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**Совет по правам человека**

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**Поощрение и защита всех прав человека,  
гражданских, политических, экономических,  
социальных и культурных прав,  
включая право на развитие**

**Доклад Специального докладчика по вопросу  
о правах коренных народов Джеймса Анайи**

Дополнение

**Положение коренных народов в Аргентине\* \*\****Резюме*

В настоящем докладе рассматривается положение в области прав человека коренных народов в Аргентине и выносятся соответствующие рекомендации на основе информации, полученной Специальным докладчиком в ходе его поездки в эту страну 27 ноября – 7 декабря 2011 года.

Аргентина осуществила важные меры для целей признания прав коренных народов в стране. Эти меры включают внесение изменений в Конституцию 1994 года в части прав коренных народов, принятие Закона № 26160, призванного содействовать упорядочению системы пользования землей, принадлежащей коренным народам страны, ратификацию Конвенции МОТ № 169 и голосование в Генеральной Ассамблее за принятие Декларации Организации Объединенных Наций о правах коренных народов.

Тем не менее в стране все еще существует значительный разрыв между нормативными рамками, устанавливающими права коренных народов, и их фактической реализацией. В этой связи необходимо, чтобы государство, как на федеральном уровне, так и на уровне провинций, определило соответствующие

\* Резюме настоящего доклада распространяется на всех официальных языках. Доклад, содержащийся в приложении, распространяется только на английском и испанском языке.

\*\* Приложение распространяется в полученном виде и только на том языке, на котором оно было представлено.

приоритетные задачи и предприняло дополнительные усилия для решения вопросов, касающихся прав человека коренных народов. В частности, государство должно определить четкую государственную политику и разработать дополнительные законодательные и административные меры, направленные на повышение осведомленности и обеспечение более слаженных действий всех ветвей власти в рамках деятельности, касающейся коренных народов.

В настоящем докладе Специальный докладчик обращает особое внимание на вопросы, касающиеся признания и охраны земель и природных ресурсов, включая программу по территориальному планированию и развитию добывающей промышленности и сельского хозяйства; доступа к правосудию; выселений и социальных протестов; а также социально-экономического положения коренных народов, включая образование, здравоохранение и развитие.

## Annex

*[Spanish and English only]*

### **Report of the Special Rapporteur on the rights of indigenous peoples on the situation of indigenous peoples in Argentina**

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## I. Introduction

1. This report examines the human rights situation of indigenous peoples in Argentina and makes recommendations in that regard. The report is based on information the Special Rapporteur gathered during his visit to Argentina from 27 November to 7 December 2011, and on his own research into the indigenous peoples of the country.

2. During his visit to Argentina, the Special Rapporteur met with representatives of the Federal Government, indigenous peoples, civil society and the United Nations in the city of Buenos Aires. He also met with representatives of indigenous peoples in the capitals of the provinces of Río Negro, Neuquén, Jujuy, Salta and Formosa, and visited several traditional territories and communities of indigenous peoples in the provinces of Neuquén, Jujuy and Formosa. He met with representatives of the provincial governments in Neuquén, Salta, Jujuy and Formosa. However, at both the federal and provincial levels, with the exception of the province of Formosa, the Special Rapporteur is of the view that he was not able to meet with a representative sample of the authorities from all branches of government.

3. The Special Rapporteur thanks the Government of Argentina for its invitation to visit the country and the support provided by the National Institute of Indigenous Affairs (INAI) during his visit. The Special Rapporteur also wishes to thank the various indigenous organizations and individuals that provided essential logistical support during his visit, and the representatives of indigenous peoples who provided written and oral information about their situation. Lastly, the Special Rapporteur expresses his appreciation to the staff of the office of the United Nations Development Programme (UNDP) in Argentina, the Office of the United Nations High Commissioner for Human Rights in Geneva, and the University of Arizona Support Project for the United Nations Special Rapporteur on Indigenous Peoples for their assistance in preparing for the visit and in drafting this report.

