



**Joint NGOs contribution  
to the third Universal Periodic Review (UPR) of Paraguay  
by the UN Human Rights Council**

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This report, focusing specifically on environmental issues, sustainable development and access to basic needs and their linkages with human rights, is presented on behalf of the following NGOs:

- FAPI (Federación por la Autodeterminación de los Pueblos Indígenas)
- WWF – Paraguay (World Wildlife Fund – Paraguay Office Country)
- Asociación Guyra Paraguay
- IDEA (Instituto de Derecho y Economía Ambiental)
- Fundación Plurales
- UCINY (Unión de Comunidades Indígenas de la Nación Yshir)
- Altervida
- Grupo SUNU
- Organización Mujeres Indígenas Guaraní (OMIG)
- Organización de Mujeres Artesanas Ayoreas 7 clanes
- OMMI (Organización de Mujeres Mismo Indígena)
- PCI Pro Comunidades Indígenas
- ROAM (Red de Organizaciones Ambientalistas del Paraguay)
- Asociación Eco- Pantanal
- CDPI - Consejo de Pueblos Indígenas

This report was prepared with the support of RICHWE (Climate Change, Health, Water and Environmental Reporting Initiative) after an inclusive process, which consisted of a workshop and consultation of a large group of NGOs and local leaders from Paraguay.

Many of these NGOs have previously has been in contact with the United Nations through their work in protecting the environment health, and sustainable development, specifically in relation to human rights.

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## 1. INTRODUCTION and previous relevant UPR recommendations

The undersigning NGOs welcome the opportunity given to them by the Office of the United Nations High Commissioner for Human Rights to submit a stakeholder report for the third Universal Periodic Review (UPR) of the Republic of Paraguay.

Because of our statutory objectives and missions, we focus on environmental issues and sustainable development in relation to human rights.

We express our sincere hope that the conclusions of this report will foster an open and constructive dialogue, leading to an early resolution of the shortcomings identified and greater respect, protection and enforcement of human rights by all actors in Paraguay in favor of the present and future generations.

### Previous UPR recommendations

Paraguay received several recommendations linked to environmental, indigenous and sustainable development issues in the country in its previous UPR cycle in 2016. Please see ANNEX A to this report for an overview.

All of the recommendations, 102.26 (by Haiti), 102.27 (Peru), 102.118 and 102.178 (Australia), 102.133 (Norway), 102.177 and 102.182 (Lebanon), 102.179 (Canada), 102.181 (Germany) and 102.186 (Egypt), were accepted and for all of these recommendations, but 102.177, Paraguay stated that they are “already implemented or in the process of implementation”.

Unfortunately, as this report will show, these recommendations were not implemented. Even if, certain laws and mechanisms have been put in place, the lack of implementation, control and enforcement results in human and environmental rights still not being realised. We call on the countries who made these recommendations to demand correct follow up and therefore we thank them in advance.

## 2. SUSTAINABLE DEVELOPMENT AND HUMAN RIGHTS IN PARAGUAY

Paraguay has a 2030 National Development Plan (NDP)<sup>1</sup>, regulated by decree No. 2.794 in 2014. This Plan aims to address the country's major challenges and articulate the government's long-term strategic development vision. Its cross-cutting themes include Territorial Planning and Environmental Sustainability. But what about the practice? What is happening 'in the field'? What do people from Paraguay experience daily life?

According to the OECD's 2018 Review of Paraguay's Public Governance of Paraguay, the country's economy is continuously moving on demand for agricultural products, as Paraguay is one of the world's leading producers and exporters of soybeans, maize, wheat and beef. The economic growth benefits a few companies and people, while a great social and environmental price is paid for it, by the environment, people and future generations. This extractive economic model raises inequality in the country. Climate change is also impacting people's lives and health. These impacts are

<sup>1</sup> “Construyendo el Paraguay del 2030” Adopted by presidential Decree No. 2794 in 2014: Government of Paraguay (2014), Plan Nacional de Desarrollo Paraguay 2030, [www.stp.gov.py/pnd/wp-content/uploads/2014/12/pnd2030.pdf](http://www.stp.gov.py/pnd/wp-content/uploads/2014/12/pnd2030.pdf)

*Inter-American Court of Human Rights recognizes the right to a healthy environment as an autonomous right, interrelated to other human rights, in particular the right to life and personal integrity, as well as a number of other rights, including health.*

amplified, precisely by human disturbances in nature, such as massive deforestation and forest fires.

