organizations representing the interests of the Convention's beneficiaries. The consultation process embraced women's organizations, indigenous organizations and organizations representing Afro-Paraguayan communities. The fruits of these groups' involvement are evident throughout the report.
7. To help secure the direct participation of the aforementioned beneficiaries, cooperation was provided by the United Nations Development Fund for Women, which coordinates the regional programme "Incorporating Gender, Racial and Ethnic Equality Dimensions into Poverty Eradication Programmes" and made a consultant available to carry out interviews with representatives of the different groups.

### III. General structure of the Republic of Paraguay

#### A. Identity, organization of the State and system of government

8. The Constitution defines the State of Paraguay as a unitary, indivisible and decentralized State governed by the rule of law. It establishes a democratic, representative, participatory and pluralistic form of government which is founded on respect for human dignity. It recognizes Paraguay as a multicultural and bilingual country in which Guaraní and Spanish are the official languages.

9. The Government of Paraguay is organized into three branches (legislative, executive and judicial), each of which is recognized to be independent from the others.

10. The domestic legal order establishes the primacy of the Constitution over international treaties ratified, laws adopted by Congress, and other related legal provisions of lesser rank, in the aforementioned order of precedence.

11. Article 1 of the Constitution establishes that “The Republic of Paraguay adopts a democratic, representative, participatory and pluralistic form of government which is founded on respect for human dignity.”<sup>1</sup>

#### B. Land and population

12. Paraguay has a land area of 406,752 square kilometres and a population of considerable cultural diversity.

13. The 2002 census recorded a total population of 5,163,198. Paraguay has a multicultural population that includes 18 autochthonous groups recognized in the Constitution as indigenous peoples, giving the country a richly diverse culture. The same population census also recorded a number of distinct immigrant groups, originating from Europe, Asia and other parts of the world, which maintain and freely practise their language, religious beliefs and culture.<sup>2</sup>

##### 1. Indigenous peoples

14. The census of indigenous peoples conducted as part of the 2002 national census registered the indigenous population at 87,099 individuals belonging to five distinct language families made up of a rich diversity of ethnic groups. The ethnic groups recognized in the 2002 national census of indigenous peoples and the language families to which they belong are as follows:

(a) Guaraní: Aché, Western Bolivian Guaraní, Ava Guaraní, Mbyá Guaraní, Paĩ Tavytera, Guarayo, Tapiete and Guaraní Ñandeva;

(b) Lengua-Maskoy: Toba-Maskoy, Eenthlit Northern Lengua, Eenthlit Southern Lengua, Sanapaná, Angaite, Guana;

(c) Mataco-Mataguayo: Nivaclé, Maka, Manjuy;

(d) Zamuco: Ayoreo, Chamacoco Ebitoso, Chamacoco Tomaraho, Ishir;

(e) Toba-Guaicuru: Toba-Qom.

<sup>1</sup> Constitution of the Republic of Paraguay, art. 1.

<sup>2</sup> During the consultation process, civil society organizations indicated that persons of Asian origin and immigrants from Brazil (“*Brasilguayos*”) are subject to discrimination.

Table 1  
**Distribution of Paraguay's indigenous population by department**

<i>Department</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>
Asunción	47	43	<b>90</b>
Concepción	1 351	1 330	<b>2 681</b>
San Pedro	1 438	1 324	<b>2 762</b>
Guairá	547	509	<b>1 056</b>
Caaguazú	3 674	3 251	<b>6 925</b>
Caazapá	1 311	1 233	<b>2 544</b>
Itapúa	1 124	981	<b>2 105</b>
Alto Paraná	2 463	2 303	<b>4 766</b>
Central	532	508	<b>1 040</b>
Amambay	5 394	5 147	<b>10 541</b>
Canindeyú	4 998	4 627	<b>9 625</b>
	<b>45 031</b>	<b>42 068</b>	<b>87 099</b>

*Source:* Directorate-General of Statistics, Surveys and Censuses (2002).

*Peoples in voluntary isolation or initial contact*

15. The Ayoreo communities living in voluntary isolation were not included in the census as their situation precludes participation in population surveys.

**2. People of African descent**

16. The communities forming part of this population group carried out their own census, with support from the Directorate-General of Statistics, Surveys and Censuses. This census registered a population of 7,637 persons of African descent living in three communities which self-identify as Afro-descendant communities and are located in the centre of the eastern region.

Table 2  
**Distribution of the Afro-descendant population by sex and community**

<i>Sex</i>	<i>Total</i>	<i>Kamba Kua</i>	<i>Kamba Kokue</i>	<i>Emboscada</i>
Both	<b>7 637</b>	425	376	6 836
Men	<b>3 791</b>	209	189	3 393
Women	<b>3 846</b>	216	187	3 443

*Source:* Directorate-General of Statistics, Surveys and Censuses (2010).

17. The official national census does not yet recognize the Afro-descendant population as a distinct group. However, work towards the inclusion of such a category in the next census scheduled for 2012 is at an advanced stage.

