



*Sugarcane field in eastern Paraguay*

# FORCED LABOR, CHILD LABOR AND LAND USE IN PARAGUAY'S SUGAR INDUSTRY

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## Acronyms and Abbreviations

CODEHUPY	Coordinator of Human Rights of Paraguay
DGEEC	General Directorate of Statistics, Surveys and Censuses
ILO	International Labor Organization
INDERT	National Institute for Rural and Land Development
MTESS	Ministry of Labor, Employment and Social Security
CONAETI	National Commission for the Eradication of Child Labor and the Labor Protection of Adolescents
NGO	Non-governmental Organization
SGP	Supplier Guiding Principles
SNC	National Cadastre Service
SNNA	National Secretary of Childhood and Adolescence
TCCC	The Coca-Cola Co.
UN	United Nations
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Emergency Fund
USAID	United Nations Agency for International Development USAID
USDOL	United States Department of Labor

## Executive Summary

Sugar is important to Paraguay. Although the country's production and exportation of sugar is small compared to some of their neighboring countries, such as Brazil, they have found their niche in organic sugar. They are, in fact, the world's largest producer of organic sugar.<sup>1</sup> Agriculture is one of the largest industries in the country and employs the largest number of people. The United States Department of Labor (USDOL) has placed cattle in Paraguay on the 'List of Goods Produced by Child or Forced Labor'. There have been no reports of forced labor in the cultivation of sugarcane, but it is on the 'List' for child labor. That said, perhaps the most significant political, economic and cultural issue facing Paraguay today is the unequal system of land distribution.

This report provides a review of forced labor, child labor and land conflicts in The Coca-Cola Company's (TCCC) sugarcane supply chain in Paraguay. The study was commissioned by TCCC to Arche Advisors in an effort to expand TCCC's understanding of labor and human rights conditions in its supply chain. The study also responds to a commitment made by TCCC in November 2013 to zero tolerance for land grabbing across its operations.

To carry out the study, researchers conducted extensive desk research on the issue, consulted stakeholders from industry, civil society, government, intergovernmental organizations, academia and unions. In addition, the researchers visited two mills and twelve farms, where 105 workers were interviewed. The most relevant findings are highlighted below.

## Forced Labor

Forced labor is an issue in the country of Paraguay, especially as it relates to human trafficking and debt bondage. Indigenous communities and children are particularly at risk, especially in the Chaco region of the country where the cattle industry is concentrated. Neither desk research nor stakeholder consultations revealed issues of forced labor in the sugarcane industry.

The government is increasing its focus on the issue of forced labor. The President of Paraguay, Horacio Cartes, issued a decree in November 2016 that approved the establishment of a National Strategy on the Prevention of Forced Labor. This work will be led by the Ministry of Labor, Employment and Social Security (MTESS). The inter-institutional group that will be setting the strategy has already held their first meeting.

During mill and farm visits, researchers reviewed forced labor policies. One of the two mills visited has a formal policy prohibiting forced labor. The other mill relies on the law, and requires adherence to the law of its suppliers. Neither of the mills had formal policies in place to address the issue of forced labor if discovered. However, they were each able to describe an informal process they would use, if needed, that includes an investigation by their human resources team and escalation to senior management. Despite this gap in management systems, researchers did not find any evidence of forced labor. Workers interviewed stated that they had not been victim of or witness to forced labor.

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<sup>1</sup> Organicsugar.com

## Child Labor

In 2012, the USDOL published a study that reported that 28 percent of all sugarcane workers were children or adolescents. Although the Paraguayan government and civil society were already focused on the issue and had some programs in place, the reaction was to intensify efforts and increase resources to prevent and eradicate child labor in the country.

According to the USDOL Report on ‘The Findings of the Worst Forms of Child Labor, 2015’, Paraguay made significant advancement in eliminating the worst forms of child labor in 2015. This means the country made meaningful efforts during the year “covering laws and regulations, enforcement, coordination, policies and social programs”<sup>2</sup>. Two national programs, Tekoporã and Abrazo, have made significant strides in getting more children in school and out of the workplace. However, per the same USDOL Report, even with the advances made in the last year, the number of children working is still high, and the efforts should continue to eradicate child labor in the country.

Despite the fact that a large number of children have work or do still work in sugarcane, researchers did not observe children working during their visits to the mills and farms. Both mills have child labor policies. The mill in the south-central region of the country, where sugarcane cultivation is concentrated, had a very detailed policy on child labor. The mill in the eastern region of the country has a clear prohibition on child labor. However, neither mill has procedures in place to address the issue, if it were to occur. As with forced labor, both mills reported that they would use an informal process of investigating the issue and escalating it for senior management decision-making, if needed. Stakeholders interviewed reported that child labor is still an issue. However, when questioned about specific mills, stakeholders were unaware of child labor occurring at the mills or their specific farms. Workers at mill owned and operated farms who were interviewed reported that they were required to provide proof of age documentation before being hired and that they had not witnessed minors working. However, workers in the independent, supplier managed farms in the south-central region reported that their employment relationship is informal, and they are not required to provide documentation prior to or after having been hired.

## Land Conflicts

Paraguay has one of the most unequal systems of land distribution in the world. This inequity is a great source of conflict, with thousands of farmers across Paraguay marching on the capital as recently as March 16, 2016, demanding land reforms. In recent years, the government has attempted to formally address the issue through the creation of two government entities, the Institute for Rural and Land Development (INDERT) and the National Cadastre Service (SNC). Land information and titles are now being digitized and recorded in a way they were not in the past. However, there remain issues related to corruption, the justice system and agribusiness that have prevented real reform from taking hold.

Interviews with workers and consultations with stakeholder, as well as desk research, found that land disputes are common in Paraguay, and have taken place in or near the departments where the

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<sup>2</sup> United States Department of Labor, 2015

mills are located. However, none of the reported or documented disputes are on land used for sugarcane. Current land titles and bills of sale were reviewed for the farms owned or utilized by the mills that participated in this study, and there was no evidence that the land was obtained illegally. However, the documentation available only demonstrates current ownership, and does not necessarily provide historically relevant context, such as how many times the land was gifted, sold or resold. Similar ownership documents were not provided for independent supplier farms.

## **Introduction**

The purpose of this study is to provide a country specific, factual review of forced labor, child labor and land use in The Coca-Cola Company's (TCCC) sugarcane supply chain in Paraguay, including mills, farms and the sugar industry overall. The study, commissioned by TCCC, is part of the Company's continued effort to expand its understanding of labor and human rights conditions in its supply chain and provides an evidence-based tool for TCCC to mitigate the impact of these issues, where they exist, on workers in its value chain. It delves deeper by analyzing the agricultural value chain and complements the Company's already-existing system to continuously address human rights' issues by evaluating mills' adherence to legal requirements and TCCC's Supplier Guiding Principles (SGP).

The report is divided into four major sections. The first section presents the methodology employed in the study. The second part of the report describes the sugarcane industry in Paraguay. In this section, the report provides a contextual overview of child labor, forced labor and land conflicts in Paraguay. It further summarizes the country's legal framework, how the issues have changed over the last 10 years as well as describing their current state. The fourth and last section of the report describes findings specific to the TCCC supply chain in Paraguay. The report concludes with a summary of the main insights discovered as a result of the study.

## **Methodology**

The study seeks to examine forced labor, child labor and land conflicts in Paraguay and to provide an overview of the current situation at the country level, as well as to report on any occurrences in TCCC's supply chain. The purpose was not to determine the overall prevalence of child labor in Paraguay or the sugarcane industry. The methods employed in this study were qualitative. No statistical methods were used. A more detailed description of the methodology is below:

## **Desk Research**

Researchers reviewed publications on forced labor, child labor and land use and conflicts to understand the historical context of the issues, efforts to eliminate these human rights abuses and to obtain national statistics on their incidence at the country-level, as well as specific to the sugarcane industry. The study also researched possible links between TCCC mills that participated in the study and any reported violations. The legal framework, specific to each issue, was examined as well.

## **Stakeholder Consultations**

Stakeholders were consulted as part of the research process to corroborate desk research findings. Researchers used a semi-structured questionnaire to guide the interviews and adjusted according to the stakeholder's area of expertise. Questions asked related to the existence of issues, prevalence, changes observed in the last 10 years, as well as root causes of the problems. Stakeholders consulted included groups or individuals from industry, civil society, academia, unions, government and notaries responsible for land titling. When applicable, researchers asked stakeholders specifically about the TCCC participating mills.

