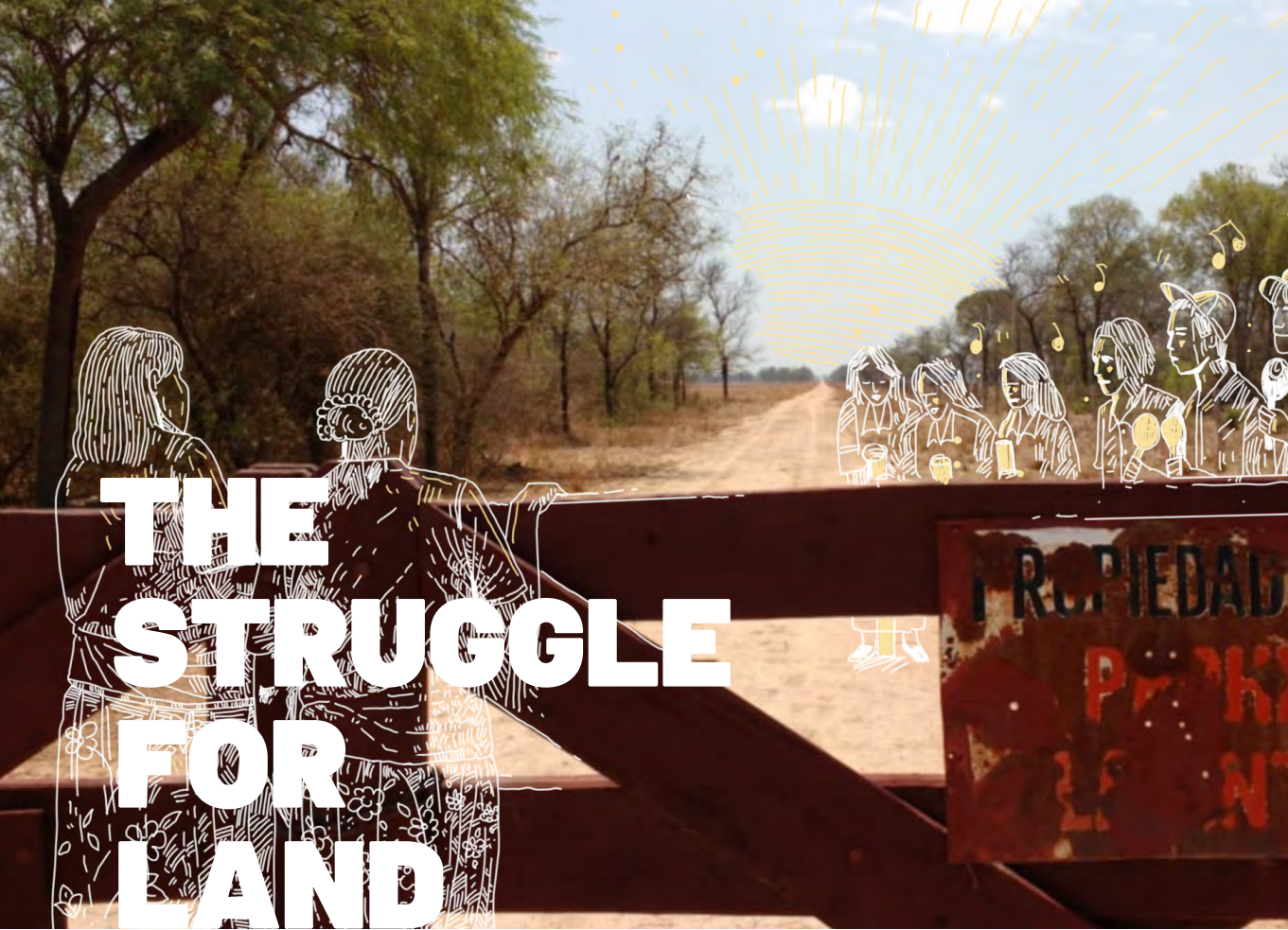




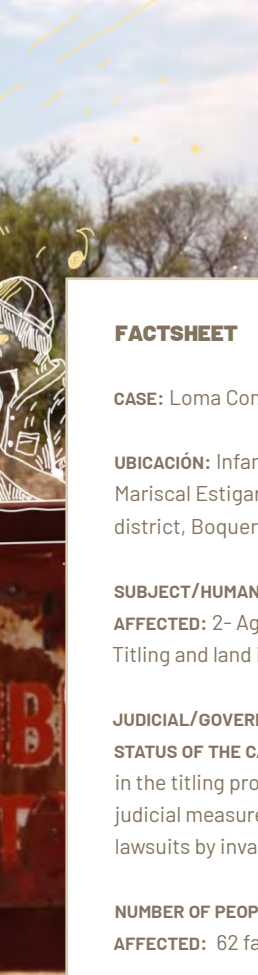
THE STRUGGLE FOR LAND

A

lexis Martinez, young leader of the Loma community of the Guaraní Ñandeva People, says that the struggle for the titling of their lands dates back to 1981. At that time, the leaders promoted the process of awarding their plots through the former IBR, Instituto de Bienestar Rural [Institute of Rural Well-Being], which became INDERT, Instituto de Desarrollo Rural y de la Tierra [Institute for Rural and Land Development]. The leaders began the process taking advantage of the fact that the military dictatorship of Alfredo Stroessner was forced to pass new laws that recognized the rights of indigenous peoples.

In fact, that same year, the Indigenous Statute currently in force, was approved, into which the right to a land granted by the Paraguayan State for free once the community is legally recognized by INDI, Instituto Paraguayo del Indígena [Paraguayan Institute of the Indigenous People], was recognized.

Through file number 5,687/81, the Guaraní Ñandeva de Loma hoped to get a piece of land in their ancestral territory located on the border with Bolivia, near the border with Argentina. Three years later, IBR issued Resolution No. 640/84 declaring them a National Indigenous Colony, and awarding them a total of 10,079 hectares in Infante Rivarola, Mariscal Estigarribia district, Boquerón department.



FACTSHEET

CASE: Loma Community

UBICACIÓN: Infante Rivarola, Mariscal Estigarribia district, Boquerón

SUBJECT/HUMAN RIGHTS

AFFECTED: 2- Agribusiness/2.3- Titling and land issues.

JUDICIAL/GOVERNMENTAL

STATUS OF THE CASE: Lands in the titling process after judicial measurement with lawsuits by invading ranchers.

NUMBER OF PEOPLE

AFFECTED: 62 families

BRIEF DESCRIPTION: The Loma community of the Guaraní Ñandeva people began land adjudication procedures in 1981, and obtained the declaration of National Indigenous Colony in 1984. The lack of water in the place made permanent settlement impossible which opened the door for three ranchers to establish operations on 3,307 hectares of 10,079 that was intended for indigenous people. INDERT (Instituto Nacional del Desarrollo Rural y de la Tierra [National Institute for Rural and Land Development]) reversed the ranchers' interest in awarding the land, and carried out a measurement that should culminate in titling in favor of the Loma community, but the ranchers initiated legal actions seeking to keep the land for themselves.

