

Annex I: Table of Recommendations

No.	Context and reference in the Final Report	Recommendation	Suggested change in legal framework	Responsible Institution	Relevant International and/or Regional Principal or Commitment
	LEGAL FRAMEWORK				
1	To ensure consistency and legal certainty <i>Final Report</i> <i>Pages 9-10</i>	Consideration should be given to the draft law amending the electoral laws submitted by the TSJE to Congress in 2014 thus overcoming the ambiguity and inconsistency of some election related legal provisions.	Amendment of the electoral laws in accordance with constitutional provisions	Congress and TSJE	UN Human Rights Council Resolution 19/36 (A/HRC/RES/19/36, 2012) p.16 [The Human Rights Council] “ <i>calls upon States to make continues efforts to strengthen the rule of law and promote democracy by: ...c) Ensuring that a sufficient degree of legal certainty and predictability is provided in the application of the law</i> ”

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	LEGAL FRAMEWORK				
2	Respect for the independence of the judiciary Final Report Page 10	Review constitutional provisions that undermine the independence of the judiciary. This includes revisiting the ability of Congress to impeach Supreme Court judges, Public Prosecutor, and TSJE ministers.	Constitutional review	Congress	ICCPR, United Nations Human Rights Commission, General Comment 32, p. 19: “<i>The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. States should take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them. A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.</i>” ICCPR, General Comment No. 13, p. 3: “<i>States parties should specify the relevant constitutional and legislative texts which provide for the establishment of the courts and ensure that they are independent, impartial and competent, in particular with regard to the manner in which judges are appointed, the qualifications for appointment, and the duration of their terms of office; the condition governing promotion, transfer and cessation of their functions and the actual independence of the judiciary from the executive branch and the legislative.</i>”

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	LEGAL FRAMEWORK				
3	Independence of institutions and certainty of tenure <i>Final Report</i> Page 10	Conditions and procedures for impeachment of Supreme Court judges, Public Prosecutor, and TSJE ministers should be clearly regulated so as to allow for security of tenure based on grounds that ensure their independence and respect for due process.	Approval of a specific law and procedures for impeachment	Congress	ICCPR, United Nations Human Rights Commission, General Comment 32, p. 19: “<i>The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception. The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. States should take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them. A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal. It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.</i>” ICCPR, General Comment No. 13, p. 3 “<i>States parties should specify the relevant constitutional and legislative texts which provide for the establishment of the courts and ensure that they are independent, impartial and competent, in particular with regard to the manner in which judges are appointed, the qualifications for appointment, and the duration of their terms of office; the condition governing promotion, transfer and cessation of their functions and the actual independence of the judiciary from the executive branch and the legislative.</i>”

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LEGAL FRAMEWORK					
4	Legal certainty and equality before the law Final Report Page 19	Ensure that effects of rulings declaring the unconstitutionality of legal provisions are applicable to all citizens and legal persons (<i>erga omnes</i>) and not only to the parties submitting the case (<i>inter partes</i>), thereby guaranteeing equality before the law and the invalidity of the provision ruled to be unconstitutional.	Constitutional review	Congress	UN Human Rights Council Resolution 19/36 (A/HRC/RES/19/36, 2012) p.16 [The Human Rights Council] “calls upon States to make continues efforts to strengthen the rule of law and promote democracy by: ...c) Ensuring that a sufficient degree of legal certainty and predictability is provided in the application of the law”
5	To promote the right and the opportunity to participate in public affairs Final Report Page 13	In line with international principles agreed to by Paraguay on democratic elections, the right to participate in elections should not be taken away from deaf-mutes, persons in custody, conscripted soldiers and students from police and military academies.	Amendment of the Electoral Law in line with the Constitution	Congress	ICCPR, United Nations Human Rights Commission, General Comment 25: “States must take effective measures to ensure that all persons entitled to vote are able to exercise that right.” p. 14: “Persons who are deprived of liberty but who have not been convicted should not be excluded from exercising the right to vote.” American Convention of Human Rights, article 23: “Every citizen shall enjoy the following rights and opportunities: b) to vote and to be elected in genuine periodic elections, which shall be by universal and equal suffrage and by secret ballot that guarantees the free expression of the will of the voters.”
6	To promote the right of political representation and equal participation of women in public affairs Final Report Page 20	To promote the equal participation of women in political and public life, it is important to approve the current draft law on Democratic Parity establishing 50 per cent representation for women on candidates’ lists and in public institutions.	Approval of the draft law on Democratic Parity	Congress	Art. 3 ICCPR “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights”. Art. 4.1 CEDAW “Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination”

