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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Written statement* submitted by Associazione Comunita Papa Giovanni XXIII, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[22 August 2021]

* Issued as received, in the language(s) of submission only.



On the rights of the Mapuche in Chile

APG23 welcomes the Report of the UN High Commissioner for Human Rights on the rights of Indigenous Peoples.¹

In order to realize the full enjoyment of the indigenous peoples' human rights, we, as APG23, want to draw attention to the condition of the Mapuche people and to the human rights violations they are still suffering.

The Mapuche, who represent about 12% of the Chilean population,² are the largest indigenous group and the most disadvantaged and vulnerable community in Chile.

Many testimonies collected on the ground by our volunteers show that discriminatory attitudes against Mapuche are still widely rooted in Chilean society. Eventually, they result in the denial of indigenous cultural identity legitimized by State authorities and by the Chilean Constitution, which still denies the existence and rights of indigenous peoples, asserting the mono-ethnic conception of the State.

The history of this people is a history of deep knowledge and unbreakable relationship with their ancestral land, but it is also a narration of abuses and oppressions; military occupations, genocide, persecutions taking place over the years, have contributed to making the Mapuche people the most discriminated, marginalized and poorest community in the country. During 500 years of oppression, the Mapuche community has lost a large part of its land, being forced to move to remote and less fertile areas, or in other cases, to conform to urban life, which is at odds with its traditions and lifestyle.

Furthermore, in the years of the dictatorship, the stigma against indigenous people has deepened and has become endemic as a result of social and cultural discriminations. The latter have reflected a distorted image of the Mapuche social and political engagement, discrediting them in the fight for the re-appropriation of their lands and depicting them as enemies of the State.

The Mapuche strongly claim to be recognized as original indigenous people by the Chilean government, in order to ensure the full respect of their cultural and spiritual identity, their way of life and their right to traditional lands, territories and natural resources as well as the recognition of the principle of self-determination.

We, as APG23, want to emphasize how the endless dispute over territory and autonomy between the indigenous Mapuche community and the Chilean state keeps exacerbating, increasing the militarization of many areas of the country.

In the Araucania Region, land grabbing has not only caused the drastic reduction of the Mapuche community lands, but has also led to the massive destruction of environmental resources. In the last 50 years, forestry industries, hydroelectric power plants as well as the construction of dams and roads have completely altered the ecosystem and have replaced the forests' biodiversity.³ This region, by being militarised by the government in order to protect foreign companies from the Mapuche claims and demonstrations, has become a battleground between indigenous communities and the Chilean government.

APG23 is highly concerned over hostilities, power abuses and racist acts that are repeatedly committed by the police special forces against indigenous activists. Denounced for years by academics, international organizations and NGOs, these human rights violations keep occurring, and according to our insights, Mapuche people keep facing many inequalities, finding themselves in a constant spiral of violence.

In addition, it is imperative to underline that the issue of access to lands is not a mere economic asset but a meaningful defining element of the Mapuche identity to live in harmony with nature and reciprocity with the people. Art. 25 of the UN Declaration on the Rights of Indigenous Peoples recognizes the importance of indigenous peoples' spiritual attachment to

¹ <https://undocs.org/A/HRC/48/30>.

² <https://www.bbc.com/news/world-latin-america-55042838>.

³ <https://www.theguardian.com/world/2018/jun/14/chile-mapuche-indigenous-arson-radical-environmental-protest>.

their lands, which is not limited to those territories inhabited for years, but it includes all those lands that indigenous peoples have come to occupy.

In light of these events, we strongly condemn the use of anti-terrorism legislation and its discriminatory application to cases involving Mapuche. Indeed, considering Mapuche activists as terrorists means portraying them as State enemies, albeit they are merely defending their historical lands.

Mapuche's protests to reclaim their territories are not terrorist actions, and do not put the democratic constitutional order in danger. Furthermore, the application of antiterrorist legislation is leading to a series of unproportioned arrests without any records and to an excessive use of preventive custody for long periods. This situation jeopardises the presumption of innocence, a right that is recognized in article 11 of the Universal Declaration of Human Rights. Yet, appeals and complaints from the international community, NGOs and human rights defenders continue to go unheeded by the Chilean government. The authorities, instead of guaranteeing equal access to justice, are maintaining a repressive approach towards Mapuche communities applying the above-mentioned legislation and a massive deployment of special forces.

Consequently, the Mapuche resort to hunger strikes as a desperate call for justice and fair implementation of the national legislation as well as for compliance with the international frameworks agreed upon and ratified by the Chilean State. Hunger strikes are still carried out by Mapuche political prisoners to ask to modify the arbitrary custody and the penitentiary sentences, measures that also involve a higher risk of COVID-19 contagion.

In this context, we welcome the words of the High Commissioner for Human Rights who has emphasized "the need for a thorough investigation of the alleged human rights violations and called for a transparent and constructive dialogue between the authorities and indigenous leaders and communities".

"Leaving no one behind" is the title chosen for the international day of indigenous people which has been celebrated a few weeks ago. The COVID-19 pandemic crisis makes these words even more relevant. Recalling the leitmotiv of the 2030 Agenda for Sustainable Development, this expression should be a landmark to facilitate and promote the political participation of the Mapuche in the State's decision-making process.

We urge the Chilean government to make the revision process for the new Constitution an opportunity to constructively engage with indigenous people and to achieve reconciliation within the nation, hence recovering from their fraught past. Hereby, we welcome the reservation of 17 out of 155 seats in the Constitutional Convention to representatives of the indigenous populations, 7 of which have been assigned to the Mapuche people.

However, we must point out the low turnout of indigenous voters: only 282.719 of 1.239.295 eligible voters (22.81%) correctly cast their ballot.⁴ Allegedly, this is largely due to an insufficient information campaign among the indigenous people and bureaucratic mistakes in certain polling stations. On the other hand, it is pleasing to witness the success of women in the race for 6 of the 7 Mapuche seats,⁵ even though two of them had to be handed over to their male counterparts on the basis of the gender-balanced principle of the Convention.

APG23 calls upon the UN Human Rights Council to urge the Chilean Government to:

1. To recognize the rights of the indigenous Mapuche people in the Constitution, ensuring the full respect of their culture, spirituality and their lands;

⁴ Leslie Ayala, "Sólo un 22% del padrón indígena votó para elegir a los 17 escaños reservados", La Tercera, 2021. Available at: <https://www.latercera.com/politica/noticia/solo-un-22-del-padrón-indígena-voto-para-elegir-a-los-17-escaños-reservados/RT2COQ3YFJG2PICUXP2OTBXIVA/>.

⁵ Paula Huenchumil, « Escaños reservados mapuche: vencen mujeres independientes y pierden candidatos apoyados por empresarios », Interferencia, 2021. Available at: <https://interferencia.cl/articulos/escaños-reservados-mapuche-vencen-mujeres-independientes-y-pierden-candidatos-apoyados-por>.

2. To fully implement the provisions of the United Nations Declaration on the Rights of Indigenous Peoples and to comply with relevant applicable human rights legislation;
 3. To not apply anti-terrorism legislation to Mapuche people in the context of indigenous peoples' rights and to investigate the alleged human rights violations and the police abuse of power;
 4. To involve indigenous peoples in the decision-making process through dialogue and consultation;
 5. To reserve an adequate percentage of Congressional seats to indigenous people in the elaboration of the text of the new Constitution of the Republic;
 6. To ensure appropriate and widespread information campaigns among indigenous people regarding the electoral processes and their outcomes;
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