



# General Assembly

Distr.: General  
14 February 2013

English, French and Spanish only

---

## Human Rights Council

Twenty-second session

Agenda item 3

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

**Joint written statement\* submitted by France Libertés:  
Fondation Danielle Mitterrand, a non-governmental  
organization in special consultative status, Mouvement contre  
le Racisme et pour l'Amitié entre les Peuples (MRAP), a non-  
governmental organization on the roster**

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

[8 February 2013]

---

\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **In the Mapuche territory (Chile): Territorial claims are increasingly equated with criminal acts and violations of human rights are escalating\***

In 2009, during the Universal Periodic Review of Chile, the Chilean State was invited to “increase its efforts to recognize the rights of indigenous peoples, to integrate them effectively into the State’s judicial and administrative structures and above all to examine their territorial claims in a genuine spirit of dialogue and negotiation, (A/HRC/12/10, point 65) as required by Convention 169 of the International Labor Organization about indigenous and tribal peoples.

Despite these recommendations and Chilean authorities’ declared willingness to enforce them, the whole of 2012 and January 2013 were marked by an outburst of police violence in Mapuche territory, leading up to what we consider a near permanent state of siege, particularly in the Ercilla area (located in the 9<sup>th</sup> Region, in the South of Chile).

### **Police repression**

The numerous instances of violation of human rights already listed by NGOs France Libertés and MRAP in their presentation for the 21<sup>st</sup> session of the Human Rights Council have been multiplying since October 2012, striking men, women, children and old people indiscriminately and leaving many Mapuche families both physically and psychologically wounded.

### **Repression in the law courts**

Repression by the police is followed by repression in the law courts. Arbitrary detention, legal procedures tainted by irregularities – such as resorting to “secret witnesses” who cannot be identified by the defense – and unduly heavy sentences, are the lot of Mapuches fighting for their land rights.

From November 14, 2012 to January 28, 2013 Héctor Llaitul Carrillanca, leader of Coordinadora Arauco Malleco and Ramón Llanquileo Pilquimán went on a hunger strike of 76 days to try to put an end to the persecution of Mapuche communities and to the arbitrary use against them of the Antiterrorist Act which dates back to the dictatorship. They also wanted the long prison sentences they were serving to be annulled. The two prisoners were denouncing the breach of a basic principle of criminal law, “non bis in idem” i.e. you can’t be prosecuted twice for the same offense. They also demanded that their status as political prisoners be acknowledged and their dignity respected.

### **Police brutality goes unpunished**

The State’s policy regarding the Mapuche has been marked over the years by unkept promises and arbitrary proceedings. Countless Mapuche have been held in custody over long periods of time only to be acquitted in the end or for the charges to be dropped. Meanwhile the police officers who resorted to violence, repression and even murder went unpunished. On January 3, 2008, under the Bachelet administration, Matias Catrileo Quezada aged 22 and studying agronomy at the University of La Frontera died after being shot in the back by a police officer. The crime was committed during a peaceful drive to reclaim land in the Vilcún district. The police officer’s guilt was proved at the trial and the

---

\* Tierra y Libertad por Arauco and Fondation Frantz Fanon, NGOs without consultative status, also share the views expressed in this statement.

military prosecutor from the city of Temuco requested a ten-year prison sentence. Nevertheless the military judge from Valdivia finally delivered a two-year suspended sentence. While under house arrest the police officer was able to resume his job in the police force and cash his salary.

On January 18, 2013 the police high command announced that the officer who killed Matias Catrileo had been dismissed. Let us emphasize here that this decision was made, however belatedly, as a result from constant pressure by the victim's family, native organizations, lawyers and Human Rights organizations. Since Chile is no longer a dictatorship the Mapuche shouldn't be forced to resort to such pressure for justice to be done.<sup>1</sup>

### **Mapuche land claims and the forest development bill**

2.5 million hectares of ancestral lands of the Mapuche people are in the power of two lumber companies Mininco and Arauco. The Mapuche organizations are outraged by what they view as usurpation of their land with the help of institutions serving the interests of the lumber companies and of the local landowners. This has been the case under the various governments in power since the fall of the dictatorship.