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LEGAL FRAMEWORK					
7	To promote the right and opportunity to participate in public affairs <i>Final Report</i> Pages 14	The candidacy of independent candidates for the office of president and governors should not be limited unreasonably by requiring candidates to be members of political parties, in line with international commitments that provide the right of persons to stand for election.			ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 15: <i>“Persons who are otherwise eligible to stand for election should not be excluded by unreasonable or discriminatory requirements.”</i>
ELECTION ADMINISTRATION					
8	To promote the independence of the election administration bodies <i>Final Report</i> Pages 11-12	An independent election administration structure under the responsibility of the TSJE would increase the level of control of the TSJE during the last phases of the electoral process, as well as its accountability. This includes the replacement of the civic boards, whose tasks could be carried out by electoral registry offices and by the election coordinators at polling centres, as well as the recruitment of independent polling station staff.	Review the law on electoral justice	Congress and TSJE	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 20. <i>“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”</i>
9	To enhance transparency, accountability and the trust of political parties in the electoral process <i>Final Report</i> Pages 11-12	Establishment of effective mechanisms for the implementation of TSJE decisions, namely through an internal disciplinary procedure in case of failure to comply with TSJE instructions by the lower levels of the electoral administration.	Review the law on electoral justice	Congress and TSJE	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 20. <i>“An independent electoral authority should be established to supervise the electoral process and to ensure that it is conducted fairly, impartially and in accordance with established laws which are compatible with the Covenant.”</i>

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ELECTION ADMINISTRATION					
10	To enhance transparency, accountability and the trust of the public and political parties in the electoral process <i>Final Report</i> <i>Page 24</i>	Establishing the possibility of recounting ballot papers in case of discrepancies in election results forms would enhance the transparency and credibility of election results.	Review the electoral laws	Congress and TSJE	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 20: <i>“The security of ballot boxes must be guaranteed and votes should be counted in the presence of the candidates or their agents. There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.”</i>
CAMPAIGN FINANCE					
11	To enhance transparency, accountability of political parties <i>Final Report</i> <i>Pages 16-17</i>	The financing of primary elections should be included in the Law on Political Finance in order to increase the level of transparency, including the source of financing, and accountability of political groups and establish expenditure limits in line with the provisions for campaign expenditure.	Review the law on political finance	Congress and TSJE	UNCAC, Art. 7 (3): <i>“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public offices and, where applicable, the funding of political parties.”</i>
12	To enhance transparency, accountability of political parties <i>Final Report</i> <i>Pages 16-17</i>	Inter-institutional mechanisms should be established in order to allow the TSJE to conduct an effective supervision and audit of campaign financing.	Review the law on political finance	Congress and TSJE	UNCAC, Art. 7 (3): <i>“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public offices and, where applicable, the funding of political parties.”</i>

