



INDIGENOUS PEOPLE OF THE CHACO AND THEIR HISTORICAL ACHIEVEMENTS OVER THE PARAGUAYAN STATE

After the War of the Triple Alliance, which put Paraguay against Argentina, Brazil, and Uruguay (1864-1870), the Paraguayan State sold a large part of the Chaco without considering the indigenous communities that lived in those territories. A century later, three indigenous communities managed to get international justice to recognize that the lands were theirs. Even today, they expect the Paraguayan State to comply with what the Inter-American Court of Human Rights (IACHR) has ruled.



FACTSHEET

CASE: Defending life in the Chaco is defending the land of indigenous families

LOCATION: Pozo Colorado, Concepción, and surrounding Presidente Hayes

SUBJECT/HUMAN RIGHTS

AFFECTED: 2- Agribusiness/
2.3- Titling and Land Affairs

JUDICIAL/GOVERNMENTAL/

INTERNATIONAL STATUS OF THE

CASE: Three judgments of the IACHR Court against Paraguay, all three pending compliance.

NUMBER OF PEOPLE

AFFECTED: About 1,300

BRIEF DESCRIPTION: The State sold a large part of the Chaco to large landowners without taking into account the indigenous communities that lived there; a century later, three indigenous communities have managed to get international justice to recognize that the lands are theirs.

The Yakye Axa, Sawhoyamaxa (Enxet people), and Xákmok Kásek (Sanapaná people) communities decided to initiate legal, and political strategies to recover traditional territories and rights with the support of local organizations such as Tierraviva, and of international organizations such as the Center for Justice and International Law (CEJIL).

All three are located in the Presidente Hayes department: Sawhoyamaxa is at kilometer 375 of the Pozo Colorado-Concepción road; Yakye Axa at kilometer 350 of the same route, and Xákmok Kásek is at kilometer 340 of the Transchaco route, which connects Paraguay to Bolivia.

With all the doors of local justice closed, they turned to the IACHR, and obtained three historic verdicts. In 2005, 2006, and 2010, the IACHR condemned the Paraguayan State for having violated the rights to its traditional property, to cultural identity, and to a dignified life.

Their struggle against the invaders, businessmen of the livestock sector linked to the majority political parties, the Colorado (ANR) and Liberal (PLRA) in the three cases, prevented them living while in near destitution along the edge of the Transchaco for more than 25 years, around the international route which crosses the entire Chaco region. Today, they continue to force the State to comply with all of the judicial rulings.

The Sawhoyamaxa were evicted from their land in 1993 by Heribert Roedel, a landowner from Germany; he had been sentenced to six years in prison for falsifying documents, and for fraud against 157 German investors. Around 500 persons who had lived from gathering, agriculture, and hunting in a vast area of the Paraguayan Chaco region until then, were forced to subsist in a precarious manner near the edge of a road.

"The State has done a great deal to damage to the community, to my family; many members have even died along the way in this struggle," Leonardo González, the community leader, recalls.

In 2014, the Paraguayan Congress approved the expropriation of 14,404 hectares of land from Roedel, "a historic decision" because it was one of the largest tracts of land that has been returned to an indigenous community in the democratic era of Paraguay according to Julia Cabello Alonso, a lawyer for the local NGO Tierraviva that represents the indigenous people. Today, they are still waiting for the Government's investments to be independent in the supply of drinking water, electricity, and all-weather roadways, and for minimum planned healthcare and education services.

Another case is that of the Xákmok Kásek who since the 2010 decision of the Inter-American Court expected to reoccupy their ancestral lands, around 10,700 hectares that are divided between an agricultural company, and property of a large landowner, American Roberto Eaton, who expelled them at the beginning of the 1980s.

The Court commanded the Paraguayan State to restore all that extension to the indigenous people prior to 2014. As of March

2015, they were still awaiting restitution. The community, comprised of members of the Sanapaná and Enxet groups, could no longer hold out.

For 30 years, they have survived in a redoubt of borrowed land of unproductive soil which they could barely cultivate, or have livestock, while lacking access to basic public services such as water, electricity, education, and health.

In 2015, a large meeting including elderly, men, women, and children. During the gathering, the Xákmok Kásek recounted all of their judicial measures both national and international, and their efforts to communicate with the media and Government. It was concluded that none of this had helped their return home, so they decided to occupy the land.

They packed their meager possessions: kitchen utensils, mattresses, blankets, some clothes, and domestic animals, then walked the 18 kilometers of muddy path that separated them from exile. “We came back because this is our place; we need this land to be altogether; whatever happens, we are going to enter, and we are not going back; we want to work and cultivate,” Castorina Dermos Delarrosa, one of the community leaders, stated. Delarrosa recalls that her husband was born and raised on the Salazar cattle ranch owned by Eaton, who was in control for decades of the 7,701 hectares of land of which 10,700 belongs to the ancestral territory of the Xákmok Kásek. He said that Eaton forced men “to work from sunrise to sunset for nothing, food and nothing else, not for wages,” for years.