In addition, Paraguay suffers from a major structural problem in relation to basic sanitation services. Conditions are worse for Paraguay's indigenous peoples with an estimated population of 122,467 people,<sup>2</sup> spread over 493 communities.

The human rights of the Paraguayan people are under pressure and the Government of Paraguay often neglects its positive obligations under human rights law, including protecting its people from violations caused by large corporations as well as by the government itself. Human rights conventions, constitutions and laws to enforce these rights are intended to protect effective rights, not illusory rights.

However, it is quite promising that, with the support of OHCHR and UNDP, Paraguay has set up a monitoring program linking international recommendations on human rights and the Sustainable Development Goals ("SDGs"): SIMORE Plus. This indicates an improvement in formal governance and monitoring of Sustainable Development. Paraguay now has the unique opportunity to create a strengthened state capable of leading the development of the country and achieving an inclusive and sustainable long-term strategic vision for all its inhabitants. To do this, the country needs to take action to improve its country's environmental management, its inherent linkage to human rights and sustainable development.

Paraguay, regardless of its constitutional duties and obligations under international human rights law, according to the Inter-American Court of Human Rights, is obliged to act "in accordance with the precautionary principle to protect the rights to life and personal integrity in the event of possible serious and irreversible damage to the environment, even in the absence of scientific certainty"<sup>3</sup>.

This report shows several specific concerns, but also highlights that those are all linked. The large-scale mono-culture and livestock practices are unsustainable, there is a poor application of existing regulations and indigenous territories and their way of living are not respected. We also detect weak knowledge of legal frameworks, which causes a lack of implementation of existing laws and a low rate of prosecution of environmental crimes, as well as lack of access and effective realization of justice. All this is leading to the acceleration of specific issues with a negative impact on the human rights of citizens of Paraguay.

*"Everyone has the right to live in a healthy and ecologically balanced environment"*

Art. 7. National Constitution

<sup>2</sup> DGEEC (Directorate-General for Surveys, Statistics and Census). Top Results Permanent Household Survey 2016-2017. Indigenous Population. [https://www.dgeec.gov.py/Publicaciones/Biblioteca/eph2016-17/PEPH\\_2016%20-2017.pdf](https://www.dgeec.gov.py/Publicaciones/Biblioteca/eph2016-17/PEPH_2016%20-2017.pdf)

<sup>3</sup> The Inter-American Court of Human Rights (IACtHR) in 2017 confirmed this in Advisory opinion OC-23/17 of November 15, 2017 see: [http://www.corteidh.or.cr/docs/opiniones/resumen\\_seriea\\_23\\_eng.pdf](http://www.corteidh.or.cr/docs/opiniones/resumen_seriea_23_eng.pdf)

The right to a healthy environment is recognized by Paraguay under the Inter-American Human Rights System through Article 11 of the San Salvador Protocol.

## 2.1 FOREST ISSUES

### 2.1.1 Deforestation

The country has one of the highest rates of deforestation in the world. Around seven million hectares of Atlantic Forest in the Eastern Region were lost, mainly for large-scale production of grains. Large-scale wood exploitation was a consequence of this agricultural expansion. In the Chaco, the second largest Latin America's forests, which hosts thousands of plant types and hundreds of species of birds, mammals and reptiles, deforestation increases at an alarming rate.

*"Ecological offences should be defined and punished by law. Any damage to the environment will result in [import] the obligation to restore [recompose] and compensate."*

Article. 8. National Constitution

Deforestation causes the systematic violation of various human rights, for example, the rights to food, equality before the law, cultural integrity, self-determination and indigenous (land) rights.

Paraguay has a particular reality concerning land use change. On the one hand, Law N° 2.524, known as "Zero Deforestation Law", was adopted in 2004 for the Eastern Region or the Atlantic forest, has been expanded five times and due in December 2020 (Law No. 6.256/18). This Act prohibits the transformation and conversion of forest-covered areas. On the other hand, in the Western Region, also known as Chaco, regulations are in place that do allow land use changes, but under the requirement to maintain between 25 and 50% of the property as forest reserves, windbreaker curtains and swathes of riverine forests (50% only within the limits of the Biosphere Reserve, which has been declared by Decree N° 13.202/01).



