



YSHIR PEOPLE GIVE NO TRUCE FOR THE RECOVERY OF THEIR ANCESTRAL LANDS



The lands of the Yshir people occupied a little more than 3,000,000 hectares in the Paraguayan Pantanal in 1932. Today, their population has access to only about 43,000 hectares. Some of their lands have been claimed by Paraguay for years and a majority of the property eventually transitioned into hands of foreigners despite the fact that the Constitution of Paraguay guarantees Yshirs the right to own them.

This indigenous population which by self-determination decided to call itself the “Great Yshir Nation”, previously known as the Chamacocos, has seven communities between the districts of Bahía Negra and Fuerte Olimpo in the Alto Paraguay department of the Chaco within the area known as the Paraguayan Pantanal. There is one community in the city of Luque in the Central department according to the Tierra Viva organization. Four of these communities have issues with their lands.

Such is the case of Puerto Ramos, called Eshma which means “abundance” in the Yshir language. In August 2020, families of this place had to protest in order to receive progress in the management of the restitution of 8,500 hectares of their ancestral territories which are now in the name of the Paraverde SRL company, belonging to Mustafa Arpacı, a Turkish national. Among the Yshir, Mustafa is simply referred to as “The Turk”.



FACTSHEET

CASE: Lands of the Yshir

LOCATION: Bahía Negra and Fuerte Olimpo, Alto Paraguay department.

SUBJECT/HUMAN RIGHTS

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

JUDICIAL/GOVERNMENTAL STATUS

OF THE CASE: Lawsuits and other ongoing legal proceedings.

NUMBER OF PEOPLE

AFFECTED: 365 families

BRIEF DESCRIPTION:

The "Great Yshir Nation" has eight communities between the districts of Bahía Negra and Fuerte Olimpo in the Alto Paraguay Department within the area known as the Paraguayan Pantanal, and one in the city of Luque, in the Central department. Of all of these communities, four have issues with the titling, or with the invasion of their lands.

Despite the fact that the Yshir have lived in Puerto Ramos for 500 years, the firm Paraverde SRL appeared with a purported title to the property in 2010. Since then, the situation with the indigenous people has been characterized as a situation of constant tension. There are complaints by the indigenous people stating that the armed guards who were posted at the place fired at them as they passed by.

Paraverde SRL was granted an environmental license in 2015 by the then SEAM, Secretaría del Ambiente [Secretary of the Environment] now MADES, Ministerio del Ambiente y Desarrollo Sostenible [Ministry of the Environment and Sustainable Development] to clear 3,230 hectares of the property for livestock raising.

However, the INDI, Instituto Paraguayo del Indígena [Paraguayan Institute of the Indigenous People], took legal action against the SEAM license. In addition, INDI initiated a territorial recognition trial in favor of the Yshir demanding a measure to not alter the territory further. This means that Paraverde could neither sell, purchase, nor carry out any type of construction projects on the property. In September 2016, the Court of Civil and Commercial Appeals of the Capital accepted INDI's request. Paraverde SRL quickly appealed this measure.

Advancing to August 2019, the first Chamber of the Court of Civil and Commercial Appeals in Asuncion ratified the measure of no improvements that had been raised by the First Instance Court as to transfer the territory of Puerto Ramos in favor of the Yshir in this way.

César Barboza, an indigenous councilor for Bahía Negra, and a member of the UCINY, Unión de Comunidades Indígenas de la Nación Yshir [Union of Indigenous Communities of the Yshir Nation], says that the property is currently not inhabited by indigenous people, but there are men from Yshir communities who work as laborers for the company which seems strategic on the part of the Turkish businessman who did not even let them pass through the location five years ago. Barboza remembers the case in which they were threatened by guards of "the Turk" not to enter Puerto Ramos. He says that there were even occasions when the guards fired warning shots into the air to scare the indigenous people when they realized that the Yshirs were inside Puerto Ramos. He says that the complaints that were made at the time have had no repercussions since the Public Ministry has never intervened.

Puerto Ramos is considered a sacred land by the indigenous people due to its vast biodiversity that allows them to find food at all times, and because it is a paradise for fishing.

The INDI sent a letter dated July 5, 2020 addressed to Paraverde SRL requesting the submission of an offer letter "in case the sale of the property is arranged." For the Yshir, speaking of private property of forests or rivers that they have always inhabited from their ancestor's times is strange and unnatural.

