



The struggle of the Guarani-Kaiowá

LAND SHORTAGE AND HUNGER IN A LAND OF PLENTY

Indigenous peoples all over Latin America have faced a long history of exploitation and exclusion. Discrimination against them continues to this day in areas such as access to land, health care, education and political participation. The Guarani-Kaiowá in Brazil have been subject to severe human rights violations for decades. Having been expelled from their ancestral lands in the past, many communities live in abject poverty and suffer hunger and malnutrition.

The Guarani-Kaiowá ('forest people') mainly live in the Brazilian state of Mato Grosso do Sul (MS). Their traditional territories have been subject to government promoted colonization by farmers since the 19th century. After the end of the Paraguayan War in 1870 the Brazilian government generously allocated land titles, a practice that accelerated under the Vargas government (1930 – 1945). Between 1915 and 1928, the government had created eight indigenous reservations in Mato Grosso do Sul. With a total area of 18,124 hectares, however, they were much smaller than the original territories and were widely dispersed. This disregarded the sociopolitical organization of the indigenous communities, who have strong ties to their Tekohá, the land of their ancestors, where they can preserve their cultural identity. (Mendonça/Sanches 2011).

SOY, CATTLE AND SUGAR CANE

In the 1950s and 1960s, conflicts with farmers did not occur frequently. The Guarani-Kaiowá were doing jobs for them, such as cutting down trees, and the forest offered an alternative to life in the reservations. The extension of soy cultivation and cattle farming in the 1970s exacerbated the situation. In the 1980s, the mechanization of agriculture deprived the communities of their areas of refuge and the demand for indigenous labor decreased. Monocultures and the use of pesticides destroyed the biodiversity of the land. Since the demarcation of wider territories stipulated in the constitution of 1988 did not advance, the Guarani-Kaiowá were increasingly exposed to forced evictions and conflicts with farmers. Many of them had to escape to the overpopulated reservations (Mendonça/Sanches 2011). The current agrofuels boom does further fuel the pressure on indigenous territories and delays the demarcation



Guarani men, photo by FIAN International

process. The number of hectares planted with sugar cane in Mato Grosso do Sul has increased from only 300,000 in 2007/2008 to one million in 2012/2013. More and more capital is flowing into the production of ethanol. Forty new sugar cane mills will be built in the state, 16 of which are located on indigenous territories that are already being demarcated (FIAN Brasil 2011a: 80). Without their means of subsistence the Guarani-Kaiowá have to work as day laborers under inhumane conditions. Around 10,000 indigenous workers cut sugar cane in the state of MS. Since 2004, 2,600 workers have been freed from slave-like working and living conditions (CIMI 2011c: 22).

MISERABLE LIVING CONDITIONS

The living conditions of the Guarani-Kaiowá are miserable because they do not own enough land to feed themselves and lead a dignified life. The eight reserves, together with the 24,000 hectares of land demarcated since the 1980s, amount to a total surface of 42,000 hectares. On average, every Guarani-Kaiowá has 0.9

hectares available, a small area compared to other indigenous peoples in Brazil. With 14,000 indigenous residents on roughly 3,500 hectares, the reservation of Dourados has the highest population density. On the overcrowded reserves, there is often no access to clean drinking water, food, fuels or medicinal plants. Many Guarani-Kaiowá preferred settling in provisional camps on the side of highways. After heavy rainfalls, however, the camps are often flooded, bearing the risk of disease. Out of desperation, several indigenous communities occupied their land, encountering the resistance of local farmers (Mendonça/Sanches 2011).

SEVERE MALNUTRITION

Without access to land or with territory reduced in size, the Guarani-Kaiowá are not able to feed themselves adequately. This causes severe malnutrition in the communities. From 2003 to 2010, approximately 4,000 indigenous children in MS suffered from malnutrition (CIMI 2011c: 16). From 2004 to 2008, 80 indigenous children died of malnutrition or related diseases (Lopes 2008). In



