



**July 2008**

**Information on Paraguay**

**Compliance with ILO Convention No.29 on Forced Labour (ratified in 1967)**

**Forced labour of indigenous peoples in the Chaco, Paraguay**

The use of indigenous people as forced labourers on private ranches in the Chaco was documented as long ago as 1997.<sup>1</sup> Research recently published by the ILO in 2005<sup>2</sup> and Anti-Slavery International in 2006<sup>3</sup> confirms that the practice continues today.

These indigenous workers are usually trapped in situations of debt bondage and used to cut down trees, tend livestock, look after crops or do domestic work. The debt arises from a number of different factors. Firstly, indigenous workers receive far below the minimum wage (which varies with the size of the estate and is usually the equivalent of around US\$2.50). This is not a new phenomenon. Research carried out in 1994 found that 17 out of 22 estates were paying workers less than the minimum wage.<sup>4</sup> Women carrying out domestic work on the estate often receive less than half of what men earn and can just receive a symbolic payment. The Labour Department confirmed to ILO researchers that it is common practice for female indigenous workers to provide unpaid labour to the owner of the estate.<sup>5</sup>

Workers are supposed to receive their salary after one month, but the public prosecutor's office in Filadelfia noted that it is "normal" to find workers who have worked three or four months without receiving any payment.<sup>6</sup> During this time workers will buy food and other essential provisions at the estate shop where prices are inflated. This means that most, if not all, of their salary will be used to pay off their outstanding debts at the estate shop and some will have an ongoing debt from one pay day to the next.

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<sup>1</sup> Stephen Kidd, The working conditions of the Enxet indigenous people in the Chaco. Printed in *Enslaved Peoples in the 1990s: Indigenous peoples, debt bondage and human rights*, Anti-Slavery International and IWGIA, Copenhagen, 1997.

<sup>2</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *Servidumbre por Deudas y Marginación en el Chaco de Paraguay*, ILO, Geneva, July 2005.

<sup>3</sup> Mike Kaye, *Contemporary forms of slavery in Paraguay*, Anti-Slavery International, London, 2006

<sup>4</sup> Stephen Kidd, *op. cit.*, page 15. The conditions on the estates described by Kidd in his research in 1994 are practically the same as those that exist today, more than a decade later.

<sup>5</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, pages 16-17.

<sup>6</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, page 20.

This is illustrated in a case documented by Anti-Slavery International in November 2005 in which a woman worked for 10 years on one cattle ranch doing the cooking, cleaning and laundry for the 40 workers on the estate. She also did the domestic work at the house of the ranch owner and milked the cows. She worked from 2.00am to 5.00pm every day for which she earned 4,000 guaraníes (US\$0.65) a month, but she was only paid every three months and was left with very little after she had paid off her debts at the store. The nearest town was 15 km away, but she could not leave the estate as there was no one else to do her work and she was not given any days off. This meant that she did not have the opportunity to try and find another job.

The long working day, the distance of the estates from the nearest town, the lack of money to pay transportation costs and the fact that many workers only have half a day off a week or less, makes it impossible for them to get their provisions from alternative sources. In some cases there are direct restrictions on workers' freedom of movement. Anti-Slavery International carried out interviews with former estate workers in which several testified that they were not given any days off at all and had to ask permission to leave the estate. Another man said he was only allowed to leave the estate every 15 days and if he wanted to leave at any other time he had to ask the permission of the owner, who often refused such a request.<sup>7</sup>

ILO research showed that sugar, rice and other basic items sold in the estate store, which permanent workers should get free (Art.169 of the Paraguayan Labour Code), were being sold for between 14 to 81 per cent more than the price at the nearest urban settlements.<sup>8</sup>

Some workers receive *provista* (a basket of food and other basic goods like candles, soap and washing powder) as the main part of their pay. However, this is often filled with poor quality goods and/or charged at inflated prices. Some estates do not consider the number of children that the family has to feed when giving the *provista*. In both cases workers have to buy more goods at the estate shop and become further indebted. The books of one estate showed that indigenous workers were receiving up to 53 per cent of their salaries in kind.<sup>9</sup>

The high illiteracy rate amongst indigenous people and the fact that only a fraction speak Spanish makes it easier for them to be deceived regarding the value of goods provided to them and the exact nature of their debt.