César Barboza relates that nothing has been resolved thus far, and at the same time, he bemoans that the land his ancestors defended in the Chaco War (1932-1935) has ended up being in the hands of a foreigner.

The director of Territorial Planning of the INDI, Osmar Ubeda, points out that Paraverde SRL did not reply with documents to the request for an offer made by the State's portfolio. Through its legal representative, the company responded that it has no interest in offering the property claimed by the indigenous people for sale, and even asked INDERT, Instituto Nacional de Desarrollo Rural y de la Tierra [National Institute for Rural and Land Development], for mediation to reach a solution about it. For the Yshir, however, the matter is simple. For them, Puerto Ramos is ancestral land.

Before the war between Paraguay and Bolivia began over the Chaco territory in 1932, the Yshir occupied 3,460,000 hectares of the Western Region of Paraguay, data that the Russian anthropologist, and military officer Juan Belaieff recorded nearly 90 years ago when he drew a map of indigenous lands according to a report by the Tierraviva organization.

Other communities such as Puerto Pollo, Puerto Diana, and Puerto La Esperanza, also face the danger of losing the lands of their ancestors due to the absence of the State to guarantee their territorial rights in the Alto Paraguay department.

However, the Paraguayan National Constitution states in its Article 64 that indigenous peoples have the right to community ownership of land in sufficient size, and quality for the conservation and development of their particular ways of life.

It is declared that "The State will provide these lands to them free of charge, being them unattachable, indivisible, non-transferable, imprescriptible, neither capable of guaranteeing contractual obligations, nor capable of being leased; likewise, they will be exempt from taxes. The removal or transfer of their habitat is prohibited without their explicit consent."

PUERTO POLLO, AWAITING RECOVERY

In a situation similar to that of Puerto Ramos is Puerto Pollo with 918 hectares. Documents from INDERT indicate that these lands are owned by Blas Roque Gadea, and a MADES report cites João Vieira de Medeiros Neto, a Brazilian national identified by the indigenous people as the "owner".

However, the Yshir claim that Puerto Pollo is also ancestral land. In the RIMA, Relatorio de Impacto Ambiental [Environmental Impact Report], of census No. 468 with Registration No. 58R02 from 2013, it is declared that the two requested the authorization of the property for cattle ranching with an investment of USD 350,000.

Several Yshir families lived at this place, but from the moment that conflicts over land titling began, a large number decided to migrate to other communities of the same ethnic group in the surrounding area. Most of them went to the closest one which is





Puerto Diana where the same Brazilian in this instance is also accused of invasion and deforestation.

The truth is that data from the National Land Registry ensure that Puerto Pollo has been inhabited for centuries by indigenous people who even revere the site with spiritual value because their tradition maintains that Capitán Pintura, considered a hero for the Yshir Nation, fought there during the Chaco War. The legend tells that he was a spiritual guide who went to battle to join the Paraguayan troops with his adorned in war paint. They say that, with his vast knowledge of the terrain, he helped the soldiers get water and food from nature to survive inhospitable areas, and to withstand the high temperatures of the Chaco.

In the case of Puerto Pollo, the State also intervened after the claims through the Paraguayan Institute of the Indigenous People, which stopped the proposed use of the property for raising livestock. An injunction for possession was filed in August 2017 for the Yshir to reclaim it. Likewise, documents were requested from INDERT, and from the Ministry of the Environment on those territorial blocks in relation to that property and its titling of which there has been no further news concerning the matter.

While the process continues, the territory that belongs to the indigenous people by right is being depopulated, and currently, there are only five families remaining.

INDI had to respectively file a second lawsuit for the restitution of land because the first one was unsuccessful. The Paraguayan Justice rejected it due to lack of original documentation proving legality of claim for lands in favor of the original inhabitants.

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The most populated community in the entire Yshir Nation in the Chaco is Puerto Diana where 287 families reside covering an area of 2,345 hectares. Its population is practically attached to the urban area of the Bahía Negra district where there is access to some services of the Paraguayan State.

It is where several of the indigenous activities are centralized because they have the premises of UCINY in the place. There is a kind of small cooperative that helps to find foreign markets for handicrafts, a school, even a soccer stadium that belongs to the CCP, Club Capitán Pintura [Captain Painting Club].