The context and causes of deforestation in both regions are different:

**The western region or Chaco** has, according to unofficial estimates, one of the highest current deforestation rates in the world, which contributes to the country-level loss of between 232,000 and 286,700 hectares of forest annually, with up to 2,000 hectares lost daily<sup>4</sup>. Illegal logging and land expansion for livestock, along with uncontrolled fires, are the main reasons for the recent increase in deforestation in the region, including the introduction of transgenic soybeans in areas where Ayoreo families still live in voluntary isolation. An actual Earthsight investigation<sup>5</sup> has linked illegal deforestation of Ayoreo territory to some of Europe's largest autoproducers.

*The Totobiegosode Ayoreos constitute the last indigenous group of the Paraguayan Chaco that continues to live exclusively on its traditional forms of hunting and gathering without contact with the surrounding society. The 2001 resolution of the General Office of Cultural Property declared the territories inhabited by the Totobiegosode Ayoreos as their natural and cultural territory. The area is located in the department of Alto Paraguay of the Paraguayan Chaco and covers 550,000 hectares. However, despite this resolution there are repeated incursions by private third parties, from illegal logging to forest fires, and the community of Totobiegosode is forced to flee to remain in voluntary isolation. See*

- *In 2012, OHCHR published the "Guidelines for the Protection of Indigenous Peoples in Voluntary Isolation and in initial contact of the Amazon region, the Gran Chaco and eastern Paraguay". The Guidelines governed by established principles of International Covenants and Human Rights Treaties reconfirm the right to self-determination and lack of contact, respect for the right to life and physical and cultural integrity, the right to respect traditionally occupied lands, territories and natural resources used by indigenous peoples in voluntary isolation and in initial contact.*
- *ILO Convention 169 on Indigenous and Tribal Peoples in Independent Countries in Article 14 recognizes the rights of indigenous peoples "owned and possessed... on the lands they traditionally occupy..." and states that "measures shall be taken where appropriate cases to safeguard the right of the peoples concerned to use lands that are not exclusively occupied by them, but to which they have traditionally had access for their subsistence and traditional activities". In this regard, particular attention should be paid to the situation of nomadic peoples and itinerant farmers." In addition, it notes the Duty of the State to "identify the lands traditionally occupied by the peoples concerned and ensure the effective protection of their property and possession rights".*
- *According to the IACHR, the principle of non-contact is the expression of the right to self-determination of indigenous peoples in voluntary isolation.*

**In the Eastern Region**, after putting in force the Zero Deforestation Law, the rate of deforestation ranged from 80,000 to 100,000 hectares per year, according to data from the National Forestry Institute. Currently, around 10,000 to 12,000 hectares are lost per year, even under the regime of this regulation, within which only 13% of the original forests of the Atlantic Forest are kept. A

<sup>4</sup> Securing Forests, Securing Rights. Report of the International Workshop on Deforestation and the Rights of Forest Peoples. p.91. Available at : <https://www.forestpeoples.org/en/topics/rights-land-natural-resources/publication/2014/securing-forests-securing-rights-report-intern>.

<sup>5</sup> <https://www.earthsight.org.uk/grandtheftchaco-en#group-6-Conclusion-The-urgent-need-for-regulation-NZCOf4ax>

journalistic investigation confirms that about 2.350 hectares were deforested from 2004 to 2019 in four protected areas of the region for the illegal plantations of marihuana.

However, in the departments that converge those protected areas, no convictions are registered for deforestation, despite that such practice constitute environmental crimes.

Indigenous and rural communities have been and continue to be displaced by pressure from the agricultural expansion (mainly for soybeans) and the last remnants of forest are being affected by uncontrolled forest fires and illegal plantations, which also carries many risks to the communities that inhabit the area. However, more aggravating for deforestation in the Eastern Region is the low implementation of national regulations and the weak control of environmental legislation.

The **indigenous communities** of Paraguay historically face numerous land-linked conflicts such as displacement due to territorial appropriation and logging of forests that lead to serious violations of their human rights, which generate anguish: the loss of forests and biodiversity affect the proper food supply of the populations. According to the National Constitution (Arts. 63 to 68), indigenous communities have rights to their lands, both as communal property and to preserve their ethnic diversity. The participation of peoples in any decision concerning the use of their territory, including cases of deforestation for economic purposes, should be ensured. Articles 3 and 4 of the United Nations Declaration on Indigenous Peoples and Article 1 of the ICCPR recognize the right to self-determination. This entails the indigenous people of Paraguay must freely determine their political status and freely pursue their economic, social and cultural development, and the government must ensure effective mechanisms to correct what is happening nowadays. However, Paraguay has not translated its constitutional obligations into the legislative and administrative measures necessary to ensure the enjoyment of these rights.

