

URGENT ACTION

MAPUCHE CHARGED WITH 'TERRORIST CRIMES' AT RISK

The lives of four Indigenous Mapuche men are at risk as a result of a hunger strike they initiated more than 100 days ago, in protest of unfair judicial proceedings against them under the Chilean Counter-Terrorism Act. On 25 September, one of them began a dry hunger strike by refusing to consume any liquids.

Alfredo Tralcal Coche, Benito Trangol Galindo, Pablo Trangol Galindo, and Ariel Trangol Galindo, all of whom belong to the Mapuche Indigenous group, have been held in pre-trial detention in the prison of Temuco, in the Araucanía region of Chile since 10 June 2016, following accusations of having burned down an Evangelical church that same month. Their case has been placed under the Chilean Counter-Terrorism Act, which allows for lengthy pre-trial detention and uses an extremely broad interpretation of the term "terrorist crimes".

International human rights mechanisms have established that the definition of "terrorist crimes" should be confined exclusively to activities related to the use of deadly or serious violence against civilians, and that lengthy pre-trial detention must be an exception rather than the rule so as not to violate the presumption of innocence and the principles of legality, necessity and proportionality. Despite this, the Chilean law has not been modified in any way and continues being used almost exclusively against the Mapuche Indigenous Peoples who are protesting over their land rights in the Araucanía region of the country.

In response to this unfairness, the four Mapuche men began a hunger strike on 9 June 2017 to demand their case be tried under ordinary criminal law procedures rather than the Counter-Terrorism Act. On 25 September, Benito Trangol Galindo began a dry hunger strike – refusing to consume any liquids – in an effort to force the authorities to guarantee due process.

The personal integrity of the four defendants is at risk and the charges under the Counter-Terrorism Act must be immediately withdrawn, allowing the trial to proceed under ordinary criminal proceedings in full accordance with international standards. Amnesty International has repeatedly emphasized its concerns about the incompatibility of this act with basic principles of legality and the right to due process.

Please write immediately in Spanish or your own language:

- Calling on the authorities to remove the charges against Alfredo Tralcal Coche, Benito Trangol Galindo, Pablo Trangol Galindo, and Ariel Trangol Galindo under the Counter-Terrorism Act and guarantee them due process;
- Calling on them to urgently reform the Counter-Terrorism Act to be in full accordance with international standards and international mechanisms' recommendations;
- Calling on them to refrain from using the Counter-Terrorism Act to persecute Mapuche land protestors.

PLEASE SEND APPEALS BEFORE 7 NOVEMBER 2017 TO:

Minister of Interior

Mario Fernández Baeza
Palacio de la Moneda.
Santiago de Chile, Chile.
Tel: +56 2 26904000
Email: rfernandez@interior.gov.cl

Salutation: Dear Minister/ Señor
Ministro

Regional Intendant of Araucanía

Nora Barrientos Cárdenas
Manuel Bulnes N. 5090, Temuco.
Tel: +56 45 2968200
Email: nbarrientos@interior.gov.cl

Salutation: Dear Intendant/ Señora
Intendenta

And copies to:

Amnistía Internacional Chile
Email: info@amnistia.cl

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

MAPUCHE CHARGED WITH 'TERRORIST CRIMES' AT RISK

ADDITIONAL INFORMATION

The Mapuche people are an American Indigenous group that inhabits southern Chile and southwestern Argentina, and which has been fighting in defence of their ancestral lands throughout Chile's history. Even though the Chilean State recognizes the existence of Mapuche territories, they have been progressively reduced, increasing tensions in those regions such as the Araucanía, where Mapuche people continue claiming the ownership of their territory and the respect to their cultural identity.

The Chilean Counter-Terrorism Act has been criticized by various international human rights mechanisms such as the UN Special Rapporteur on counter-terrorism and human rights, the UN Human Rights Committee and the Inter-American Court of Human Rights for falling outside the realm of basic human rights as well as its selective application to Mapuche Indigenous communities reclaiming their ancestral lands.

In the 2014 case *Norín Catrimán and others vs. Chile*, the Inter-American Court of Human Rights condemned Chile as the case followed under the Counter-Terrorism Act, involving members of the Mapuche community. The court considered that some of the law's provisions infringed upon the right to legality, the right to defence, or the right of presumption of innocence and the right to liberty.

The law allows the authorities to use long pre-trial detentions, which is usually justified only on the basis of the gravity of the accusation. However, the mere gravity of the offense charged cannot be a sufficient reason to keep the defendant in custody for extended periods of time. Treating pre-trial detention as an early sanction implies in itself a violation of the presumption of innocence. In addition, the justification of pre-trial detention is not static. There must be a continuous review of its legality and necessity, reassessing in each case the validity of the circumstances that were used to justify it, including the time in which the person charged has been deprived of his or her freedom.

In the case of Alfredo Tralcal Coche, Benito Trangol Galindo, Pablo Trangol Galindo, and Ariel Trangol Galindo, all of whom have been held under the pre-trial detention measure of the Counter-Terrorism Act accused of terrorist fire crime, the defendants have requested this condition be revoked 15 times to no avail.

On two occasions, in the cases of Ariel Trangol Galindo and Pablo Trangol Galindo, the Court of Warranty granted the defendants to be held under house arrest, although this was later revoked by the Court of Appeals of Temuco. The basis used for both decisions was founded almost exclusively on the gravity of the crime and the possible punishment applicable to it.

Also, following the UN Special Rapporteur on counter-terrorism's visit to Chile in 2013, he stated that no further charges of Mapuche land protestors should be brought under the anti-terrorism legislation and that the existing charges pending against Mapuche land protestors who were facing prosecution under the anti-terrorism legislation should be reviewed, and prosecutions for common criminal law offences be substituted. He also called for a mechanism to review the convictions and sentences imposed on past Mapuche land protestors under the anti-terrorism legislation.

Finally, the UN Human Rights Committee recommended in its observations to Chile in 2014 that the State refrain from applying the law against Mapuche people and that they reform the legislation to be fully aligned with the international standards.

Name: Alfredo Tralcal Coche, Benito Trangol Galindo, Pablo Trangol Galindo, and Ariel Trangol Galindo

Gender m/f: m

UA: 234/17 Index: AMR 22/7177/2017 Issue Date: 26 September 2017