## Onsite Observations

### Mill Visits

Mill site visits were conducted to review sugar purchasing practices and forced and child labor monitoring protocols of the mills, and potential land use issues. Structured questionnaires were used to guide the visits. Two mills that supply sugar to TCCC in Paraguay were visited for the purpose of this study.

### Farm Visits

Site visits to farms that supply to sugar mills were visited. Depending on individual ownership structures, the sample of farms included fully owned, rented land and independent farm operations and others as applicable. Due to the rotation of the fields' planting and harvesting, twelve farms were visited, both day and night shifts. Farm visits focused on interviews with workers and other key personnel in the fields. The goal was to understand the general labor practices at the farm level through interview and observation. During these field visits, meetings with unions and other local organizations were conducted to gather further information related to child labor, access to education, industry efforts to improve living and working standards for workers, and other human rights related topics identified during initial desk research. Land issues were also explored during these interactions. In addition, farm workers were interviewed during these visits. An average of seven to eight workers were interviewed per farm. In some cases, if there were less than 5 workers in one area, all were interviewed. The workers were chosen at random and interviewed privately in the fields and in limited cases in their dormitories. They were assured that the information shared was confidential and would not be shared with mill or farm management nor would it be attributed to them, in any way, in the final report.

### Study Review Additional Methodology Considerations Around Land Rights

In November 2013, TCCC committed to zero-tolerance for land grabbing across its operations and added land to the scope of a broad assessment effort to make its sugar supply chain transparent from a labor perspective.

The combined land and labor studies began in 2013 with Colombia and Guatemala, and the land components of these assessments were subsequently reviewed with stakeholders, including land rights and human rights non-governmental organizations (NGOs), and land experts from several bi- and multi-lateral donor organizations, as draft documents in 2014. Valuable input was received from the workshop participants on the research methodology and on the characterization of the results. The first two studies, for Colombia and Guatemala, were revised and publically released in early 2015. At this time, the land assessment methodology was also revisited and revised for use in subsequent country studies, including Paraguay.

TCCC's revised land assessment methodology is intended to provide a diagnostic snapshot of a supplier's past sugar supply chain land-related practices (to the extent possible), with the goal of informing and shaping future sugar supplier (mills and cane farms) land use and acquisition practices. Specifically, the land assessments are intended to:



- Flag significant diagnostic findings for use in shaping future supplier land-related conduct.
- Permit TCCC to make suggestions or provide concrete guidance to sugar suppliers about how they can acquire land in a transparent and socially responsible way.
- Identify the types of land-related grievances (if any) that may have arisen in response to past land acquisition practices, and that may arise during future land acquisitions.
- Be used to inform the shape and implementation of future land-related grievance identification and resolution mechanisms that can be put in place when sugar supply chain actors acquire land or otherwise affect land access, use, and tenure security.

Importantly, the land assessments are not intended to identify historic, problematic land acquisitions made by suppliers, except to the extent that information about past acquisitions can inform better future practices. It is difficult or impossible, under almost all assessment scenarios, to perform forensic examinations of supplier land acquisition practices. Indeed, the literature published by expert land practitioners often comments on the difficulties inherent in any attempt to characterize and parse land claims, adjudicate decisions, and provide for remedies (including in-kind or monetary damages), and/or restitution, whether the displacement/claims are a product of government acquisitions, an unfair land deal, or civil conflict.

The refined land assessment methodology uses a series of questionnaires to permit researchers to obtain land-related information from a number of stakeholder groups, including:

- Mill owners and operators
- Large- and medium-sized cane farm owners and operators
- Smallholder cane farmers
- Government officials
- Representatives from civil society organizations
- Smallholder land users adjacent to or near mills and large- and medium-sized cane farms

It is important to stress that TCCC does not directly or indirectly acquire land as it obtains sugar from suppliers. That is, TCCC does not own or lease land for sugar cane farming or for sugar mill operations. In no case, does TCCC purchase all of the sugar produced by any single sugar supplier. TCCC purchases sugar from two of eight mills that operate in Paraguay. From one mill, they are one of four customers. The second mill was unwilling to disclose this information due to confidentiality concerns.

### **Limitations of the Study**

The main limitations of the study are related to the onsite observations. In most cases, researchers received the aid of mills to locate and reach farms, many of them located in remote and hard-to-reach areas of the country. As such, these visits were not entirely unannounced. Additionally, farm visits were tied to the harvest schedule and researchers could only visit farms that had planting or harvest activities scheduled during the time of the visit.

Nevertheless, the various activities implemented as part of the methodology provided opportunities to triangulate information and obtain an accurate diagnostic of child and forced labor as well as land

conflicts in TCCC's sugar supply chain. Detailed desktop research uncovered a number of reports on these issues that relied on representative population surveys and the work of stakeholders that have been on the ground for numerous years. Additionally, and more importantly, the extensive stakeholder engagement process conducted, especially at the local level, allowed for information to be provided on these issues and on the related mills' operations without any interference from mill management. These stakeholder interviews and the information collected during mill visits matched onsite observations and farm worker statements collected during visits to sampled farms, validating the methodology of the study. Finally, onsite visits are reliable in the assessment of physical infrastructure related to the working conditions in question as well as the evaluation of processes and standards put in place by mills and then enforced or not at the farm level to avoid forced and child labor and land conflicts.

### **Research Team**

Arche Advisors is a corporate responsibility consulting firm that specializes in labor and human rights in global supply chains. Arche's research team for this study was comprised of field experts with decades of experience in monitoring and supply chain work across Latin America. The team included experts in monitoring human rights, environmental management, community engagement programs, and workers' needs assessments as well as sugarcane ethanol supply-chain traceability.

## Paraguay's Sugar Industry

Sugarcane was introduced into Paraguay in the 16th century and has been traded domestically and exported since then. Paraguay's largest crop is soy. Although growth has slowed during the last two years, Paraguay has

experienced record growth during the last decade, more than any other South American country. This has been mostly due to the export of soy and beef. However, sugarcane has been an important cash food crop to farmers, until the 1980s when they began to use it as an input to ethanol as well.

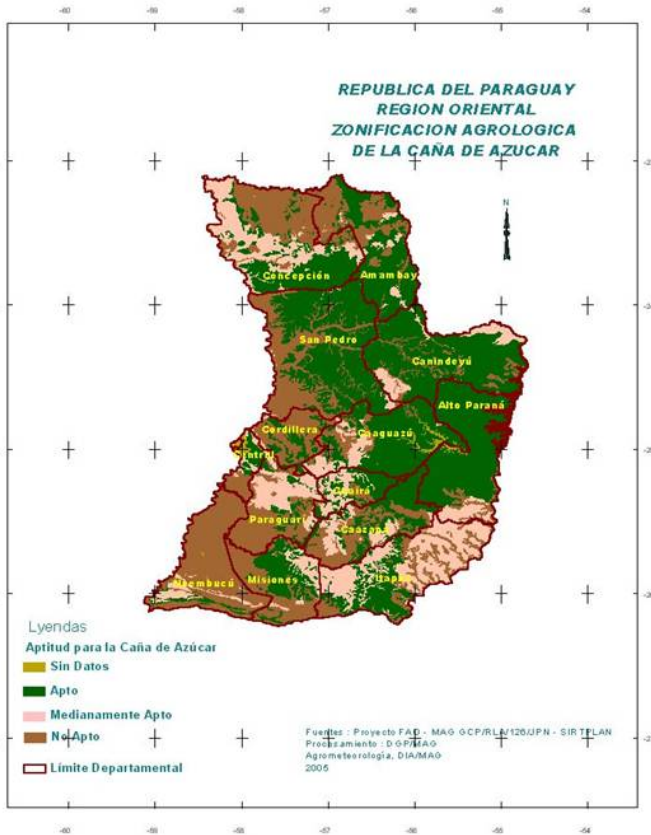
Paraguay's climate and geographic location is favorable to sugarcane cultivation, with ninety percent being grown in six departments: Guairá, Paraguairí, Caazapá, Cordillera, Canindeyú and Caaguazú<sup>3</sup>.

Although Paraguay's production and exportation of sugar is small compared to some of their neighboring countries, such as Brazil, they have found their niche in organic sugar. They are, in fact, the world's largest producer

of organic sugar. Last year's sales to the U.S. amounted to \$65 million, accounting for 43% of its \$152 million in total exports to the U.S.<sup>4</sup>. In addition to sugar, the country passed a law in 2005 to increase production and use of ethanol. The government incentivizes producers, in order to promote

its production.