There are also concerns about the situation in **protected (wilderness) areas**. In addition to the reasons mentioned above, deforestation has increased by the lack of definition on land tenure and absence of land titling. The latter is seen for example in the Rio Negro National Park Reserve and the San Rafael National Park Reserve.

Deforestation trends show that the level **of law enforcement** is low. The reasons for this weak implementation lie in the lack of political will, capacity and budget. In addition, Territorial Planning is still incipient and null in several parts of the country. The environmental laws are not effectively followed, state agencies do not enforce them and people who complain or invoke their rights are being threatened, so there is fear of speaking or complying with these crucial issues.

### 2.1.2 Wildfires

In 2019, approximately 900,000 hectares<sup>6</sup> were affected by uncontrolled forest fires throughout the country, harming not only ecosystems of global importance such as the Cerrado, Chaco, Pantanal

<sup>6</sup> Approximate data using the information layer of the heat bulbs recorded by the VIIRS and MODIS satellite from 01 August to 08 October 2019 (corroborated with the SENTINEL and MODIS satellite image of the most updated dates). Source: GIS / WWF-Paraguay Laboratory.

and Atlantic Forest, but also the means and quality of life of many people, including Ayoreo families who had to migrate south to access foods that are part of their traditional diet.

Many of the fires are initiated by inadequate fire management in the burning of grasslands for livestock, or are provoked in order to



reduce the extent of forests or change of land use<sup>7</sup>. In the affected protected areas of the Eastern Region, there was a high correlation of heat bulbs with the presence of illegal crops. Extreme droughts, caused by climate change, make the situation worse. In 2020, a record of hot spots has been detected<sup>8</sup> and the government has declared this environmental crisis a National Emergency.

The government's inaction against large fires has caused a greater negative impact. According to Law No. 4.014/10 on Forest Fire Prevention and Control, municipalities in coordination with the "Paraguayan Fire Prevention, Monitoring and Control Network", a unit created by this regulation, are now constituted in an Implementing Authority. However, during recent events the lack of resources to prevent and combat fires has been demonstrated, as well as the lack of both financial and technical capacity to comply with the Act.

Although Paraguay should, on the basis of its constitution, protect and restore burned areas, it lacks a "National Guide" or any other ecological recovery plan. Paraguay's ecosystems and ecoregions should be recognized as a government priority, as natural resources provide inalienable basic human rights, such as access to water and food. Fires affect the dynamics of generating these resources.

## 2.2 AGROBUSINESSES

As mentioned above, Paraguay's economy relies heavily on large-scale monoculture agriculture, which provides short-term economic wealth for a very small group with long term environmental damage.

The Agro-industry has an impact on both the environment as on the populations and their health. The State should ensure the protection of its population against human rights violations by companies. A major concern in the country is the lack of recognition and fulfilment of its positive obligations in relation to human rights linked to environmental and health issues, such fumigation of soybean fields: an impressively sad example.

<sup>7</sup> Guyra Paraguay. <https://guyra.org.py/situacion-de-incendios-en-el-pais/>

<sup>8</sup> Joint monitoring and heat source report <https://www.wwf.org.py/informate/publicaciones/?uNewsID=352996>

## 2.2.1 Fumigation of soybeans and their impacts

Paraguay is the world's sixth largest producer of soybeans and the fourth largest exporter. Soybean production has increased so much that it now occupies 80% of agricultural land. Many of these lands were previously inhabited by small farmers and indigenous peoples, who were displaced, many of whom were forced to sell or lease their property.

However, some of these lands remain inhabited by rural and indigenous communities that are victims of serious health damage due to persistent exposure to pesticides, which have a negative impact on them, their children and future generations. A recent scientific study revealed DNA damage of Paraguayan children exposed to soy agrochemical spraying<sup>9</sup>. Such damaged cells can be repaired, but they can also mutate and cause diseases that affect neurological development, that are linked to Parkinson's disease, diabetes and even cancer.

The local peoples see that children and women have shown new diseases and disorders after the fumigations. For example, numerous miscarriages and babies that are already born with asthma or malformations.

