



**International Network for Economic, Social & Cultural Rights**  
**Red Internacional para los Derechos Económicos, Sociales y Culturales**  
**Réseau international pour les droits économiques, sociaux et culturels**  
**الشبكة العالمية للحقوق الاقتصادية والاجتماعية و الثقافية**

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**TO:**

His Excellency, President of the Republic of Paraguay, Horacio Cartes

**CC:**

Silvio Ovelar Benitez, President of the Commission on Land Reform and Rural Wellbeing  
Maria Blanca Lila Mignarro de Gonzalez, President of the State Accounts and Financial

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The International Network for Economic, Social and Cultural Rights (ESCR-Net) is the largest global network of organizations and activists devoted to achieving economic, social and environmental justice through human rights, consisting of over 250 organizational and individual members in 68 countries.

We are writing to you to express our collective support for the prompt implementation of the Inter-American Court of Human Rights' legally-binding decision on the case the *Sawhoyamaxa Indigenous Community v. Paraguay* (March 29, 2006), requiring the restitution of the Sawhoyamaxa's original lands. We wish to underscore our concern that failure to implement this decision has led to ongoing and further violations of human rights, including the rights to life and property, interpreted by the Court to include access to health, water and food, among others.

In calling for measures to restitute Sawhoyamaxa lands, the Inter-American Court of Human Rights found: "Over the years, and particularly after the Chaco War between Bolivia and Paraguay (1933-1936), the non-indigenous occupation of the Northern Chaco which had started by the end of the 19th century was extended. [...] Since then, the lands of the Paraguayan Chaco have been transferred to private owners and gradually divided. [...] The lands claimed by the Sawhoyamaxa Indigenous Community [...] are within the lands which they have traditionally occupied and which are part of their traditional habitat. The lands claimed are suitable for the Indigenous Community members to continue with their current subsistence activities and to ensure their short and mid-term survival, as well as the beginning of a long-term process of development of alternative activities which will allow their subsistence to become sustainable" (Par. 73, Decision).

The Court found that the Sawhoyamaxa has a communal right to property, based on Article 21 of the American Convention on Human Rights and the State's ratification of ILO Convention No. 169. Its ruling stated: "[...] the Court has considered that the close ties that members of indigenous communities have with their traditional lands and the natural resources associated with their culture thereof, as well as the incorporeal elements deriving therefrom, must be secured under Article 21 of the American Convention" (Par. 118). While recognizing that Sawhoyamaxa lands are currently held by private, third parties, the Court insisted that this "is not in itself an 'objective and reasoned' ground for dismissing prima facie the claims by the Indigenous people. Otherwise, restitution rights become meaningless and would not entail an actual possibility of recovering traditional lands, as it would be exclusively limited to an expectation on the will of the current holders, forcing indigenous communities to accept alternative lands or economic compensations." (Par. 138). The traditional lands of the Sawhoyamaxa should, therefore, be urgently restituted via the approval and implementation of the expropriation bill currently before the Paraguayan Congress.

In being deprived of their lands, the Sawhoyamaxa community has also been prevented from engaging in their traditional hunting, fishing and gathering activities. This has affected not only their cultural and religious identity and their right to food but has also impoverished many families, in a violation—according to the Inter-American Court of Human Rights—of their basic

rights to life and property, which the Court has interpreted to include a collective right to the land and access to health services, water and food, among others. The Court made it clear that restituting the Sawhoyamaxa's land is essential to stop continuing violations to their rights to food, health, water, and life, among others.

Given the gravity of the above-mentioned situation, ESCR-Net hereby calls on the Paraguayan government, to take urgent action to reconstitute the Sawhoyamaxa's land, so that past and current human rights violations are not -perpetuated. The Court emphasized: "In the instant case, there is no dispute between the parties regarding the fact that the conditions in which the members of the Sawhoyamaxa Community live are inadequate to lead a decent existence" (Par. 156). "The Court considers that since April 21, 1997, the State has had full knowledge about the actual risk and vulnerability situation to which the members of the Sawhoyamaxa Community are exposed, especially children, pregnant women and the elderly, and also about their mortality rates [...]" (Par. 159) "In the instant case, together with the lack of lands, the life of the members of the Sawhoyamaxa Community is characterized by unemployment, illiteracy, morbidity rates caused by evitable illnesses, malnutrition, precarious conditions in their dwelling places and environment, limitations to access and use health services and drinking water, as well as marginalization due to economic, geographic and cultural causes" (Par. 168).

We wish to remind the Government of Paraguay that it is bound by the obligations established in the following international human rights' treaties: the ICCPR, ratified by Paraguay in 1992, establishes States' obligations in relation to peoples' rights to freely to pursue their economic, social and cultural development and dispose of their natural wealth and resources (art. 1) as well as the right to life (art. 4). The ICESCR, also ratified in 1992, recognizes the right to development and disposition of natural resources (art. 1), as well as the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions (art. 11) and the right to education, including the obligation of States to provide for free primary education to all (art. 13), among others. The CEDAW, ratified by the State in 1987, determines that States shall take appropriate measures to ensure that women have access to adequate health care facilities and that they enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications (art. 14), among others. The CERD, ratified by Paraguay in 2003, recognizes the rights to property, housing, public health, and education (art. 5) without any discrimination based on race, color, descent, or national or ethnic origin (art. 1). The CRC, ratified by Paraguay in 1990, underscores the child's rights to life (art. 6), to identity (art. 8), to the highest attainable standard of health (art. 24), to a standard of living adequate for the child's physical, mental, spiritual, moral and social development (art. 27), and to education (art. 28), among others.

Further, the Constitution of Paraguay has recognized in its article 62 "the existence of indigenous peoples as groups which have preceded the formation of the State" and, in article 63 "the right of the indigenous peoples to preserve and to develop their identity".

We collectively call on the Government of Paraguay to end serious violations of human rights and uphold the rule of law and take all necessary steps to ensure prompt restitution of the land of the Sawhoyamaxa people, by advancing with the expropriation of traditional lands from private owners in compliance with the decision of the Inter-American Court of Human Rights. As the Court established: "The State shall adopt all legislative, administrative and other measures necessary to formally and physically convey to the members of the Sawhoyamaxa Community their traditional lands, within three years" (Par. 248.6). The government of Paraguay has, therefore, the obligation not only to respect and protect, but also to fulfill rights by taking all possible steps to ensure their realization.

Finally, please keep us apprised of any further developments in this situation.

On behalf of ESCR-Net,



Chris Grove, Director