Milcíades González Ruiz, another member of the community, said, “The State must abide by the sentence. This land belongs to us, and in it we will achieve the development we want.”

The origin of the current violations of indigenous territorial rights in Paraguay dates back more than 150 years to the War of the Triple Alliance as Paraguay was devastated by Argentina, Brazil, and Uruguay.

Twenty years after the defeat, the Paraguayan state sold two-thirds of the Chaco which occupies the western half of the country through the London stock exchange to finance the debt imposed after the war.

The Inter-American Court recalls in its judgment that the division and the sale of these territories were carried out unbeknownst to the population that inhabited them which at that time was exclusively indigenous.

The process of colonization of Paraguayan Chaco affected all the indigenous peoples who, like the Xákmok Kásek community, saw their millenary territory disappear between fences built for the new breed of Paraguayans, and foreign landowners’ livestock.

There is a presence of up to 17 of the 20 indigenous ethnic groups that exist in Paraguay comprised of five different linguistic families in the Chaco region alone.





YAKYE AXA, THE FIRST COMMUNITY TO OBTAIN THE VERDICT, WAS THE LAST TO RECEIVE ITS LANDS.



The last community to gain access to their lands was Yakye Axa, who was paradoxically the first to obtain the settlement in their favor in the Inter-American Court of Human Rights in June 2005.

The ruling of the Inter-American Court established that the Paraguayan State must restore the lands to these nearly 300 people, mostly girls, boys, and adolescents, while guaranteeing conditions so that the community can adequately live in this territory. One of the fundamental points established was the construction of an all-weather public road to access their lands.

When they already possessed the title of their community hectares, they could not enter them due to the lack of a decent road. As in feudalism, the owners of lands surrounding their property

opted to prevent them from coming and going for decades without any government, court, or legislative intervention. Albino Gómez, a leader of the Yakye Áxa community, “Isla de Palmeras” in Enxet language recalls that the owners of two cattle ranches, including the family of former Paraguayan vice president Oscar Denis Sánchez, rejected the construction of a road through their ranches for the indigenous people to enjoy ingress to their land.

Only 15 years later, following many demands by the community, the Ministry of Public Works began the labor on construction of the road. The route consists of approximately 30 kilometers from

the Pozo Colorado-Concepción Route to the land of Yakye Axa; a first part of the road has been built crossing the Sawhoyamaxa community and the town of Enxet, so that only approximately 20 kilometers are yet to be built.

“That is why we still cannot say thanks to the authorities,” Verónica Fernández, also a Yakye Axa’s leader, said. “The fight was for too long and took great sacrifice. Though we are happy with the progress of work, we feel deeply that many elderly persons have died without being able to access their lands due to the lack of a road,” Fernández comments.

The next step in the community should be the construction of houses, internal roads, electricity, and drinking water supply; as well as the installation of health and education systems; all elements that must have

financial support of the Government as stipulated in the pronouncement. “None of these rights have yet been materialized for the indigenous people who are already moving to their acquired lands little by little,” the NGO Tierraviva explains.



Julia Cabello highlighted that the Yakye Axa community turned to the Inter-American Commission on Human Rights in 2002 in order to recover its territory, and in 2003 the case was referred to the Inter-American

Court. Accompanied by Tierraviva and CEJIL, she achieved a favorable outcome. In 2012, Paraguay acquired the lands for the community, but the 60 families of Yakye Axa were never able to access them until today due to the lack of an open and passable roadway.

This road will also benefit other nearby communities such as Payseyamexyempa'a, Kelyenmagategma, and Sawhoyamaxa, all of the Enxet people, creating a continuous indigenous territory of some 40 thousand hectares.

In 2017, the State had completed 6 repair projects of a total of 36, many years later and with all deadlines long passed. In November of that year, a delegation from the Inter-American Court visited Paraguay to verify the degree of compliance in the communities, and it also interviewed leaders, lawyers, and state authorities to reaffirm the previous commitments.

The then IACHR judge, Patricio Pazmiño who led the visit said, "These sentences cannot take longer. The people of the indigenous communities live in conditions that are very detrimental to their health, lives, and education, and it is necessary, and to take urgent action. That is what has been done; commitments have been made; deadlines have been set, and I, as the judge in charge of monitoring compliance with these sentences, will be very vigilant that they are fulfilled." Since then, there have been no significant advances in the comprehensive compliance of the measures.