### ***The Human Rights Committee (HRC) corrects Paraguay for human rights violations (environmental):***

*A concrete and striking example is the 2019 HRC ruling on Paraguay in relation to illegal fumigation with agrochemicals by agro-industrial farms. Producers of agricultural crops with extensive areas where they are intensely sprayed with agrochemicals dispersed by tractor or airplane have systematically violated national environmental laws. They have a serious impact on the living conditions, livelihoods and health of many people.*

*Indiscriminate use of agrochemicals causes contamination of water and aquifer resources, making it impossible for people to use streams and other water sources. Fumigation has caused dead fish in the water.*

*In January 2011, it became public that Mr. Portillo Cáceres a 26-year-old farmer died due to the exhibition of agrochemical. Paraguay does not meet its positive obligations in terms of authorization and monitoring of the application of agrochemical as stipulated in Law 3742/09 establishing the technical specifications to be followed for fumigations.*

*One of the most troubling arguments put forward by Paraguay's defense in this case was that the complaint was inadmissible since the International Convention on Civil and Political Rights (ICCPR) does not recognize environmental rights. However, the Committee noted that Paraguay claimed that the perpetrators were committing violations of the right to life, physical integrity, privacy, family life and an effective remedy, arguing that the State party had failed to fulfill its positive obligation to protect those rights.*

*The Committee considered that the case was admissible, ruled that there had been a violation of several human rights and that Paraguay has an obligation to take measures to prevent similar violations in the future. Measures should also include environmental issues related to life and health.*

<sup>9</sup> "DNA damage induced by exposure to pesticides in children of rural areas in Paraguay.", Indian Journal of Medical Research, Sept. 2019, see: <https://www.ncbi.nlm.nih.gov/pubmed/31719300>

### 2.2.2 Businesses and human rights

In many human rights issues, non-state actors such as businesses play a crucial role in environmental degradation; from water, soil and air pollution to land-related issues, illegal logging and forest burning. In fact, Paraguayan and international companies operating in the country are responsible for violating the human rights associated with them. This report shows that the State of Paraguay does not sanction or limit such enterprises that commit social and environmental crimes. Legal systems should effectively expand and guarantee criminal laws, existing for businesses and entrepreneurs, for crimes directly relevant to the protection of human rights, namely environmental crimes such as deforestation, land-related issues, pollution or violent crimes that may threaten the rights of all (indigenous) peoples and peoples in Paraguay.

Paraguay does not have an Action Plan on Business and Human Rights. Indeed, the United Nations Guiding Principles on Business and Human Rights (UNGPs) provide a framework designed to support the protection and respect of human rights in a business context. It focuses on the need to fill the gaps in the legislation and administrative practice that allow business-related human rights abuses.

The State continues to have the primary duty to protect human rights, which means that Paraguay must not take or allow actions that infringe upon the enjoyment of indigenous' human rights, such as the forced relocation or destruction of their (ancestral) lands and forests. It further means that Paraguay, in the context of dangerous activities, has an obligation to set in place regulations geared to the specifics of the activity in question, particularly with regard to the level of risk potentially involved and must govern the licensing, setting-up, operation, security and supervision of the activity and must make it compulsory for all those concerned to take practical measures to ensure the effective protection of the citizens whose lives might be endangered by the inherent risks.

However, the second pillar of the UNGPs concerns the corporate responsibility to respect human rights: Companies can avoid human rights violations by conducting a human rights due diligence assessment, as well explained in principles 17-21 of the UNGPs. Hence both Paraguay and the companies active in Paraguay have a duty of due diligence to respect human rights in order to avoid and to address the negative impacts of business operations on indigenous' human rights.

Paraguay therefore should ensure that its legal systems extend and effectively warrants existing criminal laws to business actors for crimes directly relevant to the protection of human rights, namely environmental crimes like deforestation, land issues, pollution or violent crimes that may threaten the rights of all people and (indigenous) peoples in Paraguay. Companies operating in Paraguay should analyze the peculiar needs of the people of Paraguay, including the indigenous, such as provide consideration to indigenous peoples' customary rights, methods of ownership and land management and decision-making methods and avoid and address negative impacts of their business operations on human rights in Paraguay.