Sugar Industry Key Statistics	
<b>Number of operating mills</b>	8
<b>Number of farms</b>	Approximately 30,000
<b>Number of workers</b>	20,000
<b>Harvest season</b>	April to November
<b>Area Harvested</b>	120,000 Ha
<b>Metric tons of Sugarcane (2016)</b>	6.7M



According to the Ministry of Agriculture and Cattle, Paraguay produced 6,701,433 metric tons of sugarcane in 2015, which were used to make sugar, molasses and ethanol. This number has almost doubled since 2003, when the country produced 3,260,475 tons of sugarcane. As expected with this growth, the number of hectares used to cultivate sugar has grown from 62,255 Ha in 2003 to 120,000 Ha in 2015<sup>5</sup>. The growth is due to an increase in the export of

<sup>3</sup> Food and Agriculture Organization of the United Nations

<sup>4</sup> Datamyne

<sup>5</sup> Instituto Interamericano de Cooperación para la Agricultura

organic sugar from the country, as well as to the production of ethanol needed to satisfy recent government requirements.

Roughly 27% of the population of Paraguay work in agriculture, with approximately 20,000 or less than 1% of people cultivating and cutting sugarcane<sup>6</sup>. There are approximately 30,000 farms, of various sizes, dedicated to the production of sugarcane in the country. Increasingly, sugarcane farms are mechanized, with the larger mills having transitioned earlier. Mills in the eastern part of the country tend to be mechanized, and those in the central part of the country still do a significant percentage of the harvesting manually. The unofficial estimate from the Sugar and Alcohol Center of Paraguay is that 65 percent of sugarcane harvesting is mechanized.

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<sup>6</sup> U.S. Central Intelligence Agency

## Forced Labor in Paraguay

### Legal Framework

Below is a description of the major laws that govern forced labor and human trafficking in Paraguay.

#### Constitution of Paraguay

Article 86 of the Paraguayan constitution states that all inhabitants of the Republic have the right to lawful work, freely chosen and conducted in dignified and just conditions.

#### The Labor Code

Article 10 of the Paraguayan Labor Code states that no contract, covenant or agreement on work, which stipulates the impairment, sacrifice or loss of personal freedom, shall be recognized as valid.

Article 87 states that in the case of a contract for an indefinite period, neither party may terminate without giving notice to the other, except as provided in articles 81 and 84 of this Code, in accordance with the following rules:

- (A) the probationary period up to one year of service, 30 days' notice;
- (B) more than one year and up to five years, 45 days' notice;
- (C) more than five and up to ten years, 60 days' notice; and
- (D) more than ten years, 90 days' notice.

In the computation of seniority, it will include the notice, if the worker worked during that time.

#### Penal Code, Law 1.160/97 of

The Paraguayan Penal Code, Article 129 of Human Trafficking states that:

- 1) Any person who by force, threat of gross negligence or deception, leads another person out of or within the national territory and using his or her helplessness to induce prostitution, shall be punished by imprisonment for up to six years.
- 2) When the author acts commercially or as a member of a band that has been formed for the accomplishment of facts indicated in the previous section, the provisions of articles 57 and 91 will apply, which lengths of imprisonment and/or the payment of fines.

Per the Penal Code, Article 320, forced labor is established as punishable only as it applies to war crimes.

#### Other Laws and Statutes

Paraguay has ratified the following international conventions, and based several laws on them.

- Convention on Forced Labor
- Convention on the Abolition of Forced Labor
- Convention on the Prohibition of the Worst Forms of Child Labor
- Convention on Indigenous and Tribal Populations
- Inter-American Convention on the Trafficking of Minors

Law Number 4788 Integral Against Trafficking in Persons Article 1 states that the present law has as its objective to prevent and sanction trafficking of persons in whichever of its manifestations,

perpetrated in the national territory and abroad. It also has as its objective to protect and assist victims, strengthening state action against this punishable act.

The Inter-Institutional Working Group on Preventing and Combatting Human Trafficking was formed to coordinate interagency efforts combat all forms of trafficking in persons. The Ministry of Foreign Relations heads it.

The National Commission of Fundamental Labor Rights and Prevention of Forced Labor includes representatives of employers, unions and government agencies, such as the MTESS.

### **Current Context**

The United States Department of State 2015 Human Rights Report for Paraguay continues to list forced labor as a significant human rights' abuse in the country<sup>7</sup>. The U.S. State Department 2016 Trafficking in persons report for Paraguay identifies indigenous persons as particularly at risk for forced labor, and children working in agriculture as being highly vulnerable to sex trafficking<sup>8</sup>. The Bureau of International Labor Affairs within the U.S. Department of Labor has reported, as of September 30, 2016, that forced labor is found primarily in the cattle industry<sup>9</sup>. Forced labor has not been reported in the cultivating, harvesting or processing of sugarcane.

In recent years, NGOs and the International Labor Organization (ILO) reported cases of indigenous workers in the Chaco department working in bondage conditions in the livestock industry. There were also reports that people in various departments, including Canindeyú, were being forced into processing marijuana leaves by drug traffickers. In addition, there were reports of children forced into domestic servitude. The Walk Free Foundation, whose mission is to end modern slavery, reported in their 2016 Global Slavery Index that an estimated 26,800 people in Paraguay live in modern slavery, which include forced labor, slavery and slavery-like practices, debt bondage, forced or servile marriage and worst forms of child labor<sup>10</sup>.

In 2006, the ILO in partnership with Sweden began a project centered on forced labor, discrimination and poverty reduction among indigenous peoples in Bolivia, Peru and Paraguay. The program began with in-depth field studies. The study in Paraguay found that indigenous people are particularly vulnerable to debt bondage in the traditional cattle farms of the Chaco region. They are hired by labor intermediaries, who through "wage advances and other manipulations, induce them into artificial debt they cannot repay"<sup>11</sup>. As a result of this project, the Ministry of Labor visited the region for the first time to learn more about the labor conditions<sup>12</sup>, and decided to open an office in the Chaco region in order to increase the number of labor inspections in the region and requested additional technical assistance of the ILO. The project then focused on promoting an integrated

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<sup>7</sup> U.S. Department of State

<sup>8</sup> Ibid

<sup>9</sup> Bureau of International Labor Affairs, U.S. Department of Labor

<sup>10</sup> The Walk Free Foundation

<sup>11</sup> International Labor Organization

<sup>12</sup> Paraguayan Ministry of Labor

approach to connecting anti-forced labor initiatives with broader social policies combatting ethnic discrimination.

The Penal Code of Paraguay, Article 29, per the 2009 update, made international human trafficking punishable by law. In reviewing the changes to the Penal Code, the U.S. Embassy in Asunción, found deficiencies in the amendments and made the following recommendations:

- Address deficiencies in anti-trafficking laws to include internal trafficking for labor exploitation and commercial sexual exploitation;
- intensify efforts to identify and process those guilty of human trafficking, including forced labor, as well as efforts to condemn and punish traffickers;
- assign more resources to assist victims;
- propel investigations into government officials who may have facilitated human trafficking and
- increase efforts to increase public awareness of human trafficking, particularly for those people seeking work abroad<sup>13</sup>.

In response, the government amended the law to include national offenses and commercial sex exploitation. However, the penal code still does not include a provision for labor exploitation.

On November 15, 2016, the President of Paraguay issued decree number 6285 announcing the approval of the creation of a National Strategy on the Prevention of Forced Labor, 2016-2020. The decree states that based on the recommendation of the National Commission on Fundamental Labor Rights and the Prevention of Forced Labor, they will conduct a series of workshops, in which there will be tripartite consultations at the national level, to delineate the strategy. The inter-institutional work will be coordinated by the MTESS<sup>14</sup>. The first meeting of the group took place on December 15, 2016<sup>15</sup>.

### Initiatives Combatting Forced Labor

From 2006 to 2008, the ILO partnered with the Swedish government to address forced labor, discrimination and poverty reduction among indigenous peoples in Bolivia, Peru and Paraguay in the Chaco region.

In 2009, the ILO supported a 15-day labor inspection campaign for forced labor in the Chaco region.

Although it is focused on cotton, the MTESS is participating in a tripartite project this year (2016) to better work conditions in the cotton supply chain, including forced labor<sup>16</sup>.

<sup>13</sup> U.S. Embassy in Asunción, Paraguay

<sup>14</sup> Office of the President

<sup>15</sup> Ministry of Labor, Employment and Social Security, 2016

<sup>16</sup> Ministry of Labor, Employment and Social Security

## Child Labor in Paraguay

### Legal Framework

Below is a description of the major laws and institutions that protect and benefit children in Paraguay.

#### Constitution of Paraguay

Article 54 of the Paraguayan Constitution about the Required Protection for a Child states that:

(1) Families, society, and the State have the obligation of guaranteeing a child the right to a harmonious, comprehensive development, as well as the right to fully exercise his rights by protecting him against abandonment, undernourishment, violence, abuse, trafficking, or exploitation. Anyone can demand that a competent authority comply with these guarantees and punish those who fail to comply with them.

