



# General Assembly

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## Human Rights Council

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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.

[17 August 2024]

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\* Issued as received, in the language of submission only.



## Human Rights Violation of the Mapuche People

Associazione Comunitaria Papa Giovanni XXIII (APG23) welcomes the comprehensive study of the Expert Mechanism on “Indigenous peoples Constitutions, laws, legislation, policies, judicial decisions and other mechanisms through which States have taken measures to achieve the ends of the United Nations Declaration on the Rights of Indigenous Peoples, in accordance with article 38 of the Declaration”.

As underlined in the Expert Mechanism Advice No. 17 (2024), the UN Declaration on the Rights of Indigenous People (UNDRIP), affirming the fundamental Indigenous human rights, plays a crucial role in guiding States to interpret and implement their existing human rights obligations concerning Indigenous peoples. In particular, Art 38 explicitly urges States to take “appropriate legislative measures” to realise indigenous rights.

It is crucial to emphasise that, despite the efforts made in many States to recognise such rights, the Declaration still lacks implementation at the national level in many countries; as a matter of fact, several Indigenous communities keep struggling to affirm their individual and collective rights. Legal and political reforms as well as policies aimed at fulfilling Indigenous rights are still needed.

The recognition of Indigenous peoples as such and of their rights is a key precondition for the enjoyment of all the rights enshrined in the Declaration on Indigenous Peoples, and to achieve its ends.

In this regard, Associazione Comunitaria Papa Giovanni XXIII (APG23) wants to draw attention to the Mapuche communities, the largest Indigenous group in Chile who still fights to affirm its rights.

Historically, the Mapuche (“people of the land”) lived in an area called, according to Mapuche tradition and cosmology, Wallmapu, which today can be defined as the South-Central part of Chile and Argentina. Since the Chilean occupation of the Mapuche land and its annexation into Chilean national territory (1861–1883), the Indigenous communities have been involved in a political and military confrontation with the Chilean State. The so-called “Mapuche conflict” mainly concerns issues related to access to ancestral lands and the exploitation of the territory's natural resources.

The connection of the Mapuche with Mother Earth is very strong and great is the respect for nature, from which only what is necessary is harvested. In fact, according to the Mapuche spirituality, in the natural world, every element has a soul, and everything is life.

The Mapuche keep living in a condition of marginalisation and denial, facing several abuses, inequalities, and violations, surrounded by a discriminatory narrative deeply rooted in Chilean society.

Many testimonies collected on the ground by our volunteers show that discriminatory attitudes against Mapuche are widely rooted in Chilean society. The stigmatisation towards the Mapuche, along with the lack of understanding of their cosmology and their worldview, clearly violates their human rights.

The denial of Indigenous cultural identity, legitimised by State authorities and by the lack of Constitutional recognition, is still strong and has contributed to constructing a falsified narrative that prevents the enjoyment of Mapuche people's human rights.

Furthermore, the rejection of the second draft constitution has interrupted the long-awaited path toward the Mapuche's recognition as original people. This lack of recognition is a deep and severe gap that negatively affects Mapuche lives and needs to be bridged. It critically compromises equal access to justice and the exercise of Mapuche human rights.

Moreover, their judicial guarantees are not always respected, among which the excessive use of preventive custody for long periods, and the confinement in prison instead of alternative methods of punishment as laid down by ILO Convention 169 to which Chile is a signatory.

Indeed, Indigenous economic, social and cultural characteristics should be considered when imposing penalties, giving preference to methods of rehabilitation other than prison.

Instead, Mapuche people in the state of detention suffer from severe violations of their cultural rights. According to ILO Convention 169 (1) article 8,9,10, the detention of Indigenous People must conform to the cultural norms in force among each distinct community.

Notwithstanding, Mapuche political prisoners have to serve their sentences in conventional prisons together with other prisoners instead of penitentiaries with special wings dedicated to Mapuche where the respect of their cultural rights could be guaranteed.

The State should ensure that in penitentiary institutions, Mapuche prisoners maintain their customs, practices, and rituals, by their worldview. The deprivation of liberty in conventional prisons severely threatens cultural and spiritual identity, cosmovision, traditions, and medicinal practice, which are an integral part of their lives; being confined in prison means breaking their links with communities and ancestral lands which are vital for them. It is a form of torture (2).