**3. Immigrant groups**

18. Although this report makes no specific reference to immigrant groups, the population census recorded a number of distinct groups originating from Europe, Asia and

other parts of the world. These groups freely maintain their language, religious beliefs and cultural practices.

19. Paraguay has historically been a destination country for migrants, especially since the First and Second World Wars, and has received significant inflows of Mennonite, Ukrainian, Japanese, Korean, Chinese, Lebanese, Syrian and, more recently, Brazilian immigrants.

20. In Paraguay these immigrant groups have found opportunities for their development and the freedom to maintain their cultural practices and religious beliefs. In the early twentieth century, Paraguay became home to two émigré families of note – the Nietzsche family from Germany and the Bertoni family from Switzerland. The first founded the city of Nueva Germania while the second was a leading name in the study of botany.

## **IV. Compliance with articles 1 to 7 of the Convention**

### **A. Article 1**

21. Domestic legislation does not refer to racial discrimination as such and does not categorize it as an offence. However, a draft bill sponsored by a network of non-governmental organizations working to eliminate all forms of discrimination has been before the National Congress pending a decision for several years.

22. The draft bill includes measures to prevent discrimination against various groups on grounds including ethnicity, origin, religion, sex or sexual orientation. It establishes measures for combating discriminatory practices and sets out the powers of State bodies to penalize such practices.

23. The bill is currently before the Equity and Gender Commission awaiting approval prior to its consideration in the plenary Senate.<sup>3</sup> The bill covers substantive issues, matters of procedure and administrative and judicial competence such as the obligation to respect, protect and guarantee and the obligation to adopt measures, rules of interpretation, the public order situation and situations of doubt. It includes a definition of other forms of discrimination in public and private spheres including education, employment and health.

24. The bill also establishes the criteria to be used to determine whether or not an act should be considered discriminatory, various provisions concerning the different State bodies' powers of intervention and the relevant complaints procedures.

25. The bill makes discrimination a criminal offence and incitement to discrimination an unlawful act that violates the principle of equality, besides establishing administrative and judicial responsibilities and other safeguards for victims. It also confers powers of intervention upon the Ombudsman's Office.

### **B. Articles 2 and 4**

#### **1. The Constitution**

26. The Constitution expressly recognizes Paraguay's multiculturalism and defines it as a bilingual country.

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<sup>3</sup> It is important to note that this bill has the backing of more than 20 organizations and groupings of victims of racial discrimination.

27. Chapter V of title II of the Constitution, concerning indigenous peoples, enshrines specific rights based on indigenous customary law.

28. Chapter III of title II, concerning equality, establishes that discriminatory practices shall not be permitted in the Republic of Paraguay and that the State shall remove all obstacles to non-discrimination, along with those factors that support or encourage discrimination, although it adds that “safeguards aimed at preventing unjust inequalities shall be regarded not as discriminatory but as egalitarian”.<sup>4</sup>

29. The Constitution enshrines the right to life and to a healthy environment. It prohibits torture and genocide.

30. Chapter VII, on education and culture, prohibits the inclusion of discriminatory content in educational programmes. Paraguay has two official languages – Guaraní and Spanish. Children from ethnic minority groups are taught in their mother tongue, as well as in one of the two official languages.

31. Chapter VIII, on employment, also prohibits discrimination in labour law and employment.

32. Chapter X, on political rights and obligations, recognizes all political rights. Indigenous persons are citizens and have the right to vote and to be elected if they so wish. Immigrants with residence in Paraguay are eligible to vote in local government elections.

## 2. International instruments

33. Paraguay is a party to various international human rights instruments of the United Nations, including:

(a) The International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Act No. 2182/03 of 7 July 2003;

(b) The Geneva Conventions of 12 August 1949, ratified on 23 October 1961;

(c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Act No. 69/90 of 23 January 1990;

(d) The Convention on the Rights of the Child and its Optional Protocols, ratified by Act No. 57/90 of 25 September 1990;

(e) The Convention on the Elimination of All Forms of Discrimination against Women, and its Optional Protocol, ratified by Act No. 215 of 22 November 1986;

(f) The Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees, Act No. 136 of 11 October 1969;

(g) The International Covenant on Civil and Political Rights, Act No. 592 of 9 April 1992, and its Optional Protocols;

(h) The International Covenant on Economic, Social and Cultural Rights, Act No. 4/92 of 9 April 1992;

(i) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, 1990;

(j) Act No. 253/93 ratifying the Convention on Biological Diversity;

(k) The Rome Statute of the International Criminal Court.

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<sup>4</sup> Constitution, art. 46.

34. Paraguay has signed the Convention on the Prevention and Punishment of the Crime of Genocide but has not yet ratified it.

35. Paraguay has ratified the following conventions of the International Labour Organization:

- (a) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries, 1989;
- (b) Convention No. 97 concerning Migration for Employment, 1949;
- (c) Convention No. 111 concerning Discrimination in respect of Employment and Occupation, 1958;
- (d) Convention No. 159 concerning Vocational Rehabilitation and Employment (Disabled Persons), 1983 (Act No. 36/90);
- (e) Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Act No. 925/64).