### 2.2.3 Property and land issues

#### Access to ancestral natural resources. "Use of indigenous and rural territories for agro-industrial activities"

During the Paraguayan dictatorship of Alfredo Stroessner (1954-1989), the state granted rural lands to entrepreneurs in exchange for favors. As a result of this treatment there are currently 300,000 families without land. In addition, in recent decades after this dictatorship, large landowners continue to grab land (mostly for the production of soybeans and livestock on a large scale, extensive and therefore unsustainable), directly and indirectly forcing indigenous and rural communities to move or live in servitude and forced labour. The combination of this problem together with other factors, increase deforestation, pollution of water resources and their effects on human health.

Issues relating to land ownership and tenure should be addressed with priority in order to address the problems developed in this report in a sustainable manner.

## 2.3 UNIVERSAL BASIC RIGHTS LINKED TO THE ENVIRONMENT

### 2.3.1 Water. Quality and access, use and pollution

According to the 2008 National Survey of Indigenous Households, nearly 38% of the families get their water from reservoirs and rivers, 21% via wells and 34% via groundwater.

The Survey 2017<sup>10</sup> confirms only 57% of the people have access to improved water<sup>11</sup>. For example, the Yshir indigenous communities drink their water directly from the Paraguay River, which is often polluted by livestock waste, pollution of upstream cities, industrial activities, including fumigation, the transit of barges and the discharge of waste into rivers. Due to the lack of a treatment and sewer system the river is also contaminated by human feces, urine and waste.



*"Environmental degradation, climate change and unsustainable development constitute some of the most pressing and serious threats to the ability of present and future generations to enjoy the right to life."*

General Comment No. 36 on the Right to Life

<sup>10</sup> [https://www.dgeec.gov.py/Publicaciones/Biblioteca/eph2016-17/PEPH\\_2016%20-2017.pdf](https://www.dgeec.gov.py/Publicaciones/Biblioteca/eph2016-17/PEPH_2016%20-2017.pdf)

<sup>11</sup> Includes ESSAP+ Senasa or Sanitation Board + Community Network + Network or private provider + artesian well + 0.2\* well with pump + 0.2\* pumpless well + Rainwater

Despite measures taken by Secretariat National Emergency to address droughts and scarcity (since Paraguay's population and agricultural enterprises often compete for the same water) in dry seasons, the responsibility for the distribution of drinking water rests with the governments, which do not often reach remote communities to offer solutions. While lack of water treatment is a widespread problem in the country, in the Chaco Central the main problem is the access and the collection of water. Indigenous peoples - often women - spend endless hours collecting water over great distances, which exposes them to numerous dangers. They may be at risk of physical or sexual assault or conflicts at water access points. Lack of clean water causes serious health problems for indigenous peoples, especially for children as the most vulnerable. Moreover, access to water is a basic necessity for combatting COVID-19.

*The right to water has been recognized in Paraguay in two ways:*

1. *As a right derived from the right to health (Art. 11 and 12 ICESCR) also through the case-law of the IACHR: in the case of the Sawhoyamaya Indigenous Community against Paraguay, the Inter-American Court of Human Rights confirmed that right to water derives from the right to life. Because indigenous peoples are in special vulnerable conditions, and often at real and immediate risk to life, the IACHR states that Paraguay must provide them with basic services, including access to safe drinking water, in order to guarantee their right to a dignified life, as enshrined in article 4 of the American Convention. This judgment applies to all peoples and persons in Paraguay.*
2. *As an independent right: Paraguay has recognized the human right to water through the enactment of a new National Water Law regulating the management of water resources. According to Law No. 3239/2007, "Access to water for the satisfaction of basic needs is a human right and must be guaranteed by the State, in adequate quantity and quality". This National Water Resources Policy identifies access to safe drinking water for all inhabitants as a basic objective to address and commits Paraguay to enforce ratified treaties and agreements (particularly those relating to human rights), during the management of water resources within the national territory.*

### 2.3.2 Access to health

Articles 4, 6, 7, 68, 69 and 70 of Paraguay's Constitution recognize the right to health in relation to the rights to life, physical and mental integrity and quality of life. Article 68 establishes the State's responsibility to protect and promote health as a fundamental right. The right to health and the right to life are protected by regional and international treaties, which Paraguay has ratified almost all of them. Article 12 of the International Covenant on Economic, Social and Cultural Rights recognizes "the right of every person to the enjoyment of the highest possible level of physical and mental health". The same article stipulates the special obligation of the state to provide those who do not have sufficient means and prevents any discrimination.

