

REQUEST: PR-MICI002-2010

From: Kim Hill

Date: November 10, 2010 11:02:47 AM GMT-07:00

Cc: Ana Magdalena Hurtado

Subject: violation of OIT convention 169 through IADB project in Paraguay

Isabel Lavadenz-Paccieri,
Project Ombudsperson
Independent Consultation and Investigation Mechanism (MICI)
Interamerican Development Bank

Dear Ms. Lavadenz-Paccieri

We would like to file a complaint concerning the actions of the IADB in Paraguay from 2001 to the present. In 2001 the IADB provided a substantial loan to the Paraguayan government to pave an existing dirt road from San Estanislao, through Curuguaty to Saltos de Guaira, know in Paraguay as "ruta 10". This route passed through the traditional homeland of Ache Indians who were first contacted and forcibly removed from the area in 1972 when the original dirt road was constructed with funding provided by the World Bank (see attached history document). In the 2001 agreement, one of the IADB conditions for the loan to pave ruta 10 was the establishment of a minimal number of forest and indigenous reserves. Unfortunately when the Paraguayan Ministry of Public Works (MOPC) complied with this condition they purchased a 4,600 hectare property referred to as Finca 470 from a Taiwanese owner who had already agreed (in writing) several months early to sell this property to a conservation NGO (Fundacion Moises Bertoni) that had intended to title the land to its ancestral inhabitants, the Ache Indians. Thus, the IADB project effectively blocked the transfer of Finca 470 to its ancestral inhabitants, which would have been in compliance with OIT Convention 169 article 14 stating that native peoples must be provided titled land within their traditional territories. To date the Ache still have no legally titled land, and IADB officials have not followed through with their promises to aid the Ache to help them obtain title to this land that was taken from them as part of the IADB-Paraguayan government agreement.

Although the Paraguayan MOPC had originally transferred title to Finca 470 to the Ministry of the Environment (SEAM) as a forest reserve, SEAM minister Rolon Osnagui agreed in 2001 that the Finca 470 land could be titled

to the Ache if the IADB would agree that this change still met the contractual conditions for the Ruta 10 loan. We met with IADB officials who requested a management plan in order to agree to this change. We provided the management plan to IADB in the Fall of 2001 and met several times with IADB officials in Asuncion who agreed that the Ache should receive legal title to the land, and IADB communicated this fact to SEAM, who then also agreed to the change the designation from forest reserve to indigenous reserve and approve the ultimate titling of Finca 470 to its ancestral inhabitants, the Ache. The Ache for their part began a forest inventory, obtained management funds from Conservation International, and under an agreement of "usofructo" with SEAM, occupied the Finca 470 and began protecting it from loggers and illegal land invasion. The Ache agreed that only 5% of the forest would be cut for village buildings and small subsistence gardening.

The Ache have occupied this land since January 2002, and have repelled multiple land invasions and illegal logging incursions, and alternative land claims backed by falsified land titles. Several times the Ache were given written assurances by the Paraguayan government that the land titling process was well underway and would be completed in a short time span. The Ache met with IADB officials in Asuncion at least a half dozen times from 2001 to 2007 and always received support for their claim. Indeed the IADB provided funds for a Paraguayan lawyer to work extensively on the land titling process.

In 2010 however the new Minister of SEAM, backed by high level functionaries with personal connections to a group of Ava Guarani Indians, issued a decree stating that instead of titling the land to the Ache, the property would be split between Ache and Guarani Indians. The chief administrator of SEAM who drafted this decree is married to the lawyer who represents the Guarani Indians (a blatant conflict of interest). The Guarani are not the original inhabitants of the area (see video link below), and have only recently been trucked in by outside interests in order to stake their land claim to Finca 470. They are a mix of emigrants from the 102 other Guarani colonies that already exist within a 100 km radius of the property (meanwhile members of the Ache tribe are situated on only two other reservations within this region). There is clear factual evidence (based on photographs and eyewitness accounts) that the Ache were extracted from Finca 470 in March and April of 1972 and forcibly removed to a reservation 100 km to the Southwest (see the video link). During this process almost 40% of the Ache population died,

leading to international charges of genocide and investigation by the US government and numerous international agencies.

The new Guarani arrivals (supported by SEAM) have no intention of managing the Finca 470 as a forest reserve, instead they immediately began illegal logging of the property (see attached report by Ache patrol team). They are not ancestral inhabitants and have no legitimate rights to this property. Clearly their bid for the land is being financial backed by those who have interests in illegal timber extraction. Despite all of this IADB has remained silent about the situation. When the Ache asked for IADB support earlier this year (via a supporting NGO) they were told that the disposition of Finca 470 is not a concern of IADB but considered to be an internal governmental matter. This is a serious violation of the terms of the loan for ruta 10 that stipulate that Finca 470 must remain as a forest reserve -- the Guarani Indians have no intention of managing the property as a reserve, and IADB has not requested a management plan from them as it did for the Ache. IADB silence in this matter is also morally indefensible as the unfolding of events place IADB squarely to blame for the fact that the ancestral territory of the Ache has been taken away from them and is instead now being offered up to a group of natives who did not reside in the area prior to the road building projects (both the initial dirt road funded by the World Bank, and the current paved road funded by IADB).

We demand that the IADB communicate with SEAM and the Paraguayan government and request compliance of the loan conditions and the OIT convention article 169 which clearly indicates that the ancestral inhabitants of Finca 470 should receive title. The Ache will continue to honor their agreement to manage the property as a forest reserve (they have not sold a single log from the area in 8 years of managing the forested property). The Ache will take legal action against IADB if this situation is not rectified.

We are writing this letter in behalf of the legal authorities of the Ache community of Kue Tuwy, Cacique Martin Achipurangi, the Management Council, and community representative Margarita Mbywangi. We are both professors of anthropology at Arizona State University and have a letter authorizing us to represent the Ache in this matter when talking to international agencies.

Sincerely,

Kim Hill, Professor

A. Magdalena Hurtado, Professor & Director of Global Health

School of Human Evolution and Social Change

Arizona State University