### **3. Special and institutional laws**

36. The following laws have been adopted:

- (a) Act No. 904/1981, the Statute of Indigenous Communities, as amended by Act No. 919/1996 and Act No. 2199/2003;
- (b) Creation of the National Institute of Indigenous Affairs as an autonomous and independent body, pursuant to Act No. 904/1981;
- (c) Act No. 3231/2007, creating the Directorate-General for Indigenous Schooling;
- (d) Act No. 352/1993, on protected forest areas;
- (e) Act No. 426/94, on departmental governments, establishing their mandate for action in favour of indigenous peoples in departmental jurisdictions;
- (f) Act No. 1863/2002, establishing the Agrarian Statute and creating the Institute of Agrarian and Land Reform;
- (g) Act No. 3232/2007, on credit assistance for indigenous communities, provided through Crédito Agrícola de Habilidadación;
- (h) Act No. 3733/2009, earmarking 1 per cent of higher education scholarships for the indigenous population;
- (i) Act No. 1160, the Code of Criminal Procedure, title II (Actions arising from unlawful acts), article 26; title VI (Procedure for unlawful acts related to indigenous peoples), articles 432 to 438.

### **4. Prohibition on discriminatory advertisements and publications**

37. Paraguay has adopted the Advertising Self-Regulation Code drawn up by the National Centre for Communications Regulation, Standards and Research, the body which regulates advertising and establishes rules for preventing discrimination and ridicule.

38. The Criminal Code expressly prohibits discrimination, stipulating, in article 233, that “Anyone who, in a manner likely to impede the harmonious coexistence of peoples, insults another person on account of his or her beliefs either in public, at a meeting or in publications, as defined in article 14, paragraph 3, shall be sentenced to imprisonment for a maximum term of three years or to payment of a fine.”

39. Article 14 of the Criminal Code clarifies that “publications”, as referred to in the relevant provisions, shall mean written publications, audio and video recordings, forms of reproduction and any other recording media.

40. This provision safeguards indigenous peoples, Afro-descendants and immigrants against the actions of any person who subjects their culture and practices to discrimination, ridicule or contempt.

## **5. National Institute of Indigenous Affairs**

41. The National Institute of Indigenous Affairs was established by Act No. 904/1981 as an autonomous, self-contained body with legal personality. Although contacts with the executive branch of government must be channelled through the Ministry of Education and Culture, the Institute is free to establish direct links with the legislative and judicial branches and with central government agencies. The Institute is required by law to have its legal domicile in Asunción. It has the option of opening regional branches but at present has offices in Asunción only.

42. The mission of the National Institute of Indigenous Affairs is to fulfil, safeguard and ensure strict respect for the rights of indigenous peoples, fine-tuning its statutory mandate with input from indigenous communities in coordination and cooperation with other institutions.<sup>5</sup>

43. The Institute has the following functions:

- (a) To develop and implement policies and programmes;
- (b) To coordinate, oversee and evaluate public and private sector initiatives benefiting indigenous peoples;
- (c) To provide scientific, technical, legal, administrative and financial assistance to indigenous communities, either directly or in conjunction with other institutions, and to manage aid provided by national and foreign organizations;
- (d) To conduct censuses of the indigenous population in conjunction with organizations composed or working on behalf of indigenous peoples;
- (e) To conduct, promote and oversee research into indigenous affairs and disseminate information about indigenous communities approved by the Institute and by members of the indigenous community;
- (f) To adhere to the principles, resolutions and recommendations of international organizations working on behalf of indigenous peoples, provided that these are consistent with the Institute’s objectives as established in Act No. 904/81, and to encourage these organizations in turn to adhere to the Institute’s objectives;
- (g) To support actions and complaints brought before public and private sector bodies by indigenous peoples;
- (h) To research and propose the rules on civil registration, military service, education, criminal responsibility and identity documentation that should apply for indigenous peoples and to ensure compliance with the rules thus established;
- (i) To maintain relations with national and international organizations providing advice and consultancy for indigenous peoples and to ensure compliance with treaties concerning indigenous peoples;

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<sup>5</sup> <http://www.indi.gov.py/institucional.html>.

(j) To promote technical and vocational training for indigenous peoples, particularly in farm, forestry and handicraft production, and to equip them to assume the organization and management of their communities;

(k) To carry out any other activities related to the Institute's objectives.

44. The National Institute of Indigenous Affairs forms part of the Executive Branch Human Rights Network, a grouping of 21 government bodies established by Decree No. 2290 to improve mechanisms for promoting, protecting and enforcing human rights.

## C. Article 3

### 1. Anti-discrimination and affirmative action measures

45. Anti-discrimination and affirmative action measures are being developed on the basis of the constitutional provisions prohibiting all forms of discrimination.

46. Indigenous communities are exempt from paying the following taxes and duties:

- (a) Customs duties, levies and surcharges;
- (b) Stamp duties;
- (c) Domestic sales and consumption taxes;
- (d) Property tax and other levies on real estate;
- (e) Income tax;
- (f) Exchange rate surcharges;
- (g) Advance import deposits;
- (h) Vehicle and business registration taxes;
- (i) Gifts and legacies in favour of indigenous communities;
- (j) Asset transfer taxes.

