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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 the Auspice Stella, 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.

[13 February 2017]

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

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Violation of the Human Rights of the Mapuche People in Argentina

I. Historical Introduction

The Mapuche people of Puelmapu (Argentina) were part of the four territorial jurisdictions of the Mapuche State, known as Meli wixan-mapu. This entity was represented by a Futa Koyang (great parliament), whose function was to safeguard the interests and rights of the peoples and nations it represented. After a century of intense colonialist war, the independence of these peoples was recognized by Spain on the 6th of January 1641 in the treaty of Killen. Several maps of the ninth century establish that the Wallmapu, known to the western world as Araucanía and Patagonia, was never part of the jurisdiction of the Crown of Spain.

The independence of the Mapuche Nation was also recognized *de facto* and *de jure* by the newly formed states of Argentina and Chile, by signing bilateral treaties with the Mapuche nation and fortifying the border. While in Chile the Bío Bío River was the border, in Argentina President Alsina (1877) ordered the construction of a "National Ditch", composed of trenches and embankments, combined with forts and fortresses, built in the west of the province of Buenos Aires, south of the province of Cordoba and stretching across to the province of Mendoza.

Between 1879 and 1885, when the armed resistance of the indigenous peoples ended, General Roca annexed Patagonia through a genocidal war cloistered within the context of civilization and barbarism euphemistically known as "Campaign of the Desert". Thousands of people were brutally murdered, ex-combatants and their families sent to concentration camps, lof (communities) dissolved and young people, women and children scattered throughout the country as slaves. The existing territorial conflicts have their roots within this scheme of oppression and dispossession.

II Violation of legislation

Articles 2, 7 and 33 of ILO Convention 169 establish the right of indigenous peoples to "define priorities for their development and participation in regional and national plans". The ILO also establishes the right to "ownership and possession of land, territory, habitat and access to natural resource benefits". Likewise, the UN Declaration on the Rights of Indigenous Peoples recommends the "contribution of the demilitarization of the lands and territories of indigenous peoples to peace, progress and economic and social development", "self-determination" and "self government". We must note that there are too many examples of the lack of respect with which the Argentine authorities treat these rights and recommendations:

1. The Lof Paicil Antriao is threatened by the uncontrolled growth of Villa La Angostura, founded in the 1930s in the territories of its lof (community). The growth of the Villa is aimed at increasing tourism, to the detriment of the ecosystem of the region, the territory and the way of life of the Mapuche community. The protests of community members are being criminalized by the authorities which yield to the pressure of large landowners and multinationals. The Neuquen government authorities utilize the excessive use of the police force to increase the escalation of tension and discredit the judicial processes set in motion for the recovery of the territories. La Angostura town is the area where most of the Mapuche protests are criminalized, having a share of more than 10 out of the 32 courtcases faced throughout the province.

2. Other problems affecting Mapuche communities include evictions. The Kinxikew lof is being threatened with expulsion from part of the ancestral territory by resolution of Junín de los Andes civil judge Andrés Luchino. The colonist Maria Cristina Broers accuses the community of "usurpation" of land, although that community was established in this location before the formation of the Argentine state in 1810. The lawsuits and judicial processes involving evictions of indigenous communities extend to all the provinces of the Argentine state. In the particular case of the Mapuche nation, there are threats of evictions in the Province of La Pampa, community Epumer; Province of Neuquen, Maliqueo community; Province of Río Negro, Monguell Manuel community; Province of Chubut, Necull Mapu of the coast of Ñorquinco Sur. These are just a few examples of dozens of cases in each province previously mentioned. The "community strengthening program" of the National Institute of Indigenous Affairs and the legal services at its disposal are proving ineffective or insufficient to solve the aforementioned cases.

3. On January 10 and 11 2017 there was an excessive and violent raid on the Pu Lof en Resistencia community, Department Cushamen, province of Chubut, authorized by the federal judge Guido Otranto and by the provincial criminal judge Jose Oscar Colabelli. The comuneros affirmed that one of the raids (day 11) was carried out without a warrant. More than two hundred heavily armed police officers stormed the lof (community), injuring eight women, twelve men and two children in various ways during two consecutive days of repression. They destroyed their homes, killed and took animals and arrested ten members of the community. According to a spokesperson for the community, the reprisals were due to the commitment of the members of the community to recover their territories usurped by the company Benetton, which has acquired hundreds of thousands of hectares of what was once their ancestral territory. The aforementioned case derives from the arrest and mistreatment of Ricardo Antihual, Ariel Mariotta Garzi and Nicolas Hernández Huala, who were imprisoned in Esquel prison, where they reported being tortured. Among the seriously injured are Emilio Jones Huala, with a bullet impact on the left jaw and Fausto Horacio Jones Huala with a traumatic skull injury with hearing loss in the left ear.

On January 13th 2017, a delegation of human rights organizations and personalities visited the detainees to support the struggle of the Mapuche people for the recovery of their territory. All the delegates, representatives of civil society, verified the facts previously denounced and strongly criticized the gross violations of human rights.

4. Nine thousand families are connected with the pressure group 'Movimiento Campesino de Santiago del Estero' ('Peasant Movement of Santiago del Estero') working against the silent eviction they are subjected to by landowners and big companies who are extending the monoculture of genetically modified soyabean in the province. According to spokeswoman Deolinda Carrizo, land titles from usurped land originate from debt cases that ended up in the courts but no one knows where these have originated from. The two main problems are the advance of machines that flatten the hills and deforest plains, as well as the fencing used to enlarge the properties of landowners and companies, while reducing the space available to the communities.

5. In Vaca Muerta, in Patagonia, the extraction method called fracking affects farmers and the Mapuche population. Both groups complain that the surrounding arid territories are being pierced by this controversial method of exploitation of land using pressure chemicals. The process is heavily criticized by environmentalists, farmers and indigenous people in the Neuquén region, who report the release of large quantities of methane gas and the contamination of the region's aquifers. Farmers criticize the lack of legislation by the authorities on this problem, which does not only result in contaminating aquifers and plantations but also leads to increased land speculation. Extraction wells are being installed next to haciendas, which may become contaminated, and therefore unproductive, so that their owners are being forced to sell their land. This is denounced by Sebastián Hernández, president of the association of fruit growers of Allen. A further complaint comes from Dr. Luz Sepulveda, director of the health center of Añelo, who in an interview with EFE pointed out that there is an epidemic of gastroenteritis associated with water consumption.

III Recommendations

- We demand the return of indigenous peoples' land in accordance with international standards and an end to the sale of their territories;
- We call for an end to the indiscriminate raids of the Mapuche communities fighting for the restitution of their ancestral lands;
- We demand a fair trial of the defendants, that they be tried by impartial and independent judges and that their procedural guarantees be respected;
- We request that the alleged ill-treatment of Ricardo Anihual, Ariel Garzi and Nicolás Hernández Huala be investigated and that those responsible be punished;
- We ask that legislation on industrialization and development be carried out respecting the right to free, prior and informed consent of indigenous peoples;

- We call for a review of the expansive policy and the use of fracking in the extraction industry which has an adverse environmental impact in the Mapuche communities;
 - We ask to respect the right to autonomy and self-determination of the Mapuche people, allowing them to define their own priorities;
 - We call for respect for ILO Convention 169 on Indigenous Peoples and the United Nations Declaration on the Rights of Indigenous Peoples.
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