(2) In case of conflict, the rights of the child will prevail.

Article 56 About Youth states that the State will promote conditions conducive to the active participation by the youth in the political, socioeconomic and cultural development of the country.

Article 76 of the Obligations of the State says that primary education is obligatory and free of cost.

#### The Labor Code, Law 213

Minimum Age: industry, public, private:	15
Minimum Age: non-industrial:	14, with conditions
Restrictions on work of minors 14-18 years of age:	<ul style="list-style-type: none"> <li>• Shall complete primary education</li> <li>• Shall have health certificate</li> <li>• *Shall work during the day, non-hazardous and healthy conditions</li> <li>• Legal representative of minor shall approve</li> <li>• Shall not work more than four hours per day, or twenty-four hours per week</li> <li>• If in school, shall not work more than two hours per day, and school and work combined must not be more than seven hours per day</li> <li>• Shall not work on Sundays or holidays</li> </ul>

*\*This precludes most agricultural work, including the planting and harvesting of sugarcane.*

#### Other Laws and Statutes

Child and Adolescent Code, Law 1680, Article 24 states that children and adolescents have the right to be protected against all forms of exploitation and against any activity that may be dangerous or impedes their education or is harmful to their health or to their harmonious and integral development.

Law Number 4788 Integral Against Trafficking in Persons, Articles 6 and 7 are about Aggravating Circumstances and Special Aggravating Circumstances and prohibit child trafficking.

Paraguay has ratified the following ILO conventions:



- C138: Minimum Age Convention
- C182: Worst Forms of Child Labor Convention (*including the cultivation and harvesting of sugarcane*)
- C059: Minimum Age (Industry) Convention
- C060: Minimum Age (Non-industrial Convention
- C090: Night Work of Young Persons Convention

In addition, Paraguay is a signatory to the Hemispheric Agenda for Decent Work in the Americas, 2006-2015, which focused on the recognition of decent work as a global objective, and includes the elimination of child labor and the worst forms of child labor.

The Ministry of Labor, Employment and Social Security (MTESS) has a mission to regulate the policy of the ministry and guarantee compliance with current labor regulations, preventing and resolving conflicts, improving work conditions and respecting workers' fundamental rights for the progress of the countries companies, in benefit of the socioeconomic development of the country, within a democratic framework and social dialogue<sup>17</sup>. The current Ministry of Labor, Employment and Social Security has only been in existence since the beginning of 2014. Prior to 2014, Labor was part of the Ministry of Justice and Labor, and was allocated a very small percent of the total budget. Although there has been criticism of the MTESS, others are supportive and believe that the group has not been functioning long enough to deserve criticism.

The National Secretary of Childhood and Adolescence (SNNA) is the governing body and articulator of public policies for the promotion and protection of rights, together with actors of the National System of Promotion and Protection of the Rights of Children, placing the best interests of children and adolescents as the center, making full use of their rights, with proposals that promote social and community mobilization at the national, departmental and municipal levels<sup>18</sup>.

With the support of the ILO, the National Commission for the Eradication of Child Labor and the Labor Protection of Adolescents (CONAETI) was formed in 2002. The group is responsible for coordinating the National Strategy for the Prevention and Eradication of Child Labor and Labor Protection of Adolescent and coordinating efforts between the MTESS, Ministry of Justice and Human Rights, the Ministry of Women's Affairs, the SNNA and other government agencies, as well as unions, industry associations and NGOs.

The National Council for Children and Adolescents establishes policies to protect children's rights and approve specific programs aimed at children and adolescents.

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<sup>17</sup> Ministry of Labor, Employment and Social Security

<sup>18</sup> National Secretary of Childhood and Adolescence

## Current Context

According to the Coordinator of Human Rights of Paraguay's (CODEHUPY) 2016 Human Rights Report, the majority of the population in Paraguay is made up of children, adolescents and youth. "Of every 100 people that live in Paraguay, 39 are children and adolescents"<sup>19</sup>. In 2016, approximately 27.6 percent of the Paraguay's children were involved in some form of work<sup>20</sup>, and only one in four children were dedicated solely to their education. Approximately half of children working work in agriculture<sup>21</sup>. The United Nations International Children's Emergency Fund (UNICEF) has identified many causes of child labor has many causes, including extreme poverty, limited education of parents or caregivers, lack of infrastructure in rural areas, traditional practices of social permissiveness that accept child labor, lack of relevance of school curriculum, vulnerable children who are forced to participate in illegal activities, limited access to government support/programs or children used for selling/trafficking drugs<sup>22</sup>.

Perhaps one of the most well-known studies conducted on child labor, was a study commissioned by the USDOL that was published in 2012. The study focused on children and adolescents from 5 to 17 years of age who were involved in the cultivation or harvesting of sugarcane. The methodology used to gather data was a quantitative household survey and was complemented with worksite observations. The study found that children made up 28 percent of the total number of people working in sugarcane fields, or an estimated population of 54,928 children. It stated that sugarcane children work approximately 26 hours per week, and 8.4 months out of the year and the majority work for or with their parents. Only 12.5 percent of children are not working for or with a parent. The study estimates that 100 percent of children are exposed to some hazardous working conditions, and about 25 percent have been injured at work<sup>23</sup>.

According to the USDOL Report on 'The Findings of the Worst Forms of Child Labor, 2015', Paraguay was one of sixteen countries that made significant advancement in eliminating the worst forms of child labor in 2015, when compared with 2014. This means that the country took suggested actions from the 2014 report and/or made other meaningful efforts during the year "*in all relevant areas*" covering laws and regulations, enforcement, coordination, policies and social programs"<sup>24</sup>.

The changes made in 2015 include:

- Raised minimum age for domestic work from 16 to 18
- Labor Inspectorate hired and trained 30 new labor inspectors
- Labor Inspectorate formalized an agreement with the ILO to develop child labor training for inspectors

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<sup>19</sup> Coordinator of Human Rights of Paraguay, 2016

<sup>20</sup> United Nations International Children's Emergency Fund

<sup>21</sup> Dirección General de Estadística, Encuesta y Censos

<sup>22</sup> UNICEF

<sup>23</sup> USDOL, 2012

<sup>24</sup> USDOL, 2015

- The National Commission to Prevent and Eradicate the Exploitation of Children coordinated interagency meetings to draft legislation to address the worst forms of child labor and develop magistrate trainings to strengthen the enforcement of child labor laws.
- The National Secretary for Children and Adolescents launched an awareness-raising campaign on commercial sexual exploitation of children and opened a shelter for child and adolescent victims of human trafficking.

According to the USDOL, even with all of the efforts being made by the government, the funding and reach of social programs and law enforcement agencies are insufficient to address the worst forms of child labor, particularly in rural areas and in cattle raising<sup>25</sup>.

Based on the extensiveness of the issue, the country continues to stay focused on child labor. However, two programs have experienced success in getting more children out of the workplace and into school and are keeping them there. The Abrazo and Tekoporã programs have statistics that indicate that they have made a difference, as related to child labor. Both are traditional cash transfer programs.

The Abrazo program reported, in 2015, that their program has benefited 4,672 children and adolescents between the ages of 9 and 18. They reported that there are 3,959 children and adolescents participating in the Abrazo program who are enrolled in school. They have protected and supported 2,290 children and adolescents from risks of the worst forms of child labor<sup>26</sup>.

In November 2016, the organization Global Partnership for Social Accountability, an institution created by the World Bank, based in Washington D.C., United States, highlighted the progress made by the Tekoporã Program in social auditing. They reported that ninety-five percent of the children between 5-18 years of age were attending school, and 92.4% rated the school in their community as positive and very positive<sup>27</sup>.

### Initiatives to Combat Child Labor

The Abrazo Program was created by a request from civil society to the government in 2005. It was highlighted by the media and had international coverage. The Paraguayan government met this demand by establishing the program to aggressively reduce child labor in the streets. The program became one of the most prominent programs with the support of the authorities and its budget was increased to include other sectors. In 2011 the focus was expanded to sugarcane in rural areas. In semi-urban areas, the focus was on brickmaking, and in urban areas the focus was on children in the streets. However, any reporting on the results of Abrazo have not been reported by sector making it difficult to know the impacts specific to sugarcane.