47. Indigenous communities are also exempt from paying the following fees:

- (a) Land fees;
- (b) Ethnic identity card issuance fees;
- (c) National identity document issuance fees;
- (d) Birth registration fees.

### 2. Guide to inclusive and non-discriminatory practices

48. In fulfilment of its resolution No. 942/2009, the Secretariat of the Civil Service has published a guide to inclusive and non-discriminatory practices which sets out the basic policy framework for non-discrimination and inclusion in the civil service and establishes the role and responsibilities of the Directorate-General for Equality and Inclusion Policy of the Secretariat of the Civil Service.<sup>6</sup>

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<sup>6</sup> Civil society organizations indicated during the consultation process that, when dealing with State institutions, indigenous persons are treated in a discriminatory manner by some public officials.

**3. Civil servants appointed to work with indigenous peoples**

49. The aforementioned resolution of the Secretariat of the Civil Service recognizes the need to promote ethnic diversity within the civil service and to observe the following provisions to this end:

(a) Candidates' knowledge of the language and culture of the communities or peoples with whom they will be working must be among the factors used to assess their suitability;

(b) The opinions and suggestions proffered by the authorities representing the beneficiary communities or peoples during prior consultations must be taken into account when drawing up job profiles and evaluation models;

(c) Job profiles must stipulate that preference will be given to candidates from indigenous communities who have obtained the highest ratings;

(d) Selection committees must include at least one representative of the indigenous communities benefiting from the services to be provided by the candidate selected.

**4. Good practice guide for Government engagement with indigenous communities**

50. Within the framework of a project supported by the United Nations Development Programme, under the supervision of the National Institute of Indigenous Affairs and the Secretariat of the Civil Service, work on drafting a good practice guide for Government engagement with indigenous communities is at an advanced stage.

**5. Non-discrimination in the Ombudsman's Office**

51. Important initiatives of the Ombudsman's Office include the creation, by resolution No. 800/06 of 18 August 2006, of a Department for Action against Discrimination within the Directorate of Asunción Offices.

52. This Department was created in accordance with the provisions of the Constitution and, more specifically, those of the Durban Declaration and Programme of Action and the Santiago de Chile Commitment to monitor compliance with these same provisions.

53. The Department's duties include:

(a) Monitoring compliance with all provisions of the Constitution, the International Covenants, the Durban Declaration and Programme of Action and the Santiago de Chile Commitment relating to action to eliminate discrimination;

(b) Drawing up a work plan for the Directorate of Asunción Offices to facilitate the execution of its mandate;

(c) Receiving complaints, reports and suggestions related to discrimination and taking action ex officio in cases of discrimination.

54. Through the Department for Action against Discrimination, the Ombudsman's Office mediates in situations where discrimination against persons of African descent is noted, acting either on the request of the injured party or ex officio, the aim being to find an amicable solution to all such disputes.

55. The Department also organizes conferences and open forums to raise awareness of indigenous issues among the wider population. The main targets of this awareness-raising work are young students, since they are viewed as agents for change within their communities.

56. The Ombudsman's Office has established a Department for Indigenous Peoples which has assumed a central role in protecting and safeguarding the rights of indigenous communities, in strict compliance with the provisions of the 1992 Constitution, which recognizes indigenous cultures.

57. As provided by its statutory mandate and organizational structure, this Department has taken various forms of action to support the citizenship of indigenous peoples and foster recognition of their dignity, organizing numerous educational talks and meetings with different government agencies and non-governmental organizations to this end.

58. The Ombudsman's Office has also served as mediator with State agencies in order to facilitate amicable conflict resolution.

59. The impact of the processes initiated in the Ombudsman's Office tends to extend beyond the initial objectives, resulting not only in the resolution of conflicts involving indigenous persons and communities but also in the issue of recommendations that foster respect for the human rights of indigenous peoples.

60. The Ombudsman's Office has received the following complaints of discrimination against indigenous persons or communities:

- (a) In 2007: 26 complaints;
- (b) In 2008: 2 complaints;
- (c) In 2009: 8 complaints;
- (d) In 2010: 6 complaints.

## **D. Article 5**

### **1. The right to life**

61. In addition to the ethnic development projects implemented in indigenous communities, contingency plans have been developed to guarantee food security in particular.<sup>7</sup> To help achieve this goal, a National Indigenous Peoples Programme coordinated by the National Institute of Indigenous Affairs with input from indigenous communities and other State agencies was established by Decree No. 1945 adopted by the Executive in 2009.

62. Under this programme, basic food baskets containing 12 essential food items are distributed to indigenous families on request. Farming implements are also distributed and specialist advice on agricultural production is available.<sup>8</sup>

63. During the period 2009–2010, basic food baskets were distributed to a total of 11,218 indigenous families living in 309 communities spread across nine departments in the eastern region of Paraguay under the National Indigenous Peoples Programme.

64. This temporary measure to guarantee food security for indigenous families has strengthened their attachment to their community, besides allowing for an increase in school attendance among indigenous children and the development of agricultural projects in their respective settlements.