The combination of paying salaries below the minimum wage, overpricing goods in the estate shop, and providing a large part of their salaries via inadequate *provistas*, leaves indigenous workers with little or no money or indebted to the estate. Long working hours, little or no holidays and other limits on leaving the estates, restricts workers options as they do not have the time to travel to buy goods at the nearest town at cheaper

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<sup>7</sup> Interviews carried out by Anti-Slavery International in the Chaco, 24 November 2005. The ILO research also notes the use of other mechanisms to ensure the economic dependence of workers such as preventing them from working on their own parcels of land or prohibiting visits from family members to the estate.

<sup>8</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.*, pages 17-18.

<sup>9</sup> *Ibid.*

prices or look for work elsewhere. This system maximises the profits for the estate and ensures that they have a cheap and secure labour supply without the need for violence.

The ILO research estimates that 8,000 indigenous people are directly involved in forced labour or at risk of becoming forced labourers. The estimate is based on the fact that some 10 per cent of indigenous families receive the *provista* (figures from the national census of 2002).<sup>10</sup>

### **The failure of existing labour legislation**

The National Constitution prohibits slavery, servitude and trafficking in persons (Article 10) and Article 47 of the Labour Code states that a contract will be void when it fixes a salary under the minimum wage or if it involves direct or indirect obligations to buy goods or food from shops, businesses or a place determined by the employer.

Articles 231 and 176 of the Labour Code state that only 30 per cent of wages can be paid in kind and the value of these goods must be the same as those at the nearest urban settlement. ILO research and interviews carried out by Anti-Slavery International show that these provisions are not being enforced in practice.

The vulnerability of the indigenous community to forced labour and exploitation is exacerbated by the fact that there is no active trade union to defend their interests and individuals can easily be blacklisted as estate owners normally ask for a reference from a previous employer. Retribution for challenging injustice may fall on an indigenous group as a whole and not just on the worker involved.

The Indigenous Census of 2002 showed that in the Departments of Boquerón and Presidente Hayes, less than 50 per cent of indigenous people would feel comfortable reporting an issue to the local authorities including the police and public prosecutor.<sup>11</sup>

Article 408 stipulates that the labour laws must be applied through inspection services, but there is insufficient monitoring by the government to identify and prosecute breaches of the labour code with inspectors waiting for complaints to be made before acting. A labour judge told the ILO researcher that “the authority of the Ministry of Labour is totally absent; they are at the mercy of their employers.”<sup>12</sup> Even when inspectors were sent to the region to investigate they were refused access to some estates, which they cannot enter without judicial authority.

Article 25 of ILO Convention No.29 stresses that penalties imposed by law must be adequate and strictly enforced, but this is currently not the case for employers who are using forced labour on their estates.

### **The Government’s response to the problem**

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<sup>10</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* pages 22-23.

<sup>11</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op. cit.* page 8.

<sup>12</sup> Alvaro Bedoya Silva-Santisteban and Eduardo Bedoya Garland, *op.cit.*, page 30.

In March 2005, the Ministry of Justice and Labour held three separate workshops, for trade unions, employers and state officials during which the findings of the ILO research were discussed and approved. At this time the Government made a commitment to launch the ILO report and make it available in both Spanish and Guaraní in order to raise awareness of forced labour among the general public. However, this still has not taken place.

One of the other conclusions from the workshops was that the Ministry of Justice and Labour should open an office in the Chaco where indigenous people could go for assistance. In March 2006, an Office of Inspection was created in Mariscal Estigarriba in the Chaco and staffed by two labour inspectors.

