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Paraguay: Public hearing of the Inter-American Court of Human Rights. The Paraguayan State is not meeting its obligations to indigenous peoples

The Inter-American Court of Human Rights is tomorrow holding a public hearing in Lima (Peru) to consider the lawsuit against Paraguay in the case of the Xakmok Kásek community. After 20 years of fruitless negotiations within the country, this community has been forced to take its demand for recognition of its ancestral lands to international human rights bodies. Tomorrow, its future is at stake.

Since time immemorial, the indigenous peoples of the Americas have been victims of marginalisation and discrimination. Deprived of a voice in decisions affecting their lands and their means of subsistence, they suffer a disproportionate level of poverty, even when they live in areas rich in minerals and other natural resources. These violations of their rights, and the poverty and exclusion from which many of the continent's indigenous peoples suffer, are not irreparable. Amnesty International considers that this new case before the Inter-American Court constitutes yet another reminder of the difficulties faced by indigenous peoples in the region, who continue to live in poverty because many States neither recognise nor defend their human rights.

This is the third time that the Paraguayan State has faced a lawsuit related to indigenous peoples' claims to their ancestral lands. The Court has already twice condemned Paraguay for the way in which it treats its indigenous peoples. Amnesty International would like to remind Paraguay that its more than two million members around the world are waiting to see how it will respond to this new case. "The Paraguayan government must use this hearing to demonstrate once and for all that its commitment to indigenous rights goes beyond mere rhetoric", said Louise Finer, Paraguay researcher for Amnesty International.

The Xakmok Kásek indigenous community, a part of the Enxet ethnic group, has been calling on the State to allow it the right to live in at least a part of its traditional territory for years. Because of its lack of access to and ownership of its land, the community has been deprived of its traditional means of subsistence: hunting, fishing and gathering, thus exposing its members to inhumane living conditions.

The Court will tomorrow hear witnesses and victims from the community, along with representatives of the Paraguayan State and the Inter-American Commission on Human Rights, which is the body that has referred this case, alleging violations of the community's rights to life, property and legal protection and the rights of its children.

Paraguay is the only State in the region to appear before the Inter-American Court for a third time for cases related to violations of indigenous rights. In 2005 and 2006, the Court convicted Paraguay of violating the rights of the Yakye Axa and Sawhoyamaxa communities and set out a period of three years in which to comply with the return of their lands in each case. Despite these deadlines, the State has proved itself incapable of returning the community's ancestral lands, and so they continue to live in deplorable conditions along the side of a highway.

"It is regrettable that the deadlines have passed without the State having fully complied with its obligations. With every day that passes, Paraguay is condemning these communities to a life of misery, and threatening their survival," states Louise Finer. "The fact that a third lawsuit has

reached the Court shows that the State's actions thus far have been insufficient. Instead of taking concerted action to reverse the historic legacy of indigenous rights violations, Paraguay is allowing it to continue," adds Ms Finer.

Amnesty International would like to remind the Paraguayan State that the survival of indigenous communities is closely linked to the return of their ancestral lands and the use and enjoyment of the natural resources found therein. By ignoring this right, regardless of the commitments it has made, the Paraguayan State is presenting an image of a country with scant interest in protecting the rights of its indigenous peoples. Paraguay's responses to the Xakmok Kásek community's complaints at the hearing will be a test of the credibility of its commitment.

Further information

According to official statistics, as of 2008 the Xakmok Kásek indigenous community comprised 60 families. The community is claiming 10,700 hectares of land, currently located within a private farm in the Paraguayan Chaco.

In February 2003, the Inter-American Commission on Human Rights declared the community's complaint admissible and, in July 2009, referred the case to the Inter-American Court, ruling that the Paraguayan State had failed to take all necessary measures to reverse the community's situation. According to the Commission, the State has violated the community's rights to life, property and legal protection, in addition to the rights of its children, by denying them full enjoyment of their traditional lands.

In its case, the Inter-American Commission indicated that the community's inability to obtain ownership and possession of its territory had left it in a state of "nutritional, medical and sanitary vulnerability that is continually threatening the survival of the community members and the integrity of the community itself". Between 1991 and 2007, at least 28 community members died, of which no less than 19 were children. According to the Commission's report, most of these deaths could have been avoided had there been even minimal provision of preventive medicine and health care.

For their part, the Yakye Axa and Sawhoyamaxa communities have been forced to live in temporary houses along the edges of a highway for years because their ancestral lands are privately owned by others. Their survival will remain in danger until the rulings of the Inter-American Court on Human Rights are fully implemented.

Official statistics indicate that there are 108,600 indigenous people in Paraguay, representing 1.7 per cent of the population. In actual fact the figure is probably considerably higher.

According to international human rights standards, the right to their ancestral lands is crucial to indigenous peoples, being a vital element of their identity, form and way of life.

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