The Tekoporã Program, run by the Secretary of Social Action, is directed at indigenous families in extreme poverty and vulnerable circumstances, children and adolescents below the age of 18,

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<sup>25</sup> USDOL, 2015

<sup>26</sup> Secretaría Nacional de la Niñez y la Adolescencia, 2015

<sup>27</sup> La Nación

disable persons and pregnant women. The program is a Money Transfer with co-responsibility program. They work with “Family Guides” who visit the homes and verify the fulfillment of the responsibilities of families. Guidance is related to hygiene habits, food quality and guiding families to access various public services. The government estimates that they reached approximately 130,000 families.

The Ministry of Education and Culture, together with the SNNA and the ILO have implemented the SCREAM (Supporting Children’s Rights through Education, the Arts and the Media) methodology since 2005. As of 2014, it had been implemented in the most departments of the country, training more than 2000 teachers and 20,000 children and adolescents.

Paraguay Okakuaa is a six-million-dollar program of MTESS, funded by the USDOL and carried out by the organization Partners of the Americas. The project’s general objective is “to support Paraguay in its efforts to reduce the worst forms of child labor and improve labor law compliance and working conditions, with a particular focus on the Department of Guairá,” specifically in the municipalities of Borja, Iturbe, Troche, Paso Yobai and Villarrica. The project is just beginning but aims to protect children and expand educational opportunities in the Department of Guairá, as well as to improve compliance with labor laws and improve labor conditions in the department<sup>28</sup>.

The Regional Action Group for the Americas conducts prevention and awareness-raising campaigns to combat the commercial sexual exploitation of children in Latin America. Members include Argentina, Bolivia, Chile, Colombia, Paraguay, Peru, Suriname, Uruguay and Venezuela<sup>29</sup>.

The Global Program on the Eradication of Child Labor is a 3-year project, funded by Spain and implemented by the ILO-IPEC to combat child labor<sup>30</sup>.

The Partnership Program to Eliminate Child Labor is a 4-year project funded by Brazil and implemented by the ILO-IPEC to combat child labor<sup>31</sup>.

The Global Action Program on Child Labor Issues is a 4-year program funded by the USDOL to increase the knowledge base and build capacity of the government in child labor. Census trained enumerators and implemented the first stage of the pilot<sup>32</sup>.

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<sup>28</sup> Partners of the Americas

<sup>29</sup> USDOL, 2015

<sup>30</sup> Ibid

<sup>31</sup> Ibid

<sup>32</sup> Ibid

## Land Use in Paraguay

### Legal Framework

Below is a description of the major laws that govern land use, transfer, purchase, ownership and government allocations in Paraguay.

#### Constitution of Paraguay

Article 64 of the Paraguayan Constitution guarantees the right of indigenous people to communal ownership of land, in an extension and quality sufficient for the preservation and development of their particular forms of lifestyles. The State will provide them freely with these lands, which will be non-seizable, indivisible, non-transferrable, imprescriptible, not susceptible to guarantee contractual



*Sugarcane field in eastern Paraguay*

obligations or to be leased; likewise, they will be exempt from taxes.

Article 109 of the Paraguay Constitution states that private property, whose contents and limits are established by the law, is guaranteed and inviolable. No one may be deprived of his property if not by virtue of a judicial sentence, nevertheless the expropriation for cause of public utility or social interest, which will be determined in each case by law, is admitted. It will guarantee the prior payment of

a fair indemnification, established conventionally or by a judicial sentence, except for the unproductive latifundia (large scale land ownership) destined for agrarian reform, according to the procedure for expropriations to be established by law.

#### **The Civil Code of Paraguay, Law Number 1183/85, Title III, Chapter I is about the right of property.**

Article 1963. Property is perpetual and subsists independently of the tests that may be done to it. The owner does not cease to be the owner, even if he does not exercise acts of ownership, or is unable to do so, and even if a third party exercises them with his consent or against his will, unless he has let a third party acquire it by the term of the statute of limitations.

Article 1964. No one can be deprived of the property or their property rights, but by reason of public utility or social interest, as defined by law, nor can they be disposed of it without just compensation.

Article 1965. If the expropriated thing is not allocated for the purpose that motivated the expropriation within a reasonable time, the previous owner can demand its recovery in the state in

which it was transferred, recording the price or the compensation paid.

Article 1989. Those who continuously own a property for twenty years without opposition, and without distinction between present and absent, acquire ownership of it without the need for a title or good faith, which in this case is presumed. A judge can be asked to declare it by judgment, which will serve as the property deed for registration in the Property Registry (Registro de Inmuebles).

### **Land Statutes and Laws**

Law 1863 amended January 30, 2002 establishes the Agrarian Statute. As stated in Article 2, this reform will promote the adaptation of the agrarian structure, leading to the establishment, strengthening and harmonious incorporation of peasant family agriculture to National Development, to contribute to overcoming rural poverty and its consequences, through a general strategy that integrates productivity, environmental sustainability, participation and distributive equity.

- Article 8- determines requirements for rural land granted for a Basic Unit of Family Economy (UBEF) to be no less than 10 hectares, except for suburban land.
- Article 16- describes beneficiaries of the law, which include: people who directly and habitually dedicate themselves to agriculture, as an economic activity, and those who have no previously been granted land.
- Article 17- describes other beneficiaries, which include: foreign national permanent residents with at least 5 years in the country, large-scale farmers, cooperatives, indigenous communities, non-profit organizations and official institutions of the state.

Law 2419/04 was established in 2004, and creates the National Institute of Rural Development and Land (INDERT). The law establishes the general dispositions, structure and administration as well as the responsibilities of the institute, including land registration and management of the agrarian and environmental cadasters.

Ley 904/81. First Title of the Indigenous Communities, Chapter I of general principles. Article 1. This law provides, as its objective, the social and cultural preservation of indigenous communities, the defense of their patrimony and traditions, the betterment of their economic conditions, their effective participation in the national development process and their access to a legal regime that guarantees them property of land and other productive resources in equal rights with other citizens.

- Article 14. The settlement of the indigenous communities will, as much as possible, attend to the current or traditional ownership of the lands. The free and express consent of the indigenous communities will be essential for their settlement in places other than their habitual territories, except for reasons of national security.
- Article 15. When in the cases provided for in the previous article it is necessary to transfer one or more indigenous communities, suitable lands will be provided and at least of equal quality to those they occupied and will be properly compensated for the damages that they suffered as a result of Displacement and the value of improvements.

The laws, as they are written, are clear and provide for land ownership protections and legal means to dispute land conflicts. As with any laws in any country, they are as effective as their implementation and enforcement. Civil society has been critical of the enforcement of the laws by the Paraguayan Government. In their 2015 Human Rights Report, CODEHUPY states, “International regulations ratified by Paraguay, other national laws, decrees and resolutions, as well as municipal ordinances, are neglected by the authorities of the three branches of government<sup>33</sup>”.

There are two organizations that are responsible for implementing programs corresponding to the above laws, the Paraguayan Institute of the Indigenous (INDI), and the National Institute of Rural and Land Development (INDERT). The former was formed in 1981 and the latter in 2004. The establishment of law 904/81 was generally well received. “Some indigenous leaders feel that Ley 904/81 remains their most important legal victory to date<sup>34</sup>.” However, in its application it has had limited success. Many of the cases that have not been resolved have been due to inaction of the courts. In few cases, indigenous communities have been granted land with corresponding titles and many have not.<sup>35</sup> CODEHUPY, in their 2016 Human Rights report, stated when referring to INDI that “the institution that should be most institutionally strengthened, remains the weakest in the Paraguayan State, since it has an infrastructure and human resources that are absolutely inadequate in terms of quality, quantity and identity as human rights defenders<sup>36</sup>”.

The capacity of government to provide tenure security is limited by an inaccurate or inadequate land registry. In some instances, there are overlapping tenants or landowners, each with inaccurate or nonexistent titles, and only through legal proceedings is a true owner named. This has made it difficult to protect tenants from eviction. Judicial rulings are often in favor of companies. In addition, as of 2008, those who were more likely to have a title to their land were large-scale farm owners. The 2008 Agricultural Census showed that 60% of farm owners with less than 50 hectares did not hold land titles, and that percentage rose to 67.8% for those with less than 20 hectares<sup>37</sup>. Perhaps the most important ground-laying work INDERT is doing is to create a digitized system of land titling. Indeed, the INDERT “considers it the most important technical legacy of this administration”<sup>38</sup>. INDERT plans to issue 1000 titles by the end of the year. Their goal is to issue 10,000 titles in 2017.