The award of IBR was not accompanied by any type of aid, not even from INDI, Instituto Paraguayo del Indígena [Paraguayan Institute of the Indigenous People], which did not even follow up on the titling of the lands in favor of the community, so to date they are in the name of the State in the records, that is, in the name of INDERT.

Juan Mozo, one of the community members, talked about the hardships they faced when trying to achieve development conditions in the place, but that the lack of water did not allow them to maintain a stable presence on the land. "We used to go and come back, it did not matter that it was very hot because this was where we were, and with a water well we could already be confident enough to have the ability to live and cultivate," he said while under the intense Chaco sunshine, with hopes placed on the newly built well and in receiving electrical power at some point.

Miño Ordoñez, spokesperson for the Loma community, said that what kept them coming and going back to the land that IBR had awarded them was the lack of water, and what has them going and coming back now is that three

ranchers, Miguel Ángel Muñoz, Kurt Friesen Schroeder, and Óscar Hein Ratzlaff unlawfully occupied their land, totaling 3,307 hectares out of 10,079.

"In 2010, they requested INDERT to give them clear title to our lands, as if they were free public lands, but these lands are ours by resolution of IBR, and they cannot be awarded, so we demand that the president do not award the lands, and we got them to come and verify and to corroborate that they are our lands," Ordoñez explained.

The lawyer for the Loma community, Emilia Cano, explained that the cattle ranchers took advantage of the disorganization of the indigenous people to defend their territory, which, according to Article 64 of the National Constitution, is inalienable; in other words, it cannot be assigned, nor sold, but due to their lack of advice and to the no control by the State, the producers managed to get some of the indigenous people sign supposed documents of resignation of the land (people without legal representation), with which they went to INDERT to request the award.

The community's efforts to legally defend its lands led INDERT to reconsider the ranchers' request, and to ultimately issue resolution No. 2,413 of 2011 which ruled the rejection of the three businessmen's claims.

INVASION AND CONFLICT

*The IBR, Instituto de Bienestar Rural [Institute of Rural Wellbeing], works today under the name of INDERT, Instituto de Desarrollo Rural y de la Tierra [Institute of Rural and Land Development].