Two years ago President Sebastián Piñera promised a new forest law for Chile. However it now transpires that his Forest Development Bill amounts to nothing more than an extension in time of Decree-Law 701 of 1974.

In a letter to the House of Representatives dated January 21, 2013 seventeen Mapuche communities and organizations denounce the bill and express their opposition to the amendment and extension over the next 20 years (2013 to 2032) of Decree-Law 701 on Forest Development (DL 701). The Mapuche consider that the bill was drafted without any prior consultation of the citizens concerned and therefore is not fit for the 21<sup>st</sup> century. The government, they say, is trying to convince the country's representatives to pass a law intended to maintain the present inequalities for the sole benefit of the same happy few by centralizing economic resources at the hands of a small number of companies and curtailing human development in the poorest districts where the lumber industry has been thriving since 1974.

The bill was elaborated over nearly two years without any prior consultation of indigenous peoples. Moreover the government ran no socio-environmental evaluation of the nearly 40 years during which DL 701 has been applied. No report can be found explaining why the southern regions, where most of the lumbering activities are concentrated, are the poorest in the country, plagued by diminishing ground water supplies, droughts, land erosion, loss of animal and vegetable species, and migration of impoverished people toward urban centers.

Mr James Anaya, rapporteur to the UN, sent the Chilean State, executive and legislative bodies both, a communication entitled "Government proposal for new regulations concerning the Consultation and Involvement of indigenous peoples in accordance with articles 6 and 7 of Convention 169 of the International Labor Organization". It refers to the Forest Development Bill.

So long as the forest and the land remain at the hands of three major forestry companies whose sole aim is to exploit natural resources and make maximum profits, a Forest

---

<sup>1</sup> Too many other Mapuche have been assassinated under the various "Concertation" governments and these heinous crimes have gone unpunished. Among the victims were Alex Lemún (killed 2002), Julio Huentecura Llancaleo (2004), Xenón Díaz Necul (2005), José Huenante (16 years old, disappeared in detention), Juan Collihuín Catril (2006), Johnny Cariqueo Yáñez (2008), Jaime Mendoza Collío (2009) and José Toro Ñanco (2009).

Development Law will have no impact on the protection of the environment at large and of native trees in particular, on the restitution to native communities of their sacred sites or on the respect of indigenous peoples' rights. If the law is passed unchanged then monoculture of imported trees will prevail and the native forest will be destroyed.

This is not only about the enforcement of Convention 169, which represents a bare minimum. What is really at stake is indigenous peoples' cultural integrity, the respect of their human rights and their survival.

As a consequence indigenous communities and organizations demand that the President and members of the House of Representatives do not legislate on the basis of the Forest Development Bill, which they consider corrupt both in form and substance. They do not want a law that, for them, carries the prospect of a death foretold.

### **Recommendations**

We ask the Human Rights Council to intervene with the Chilean State in order to:

- Implement without any delay the recommendations accepted by the State during the last Universal Periodic Review;
- Respect the political, social, economic and cultural rights, including the right to development, as well as the environmental rights to the Mapuche people;
- Answer appropriately to the claims over ancestral lands, as required by Convention 169 of the ILO about Indigenous and Tribal Peoples, by the United Nations Declaration on the Rights of Indigenous Peoples and by the International Covenant on Civil and Political Rights;
- Put an end to police brutality during peaceful demonstrations of the Mapuche people demanding the respect of their human rights, and stop treating indigenous people who are fighting to retrieve their land like common criminals.

We ask for:

- The Special Rapporteur on the rights of indigenous people, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Special Rapporteur on the rights to freedom of peaceful assembly and of association, and the Special Rapporteur on the situation of human rights defenders to pay special attention to the violations of freedom and human rights of the Mapuche people in Chile, and to report in the next Human Rights Councils.
-