<sup>7</sup> Civil society organizations reported that in some parts of the eastern region indigenous communities often lack access to drinking water and food.

<sup>8</sup> Civil society organizations highlighted the importance of developing agriculture in indigenous communities and providing the relevant ongoing technical support.

65. To provide a sustainable strategy for guaranteeing the food and nutrition of members of indigenous communities, Decree No. 2789 establishing the National Plan for Food Sovereignty and Security, which incorporates development planning and includes an indigenous component, was adopted by the Executive in 2009.

*Support for agricultural production*

66. The Ministry of Agriculture and Livestock has established a dedicated department for indigenous affairs to facilitate support for agricultural production in indigenous settlements.

*Sustainable production*

67. In 2011 the same Ministry launched a sustainable development programme benefiting 73 Guaraní indigenous communities in the eastern region of the country. The aim of the programme, which will be implemented with support from the International Bank for Reconstruction and Development and the National Institute of Indigenous Affairs, is to guarantee agricultural production in beneficiary communities.

## **2. The right to equality**

68. In fulfilment of the right of peoples to self-determination, upon its creation in 1981 the National Institute of Indigenous Affairs was given a statutory mandate to return indigenous communities' ancestral lands to them without charge. Its mandate has since been broadened to include responsibility for recognizing the legal personality of indigenous communities.

69. Legal personality is granted to indigenous communities by Presidential Decree and confers upon them all relevant civil and commercial rights. The national census of indigenous communities recorded a total of 420 communities.

70. Since its foundation, the National Institute of Indigenous Affairs has succeeded in securing the right to land and self-determination for a large number of indigenous communities, as listed according to the results.

71. Members of the Afro-descendant community have rights, which they exercise in all civil and commercial matters and in public service. However, although its Constitution prohibits discrimination at all levels of society, Paraguay has yet to adopt legislation establishing sanctions for those engaging in discriminatory practices.

72. The Association of Afro-descendants is actively pursuing the adoption of legislation outlawing all forms of discrimination spearheaded by the anti-discrimination network sponsoring the bill.

73. Persons of African descent claim to experience discrimination, but no specific data are available as yet.

*Political rights and exercise of citizenship*

74. Indigenous persons are issued with both national identity documents and ethnic identity cards. They have full citizenship rights, the right to vote and the right to be elected to any elected office.<sup>9</sup>

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<sup>9</sup> Civil society organizations indicated during the consultation process that indigenous persons have no (real) possibility of accessing public office.

75. In 2009 and 2010 the National Institute of Indigenous Affairs issued a total of 3,968 ethnic identity cards.<sup>10</sup>

76. Resolution No. 77 of the Identification Department of the National Police, adopted by the Ministry of the Interior on 30 March 2010, aims to streamline the procedure for issuing identity documents to persons subject to a detention order, an order not to leave the country or any other judicial measure registered in the Ministry's database so as to ensure that such persons are able to complete the relevant administrative procedures in a timely manner, without experiencing discrimination, abuse or unequal treatment of any form, and in this way guarantee fulfilment of the right to equality.

### 3. The right to participation and to development<sup>11</sup>

#### *Indigenous peoples*

77. The activities of the National Institute of Indigenous Affairs, the oversight body which monitors indigenous peoples' rights, are guided by three strategic priorities: land, participation and development.

78. The Institute's strategic action plan sets the following objectives for 2013:

- (a) Ninety per cent of indigenous peoples should be living on titled lands;
- (b) Indigenous peoples should be actively involved in the Institute's operation;
- (c) Comprehensive assistance should be provided to 70 per cent of indigenous communities.

79. *Departmental/regional initiatives:* in implementation of the mandate set forth in Act No. 426/94, creating departmental governments, indigenous affairs secretariats have been established within the administration of all departments with an indigenous population. Many of the posts within these secretariats are occupied by members of the indigenous community.

80. To facilitate programme implementation, departmental governments receive specific allocations from the central budget while local governments encourage indigenous participation at the local level.

81. *Indigenous associations:* the National Institute of Indigenous Affairs also supports the growing trend towards self-organization in indigenous communities manifest in the development of community bodies such as the Coordinating Committee for the Self-Determination of Indigenous Peoples, which is an active participant in the United Nations Permanent Forum on Indigenous Issues. At present there are approximately 25 community associations registered with the National Institute of Indigenous Affairs.

82. The Supreme Court of Justice is working to identify an effective mechanism for participation and consultation in judicial processes and the adoption of decisions on cases affecting indigenous peoples. At the judicial level, legislation provides for community

<sup>10</sup> One civil society organization indicated during the consultation process that the necessary ethnic identity documentation is not always provided and that identity cards must be issued to all indigenous persons without distinction. Another non-governmental organization indicated that ethnic identity cards are not issued to indigenous persons born in Asunción.

<sup>11</sup> During the consultation process one civil society organization expressed the view that the document on Government social policies did not reflect the input of indigenous peoples and that it focused solely on land grants and failed to consider redress and compensation measures.

meetings to be called for the purpose of taking decisions on criminal cases in which indigenous people are involved.

