

AMNESTY INTERNATIONAL

PUBLIC STATEMENT

29 September 2010
AI Index: AMR 45/006/2010

Paraguay condemned for the third time by the Inter-American Court of Human Rights for violating the rights of indigenous peoples

The Inter-American Court of Human Rights has handed down a third judgment with regard to the violation of the rights of indigenous peoples in Paraguay. In its judgment, the Court identifies a series of violations suffered by the Enxet Xákmok Kásek community and orders the Paraguayan State to take steps to repair the harm suffered. According to the Court, Paraguay violated, among others, the right to life and personal integrity, communal property rights, the right to judicial safeguards and judicial protection and the rights of the child, and also failed in its duty not to discriminate.

For years the Xákmok Kásek community has been calling on the State to recognize its right to live on its traditional land. After spending 20 years fruitlessly following the necessary bureaucratic procedures within the country, the community was obliged to take its claim for recognition of its ancestral lands to international human rights bodies.

Amnesty International believes that the absence of an effective and efficient mechanism for settling ancestral land claims is a major obstacle to ensuring that the rights of indigenous peoples in Paraguay are enforced.

Because the community is denied access to and ownership of its land, it is deprived of its traditional means of subsistence, namely hunting, fishing and gathering, leaving its members living in subhuman conditions. In its judgment, the Court holds the State responsible for the deaths of 13 members of the community from preventable causes and states that being deprived of their own land and the natural resources to be found there is having a negative impact on their cultural identity.

In its judgment, the Inter-American Court rules in favour of the community's claims and deplores the actions of the State bodies responsible for responding to the community's land claim, stating that the latter "was characterized throughout the administrative procedure by passivity, inactivity, lack of diligence and a failure to respond on the part of the State authorities".

Paraguay is the only country under the jurisdiction of the Inter-American Court which has been condemned three times for violating the rights of indigenous peoples. Moreover, Paraguay committed itself to a series of obligations with regard to the rights of indigenous peoples when it ratified International Labour Organization Convention 169.

Amnistía Internacional recuerda a Paraguay que los más de dos millones de miembros de la organización en todo el mundo están atentos a los pasos que va tomar para responder a esta nueva sentencia. Given the obligations the State has voluntarily assumed and three calls to action from the Inter-American Court, Paraguay no longer has any valid excuse for not enforcing the rights of indigenous peoples.

In 2005 and 2006, the Court handed down judgments in favour of the Yakye Axa and Sawhoymaxa indigenous communities. Although the Court's orders are binding in nature, very little has been done to comply with them in either of these cases. The 100 or so families that

make up the two communities are obliged to live on an inhospitable strip of land by the side of the Concepción-Pozo Colorado highway while the Paraguayan State carries on failing to find a way to end their suffering.

Amnesty International reminds the Paraguayan State that the survival of indigenous communities is closely bound up with the restoration of their ancestral lands and their ability to use and enjoy the natural resources found upon them.

Additional information

According to official statistics from 2008, the Xákmok Kásek indigenous community consists of some 60 families. It has a claim over 10,700 hectares of land situated within the confines of a private ranch in the Paraguayan Chaco.

The majority judgment handed down on 24 August 2010 identifies violations of the right to life and personal integrity, communal property rights, the right to judicial safeguards and judicial protection, the right to recognition of legal personality and the rights of the child, as well as a failure in the duty not to discriminate. The extremely vulnerable situation in which the community lives is connected with its lack of land.

For their part, the Yakye Axa and Sawhoyamaya communities have for years been forced to live in makeshift houses on a roadside because their ancestral lands are owned by other people. Their survival is in danger as long as the judgments handed down by the Inter-American Court of Human Rights are not fully enforced.

For time immemorial, the indigenous peoples of the Americas have been subjected to marginalization and discrimination. Deprived of a voice in decisions that affect their land, lives and means of subsistence, they suffer a disproportionate level of poverty, even when they are living in areas that are rich in minerals and other natural resources. Amnesty International believes that this new ruling by the Inter-American Court is just another reflection of the difficulties faced by indigenous peoples in the region who continue to live in penury because many States fail to recognize or defend their human rights.

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