During the last decades, hunger strikes have been the only means of protest that Mapuche prisoners could carry out to obtain more humane treatment and imprisonment conditions in respect of their use and traditions and their cultural rights.

It is crucial to underline that the Mapuche prisoners' rights are violated over and over; each benefit they enjoy is merely a concession granted by the penitentiary authorities, depending on the specific situation and the pressure exerted above all by the hunger strikes.

Indeed, concessions concerning the enjoyment of their cultural rights, as well as the establishment of special wings dedicated to Mapuche in some Chilean penitentiaries, are outcomes achieved thanks to the endless hunger strikes undertaken as a protest during the years against such improper conditions. Hunger strikes can continue for months, putting Mapuche's lives at risk and bringing long-term physical damage to them. In addition, hunger strikes are subjected to sanction by penitentiary rules (3); consequently, Mapuche political prisoners on hunger strikes suffer from several violations such as, inter alia, restrictions on visits, bans on celebrating ceremonies and spiritual rites, and prohibition of receiving traditional and medical food. Such restrictions are in breach of international legislation framework, included in ILO Convention 169.

For instance, in the Bio Bio-Concepcion penitentiary, Mapuche prisoners serve their sentences together with the other prisoners, suffering from several violations, restrictions and bans as just listed above.

Mapuche political prisoners carry out hunger strikes to obtain respect for their rights, their identity, spiritual and cultural rights and better detention conditions. Especially, they request:

- to respect the ILO 169 rules concerning indigenous people deprived of their liberty and reopen the specific section dedicated to Mapuche prisoners;
- to move to the CCP Temuco prison where there is a special wing dedicated to Mapuche;
- to exercise their spiritual beliefs in the appropriate ways and times. For instance, celebrations of spiritual ceremonies are not always allowed, or it is not allowed to celebrate such rites at sunrise and on the bare earth as should be, because of the lack of open space and differing working hours of penitentiary police. The few celebrations that have been granted are carried out in the gym, so impeding the contact with Mother Earth and nature, indispensable elements for Mapuche culture;
- to receive traditional and medical food. For instance, recently, the quantity of Lawen (natural medicine drink), allowed to be brought into prison has gone from 3 litres to 1,50.

Furthermore, prisoners complain of disparities in treatment compared to the practice of other religions. Prisoners who practise other religions have more rights and their requests are more often accepted. They are allowed to go to church or to the temples located inside the prison, while the Mapuche are prohibited from carrying out their spiritual ceremonies. For instance, evangelical pastors have the right to enter the prison more often to carry out religious functions while Machi (4) are not recognized as having any rights.

Furthermore, relatives of Mapuche prisoners often experience discrimination and racism from the families of other prisoners and the constant lack of respect for the Mapuche ancestral authorities, especially Machi and Lonko (5) moreover, they are not always allowed to bring traditional foods into the penitentiary and are not allowed to enter the prison wearing traditional dresses.

Associazione Comunitaria Papa Giovanni XXIII (APG23) strongly believe that achieving the ends of the UNDRIP is crucial to recognise the Mapuche peoples as such and their rights.

Despite the setback in the drafting process of the new Constitution, the path toward the Mapuche recognition as original people must go on and violence and abuses against the Mapuche people must end.

Finally, Associazione Comunitaria Papa Giovanni XXIII (APG23) urges the Chilean State:

- i. to ensure equal access to justice and the respect of their judicial guarantees;
- ii. to guarantee the respect of the cultural, spiritual and religious identity of Mapuche people in prison, allowing them to carry out their religious and community activities and enjoy a diet that respects Mapuche traditions.

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(1) See "Indigenous and Tribal Peoples Convention", 1989 (No. 169).

(2)

[https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fMEX%2f1&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT%2fOP%2fMEX%2f1&Lang=en)

(3) Art. 78 comma C and art 81 of "REGLAMENTO DE ESTABLECIMIENTOS PENITENCIARIOS" approved by DECRETO 518.

<https://www.bcn.cl/leychile/navegar?idNorma=123280>

(4) Spiritual guide, curator through the use of traditional Mapuche medicine.

(5) From Mapundungun (Mapuche language) longko, literally "head", is a chief of Mapuche communities.