*Persons of African descent*

83. The population of African descent has a deep sense of its ancestral heritage and is concentrated in well-defined areas, mainly in the Central, Cordillera and Paraguari departments. Persons of African descent self-identify as Afro-Paraguayans and maintain their history and traditions.

84. Afro-descendants participate in Paraguayan society individually and collectively and the State recognizes their ethnic identity and social and cultural expressions. The relevance of organizations of persons of African descent who self-identify as Afro-Paraguayans is therefore recognized in public instruments, as evidenced by the following example.

85. *Association of Afro-descendants*: the Paraguayan State recognizes the legal personality of the National Association of Afro-descendants.

86. Work is ongoing to include a specific category for Afro-Paraguayans in the 2012 national census. The State is advising Afro-Paraguayans on means of strengthening their cultural expressions, improving their organization and conducting alternative censuses, so that they can determine how they would like to be categorized in the 2012 census.

87. *Kamba Kua Association of Afro-descendants*: this Association was founded on 16 June 1999, in the courtyard of the municipal school of the Loma Campamento neighbourhood of the city of Fernando de la Mora. The ancestors of this group of Afro-descendants came to Paraguay from Uruguay with General Artigas, having been granted asylum by the Republic of Paraguay during the rule of Gaspar Rodríguez de Francia, dictator for life.

88. This group has occupied the same land on the outskirts of Asunción since the start of the twentieth century and in recent years has begun to develop a new sense of its identity. This identity has been recognized by the State of Paraguay and the Association's articles of association have been formally approved by the Corporations and Associations Section of the Directorate-General of the Central Registry Office, where they were registered under No. 189 on sheet 1684/August, Series A, on 29 March 2001. This recognition is a clear signal of the distinct status the State intends to give this group to facilitate the development of its culture and racial identity.

89. According to the Association's constituent instrument, the aim was to found an association under civil law to assume the long struggle to obtain land, responding to "firstly, the urgent need to constitute a serious organization through which to establish our place in the Afro-American community and, secondly, the need to organize ourselves into legal entities with legal capacity for all relevant purposes in order to secure benefits for our community such as scholarships for our young people that will raise their level of education and culture and the pressing need to preserve our identity as black people descended from the lancers of General Artigas and to secure many other benefits for our community".<sup>12</sup>

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<sup>12</sup> Extract from the Articles of Association.

### 3. The right to decent work

90. The work performed by indigenous persons in Paraguay sometimes still fails to comply with the working conditions and wage entitlements established in the Conventions ratified by Paraguay.<sup>13</sup>

91. To address this situation, the Ministry of Justice and Labour, with support from the International Labour Organization, has established an inter-agency commission to introduce mechanisms for monitoring the work performed by indigenous persons.

92. This initiative is already bearing fruit, especially with regard to workplace safety and the right to equal pay for work of equal value.

93. In terms of employment, Paraguay's Afro-descendants are gradually succeeding in integrating themselves in Paraguayan society. At present, 54 per cent of the 7,637 Afro-descendants registered in the census are economically active and 97.53 per cent of the economically active population are working. Of this number, 36.46 per cent work with precious stones or in other handicrafts and 10.12 per cent work in primary production. One per cent are employers, 16.7 per cent are employees and 42.21 per cent are self-employed.

### 4. The right to adequate housing

94. Living conditions in the dwellings of indigenous families have historically been inadequate. The 2002 census of the indigenous population provided detailed information on housing conditions, including a description of the construction materials used. This information prompted a process of review which resulted in the launch of a number of housing support projects for indigenous persons.

95. Of a total of 17,317 indigenous dwellings recorded, 5,802 were houses, 10,439 were shacks, 678 were makeshift dwellings, 368 were sheds, and 25 were classified as other forms of dwelling. According to the census, each dwelling housed an average of six to seven persons.

96. With regard to the housing situation of Afro-descendants,<sup>14</sup> 1,586 dwellings were recorded in the census for the total population of 7,637. Of this total, 72 dwellings were located in Kamba Kua, 78 in Kamba Kokue and 1,412 in Emboscada. Most dwellings (1,410) had piped drinking water from the public supply, 24 had pumped water from a well, 47 had access to water from a private supply and 16 drew water from a stream, river or spring.

97. Of these dwellings, 1,410 were houses, 164 were rustic shacks and 4 were dwellings of some other unspecified form.

### 5. The right to health

98. 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, within the framework of the Public Policy to Ensure Quality of Life and Health with Equity: 2008–2013 and the Public Policy for Social

<sup>13</sup> Indigenous workers who work in agriculture or as labourers are frequently inadequately remunerated for their work, according to information obtained in interviews with representatives of civil society.

<sup>14</sup> As highlighted by civil society organizations during interviews, Afro-descendants suffered the confiscation of their lands during the Presidency of General Higinio Morínigo.

Development: 2010–2020, known as the ‘Paraguay para Todos y Todas’ (Paraguay for Everyone) campaign”.

99. 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.