However, with the copies of the documents from the management at INDERT, the ranchers obtained environmental licenses from MADES, Ministerio del Ambiente y Desarrollo Sostenible [Ministry of the Environment and Sustainable Development], despite the fact that their application had already been rejected.

This opened the door for a series of conflicts between the indigenous people and the ranchers due governmental disorganization which led to the systematic deforestation that occurred in the forests within a 10,079-hectare territory. According to INFONA, Instituto Forestal Nacional [National Forestry Institute], after addressing the deforestation of the Guarani Nandéva's land complaint filed by the indigenous people against the three ranchers, a loss of 3,307 hectares of forest cover without any permits was confirmed.

The members of the community came to retain the machines of the ranchers who carried out deforestation tasks due to the inaction of the Public Prosecutor's Office to the complaints presented, but this motivated the ranchers' complaint against the indigenous people, who now have legal cases opened by prosecutor

Andrés Arriola.

The ranchers filed lawsuits for an injunction to retain possession with which they received precautionary measures not to actively change physical characteristics of the land that affect the interests of the indigenous people, such as installation of electricity, key to extracting water.

"We strongly request the judge to lift the precautionary measure in order to have electricity and access to water because it is a human right, and we need to live and water our crops," Ordoñez claimed.

The community was attacked by various media outlets that supported the cattle ranchers' cause and falsified data, stating that the indigenous people were manipulated by an NGO named Alter Vida, using indigenous people who were not from the community, but from another, as revealed by the Timoteo community leader, Bernabé Flores, who recognized the members of his community who were pretending to belong to the Loma community.

Ciro Rojas, one of the technicians of NGO Alter Vida, explained from 2019, they began a horticultural production process with the Loma community that started with the construction of the water well and the use of a power generator, but that in the long run, this has generated inconveniences due to sporadic supply of electrical power.

"We are going to bring chickens this month, about 20 for each family, so that they have eggs to consume, and also the agricultural part that we cannot extend due to the lack of energy. We have water now, but when the generator fails, we must send it to Filadelfia to be repaired, and meanwhile, the crops are without water and for that reason, it is not possible to have continuous production. We will be able to extend the agricultural cultivation once the electric power is restored," he explained, indicating that there would be favorable opinion from ANDE, Administración Nacio-





nal de Electricidad [National Electricity Administration], for installation of electric power.

Miño Ordoñez indicated that, thanks to the help of Alter Vida, 45 families initially managed to officially settle since November 8, 2018 on about 200 hectares out of the 10,079 that they have historically occupied. Although it is mentioned that a total of 62 families are interested in living in Loma, the insecure reality, lack of water and electricity causes the groups to alternate between the occupation of the territory and of other communities of the Ñandeva People in the area.

The hope is that INDERT finally completes the transfer of the documentation of the judicial survey carried out for the 10,079 hectares with the endorsement of the Directorate of Geodesy of MOPC, Ministerio de Obras Públicas y Comunicaciones [Ministry of Public Works and Communications], so that INDI completes title transfer procedures in favor of the Loma community in due time.

However, the legal actions initiated by the three ranchers who seek to force the award from INDERT is still a lingering problem. They initiated a lawsuit for retention of property for improvements made, requesting a payment of G. 6,000 million each, that is G. 18,000 million as compensation for alleged financial damages.

There are three lawsuits in the Civil Court of the Western Region in total into which the ranchers request the retention of the fractions and the payment of compensation for improvements that were introduced; on the other hand, they also acted in the Court of Accounts against the resolution of INDERT that rejected their award requests.

The Indigenous Peoples Commission of the Senate follows up on these cases, and has requested CSJ, Corte Suprema de Justicia [Supreme Court of Justice], to follow them up through the Superintendency. The head of the commission, Senator Miguel Fulgencio Rodríguez, stated that one of the causes has already been solved.

The ideal scenario for the indigenous people is that the cases presented by the ranchers against INDERT settle once and for all in favor of the state entity, so that they do not create obstacles for property transfer that they have been claiming for years through road closures and other action.

This case is a typical example of how the inept Paraguayan State institutions negligently act in their role of enforcing the rights of indigenous peoples. The struggle for the right to land of the Guaraní Ñandeva community gained momentum in 1981 when the military dictatorship of Alfredo Stroessner was forced to approve an Indigenous Statute as required by international treaties.

Though the community got the State award of 10,079 hectares in 1984, it has never been formalized in 36 years, nor was occupation and access to fundamental rights in the territory guaranteed which denotes the abandonment of various State institutions such as INDERT, INDI, and the institutions of the Judicial Power that were and are used to persecute the indigenous people, and to benefit livestock sectors that want their lands.