A terminal of Frigorífico Concepción was installed between Puerto Diana, and Bahía Negra in 2016. The residents hoped it would be a source of jobs, but the notion has remained only an expectation. At least, they have installed a fuel pump on the company's estate, the only one to date in the entire area.

Marciano Barboza, former community leader, revealed that owners of an adjoining ranch located in the Dos Estrellas area, opened a pathway within ancestral territories in 2017 near a sacred place for the indigenous people: the cemetery of

THE ROAD THAT CROSSES PUERTO DIANA

their ancestors. Officials from the Ethnic Directorate of the Public Ministry were constituted in the place after complaints were lodged with the institution, and the defendant alleged that he had the authorization of one of the leaders to do the work. In several communities, it is often the case that cattle ranchers, or invaders of indigenous lands allege that they had the “authorization” of other leaders to operate on lands that are considered ancestral. It is a practice that is becoming more common due to the lack of control by the authorities that must regulate, and control indigenous lands more rigorously. In the case of Dos Estrellas, the road continues to presently be in indigenous territory .

As a result of these types of situations, after nine years of work by different indigenous communities, the Executive Power promulgated the Protocol of Consultation, and Free, Prior, and Informed Consent with the Indigenous Peoples living in Paraguay in 2018 through which the participation of one or more indigenous communities in any law, or project of public or private companies that may affect their lands is possible.

However, prior to the enactment of the law, the ranchers asked neither the Municipality of Bahía Negra, nor the Government of Alto Paraguay to construct the pathway. In any case, INDI, the former SEAM, and the Commune, when learning of the incident, tried to resolve the conflict, but no progress was made on this issue.



OCCUPATION OF LAND IN PUERTO LA ESPERANZA

Besides Puerto Diana, another community that has a problem of land invasion of 21,330 hectares is Puerto La Esperanza. The indigenous councilor of Bahía Negra, César Barboza, says that a rancher, also of Brazilian nationality, has occupied around 2,700 hectares of this territory for about 20 years; therefore, the community is

finalizing a plan with the support of FAPI, Federación por la Autodeterminación de los Pueblos Indígenas [Federation for the Self-determination of Indigenous Peoples], to claim the restoration of their lands.

Puerto La Esperanza, where 80 families live, has lost around 2,000 hectares of its mountains in January 2019 according to what MADES noted following complaints. The interveners blamed the El Dorado ranch, owned by Pablo César Medeiros, for the clearing of forests.

The Government inspectors told the local media that the extension of land was transformed into pasture for cattle, and that those in charge did neither have a license, nor an environmental management plan at the time of the intervention. Nearly a year later, those deemed responsible were not punished. Authorities with jurisdiction alleged at the time that they were determining the amount of the fine.



Facing a fiscal requirement, Medeiros presented a judicial measurement and titles of the property with which he proved only 1,376 hectares in his name, less than the 2,000 hectares verified as allegedly having been deforested.

The loss of territory for indigenous communities also means losing the very possibility of keeping their spirituality, their tradition, and customs alive. They perform their rituals, and obtain water and food from nature for subsistence in the forests. “We work thanks to the forest; we get the Karanda’y for our products from there: we get honey, and the raw material for our crafts from there,” Barboza explained.

The Yshir are also dedicated to handicrafts manufacture, a sector that is mostly occupied by women who work on products that they take from the mountains to create necklaces, bracelets, baskets, and fans to circulate air. Men, for the most part, are engaged in fishing, and some of them choose to work in ranches.

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An example that illustrates the state’s ineptitude regarding care of ancestral lands is demonstrated by a law that regulates and defines the “regime for the regularization of settlements of indigenous communities” from 1989. It has never been updated. The regulations have terminology that is no longer suitable for current times, such as mentioning “settlements” for what are nowadays considered “ancestral territories.”

The state’s apparent apathy is also seen in the breach of indigenous rights in the Virgen Santísima community, located in Fuerte Olimpo, where 71 families live, that is in the condition “ceded by the local Municipality”. In other words, the title is in the hands of the local government, and not in the hands of its true owners.

The Yshir Nation has inhabited a vast territory of the Chaco for more than 500 years, and in order not to lose its territories, it has to face bureaucratic judicial processes, and lack of compliance with indigenous laws. It does not surrender in the fight for the recovery of its ancestral lands, although it requires sizable social and legal fights.