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

101. *Differentiated health-care services for indigenous persons:*<sup>15</sup> the health-care facilities run by the Ministry of Public Health aim to:

- (a) Achieve an intercultural focus and respect for diversity;
- (b) Adjust the care structure to the needs and culture of indigenous patients;
- (c) Designate a focal point for indigenous health responsible for coordinating and overseeing implementation of the National Policy on Indigenous Health in each facility;
- (d) Provide family health-care units;
- (e) Appoint indigenous health promoters to work within indigenous communities;
- (f) Guarantee access to programmes, drugs and treatments at all levels, irrespective of complexity (transportation and provision of care).

102. *Health-care services for Afro-descendants:* the Afro-descendant population is in the early stages of recognition of its cultural identity and work to produce the relevant disaggregated data is therefore also ongoing. The data serve as a basis for evaluating the support that persons of African descent receive in respect of their health and other rights. According to current figures, 1,149 of a total of 7,637 registered Afro-descendants have health insurance and approximately the same number consult a health-care practitioner each year (an estimated 983 sick or injured persons and 166 chronically ill persons). In addition, an estimated 652 persons have some form of physical or mental disability.

## **E. Article 6**

### **1. Access to justice**

103. A total of 534 communities are recorded in the National Register of Indigenous Communities maintained by the National Institute of Indigenous Affairs. Of this total, 414 have legal personality and 1,234 have legally recognized authorities. Some communities have two, three or even four registered leaders and a total of 13 registered communities are led by indigenous women.<sup>16</sup>

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<sup>15</sup> Civil society organizations indicated that indigenous persons endured discrimination and poor treatment in the indigenous hospital, that there were no doctors of indigenous origin working in the hospital, that they were not supplied with medicines and that the health-care services provided were of an inferior quality to those available in other hospitals. When indigenous persons go to other health-care facilities to seek treatment they are told to go to the indigenous hospital and have no choice but to do so.

<sup>16</sup> Civil society organizations have highlighted a need to promote leadership roles for indigenous women, since women are not generally accepted as leaders in their communities.

104. The 2002 census revealed that 45 per cent of the indigenous communities registered in the census held title to their land. Updated data from the National Institute of Indigenous Affairs indicates that more than 50 per cent of communities now hold title to their land.

105. With regard to liberty and equality rights, responsibility for ensuring compliance with domestic legislation and international instruments in the administration of criminal justice lies with the Ethnic Rights Directorate of the Public Prosecution Service.

106. Whether at the request of the indigenous peoples directly affected or on the instigation of governmental or non-governmental bodies, the Ethnic Rights Directorate intervenes in criminal cases and conflicts of all kinds whenever violations of human or other rights which might affect or compromise the freedom of indigenous persons or the treatment of indigenous persons suspected of or charged with committing a criminal offence are identified.

107. The State acknowledges the continuing limitations, especially with regard to language barriers. Not all persons working in the justice system are proficient in Guaraní, and their command of other ethnic languages is more limited still. The State also acknowledges that it is difficult to reconcile regular judicial procedures with the differing cultures of indigenous peoples and that indigenous persons have insufficient knowledge of the criminal justice system.

108. One persistent difficulty is the huge distances separating indigenous communities from the nearest police station, public prosecutor's office or court. These distances restrict access to justice and impede judicial officers' capacity to take prompt action.

109. To address these impediments, the State is establishing dedicated human rights units within the Public Prosecution Service and other State agencies involved in the administration of justice.

110. The current text of the Constitution of Paraguay is free from any reference that makes a distinction between Afro-descendants and other Paraguayans.

111. The Constitution is also free from any mention of the term "racism" and any reference to "race". Afro-Paraguayans therefore participate in Paraguayan society as full citizens and enjoy all civil and political rights.

## 2. Training programmes

112. Training has been provided to 204 judicial officers, justice facilitators, indigenous leaders and other social actors working in three judicial districts (Amambay, Concepción and Alto Paraná) through the medium of consensus-building workshops, resulting in agreements on the application of the special procedures mechanism provided for in domestic and international legislation.

113. Training materials on indigenous law and human rights in Paraguay have been drawn up with assistance from the Coordinating Body for the Self-Determination of Indigenous Peoples, as well as regulatory guidelines on public hearings, indigenous peoples and the judiciary.

114. *Strategic alliances*: strategic alliances have been established with the Coordinating Body for the Self-Determination of Indigenous Peoples and the NGO Tierra Viva. Judicial officers have received training in indigenous law and awareness-raising activities have been conducted to increase knowledge of indigenous rights.

115. These activities have included the 2007 and 2008 Human Rights Week, an open meeting between representatives of the judiciary and indigenous communities hosted by the Human Rights Directorate of the Supreme Court of Justice and the Centre for Judicial Studies, and the Tekoháre conference, the third Latin American meeting of local

governments in indigenous territories, attended by representatives of departmental governments, municipal councils and local authorities.

116. The Supreme Court of Justice ensures effective compliance with the provisions of International Labour Organization Convention No. 169, concerning the legal mechanisms that allow for the application of indigenous customary law in legal cases in Paraguay. These provisions stipulate that indigenous peoples must be involved in the decision-making process in specific cases affecting members of their community, as established in articles 433, 434 and 438 of the Code of Criminal Procedure.

