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Public Statement

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Chile: A fair trial without discrimination for members of the Juan Paillalef Mapuche community

Amnesty International is urging that the guarantees for a just and fair trial laid down in international standards, including the recent "United Nations Declaration on the Rights of Indigenous Peoples", be applied as strictly as possible in the criminal proceedings against 11 members of the Juan Paillalef Mapuche community scheduled for 22 October.

Amnesty International is concerned about continuing complaints and reports of a range of discriminatory acts and abuses affecting Mapuche communities and their members. In December 2006, the Mapuche community of Temucuicui, in the 9th Region, reported an incident in which members of the police (Carabineros) used firearms, resulting in about ten people, including women and children, being injured as a result of blows and shotgun pellets and taken to various hospitals to receive medical attention. Reports of violent and discriminatory acts by the security forces are still being received from the Temucuicui community.

In recent years incidents related to claims and Mapuche demonstrations in support of land rights have led to legal proceedings being brought under Law No. 18.314 of 1984, known as the Anti-Terrorist Act. In its concluding observations of March 2007, the United Nations Human Rights Committee expressed its concern at accusations of terrorism made against Mapuches "in connection with protests or demands for protection of their land rights", adding that procedural guarantees relating to legal proceedings "have been restricted" by the application of the Act in question.

The Declaration on Indigenous Peoples, which was supported by the Chilean State, requires procedures to be "just and fair" (article 40). In the specific case of the 11 Mapuches from Juan Paillalef community, this requirement is in jeopardy because, among other things, the prosecution case has reportedly failed to acknowledge that the criminal responsibility of one of those involved is diminished.

Amnesty International hopes that, in the forthcoming trial, the Chilean justice system will overcome these and other failings and ensure that those concerned have a just and fair trial, with no discrimination.

Background Information

Claims with regard to land rights by several indigenous communities and against the public use of land deemed to be Mapuche have particularly affected the Juan Paillalef community. Incidents concerning those issues in December 2005 and the subsequent arrest and trial of members of the community in 2006 were recorded by Amnesty International.

In this regard, 11 members of the community, including the Lonko (Chief), Juana Calfunao, and her sister, Ana Calfunao, were arrested following violent protests at a court in Temuco during

which prosecutors were assaulted. As a result of that, the Public Prosecutor's Office charged them with "attacking authority" and other offences and sought sentences of up to 17 years' imprisonment, as well as fines, additional penalties and costs.

In 2004 the United Nations Special Rapporteur for Indigenous Peoples, Rodolfo Stavenhagen, highlighted the ongoing marginalization of most of the indigenous population and the failure of the Chilean State to ratify International Labour Organization Convention No 169 concerning Indigenous and Tribal Peoples. This is still the case today even though proposals issued by the Comisión Chilena de Verdad Histórica y Nuevo Trato, Chilean Commission for Historic Truth and New Treatment, in its October 2003 report, called for both situations to be remedied.

Public Document

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