*"The water we get is not suitable for drinking, but we drink it anyway. We have no choice; it's not clean water, but it's water."*

We currently find more than 90% of health facilities in the Eastern Region and urban areas. The lack of essential services in disadvantaged neighborhoods and in the country's

rural and most remote areas disproportionately affects groups living in poverty and indigenous communities. The Special Rapporteur visited Paraguay in October 2015 and observed serious disparities in access to health care and discrimination against some sectors of the population. These disparities mainly relate to obstacles such as the availability, accessibility, acceptability and quality of health care. Articles 46 to 48 of the Constitution indicate the obligation of the State to eliminate all factors that contribute to discrimination.

Law N°. 469/2015 on Indigenous health was developed in consultation with indigenous peoples. The government must implement this Law, allocating the appropriate human and financial resources. According to the National Survey of Indigenous Households of 2017, 85% of the indigenous population does not have any type of health insurance. By September 2020, 12 villages were affected by COVID-19, 168 confirmed cases and 18 deaths. The life expectancy of the indigenous people is 37 years, for the rest of the country is 68 years.

The State must provide functioning public health and health care facilities, ensuring that they are available in sufficient quantity throughout its territory. In addition, health facilities, goods and services must be accessible. General Comment No. 14 identifies overlapping dimensions related to accessibility. Among them, the State must address non-discrimination and physical accessibility.

Another important issue recognized through our CSO consultation includes the lack of prioritization of state resources in health services in the inner districts of the country, lack of roads and hospital infrastructure, resulting in late medical support, particularly for indigenous Chaco communities, as well as the few mental health services for children and young people.

Last but not least, the Convention on the Rights of the Child, also ratified by Paraguay, contains provisions that explicitly and implicitly relate to environmental protection. The Convention protects a healthy environment in relation to the rights to life, survival and development; food, water, and health; an adequate standard of living; and play and culture (Articles 6, 24, 27 and 31).

In recognition of the implicit and explicit linkages between the Convention on the Rights of the Child and environmental protection, the Committee on the Rights of the Child has addressed environmental issues in numerous occasions. The Special Rapporteur on Human Rights and the Environment has examined the Committee's work relating to a healthy environment in detail, and thus his report provides material evidence for the Committee's recognition of the right of the child to a healthy environment as implied in the Convention<sup>12</sup>.

<sup>12</sup> John Knox, Mapping Human Rights Obligations relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment: Individual Report on the United Nations Convention on the Rights of the Child (2014).

### 3. RECOMMENDATIONS

Paraguay, by enforcement of its Constitution and by ratifying and supporting a number of international treaties and declarations, is committed to using its power to protect human rights. When a public authority knows that human rights violations have occurred and still occur and does not take appropriate measures to prevent them, it shares responsibility for such violations with the perpetrators.

In this context, we call on the Working Group and the Human Rights Council to recommend to the Paraguayan authorities that:

#### **In general, about nature and the environment**

- Ratify and implement the Regional Agreement (Escazú) on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. It is the first regional environmental agreement to contain specific provisions on human rights defenders in environmental matters, aims to avoid environmental violence and deals with remedies when wrong is done.
- Enforce the decisions of the Inter-American Court and the Human Rights Committee, as well as the recommendations of the United Nations Special Rapporteurs on the rights of indigenous peoples and land and environmental issues.
- Continue to improve SIMORE PLUS cooperation and database to improve the linkage of human rights recommendations with the SDGs to prevent future human (environmental) rights violations.
- Ensure the significant participation of indigenous and peasant communities in the design and implementation of political and development decisions with repercussions on the territory.
- Ensure effective reporting, monitoring and control mechanisms for violations of environmental laws.
- Effectively prosecute and enforce convictions to those who violate environmental laws and provide adequate compensation to victims of environmental and human rights crimes. In addition, compensation and recompositing of natural damage must be made.
- To have a National Plan of Action (NAP) on Business and Human Rights based on the UN Guiding Principles on Business and Human Rights that were approved by consensus by the UN HUMAN Council in 2011.

#### **Indigenous peoples**

- Ensure an effective legal mechanism for the claim, registration and legal qualification of ancestral indigenous lands.
- Guarantee the rights of indigenous peoples and local forest-dependent peoples by ensuring the maintenance of their natural and traditional resources and ecosystem services.
- Ensure due compliance with consultation, free, prior and informed to indigenous communities, in projects that directly or indirectly affect their territories and/or ways of life.
- Establish effective mechanisms to prevent third-party access to territories with the presence of indigenous peoples in voluntary isolation.