INDERT is also tasked with recovering lands from people or companies who are not legal beneficiaries of agrarian land reform. As of the end of 2014, they had recovered 8.7 million hectares and created 3 towns with 800 families being given land. However, the transfer of lands has not always been peaceable, with several skirmishes where the police were involved and people were hurt<sup>39</sup>. In addition, in the 2008 Agricultural census, small-scale, family farms took up 1.9 million hectares<sup>40</sup>, but at that point INDERT claims they had distributed 3.8 million hectares to agrarian

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<sup>33</sup> CODEHUPY, 2015

<sup>34</sup> Duckworth, Cheryl Lynn

<sup>35</sup> Ibid

<sup>36</sup> CODEHUPY, 2016

<sup>37</sup> Dirección General de Estadística, Encuesta y Censos

<sup>38</sup> INDERT

<sup>39</sup> Ibid

<sup>40</sup> Ibid

reform beneficiaries<sup>41</sup>. This means that the lands have passed to the hands of medium or large-scale farm owners, which was illegal, whether they were distributed directly by the government or sold by the small-scale farmers.

In 2015, INDERT created the Dirección General de Catastro y Registros Públicos or National Cadastre Service (SNC), with the objective of “making records transparent in order to generate legal security in the country<sup>42</sup>”. Previously land titles were granted based on a description of the land. According to their website, the vision of the SNC is to be the multi-purpose National Institute of Geodesy, Cartography and Cadastre of the country, with the mission of updating and maintaining the inventory of real estate in the country, especially with regard to physical and economic properties.

### Current Context

Paraguay’s area is 40.6 million hectares of land. Analysts estimate that only one-fifth of the land is arable and appropriate for crop cultivation. Agriculture is primarily focused in three parts of the country. The Chaco region to the north is used for the raising of livestock. Central Paraguay has typically been dedicated to the cultivation of crops. Eastern Paraguay endowed with fertile, rich soils and adequate rainfall is also dedicated to crop cultivation<sup>43</sup>. There are two basic systems of crop cultivation in Paraguay: the growing of food crops on small-scale farms, which are sold and consumed internally, and large-scale, agribusiness farms, which produces crops for exportation.

Paraguay has one of the most unequal systems of land distribution in the world. According to the 2008 agricultural census, 80% of land was owned by 1.6% of landowners<sup>44</sup>. The GINI coefficient for land, a measure of inequality of distribution, which attributes a value between 0, representing perfect equality (all land equally shared between farmers) and 1, representing total inequality (all land occupied by one individual), has been almost static. According to the United Nations Development Programme (UNDP), the GINI coefficient for Paraguay’s land distribution comes close to perfect inequality. “For the Eastern Region it increased by two points (0.87 to 0.89) and for the western region it increased one point (0.93 to 0.94) between 1991 and 2008”<sup>45</sup>.

This inequity is a great source of conflict, with thousands of farmers across Paraguay marching on the capital as recently as March 16, 2016, demanding land reforms<sup>46</sup>. The basis of unequal land distribution began in the late nineteenth century, with land titling only available to the wealthy due to the extreme fees required by the Office of Public Lands, which held the authority to distribute titles at the time. The Institute of Rural Welfare was formed in 1930 to address agrarian reform. However, reform never took hold and unequal land distribution was exasperated during the 35-year rule of the military dictator Alfredo Stroessner from 1954 to 1989. He frequently gave out large parcels of land to military officials, civilian supporters and foreign corporations. He also gave smaller parcels to local

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<sup>41</sup> UNDP

<sup>42</sup> Servicio Nacional de Catastro

<sup>43</sup> Library of Congress

<sup>44</sup> Ibid

<sup>45</sup> CODEHUPY, 2015

<sup>46</sup> Telesur



indigenous leaders to maintain grassroots support from small-scale farmers.

It is estimated that 8 million of the hectares of the land distributed was given to persons or companies who were not legal beneficiaries of the land<sup>47</sup>. It is well known that the land Stroessner doled out was often occupied by campesinos, many of whom had lived on the land for years without formal titles. The campesinos land claims were often met with impunity, and their land rights went unenforced. It is estimated that 64% of wealthy Paraguayans and foreigners have illegally obtained their land.<sup>48</sup> Thus far, they have not undergone any judicial process, neither for the return of their lands, nor for punishment, much less the politicians and officials directly involved<sup>49</sup>.

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*"Of a total of 289,666 farms in the entire country corresponding to 32,527,075 hectares, 7,478 farms correspond to properties of 500 and more hectares (up to 20,000 hectares), which account for 27,807,215 hectares, 85.5% of the country's total agricultural area. The large landowners, with connivance of the State, appropriated 96.9% of the new land authorized (8,709,338 hectares) between 1991 and 2008<sup>50</sup>."*

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Land is a central feature of indigenous life as 90% of indigenous people live in rural areas, but according to the study on 'Land and Indigenous Migration', conducted by the General Directorate of Statistics, Surveys and Censuses (DGEEC), based on data from the 2002 census, of the 414 indigenous communities that were registered only 54.3% had their own land, or a little more than half, which means that the rest do not have what is required or that they are insufficient in quantity and quality, according to the minimums established by law. The largest number of communities without land are concentrated in the eastern region, departments of Canindeyú and Caaguazú.<sup>51</sup> The Ava Guaraní is an indigenous community whose lands extend into the Canindeyú department. Recent reports of land conflicts have been due to cattle or soy cultivation. There have been no published reports of conflicts between the Ava Guaraní and sugarcane land owners.

In 2008, Fernando Lugo ran for and won the presidency of Paraguay. When Lugo won, he broke the 60-year old stronghold the Colorado party had on the country. To many Paraguayans, this represented the possibility of change and the first real opportunity for democracy. Lugo ran on a platform of equality and land reform, and having been a Catholic priest known as "the bishop for the poor", many looked to him to implement long awaited changes. However, he was met with much opposition from congress and from within his own party, and with no ability to control the political process, his land reform policies did not have opportunity to succeed.

On June 15, 2012, 300 police raided an area, known as Marina Kue in the northeastern district of Curuguaty in the Canindeyú department, which was occupied by a group of approximately 150

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<sup>47</sup> Truth and Justice Commission

<sup>48</sup> Council on Hemispheric Affairs

<sup>49</sup> CODEHUPY, 2012

<sup>50</sup> Rojas Villagra, Luis

<sup>51</sup> Dirección General de Estadística, Encuesta y Censos

small-scale farmers. The land was illegally obtained by Blas Riquelme, a one-time senator, and the campesinos occupying the land were protesting the illegal land grab. Six police officers and 11 peasants were killed in the standoff, with some 80-people wounded<sup>52</sup>. Lugo was removed from office within one week of the incident in controversial impeachment proceedings.

The trial for those involved in the incident was only recently finished in July 2016. The court sentenced four campesinos for the killing of the six police officers, along with occupation of property and criminal association, to 18 to 35 years in prison. The impunity of those involved in the crimes against the campesinos and the sentencing of only the campesinos has outraged many and has been publicly denounced by international organizations. The UN High Commissioner for Human Rights, Zeid Ra'ad, said, "The conviction of 11 peasants in the Curuguaty case following a trial that allegedly did not respect judicial guarantees is deeply troubling".<sup>53</sup>

Specific to the sugar industry and according to stakeholders consulted, land conflicts have not been common in Paraguay's sugar industry. There were no reports of land disputes by any of the local and international groups consulted.

### Initiatives to Promote Land Rights

The United States Agency for International Development (USAID) Mejora de los Procedimientos Catastrales Municipales project aims to promote the improvement of the institutional links between the National Cadastre and municipalities in the generation, processing, evaluation and integration of the cadastral system information. The project ends in 2016, and a report is not yet available<sup>54</sup>.

Sembrando Oportunidades is a Paraguayan anti-poverty program that incorporates land rights as one of its objectives. One part of the program is to incorporate campesino lands into the work of agribusiness, essentially renting their lands to large companies. The other part of the program focused on land is a territorial focus, which consists in inducing the urbanization of peasant populations, offering housing and services, such as drinking water, health and education in a reordering of communities with a criterion of extensive production. As of the end of 2015, the program had only reached 2.9% of farms, which some have called ineffective.<sup>55</sup>

As mentioned above, per its mandate, INDERT is recovering land and redistributing it to small-scale farmers. However, the process has not been without complications and people have been injured in conflicts arising from the placement of the new families.

Paraguay Forest Conservation Project is a partnership between local communities, World Land Trust, Guyra Paraguay and Swire Pacific Offshore. It is focused on La Amistad, San Rafael and

<sup>52</sup> CODEHUPY, 2012

<sup>53</sup> UN News Centre

<sup>54</sup> USAID

<sup>55</sup> Ibid

focuses on helping community members improve their farming systems and general well-being and safeguard forest under their control<sup>56</sup>.