Guarani women, photo by Suki Ozaki / FIAN International

2009, the child mortality rate of 41 deaths per 1,000 live births was twice as high among Guarani-Kaiowá children than on the national average. Their life expectancy was only 45 years, compared to 74 years on the Brazilian average (FIAN Brasil 2011a: 80). The government of the state of MS distributes food baskets, but they do not arrive regularly, do not cover the daily nutritional needs and disregard the eating habits of the Guarani-Kaiowá (FIAN Brasil 2011b). It is ironic that, despite their long tradition of being food producers, more than 90 percent of the Guarani-Kaiowá depend on food aid. In 2010, a fact-finding mission with participation of FIAN discovered an increase in malnutrition among indigenous children despite the distribution of 13,000 food baskets per month. None of the families in the communities visited were receiving money from the national cash transfer program Bolsa Familia (Valente 2011: 8). Furthermore, the Guarani-Kaiowá do not want to depend on help, they want to be able to feed themselves.

VIOLENCE

Being confined to small spaces leads to tensions among the Guarani-Kaiowá resulting in high alcohol and drug consumption or internal violence. From 2003 to 2010, 176 Guarani-Kaiowá in MS committed suicide, which accounts for 83 percent of all suicides among indigenous peoples nationwide. In the same period, there were 250 homicides and 190 attempted murders against members of indigenous communities, many of them in the context of land claims (CIMI 2011c: 16-18). In November

“Without land, we Indians cannot live. Will the State still provide these food baskets to our children in ten or twenty years? I do not believe so. Without being able to plant something, without guaranteed access to our land, there is no hope for us.”

Guarani-Kaiowá leader Carlito de Oliveira

2011, 40 masked gunmen burst into the community Guaiviry near Amambaí and killed indigenous leader Nísio Gomes. The community had reoccupied its traditional land because the demarcation of the area had ceased progress since 2008 and indigenous families had to camp on a roadside, arousing the displeasure of local farmers there (CIMI 2011d).

DEMARICATION OF TERRITORIES

Since the Brazilian Constitution of 1988, indigenous communities have the right to get their original territories back. However, official procedures to recognise land as part of indigenous territory are in some cases already taking more than 20 years. In 2007, there seemed to be hope for the Guarani-Kaiowá. An agreement (TAC) was signed to stipulate the identification and demarcation of 36 Guarani-Kaiowá territories in the south of MS. There had not been any provisions for the demarcation of these territories up to that point. (CIMI 2011c: 53). Six working groups were set up to report to the Ministry of Justice, which is responsible for ordering the demarcation. A deadline was set for April 2010, but ignored due to threats and violence against the working groups, the refusal of farmers to grant access to the land and the exertion of political influence on the government by the agribusiness (FIAN Brasil 2011a: 79; 2011b). The governor of MS even publicly rejected indigenous land rights (CIMI 2011c: 11).

In December 2011, there was reason for celebration: after countless delays, one of the working groups published its final report, concluding the identification as a first step of the demarcation process for the indigenous territory Panambi-Lagoa Rica (12,000 hectares). (FUNAI

2011c) These reports do not guarantee restitution of the territories. Demarcation law in Brazil grants every citizen the right to appeal within 90 days after publication of a report. Lawsuits filed by large land owners – supported by the state of MS – often delay the demarcation procedures. By the end of 2009, there were 56 lawsuits and 87 appeals pending in different courts.

FIAN'S SUPPORT OF THE GUARANI-KAIOWÁ

FIAN has been supporting the struggle of the Guarani-Kaiowá since 2005, in close coordination with representatives of the indigenous people, FIAN Brazil, CIMI and other organizations. Firstly, we exercise pressure on Brazil to speed up the demarcation process to enable the Guarani-Kaiowá to feed themselves by having access to their land. Secondly, FIAN intends to improve the nutrition situation of the Guarani-Kaiowá and to help them gain access to government programs and food aid in order to avoid more deaths and hunger. Thirdly, FIAN publicizes the violence against and criminalization of indigenous communities and their leaders, many of whom have had to pay for the fight for their land with their lives or imprisonment.

The international pressure built up by FIAN, its partner organizations and other NGOs increased the Brazilian government's willingness to dialogue. In 2010, the Secretary General of FIAN International met with representatives of government institutions and a member of the Presidential Cabinet in two high level meetings. As a consequence of the national and international attention the situation of the Guarani-Kaiowá was receiving, ex-President Lula publicly declared the solution of this conflict as one of his priorities for 2010. Nevertheless, he did not conclude the demarcation of the 36 specified areas during his term in office. With petitions, letters and urgent actions FIAN keeps reminding the Brazilian authorities to advance the demarcation process, pointing out Brazil's human rights obligations.