- Respond to the demands of several indigenous peoples calling for historical redress for human rights violations suffered as a result of the construction of the country's Binational Hydroelectric Plants by considering the provisions of Article 28 of the United Nations Declaration on the Rights of Indigenous Peoples.<sup>13</sup>
- Take effective measures for the protection of indigenous peoples' rights, including on safeguarding their tradition and way of living, including for future generations.

### **Forests and Territorial Management**

- Define risk reduction and disaster preparedness strategies related to climate change (Paris Agreement) and biodiversity loss, including the promotion of ecosystem restoration of affected areas.
- Facilitate coordination of cross-border actions in shared ecoregions in the event of emergencies and/or regional natural disasters.
- Inclusion of an indigenous component in Fire Law No. 4.014/10 to ensure the protection of their territories and the formation of brigades in communities.
- Prohibit the definitive transformation of fire-affected areas and develop a National Plan for the Ecological Recovery of Affected Areas, mainly in Ancestral Indigenous Territories.
- Extend indefinitely the Zero Deforestation Act in the Eastern Region.
- Coordinate between the different states of government, the menu, registration and qualification of protected areas under the public domain.

### **Agroindustries**

- Align the national legal framework on the use and application of agrochemicals to WHO and human rights standards.
- Ensure coordination and work-division between relevant institutions, e.g. MADES (Ministry of Environment and Sustainable Development), INFONA (National Forest Institute), SENAVE (National Plant and Seed Quality and Health Service) and the Ministry of Public Health and Social Welfare.
- Apply the precautionary principle and prevention of risks in the production, sale and application of agrochemicals where their safety for humans and the environment has not been demonstrated.
- Ensure compliance with specifications on buffer zones in the application of agrochemicals.

### **Access to water and health**

- Strengthen a social policy to achieve the SDGs and offer basic services to all citizens, with a generational gender approach and peasant and indigenous communities.
- Ensure availability and accessibility to safe drinking water and quality health for all citizens, without discrimination.
- Promote the effective implementation of the Indigenous Health Act throughout the country for the benefit of Peoples and Communities.

<sup>13</sup> Binational Yacyreta Hydroelectric Company (Paraguay – Argentina), impacting the lives of the Mbya Guaraní. Itaipu Binational Hydroelectric Company (Paraguay-Brazil), impacting the lives of the Avá Guaraní. In both cases 'cross-border' indigenous peoples.

## ANNEX A Relevant previous UPR recommendations and Paraguay's response:

From the previous UPR cycle (UPR 2<sup>nd</sup> cycle, Session 24) in 2016, Paraguay received several recommendations linked to environmental, indigenous and sustainable development issues in the country. These were the main ones:

**A – 102.26** Strengthen the National Institute for Indigenous Affairs (El Instituto Paraguayo del Indígena, INDI) at the legislative, structural and functional levels (**Haiti**);

**A – 102.27** Conclude the process to create the National Secretariat for Indigenous Peoples (**Peru**);

**A – 102.118** Investigate and prosecute allegations of abusive practices by security and law enforcement forces targeted at indigenous people (**Australia**);

**A – 102.133** Adopt measures to guarantee the right to life, safety of human rights defenders and journalists, including for those defending indigenous communities from land grabbing (**Norway**);

**A – 102.177** Put in place a legal mechanism that enables indigenous communities from protecting and claiming their lands (**Lebanon**);

**A - 102.178** Address extant indigenous land claims, and ensure an end to discrimination against rural and indigenous communities (**Australia**);

**A – 102.179** Implement the rulings of the Inter-American Court of Human Rights regarding indigenous land claims by the YakyeAxa and Sawhoyamaya Indigenous communities promptly and effectively (**Canada**);

**A – 102.181** Develop a comprehensive and forgery-proof land registry to enable indigenous communities to hold legal titles to their ancestral land, as previously recommended (**Germany**);

**A – 102.182** Protect the rights of the indigenous communities in terms of exploiting and using their lands (**Lebanon**);

**A – 102.186** Ensure the implementation of environmental standards to protect the environment (**Egypt**)

According to the responses to the recommendations by Paraguay on 1 september 2016 (see :

<https://www.upr-info.org/en/review/Paraguay/Session-24---January-2016/Responses-to-Recommendations#top>)

- all of the recommendations above are accepted; and
- all of these recommendations, but 102.177 are “already implemented or in the process of implementation”.