The objective of the Conservation of Biodiversity and Sustainable Land Management in the Atlantic Forest of Eastern Paraguay Project is to assist the member country's continued efforts to achieve sustainable natural resource-based economic development in the project area, by: (a) establishing the Mbaracayu-San Rafael conservation corridor within public and private lands through sustainable native forest management practices for biological connectivity; and (b) encouraging sustainable agricultural practices that maintain biodiversity within productive landscapes, while increasing productivity and mainstreaming biodiversity conservation. The expectation is that this change will have a positive impact on project performance, as Itaipu has already an administrative structure in place and good logistical capacities that can support its role as the Chair of the Management Council, thereby reducing overall operating costs<sup>57</sup>.

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<sup>56</sup> World Land Trust

<sup>57</sup> World Bank

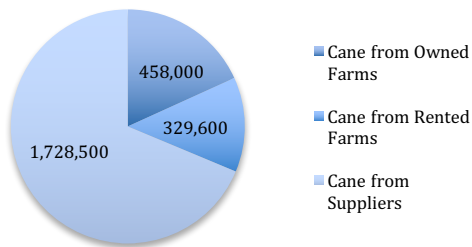
## Findings from Onsite Observations

Visits to two mills were made that supply sugar to TCCC. One mill was located in the eastern region of the country, and the other mill in the south-central region of the country. During the mill visits, onsite observations of farms that supply to the mills were also conducted. A total of 12 farms that supply to the mills were also visited, where a total of 105 workers were interviewed. Additionally, fourteen local stakeholder groups were interviewed.

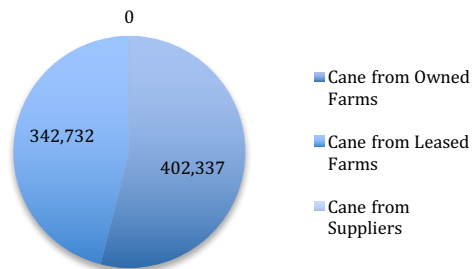
## General Supply Chain Characteristics

The two mills purchased and grew approximately 3.26 million tons of sugarcane, sourced from 2,059 farms in 2015. The mills and farms are located in the south-central region of the country and on the eastern border near Brazil. The majority of mills and sugarcane are in the central part of the country.

**South Central Mill Sugarcane Volume in 2015 (tons)**

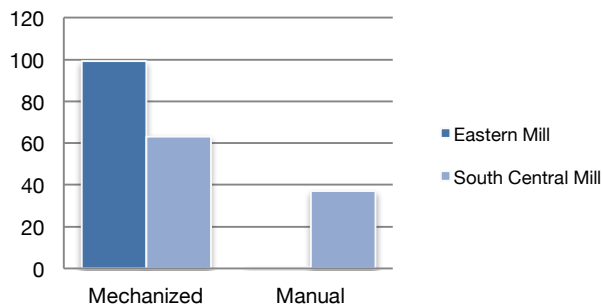


**Eastern Mill Sugarcane Volume in 2015 (tons)**



The two mills surveyed were quite different in their purchasing practices. The mill in the south-central region purchased approximately 68 percent of their sugarcane from suppliers, with lesser amounts from rented farms and owned land. The mill in the eastern part of the country obtained more than half of their sugarcane from their own farms, and the remainder was obtained from rented farmland.

**Mechanized vs. Manual Harvest 2015**



The south-central mill is a larger operation that produces more organic than conventional sugar. The mill in the east is a smaller operation, but grows only conventional sugar. Almost one hundred percent of the eastern mill's harvesting is mechanized. Therefore, the number of farm workers they have hired either directly or indirectly is much less than the mill in the south-central mill, which is 63

percent mechanized and 37 percent manual. The eastern mill uses labor providers for planting and only occasionally for harvesting. In the south-central mill, the number of labor provider farm workers was almost double the number of permanent workers. The independent farms in the south-central region and the labor providers in both regions manage their own labor forces. Both mills only requiring basic information about labor providers' workers, such as a copy of the national identification card to verify age.

During the visits to owned and leased farms, researchers interviewed planters and sugarcane cutters working through labor providers and verified employment and minimum age requirements. In most cases, the researchers were not able to verify time and payroll records for these farms, due to the informal nature of their employment. Workers generally did not track their hours, but were paid a day rate based on output, and their employers did not provide them any type of pay receipt.

During the farm visits at independent suppliers of sugarcane, researchers interviewed manual sugarcane cutters employed by the suppliers. The employment relationship was completely informal and therefore, there were no records available for review.

Both mills have their supply chains mapped and have systems to track suppliers' farm names, owner names, addresses (including GPS coordinates), total farm area, total planted area and the area to be harvested for the current season.

#### *Certifications*

Both mills have valid Food Safety System 22000 and ISO 9001 QMS certifications. The south-central mill had several organic certifications including: USDA NOP commercialization and production, UE Certification and the Japanese Agricultural Standard. In addition, the south-central mill is Fair Trade, Halal and Kosher certified, BRC Food Safety. In addition, they are BASC certified to meet C-TPAT requirements. The eastern mill is certified in Good Manufacturing Practices, International Sustainability and Carbon and SBsvs. Both mills have begun the process to be Bonsucro certified.

#### *Community Support*

The south-central mill supports various community programs, including: computer classes, English classes, volleyball classes and scholarships for local community members. The eastern mill also supports various community programs, including: health/hygiene classes, sports, eucalyptus planting, commissary construction, local primary school construction, community sanitation facility support.

#### *Worker Support*

Workers were organized in a union only in the south-central mill farms. Both mills have grievance systems for their workers and farm workers, and both have a policy that allows them to receive and address community concerns.

### *Supplier Guiding Principles*

Although it is not an official certification program, both mills participate in TCCC Supplier Guiding Principles (SGP) Program. The SGP communicates TCCC's values and expectations of suppliers and emphasizes the importance of responsible workplace practices that respect human rights and comply, at a minimum, with applicable environmental and local labor laws and core international conventions. The SGP align with TCCC's Human Rights Policy and reflect their commitment to respecting human rights across their business system and global supply chain, and they are a part of all contractual agreements between TCCC and their suppliers. As participants of the program, the mills are assessed to the standards of the SGP and they work to implement corrective actions to address any issues discovered over the course of the assessments<sup>58</sup>. Both mills have participated in the SGP Program and are in compliance with the standards.

### **Forced Labor Findings**

When questioned about forced labor, all stakeholders stated that there are no issues in either the eastern region or the south-central region with forced labor. All stakeholders acknowledged that forced labor could be an issue in other parts of the country and in other industries. None of the stakeholders consulted linked either mill to past or current cases of forced labor.

Only the mill in the eastern region had a company policy specific to forced labor. The eastern mill's policy on forced labor is integrated into their Code of Ethics, which is managed by the company's human resources manager. However, both mills stated that they use the country's legislation as their guide and stated that they follow all laws related to forced labor. Both of the mills sell to companies or organizations with Codes of Conduct or related standards. They have been asked to formally declare their support of the standards. These companies or organizations audit both mills' labor, health and safety and environmental conditions regularly. However, it is typically the mills themselves that are audited and not their farms. Both companies have signed contracts with their suppliers, and one provision of the contracts is suppliers' adherence to the law and/or specific requirements addressing forced labor and other human rights.

Neither of the mills had procedures in place to address cases of forced labor identified in owned, leased or supplier farms. However, the mills have human resources teams that would be responsible for investigating the issue and escalating it to upper management if needed.

During the visits to the farms, there were no observations or evidence of forced labor. One hundred five workers were interviewed between the two mills, and no worker reported an instance of forced labor. Desk research revealed no instances of forced labor at either mills or their farms.

### **Child Labor Findings**

As many of the child labor issues in the country are focused in south central part of the country, the mill in that region had a very specific policy on the employment of minors. The policy describes: legal requirements, the company's minimum age requirements (18 years of age), its applicability to the entire supply chain, commitment to only buying from suppliers free of child labor. The mill in the

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<sup>58</sup> TCCC SGP

eastern region's Code of Ethics prohibits child labor. The Code of Ethics is applicable to their suppliers as well.

As with forced labor, both mills ensure adherence to their policies through their contracts or have requirements specific to child labor and other human rights. Both mills' policies require that their suppliers have proof of age documentation for all direct workers and contractors. This documentation was reviewed during the mill visits, where available. It was not available for independent farm suppliers in the south-central region, due to the informal nature of the employment relationship.

Only the mill in the south-central region had procedures defined to deal with child labor if identified in owned, leased or independent farms. The eastern farm stated that they would follow informal procedures, as with forced labor, the human resources team would investigate the issue and escalate it to senior management, if needed.