### **3. Prison situation**

117. The Directorate of Penal Institutions has adopted a system of disaggregated data collection for maintaining records of untried and convicted indigenous prisoners and their situation. In accordance with the relevant resolution, all detention centres are required to include in their prisoner lists disaggregated data on the indigenous prison population together with details of their specific cases such as the names of the judges and public or private defenders involved and the status or outcome of the proceedings.

118. Based on data for 2009 provided by the Ministry of Justice and Labour, the number of prisoners of indigenous origin in each of the country's prisons is as follows:

- (a) Pedro Juan Caballero prison: 27;
- (b) Coronel Oviedo prison: 14;
- (c) Concepción prison: 21;
- (d) San Pedro prison: 3;
- (e) Asunción prison: 3;
- (f) Villarrica prison: 3.

119. In 2009, there were a total of 71 indigenous persons in Paraguay's prisons.

120. *Literacy programmes for indigenous prisoners*: an important finding made during prison visits was that the great majority of indigenous prisoners were following literacy training and the relevant study cycles. The content of the literacy programmes can thus be used to enhance the efficacy of the rehabilitation process.

### **4. Police justice**

121. Since 2009, the Directorate of Police Justice of the Ministry of the Interior, the Department of Internal Affairs of the National Police and the Office of the National Chief of Police have been working to enhance oversight systems through international cooperation aid provided by the United States Department of State within the framework of a Threshold Country Programme administered by the Ministry of the Interior.

122. The State also receives support from the International Committee of the Red Cross under the terms of an agreement initially signed in 2006 and renewed in 2011 which includes among its specific objectives reviewing and revising the National Police's basic regulations, operating guidelines, instruction manuals, working methods and procedures to incorporate the international human rights standards and humanitarian principles applied to policing.

123. In addition, the Human Rights Directorate of the Ministry of the Interior is developing a model for intervention in indigenous communities that entails responding to indigenous demands and monitoring procedures with a view to preventing policing

excesses. It is also looking to coordinate its work to this end with the activities of the various inter-institutional bodies involved.

## **F. Article 7**

### **1. Education**

#### *Mother-tongue teaching*

124. The Directorate-General for Indigenous Schooling within the Ministry of Education and Culture came into being in August 2008, in implementation of Act No. 3231/2007 establishing the Directorate-General.

125. The Directorate-General's principal objectives include establishing a bilingual intercultural educational system that incorporates teacher training in bilingual intercultural education, specific curriculums tailored to each of Paraguay's indigenous communities and the production of teaching materials in each community's mother tongue.<sup>17</sup>

126. The indigenous school census carried out by the Ministry of Education in 2007 recorded the number of indigenous pupils and indigenous teachers.

127. According to the census, 18,139 out of a total of 31,828 children of school age (between 5 and 14 years old) were enrolled in school. Updated figures for 2009 revealed a total of 22,332 children enrolled in primary and secondary education. The number of indigenous teachers had risen from 517 in 2007 to 1,200 in 2009, according to the updated figures.

128. Since the Directorate-General for Indigenous Schooling was created, school enrolment rates among indigenous children have increased and enrolment rates will be included in the next indigenous school census.

129. There is an active Indigenous Teachers' Association increasingly promoting the teaching of indigenous children and adults by indigenous teachers.

130. As part of its educational programme on indigenous communities and gender equality, in application of resolution No. 805 of the Office of the National Chief of Police, the Ministry of the Interior has awarded 22 scholarships giving members of indigenous communities direct, fee-free admission to the Sargento Ayudante José Merlo Saravia police training college for non-commissioned officers and its respective regional campuses. The resolution was issued as an affirmative action measure to facilitate access to police service for persons from indigenous communities.

131. The measure has also served to ensure greater female representation within the police force; between 2007 and 2010 a total of 432 women enrolled in police training colleges.

132. In the Afro-descendant community,<sup>18</sup> of the total population aged 5 and over registered in the census 6,245 persons were classified as literate, 509 were classified as

<sup>17</sup> Civil society organizations have indicated that indigenous communities feel that both schools and families fail to teach indigenous culture and history.

<sup>18</sup> A school for children aged between 3 and 5 has been opened in one of the communities of Afro-descendants to ensure that children of African descent no longer suffer discrimination. According to civil society organizations, the school was built with the support of the Vice-President of the Republic and the Governor of Central Department has also shown a readiness to contribute to new building initiatives in the community.

illiterate and 98 were unreported. The breakdown of the total population of 6,600 Afro-descendants registered in the census by level of education and type of training was as follows:

- (a) Special education: 18;
  - (b) Initial education: 126;
  - (c) Primary education: 4,556;
  - (d) Humanities baccalaureate: 1,206;
  - (e) Business diploma: 52;
  - (f) Science diploma: 231;
  - (g) Baccalaureate for adults: 16;
  - (h) Higher technical diploma: 20;
  - (i) Teacher training: 75;
  - (j) Military/police training: 66;
  - (k) Unreported: 163.
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