



CENTER FOR INTERNATIONAL ENVIRONMENTAL LAW

## BITTER HARVEST: DEFENDING COMMUNITIES IN NICARAGUA

### Summary

Since 2007, CIEL has been providing technical and legal assistance to ex-sugarcane workers and community members in Leon and Chinandega, Nicaragua. The complaint that CIEL filed on behalf of the communities, with the assistance of students from the Yale School of Forestry and Environmental Studies, to the Compliance Advisor Ombudsman of the International Finance Corporation, has profound implications for the well-being of the communities, as well as for the operations of the World Bank Group and the agribusiness industry. An estimated 2,500 to 3,500 sugarcane workers have died in the last ten years from chronic kidney disease (CKD). CIEL has provided support and served as legal counsel for ASOCHIVIDA, an association of ex-sugarcane workers, in their negotiations with Nicaragua Sugar Estates Limited (NSEL) to secure improved medical care and other benefits and ultimately to uncover the cause of the epidemic. As of July 2009, the negotiations have yielded significant improvement to the quality of life for former sugarcane workers affected with the disease. These improvements include monthly distribution of food supplies to 1,800 affected families, valued at one million dollars, and the scoping phase of an epidemiological study.

### Background

Since 2006, interdisciplinary teams of students from the Yale School of Forestry and Environmental Studies (FES) have worked to identify and draw attention to the impacts of the operations of NSEL on its former workers and surrounding communities. CIEL became involved in the case in 2007 at the request of FES students, to provide legal assistance and its expertise on the policies and processes of the World Bank Group.

In 2006, the International Finance Corporation (IFC), the private sector lending arm of the World Bank, approved a \$55 million loan to NSEL to increase its sugarcane production and to fund the construction of an ethanol plant. Accordingly, NSEL must comply with IFC's Performance



Members of Asociacion Chichigalpa por la Vida (ASOCHIVIDA)

Standards on Social and Environmental Sustainability. When a community believes those policies have been violated, it may file a complaint to the Office of Compliance Advisor/Ombudsman (CAO). The CAO is the independent recourse mechanism for the IFC. The CAO reports directly to the President of the World Bank Group, and its mandate is to assist in addressing complaints from people affected by IFC-funded projects.

In March 2008, CIEL submitted a complaint to the CAO on behalf of over 600 people (since increased to more than

1,800) from the affected region. The majority of the complainants are members of *Asociacion Chichigalpa por la Vida* (ASOCHIVIDA), a group representing ex-sugarcane workers in the city of Chichigalpa, where the sugar mill and ethanol plant are located. Over the last ten years, between 2,500 and 3,500 sugarcane workers have died of chronic kidney disease (CKD or CRI) and over 1,000 are ill. The cause of the epidemic has not been definitively established, but many in the community and elsewhere believe it is the result of exposure to agrochemicals applied to the 24,000 hectares of sugarcane in the region cultivated by NSEL. The other complainants are members of the indigenous communities of Goyena and Abangasca. Those members are principally represented by a small organization called *Comite Si a la Vida, No a la Destruccion del Medio Ambiente* (Yes to Life, No to the Destruction of the Environment Committee).

In November 2008, a Framework Agreement was signed between ASOCHIVIDA and NSEL to enter into negotiations to discuss immediate measures to improve health care for the members of ASOCHIVIDA and a study to determine the cause of the epidemic affecting the sugarcane workers. CIEL had advised the community members throughout negotiations and was present when the Agreement was signed.

### **Food Aid**

One of the most pressing needs that the members of ASOCHIVIDA identified is providing food for their families. Many of the members of ASOCHIVIDA have no regular income. Their illness often prevents them from finding alternative employment after they are no longer able to work for NSEL, and most receive little or nothing from the Government of Nicaragua. After the third round of negotiations with NSEL, the company agreed to provide to the families of the members of ASOCHIVIDA roughly half of the basic food staples (rice, beans, corn, oil, sugar) a family consumes per month for the next two years. The company will increase the aid provided as more people register with ASOCHIVIDA (up to a total of 1800 families). The first food distribution occurred on June 5, 2009 (see photo), and according to the Board of ASOCHIVIDA and CAO's consultants who were present, it was a success.



**Food Distribution**

The company also agreed to help provide alternative, sustainable sources of income for the communities (small-scale development projects, microcredit projects, etc.). The parties have already begun discussing what projects might work; logistics for the implementation of these projects will be discussed in negotiations in the coming months.

### **Medical Care**

The CAO hired a medical consultant, Dr. David Silver, to conduct a needs analysis for health care for the sugarcane workers suffering from CKD. We were able to make concrete progress to implement Dr. Silver's recommendations. NSEL agreed to buy an ultrasound machine for the clinic in Chichigalpa and to hire a technician to operate it. The ultrasound machine is important because it allows the doctors to more accurately determine the health of the kidney. In addition, the company will purchase two hemodialysis machines for the clinic. They are currently working with the clinic to assist them in buying the medications and reagents they lack to treat patients.