During the field visits to the farms, researchers did not observe any cases of child labor in owned or leased farms or in the farms of independent suppliers. The minimum age of work for both mills is 18 years of age. All 105 workers interviewed were asked about any instances of child labor, currently or in the past. Only one worker reported having witnessed children working, and the worker was not able to remember on which farm or when it took place. The worker did not know if this farm provided sugarcane to the mills in question. None of the local stakeholders interviewed reported



*School funded by mill in south central Paraguay*

having seen child labor at either of the mills' farms. However, stakeholders recognize that child labor is an issue in the country, in agriculture in particular, and they could not say with surety that children have never worked at the farms for the mills or at their independent suppliers.

Both mills reported that they have financially supported the building

and startup of schools in their respective regions. In addition to financing the construction of schools, the mill in the south-central region has donated computers to the schools, built a sport center in the community and financially supports sport related programs in the local community.

### Other Labor Findings

Although not directly related to forced labor or child labor, there were other labor concerns that were witnessed or reported during the visits to the farms. In the eastern region, many workers migrate from other parts of the country, and travel to the region during the harvest season. Although none of the migrant workers complained about their living conditions, the housing provided by one labor provider was visited and lacked basic infrastructure and hygiene.

In the eastern region, harvesting is almost 100 percent mechanized. The farms operate 24 hours per day during the harvest season, running two 12-hour shifts. This leaves little opportunity for workers to work beyond their shift, and keeps management from requiring excessive overtime. Although, not formally considered forced labor, many labor rights advocates consider mandatory overtime a form of forced labor. The definition of forced labor by the ILO is “all work or service which exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily<sup>59</sup>.” Due to the seasonal nature of crops, the agricultural industry in many countries is notorious for excessive work hours and overtime. Most sugarcane workers in Paraguay, work 12-hour days during harvest and only break for rain. No workers in either regions’ farms reported working more than 12 hours per day. However, if it does not rain during the harvest season, workers reported that they can work for weeks or months, without a break.

Direct employees of the farms owned and leased by the mills receive training on health and safety. However, the workers who work for supplier farms do not receive the same safety training. All workers interviewed were wearing personal protective equipment. None of the workers interviewed reported have been part of or witness to a serious accident.

Many workers reported that they are required to bring potable water from home. In some cases, the farms provide it. In most cases, the workers do not have access to toilets while they are in the fields.

### Land Conflict Findings

Neither of the mills visited had policies in place on land rights related to land acquisition, even though TCCC has adopted a policy stance on the principles of Free, Prior and Informed Consent and has asked suppliers to do the same. Of the 2 mills visited, both reported having expanded their lands at some point during the last 10 years. One mill was aware of expansions in the size of supplier farms within the same timeframe. Though written policies were not in place, mills reported that when they intend to purchase a farm, the mill conducts a verification process to ensure the property is in good standing regarding property, labor and environmental laws. Additionally, the land records examined by researchers appeared, on their face, to be general complete accurate, and in conformance with laws and regulations governing translations in land. However, land titles or bills of sale requested of independent supplier farms were not available. As several independent supplier farms are smaller and family-owned, it is possible they do not have titles to the land. One mill reported that it has expansion plans to build an additional processing plant for a different crop. The other mill does not

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<sup>59</sup> International Labor Organization



plan to expand. However, both mills stated that if they were to expand, they would only purchase property in accordance with the law, especially with respect to land purchases from small-farmers.

During field visits, workers and mill managers did not report any instances of land conflicts in lands related to the two mills and 12 cane farms assessed by the study.

During stakeholder consultations, many of the stakeholders reported that there are land conflicts in the country, but none of them were directly linked to the two mills in question. When asked about the land acquisitions of the mills and farms participating in the study, stakeholders provided no indication that the land was obtained inappropriately, illegally or without the consent of the sellers.

Notary publics were interviewed when visiting the south-central mill. They reported that 90 percent of the land in the region is owned by small-holder farmers, with 10-20 hectares each, who do not have a legal title of ownership, as the land may have been passed down several generations and is in the name of one of their ancestors. The notary stated that the owners likely do not change the name of the title due to following reasons:

- *Cost.* The cost of a title for a farm, 10-20 hectares, is approximately 2,000,000 Guarani or 350 USD. The notaries stated that although the media is aggressively covering land grabs, they are not currently happening in their region, nor are armed conflicts over land.
- *Taxes.* If there are any taxes or back taxes due, they must be paid before they can obtain a new title.
- *Need.* If a family claims ownership of the land and have been there for generations, the community respects this right, and the owner sees no need for a formal title.

## Conclusion

Forced labor in Paraguay continues to be an issue, particularly in the livestock industry. With the creation of a National Strategy to Prevent Forced Labor at the end of 2016, the government is beginning to take steps toward change. In addition, with the creation of a separate Ministry of Labor, Employment and Social Security, there is a leader in place for such work to move forward. Forced labor in sugarcane does not appear to be an issue at this time. However, the visit to the mills highlighted the need to have written policies and procedures to address the issue as preventive measures.

Although there was no child labor discovered at the mills or their farms, it continues to be one of the more serious issues the country is facing. It is well known that many children have worked in agriculture, particularly sugarcane. International groups, NGOs and unions within the country are focused on the issue. There is more than one government institution dedicated to the issue. There are multiple programs that have been created to get children in school and out of the workplace. There are cash transfer programs, awareness raising programs and labor inspector training and labor law enforcement improvements. Some of those programs, such as the Tepkoporã Program and the Abrazo Program have begun to see success. As the USDOL reported, Paraguay made significant strides in addressing the issue of child labor in 2015 and should continue on this path. Visits to the mills' farms made it clear that they should have very detailed child labor policies and procedures in place, both to prevent the issue and to address it, if it should occur. In addition, due to the informal nature of the employment relationship between workers and the labor providers and at independent supplier farms, the mills should ensure that proper protections are in place to prevent children working in the fields staffed by their partners.

Perhaps the most significant political, economic and cultural issue affecting Paraguay today is land rights. Paraguay has the most unequal system of land distribution in Latin America. In their 2016 Human Rights report, CODEHUPY declared the "Arbitrary Deprivation of Housing and Land the Backbone of the Policy Criminalizing Economic and Social Demands" as the theme of the year. In recent years, the government has attempted to formally address the issue through the creation of two government entities, the Institute for the Rural and Land Development (INDERT) and the National Cadastre Service (SNC). Land information and titles are now being digitized and recorded in a way they were not in the past. However, there remain issues related to corruption, the justice system and agribusiness that have prevented real reform from taking hold. The visits to the mills revealed that the owned and leased farms do have current land titles, and there was no evidence they were obtained illegally. The documentation provided by the mills demonstrates current ownership, but it does not necessarily provide historically relevant context, such as how many times the land was gifted, sold or resold. Independent supplier farms did not provide land ownership documentation. The mills should remain vigilant, especially if they are expanding with new suppliers or purchasing new land, that there the process is just and that no small-scale farms are obtained illegally in the process.

## Appendix A: Stakeholders Consulted

<b>Government</b>
General Directorate for the Protection of Children and Adolescents and the National Commission for the Prevention and Eradication of Child Labor
Legal Notary (Paraguay)
United States Department of Labor, Bureau of International Labor Affairs
United States Embassy in Asunción, Paraguay
<b>Industry</b>
Cañeros Orgánicos Asociados
Centro Azucarero y Alcohólico
Partners of the Americas
<b>Intergovernmental Organizations</b>
International Labor Organization
<b>Non-Governmental Organizations</b>
Centro de Desarrollo y Medio Ambiente Paraguay
Coordinator of Children's and Adolescents' Rights Paraguay
Fundación Dequeni
Guyrá Paraguay
Landesa
Oxfam America
Oxfam Paraguay
Solidaridad
World Wildlife Fund
<b>Independent Experts</b>
Researcher (formerly ILO in Paraguay)
Researcher (Paraguay)
<b>Unions</b>
Sindicato de Trabajadores Azucarera Paraguaya – SITRAZPA
<b>Municipal Groups</b>
Catholic Pastoral de Nueva Esperanza, Paraguay
Escuela Antonio Bosch
Escuela de San Antonio
Escuela Maedy Ritter de Hoeckle
Municipality of Nueva Esperanza, Paraguay

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## Appendix C: Revision History

<b>Date</b>	<b>Revision</b>
December 22, 2016	First draft of report submitted to TCCC
January 13, 2017	Second draft of report submitted to TCCC
January 30, 2017	Third draft of report submitted to TCCC
February 6, 2017	Fourth draft of report submitted to TCCC
July 6, 2017	Fifth and final version of report submitted to TCCC