BRAZIL'S HUMAN RIGHTS OBLIGATIONS

Every state has the obligation to respect, protect and fulfill the right to food of its citizens and indigenous peoples and to provide for the availability of food, access to it and its adequacy. Brazil has ratified all international treaties in the UN and Inter-American Human Rights System which are relevant for the right to food. ILO Convention 169 was adopted by the Brazilian Congress in 2002 after over ten years of discussion. Brazil had always rejected the term 'peoples' of the convention, fearing that it could lead to claims to self-determination under international law and attempts of secession. In addition, conservative forces in Congress disapproved of strengthening indigenous rights and land claims.



Sugar cane harvesting, photo by FIAN International.

According to article 5 of the Brazilian constitution, international human rights treaties form part of domestic law after they have been approved by Congress. With that, the constitution provides a framework for the justiciability of the right to food and Brazilian judges could directly base their sentences on international human rights instruments. In practice, this rarely happens because, in this relatively conservative justice system, Economic, Social and Cultural Rights are regarded by most judges as not being justiciable (Ziegler et al. 2011: 140).

Since 2010 the right to food of all Brazilian citizens is part of the constitution. It now has the status of a fundamental social human right alongside pre-existing rights such as the right to education, health and housing. The reform was the result of several years of discussion in Congress and was promoted by the country's strong social movements, which had put the right to food on the political agenda with protests and mobilizations. Today, Brazil is considered by many as a positive example of the implementation of the right to food. Former president Lula da Silva declared the fight against hunger a priority in 2003 and his program Fome Zero helped many Brazilians escape poverty and hunger. Furthermore, the Brazilian food security framework law, which created a food security system in 2006, enshrines the right to food (FAO 2010: 12-14). Despite progress made, innumerable citizens, especially those of indigenous origin, are still suffering from hunger in Brazil.

The constitution also protects the right to food of specific groups. Chapter VIII is dedicated to the rights of indigenous groups. The separate treatment of their rights is essential due to their distinct ways of life and culture and because indigenous land rights permit compensating for historical injustice. The constitution enshrines the right of Brazil's indigenous population to their traditional lands and the duty of the state to

demarcate and protect that land. The constitution of 1988 scheduled a time limit of five years for the demarcation of indigenous territories. Indigenous peoples possess exclusive usufruct of the riches of the soil, rivers and lakes in their territories. Hydric resources and their energetic potential as well as mineral riches may only be exploited with the authorization of Congress, if the communities concerned have been consulted and if they participate in the revenues. Indigenous peoples must not be compelled to leave their territories, except in the case of catastrophe. Actions of third parties with the aim of occupying indigenous land or exploiting its natural resources are null and produce no legal effects. Indigenous peoples, their communities and organizations have the right to take court action in order to defend their rights and interests.

Additionally, the Estatuto do Índio has been in force in Brazil since 1973. This statute dates back to the times of the military dictatorship and has not yet been adapted to ILO Convention 169 or the constitution of 1988. In 1991, a legislative project for a new statute was elaborated, but the project has not been concluded. Since 2009, it has been waiting in the Chamber of Deputies

for its voting. The legislative text is therefore outdated and Brazil's indigenous peoples were not able to participate in the elaboration process. This is why they advocate drawing up a completely new text with their participation (cf. Pires 2011).

CLOSING THE IMPLEMENTATION GAP

The case of Guarani-Kaiowá shows that there is a clear discrepancy between the rights of indigenous peoples on paper and in public discourse on the one hand, and their actual realization on the other hand. Closing this implementation gap will be one of the future challenges in Brazil and other countries. Taking the case to the Inter-American Commission on Human Rights could be a strategic option (Valente 2011: 8). Although all remedies under domestic law have to be exhausted first, the American Convention on Human Rights allows for petitions if a fair trial was not possible in Brazil, access to the courts was denied or if the sentence was unjustifiably delayed. This certainly applies to the case of the Guarani-Kaiowá, as the demarcation of some areas has been pending for decades.

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