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COMPLAINTS AND APPEALS					
13	To ensure an effective and timely remedy <i>Final Report</i> Page 22	The system of complaints and appeals needs to be redesigned in order to provide an effective and timely remedy for aggrieved parties. Procedures to deal with complaints at the polling stations have to be established with the possibility of an appeal to higher levels.	Review the electoral laws	Congress and judiciary	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 20: “. <i>There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.</i> ” ICCPR, Art. 2(3): “ <i>Each State Party to the present Covenant undertakes: (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy,</i> ”
14	To ensure consistency in decisions and an effective and timely remedy <i>Final Report</i> Page 22	Appeals against decisions of the TSJE should be dealt with through judicial review by an electoral bench within the Supreme Court with expedited procedures, and not through an unconstitutionality action which limits the subject matter of appeals and means that the nine judges of the Supreme Court have to decide on the matter in plenary session.	Review the electoral laws and Supreme Court rules of procedure	Congress and judiciary	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 20: “ <i>There should be independent scrutiny of the voting and counting process and access to judicial review or other equivalent process so that electors have confidence in the security of the ballot and the counting of the votes.</i> ”
15	To ensure accountability <i>Final Report</i> Pages 10 and 21-22	Effective mechanisms and procedures for sanctioning electoral offences need to be established to ensure accountability for violations of the laws.	Criminal Procedural Code	Congress and judiciary and Public Prosecutor	ICCPR, United Nations Human Rights Commission, General Comment 25, p. 11: “ <i>Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws and those laws should be strictly enforced.</i> ”
16	To ensure proportionality of penalties <i>Final Report</i> Pages 21-22	Electoral offences and their penalties should be reviewed to ensure proportionality of sentences to the crimes committed.	Review the electoral laws and Criminal Procedural Code	Congress and judiciary	ICCPR, United Nations Human Rights Commission, General Comment 31, p. 6: “ <i>States Parties must refrain from violation of the rights recognized by the Covenant, and any restrictions on any of those rights must be permissible under the relevant provisions of the Covenant. Where such restrictions are made, States must demonstrate their necessity and only take such measures as are proportionate to the pursuance of legitimate aims in order to ensure continuous and effective protection of Covenant rights.</i> ”

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MEDIA					
17	Harmonisation of national law with international principles <i>Final Report</i> Page 18	Decriminalise defamation in favour of civil laws, in line with international standards on freedom of expression and media.	Provisions in the media laws	Congress	ICCPR, United Nations Human Rights Commission, General Comment No. 34, p. 47: <i>“States parties should consider the decriminalization of defamation and, in any case, the application of the criminal law should only be countenanced in the most serious of cases and imprisonment is never an appropriate penalty.”</i>
ELECTION OBSERVATION					
18	To enhance public confidence participation of citizens in the electoral process <i>Final Report</i> Page 17	Consideration could be given to the approval of a law on national election observation containing rights and obligations of observers and promoting their participation in the electoral process.	Review the electoral laws	Congress and TSJE	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 8: <i>“Citizens also take part in the conduct of public affairs by exerting influence through public debate and dialogue with their representatives or through their capacity to organize themselves. This participation is supported by ensuring freedom of expression, assembly and association.”</i>
ELECTION DAY					
19	Increase the level playing field between contestants and decrease the influence on voters <i>Final Report</i> Page 23	Transportation of voters during election day by political parties should be forbidden. Public transport should be provided by the state.	Include a provision on electoral laws	Congress	ICCPR, United Nations Human Rights Commission, General Comment No. 25, p. 11: <i>“Any abusive interference with registration or voting as well as intimidation or coercion of voters should be prohibited by penal laws, and those laws should be strictly enforced. p. 20: States should take measures to guarantee the requirement of the secrecy of the vote during elections, including absentee voting, where such a system exists. This implies that voters should be protected from any form of coercion or compulsion to disclose how they intend to vote or how they voted, and from any unlawful or arbitrary interference with the voting process. Waiver of these rights is incompatible with article 25 of the Covenant.”</i>

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INDIGENOUS PEOPLE					
20	To promote the right and opportunity to participate in public affairs <i>Final Report</i> <i>Pages 20-21</i>	A civil registration of indigenous people would allow for an assessment of the level of participation in public life of this group and ensure that protection of rights are granted to each indigenous person.		Congress	ICCPR, Art. 26: <i>“All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”</i> ICERD/C/PRY/CO/1-3, Paraguay (2011), p. 15: <i>“The Committee recommends that the State party adopt the necessary reforms, including legal and administrative measures, to ensure that the domestic justice system has effective and sufficient means of protecting indigenous and afro-descendent communities’ rights, including effective mechanisms for lodging complaints.”</i>