Yet some six months later the inspectors apparently resigned their positions because of inadequate resources and a lack of support from central government. This included not being provided with funding to cover transport costs to carry out investigations. In many cases where the inspectors did reach estates they were refused entry and were unable to review working conditions inside. These issues meant the Office was unable to take forward any prosecution for forced labour.

Consequently, the Government is back in the same position it was prior to March 2006: the Ministry of Labour and the National Institute for the Indigenous (INDI) do not have a single office in Chaco or the three departments west of the Rio Paraguay, nor are there any labour judges in the area.

With no presence in the region, the Government cannot ensure that the provisions of the Labour Code are fully implemented. Indigenous workers who know their rights and are willing to fight for them, would still have to find the money to travel to Asunción to seek redress for labour violations. As debt bondage is the primarily reason for workers being in forced labour in the first place, this is extremely unlikely.

In September 2007, a Tripartite Seminar was held in which it was agreed to set up a Tripartite Committee on Fundamental Principles at Work and the Prevention of Forced Labour. This Committee would then be responsible for developing and action plan within 60 days of its formation in order to take the issue forward. This Committee has still not been established.

However, at the ILO Conference Committee in 2008, the Government recognised that Convention 29 was not being properly implemented and committed itself to establishing the Tripartite Committee on Fundamental Principles at Work and the Prevention of Forced Labour as soon as possible and to re-establishing a labour inspection office in the Chaco which will be staffed from the Ministry of Justice and Labour's budget. It also requested ILO technical cooperation to assist with training for individuals within the Ministry of Justice and Labour and the Office of the Public Prosecutor, as well as for the individuals who will staff the office in the Chaco.

## Conclusions

The ILO Committee of Experts' comment (2008) that measures to tackle the use of forced labour in the Chaco "seem stalled at present" is an accurate assessment of the situation. As of July 2008, there has been no substantive progress in tackling the problem in terms of releasing those in debt bondage, applying the law or formulating a national plan of action to tackle forced labour.

However, the recent election of Fernando Lugo as President of Paraguay provides an opportunity for the new government to show its political commitment to addressing this issue when it takes office on 15 August 2008. The Conference Committee (2008) noted that it expects "that action would be given urgent priority in order to put an end to bonded labour in the indigenous communities of the Paraguayan Chaco as well as in other parts of the country that may be affected, thereby ensuring compliance with the Convention."

Such action should include the immediate establishment of the Tripartite Committee to develop, in consultation with appropriate members of civil society, an action plan to eradicate forced labour.

This action plan should include the re-establishment of an Office of Inspection in the Chaco, but this time providing the inspectors with adequate resources, training and political support so that they can actively monitor the situation on the estates and bring forward prosecutions for forced labour and any other violations of the Labour Code. Where these abuses have taken place workers should receive compensation.

The action plan should also review whether the existing legal framework needs to be amended (e.g. to remove the current anomaly whereby workers on smaller estates can be paid a lower minimum wages than those on larger estates) and whether further research into the extent of forced labour in other areas of Paraguay is needed, including along the border between Paraguay and Brazil.

Finally, the action plan should include measures to reverse the social and economic marginalisation of the indigenous communities. For example, illiteracy rates in the indigenous population are over 50 per cent, compared with the national average of just seven per cent. These measures should include the provision of better education, health care and sustainable alternative sources of income, including access to land and credit.

The decision of the Inter-American Court of Human Rights in the case of the Yakye Axa community (17 June 2005) clearly outlines the Government's obligations towards indigenous peoples in Paraguay. The Court ordered the Government to return the traditional land of the Yakye Axa community to them within three years; to create a fund to finance development projects for the community; and to provide the community with assistance until the land is returned to them including, food, medical assistance and education.<sup>13</sup>

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<sup>13</sup> For full details of the Court's decision see: [http://www.corteidh.or.cr/seriecpdf/seriec\\_125\\_esp.pdf](http://www.corteidh.or.cr/seriecpdf/seriec_125_esp.pdf)