

The right to land: indigenous communities in Paraguay and their ancestral possession over their territories¹

"We are of the Guaraní people and these lands are ancestral to our people; this whole region was and still is inhabited by our people, since always. All these forests, with yerba mate from the bush, honey and wild animals are ours and our culture depends on them."

Appeal of the Ava Guaraní community to the Paraguayan Senate to stop the expropriation of ancestral lands at Cerrito, Alto Paraná.

Currently, 94% of the land cultivated in Paraguay is used for agribusiness crops, destined for the international market, while less than 6% of the land is used for peasant agriculture. Soybean, the main agribusiness crop, has had a significant annual growth in practically all the Departments of the country, being higher in Alto Paraná. The increase in agribusiness implies an expansion of the agricultural frontier, as well as the expansion of livestock, which requires pastures and open fields. These two activities require new lands, which would be related to the increase in deforestation levels². This expansion is currently taking place on the ancestral territory of numerous indigenous peoples. This incessant forced expulsion, as a consequence of land grabbing, which promotes forced eviction and criminalization in order to continue growing, has caused the displacement of the expelled indigenous population to the cities, to the urban poverty belts, and to the urban poor. More and more indigenous people are surviving on the streets and in urban conglomerates³. In this context, the indigenous population finds itself without real support or protection from the State, placing them in a situation of vulnerability in the face of agribusiness, favouring the violation of their rights.⁴

This occurs despite the fact that the National Constitution of Paraguay in its Article 62, on indigenous peoples and ethnic groups, recognizes the existence of indigenous peoples, defined as cultural groups prior to the formation and organization of the Paraguayan state. Likewise, Article 63, on ethnic identity, recognizes and guarantees the right of indigenous peoples to preserve and develop their ethnic identity in their respective habitat. But, most importantly, the National Constitution establishes in its Art. 64 – about community ownership: *Indigenous peoples have the right to communal ownership of the land, in sufficient extension and quality for the conservation and development of their peculiar ways of life. The State shall provide them with these lands free of charge, which shall be unseizable, indivisible, non-transferable, imprescriptible, not susceptible to guarantee contractual obligations nor to be leased; likewise, they shall be exempt from taxation.*

It's important to highlight that their territory represents a very significant value for indigenous populations, their land is the source of their life, their culture. If they are dispossessed of their land, of their territory, they lose everything: "Without land there is no life, without territory there is no culture⁵".

One of the many communities affected is the Cerrito Indigenous Community of the Ava Guaraní People, in the district of Minga Porá. This community is composed of 85 families, with children, elders, women and men. It is part of the Association of Indigenous Communities of Alto Paraná, settled on ancestral territories and governed under their own cultural guidelines.

¹ Document prepared by the Servants of the Holy Spirit project team, Paraguay

² <https://www.baseis.org.py/wp-content/uploads/2020/11/ConlaSojaalCuello2020-versionweb-2-compressed.pdf> pp 19.

³ <https://www.baseis.org.py/wp-content/uploads/2020/11/ConlaSojaalCuello2020-versionweb-2-compressed.pdf>

⁴ <https://codehupy.org.py/wp-content/uploads/2020/12/Informe-Anual-Sobre-la-Situacio%CC%81n-de-los-DDHH-en-Paraguay-2020.pdf>

⁵ Francisca Garcete, Paraguay

Despite that, on May 13, the more than 80 families of this indigenous community were evicted from their ancestral lands by a large number of police officers, in an unconstitutional action, in violation of the National Constitution, the Law 904/81 "Statute of the indigenous communities and Law 43/89, which modifies provisions of Law No. 1372/88 "which establishes a regime for the regularization of the settlements of the indigenous communities, as well as violating ILO Convention 169, which expressly establishes in Article 14 that the peoples concerned shall have the right to ownership and possession of the land which they traditionally occupy. Furthermore, in appropriate cases, measures shall be taken to safeguard the right of the peoples concerned to use lands not exclusively occupied by them, but to which they have traditionally had access for their traditional and subsistence activities.

It is important to note that the eviction has been carried out under the legal guise of a judicial resolution that ordered the eviction of three people, members of the community, who were settled in a minimum part of the area, but under the excuse of giving compliance with it, "manipulating" the order and extending it to all the other members of the community, the representative of the Public Ministry and the Justice Officer, executors, have proceeded to evict all the members of the indigenous community⁶.

The Cerrito community settled on their ancestral lands, have been claiming the legalization of part of them, protected by the national and international legal framework ratified by Paraguay⁷. Despite this and the protocols in force, the response to this claim has been violence on the part of the State towards the population of this community, as evidenced by the events of May 13. The eviction of the population took place amidst the prayers and religious songs of the inhabitants of the community as a symbol of resistance to the public forces, which unfortunately did not prevent the displacement of more than 70 patrol cars and dozens of police personnel to violate indigenous families, including children, the elderly and people with disabilities and their land. The dispute over the communities' lands has been going on for a long time and is related to the invasion of it by agribusiness companies.

Regrettably, the land conflict is a long process and always involves the dispossession of the indigenous people, the ancestral owners of these territories for whom the land remains sacred, and part of their life or life itself. For this reason, the accompaniment of the Sisters of the Holy Spirit Indigenous Pastoral, supported by the Congregation of the Servants of the Holy Spirit in Paraguay, in all this process, in a great effort to guarantee the right of the people to respect for their culture, their language, their land is remarkable in a context where the State does not guarantee them the respect for these rights. They express their opposition to this type of abuse; but they themselves are also victims of those directly responsible for this type of procedure where they are intimidated with threats that they could be arrested and prosecuted, even questioning their religious character.

The actions taken against this community, sparing no effort or resources to evict them, destroying their homes, their crops, their sacred places, among others, show a total disregard and contempt for their cultural patterns, which are fundamental human rights, specifically enshrined in the National Constitution, international treaties and laws in general, evidence of a clear position and policy adopted.

Finally, the different governments have stated in their speeches the inclusion of indigenous peoples, but they have not really sought to strengthen the autonomy of them, nor to guarantee the access of the communities to their territories, but on the contrary, the inclusion is based on the fact that their lands are needed for the expansion of the borders of agribusiness. When indigenous communities have not allowed the imposition of agribusiness there have been brutal evictions, the burning of their houses, of

⁶ Eviction Order, Supreme Court of Justice, Judicial District of Alto Paraná and Letter of request for police accompaniment to comply with the eviction order. They clearly show that the court order was aimed at the eviction of three people.

⁷ On May 6, 2021, the community with the support of the Congregation submitted a petition to the Chamber of Senators for the expropriation of 1,750 hectares in the district of Minga Porá, department of Alto Paraná in favour of the Cerrito Indigenous Community, ancestral lands on which they live.

their sacred spaces, the destruction of their communities, the expulsion from their lands⁸, the deepening of poverty, like the latest success in the community of Cerrito.

⁸ <http://www.baseis.org.py/wp-content/uploads/2017/12/SojaAlCuello17WEB1-ilovepdf-compressed.pdf>
pp.65