Dr. Silver also identified long-term improvements to health care, such as a new and better clinic for CKD patients, more medical staff (including a nutritionist), psychological treatment for CKD patients and their families, hospice care, and a feasibility study for a transplant center. In the coming months, we will work towards addressing these critical needs.

### **Epidemiological Study**

From a total of nine proposals received by the CAO in response to its terms of reference to conduct the scoping phase of an epidemiological study, ASOCHIVIDA and NSEL selected the team from Boston University's School of Public Health (BU). The team from BU was ASOCHIVIDA's first choice in part because it included an expert on participatory processes. The success of this study will very much depend on how the team involves the community in the study and how the process and results are communicated. In addition, BU has experience working in Nicaragua on this issue, having already conducted a prevalence study of CKD in a town near Chichigalpa called Quezalguaque.

The BU team has already conducted its first field visit to Nicaragua and presented its findings to date at negotiations on July 14, 2009. Not surprisingly, after reviewing the readily available information on the epidemic in Nicaragua, the team concluded that there was insufficient data to identify a cause. They described the many possible causes, including exposure to pesticides, dehydration, muscle damage, heavy metals, and several infectious diseases. Diabetes and hypertension, which cause a high level of chronic kidney disease in the United States and other developed countries, are not thought to be a factor in Nicaragua. The BU team expects it will take two years to collect enough information to determine a cause, or more likely, causes of the epidemic in Nicaragua. Their final report with recommendations for conducting an in-depth investigation is expected at the end of August.

### **IFC Accountability**

In addition to obtaining tangible benefits for ASOCHIVIDA, through this process we also are seeking to ensure that the IFC rigorously applies its new Policy and Performance Standards on Environmental and Social Sustainability, approved a few months prior to NSEL's loan in 2006. Prior to our first round of negotiations in February 2009, we were informed by the CAO that the IFC Agribusiness staff had sent a response to the CAO's Stakeholder Assessment Report. The CAO's Report only reflects what the CAO has heard from stakeholders and offers suggestions about next steps; it does not include findings on compliance with the IFC's environmental and social safeguard policies. The IFC's response, however, mischaracterizes the CAO's report, saying that they are "glad to see that most of the report's findings are consistent with IFC's initial appraisal of the project with NSEL and that most of the issues have been summarily addressed by NSEL or otherwise resolved." It goes on to refute, point by point, most of the allegations in our original complaint. There are many other misleading and inaccurate statements in the letter. For example, it characterizes CIEL's attendance at an Agribusiness briefing during the World Bank Annual Meetings in 2008 as a meeting with representatives of the complainants. In an attempt to ensure the letter would not prejudice the negotiations, CIEL sent a letter to World Bank President Robert Zoellick asking him to retract the IFC's response. CIEL posted an announcement and the letter on our website: [http://www.ciel.org/Ifi/IFC\\_Biofuels\\_9Feb09.html](http://www.ciel.org/Ifi/IFC_Biofuels_9Feb09.html).

Also of interest, ASOCHIVIDA has been approached by ex-sugarcane workers from the neighboring sugar mill, Monte Rosa, which also received a loan from the IFC. They are also suffering from CKD and are interested in getting involved in the CAO process. Further, this case

has also sparked some change at the International Finance Corporation. The IFC has for the first time invited the CAO to participate in the Corporate Risk Committee. Overall, this is critical in recognizing environmental and social risks as being as important as financial risk.

### **CAO Process: Next Steps**

This is one of the most significant cases that the CAO has ever handled because of its life-changing consequences for the members of ASOCHIVIDA and other communities, and its significant implications for the operations of the IFC. Everyone from the ASOCHIVIDA Board of Directors to the CAO to F&ES students and CIEL staff has made great efforts to reach this point in the negotiations. Until now, the resources to support staff time and travel have been piecemeal, often secured at the last moment and, sometimes, with personal funds. The negotiations that took place in July 2009 were the first which CIEL staff was not able to attend because of insufficient resources. ASOCHIVIDA, the CAO, and even NSEL have since expressed that it is of critical importance that CIEL continues its support and participation. However, without dedicated and secure funding, CIEL's participation will not be possible.

ASOCHIVIDA and NSEL have agreed to continue negotiations, although the frequency and content of the negotiations have not yet been defined. Assuming the full epidemiological study goes forward, subsequent dialogue tables will be required to discuss the results as they become available. Separately, the parties will continue to discuss how to implement Dr. Silver's recommendations to improve medical care for those suffering from CKD.



**CIEL Attorney Kristen Genovese, 2<sup>nd</sup> from left, consulting with community members.**

Contributions will support CIEL staff time and travel expenses, a small stipend for the five members of the Board of Directors of ASOCHIVIDA who have worked tirelessly on behalf of their members without any financial support or assistance, and other expenses directly related to this project.

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**Photographs of first food distribution to ex-sugarcane workers and community members in Leon and Chinandega, Nicaragua, July 2009.**