## II. The indigenous peoples of Argentina

4. The colonial period in Argentina in the nineteenth century, and especially the series of military campaigns carried out in the country, led to the extermination of a large portion of the indigenous peoples living in Argentina. From the colonial period to the end of the twentieth century, Government policies towards indigenous peoples involved both exclusion and assimilation. Until 1994 the Constitution stipulated that it was the responsibility of parliament to “maintain the peaceful relationship with the Indians, and promote their conversion to Catholicism”.<sup>1</sup>

5. Notwithstanding this history, there is still a great diversity of indigenous peoples in Argentina, including the following: Atacama, Ava Guaraní, Aymara, Chané, Charrúa, Chorote, Chulupi, Comechingón, Diaguíta/Diaguíta Calchaquí, Guaraní, Huarpe, Kolla, Lule, Mapuche, Mbyá Guaraní, Mocoví, Omaguaca, Ona, Pampa, Pilagá, Quechua, Querandí, Rankulche, Sanavirón, Tapiete, Tehuelche, Toba, Tonocote, Tupí Guaraní, and Wichí. The indigenous peoples with the largest populations in Argentina are the Mapuche (Patagonia), the Kolla (Jujuy and Salta), the Toba (Chaco, Formosa and Santa Fe) and the Wichí (Chaco, Formosa and Salta).

6. Until 2001, the national census did not gather specific data on indigenous peoples as such. It was only recently, in June 2006, that the National Statistics and Census Institute published the first figures from its Supplementary Survey of Indigenous Peoples, which was conducted in 2004 and 2005. According to these figures, there were 600,329

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<sup>1</sup> National Constitution of Argentina of 1853 (with amendments), art. 67, para. 15.

indigenous persons in the country, or approximately 1.7 per cent of the total population. In some provinces such as Jujuy, the indigenous population exceeds 10 per cent of the population. Although the majority of indigenous persons in Argentina live in rural areas, a large percentage of the indigenous population has migrated to the cities.

7. Looking beyond the most recent national censuses, there are substantial differences in the various other census estimates of the number of indigenous persons living in the country. The methodology used in the Supplementary Survey of Indigenous Peoples has been criticized for, inter alia, failing to include a question on indigenous self-identification in cities with more than 25,000 inhabitants. As a result, alternative sources estimate that there are up to 2 million indigenous persons in the country.

8. In recent decades, Argentina has taken important steps to implement the rights of indigenous peoples. As in many other countries around the world, this new recognition has prompted indigenous peoples to make specific claims in defence of their rights to land and natural resources, as well as other rights such as the revival of their cultures, customs and languages.

9. However, the legacy of the colonial period still remains, and the historical exclusion of indigenous peoples is still very apparent. This is manifested in various ways, such as the disadvantages suffered by indigenous peoples in different spheres, the inadequate protection of their rights to their traditional lands, and their continuing marginalization and discrimination, as will be described in this report.

### III. Legal and institutional framework

10. Under the Argentine federal system as set out in the 1994 Constitution (and in previous constitutions), the country's 23 provinces enjoy a high degree of autonomy and have the power to establish their own constitutions, laws and policies on specific issues, including indigenous issues. Several constitutional provisions, including those relating to indigenous peoples, are implemented concurrently by the federal and provincial governments.

#### A. Federal laws and institutions

11. The national laws on indigenous peoples are based on article 75, paragraph 17, of the Constitution, which grants Congress the following powers:

To recognize the ethnic and cultural pre-existence of indigenous peoples in Argentina; to ensure respect for their identity and their right to bilingual and intercultural education; to recognize the legal status of their communities, and the communal possession and ownership of the lands they traditionally occupy; to regulate the provision of other suitable lands sufficient for human development, which shall not be alienable, transferable or subject to taxes or embargoes; and to ensure their participation in the management of their natural resources and other interests affecting them. The provinces can exercise these powers concurrently.

12. The Supreme Court has ruled that the provisions contained in article 75, paragraph 17, of the Constitution are prescriptive in nature and give effect to the rights contained in that article, even in the absence of specific national or provincial legislation.<sup>2</sup>

<sup>2</sup> Supreme Court of Justice, *Indigenous community of the Wichí people at Hoktek T'Oi v. Secretariat of the Environment and Sustainable Development*, amparo appeal (8 September 2003).

13. At the legislative and administrative levels, Act No. 23302 of 1985 on the protection of indigenous communities established INAI, which is responsible for designing and implementing policies to benefit indigenous peoples. The Act and its implementing regulations recognize the legal status of indigenous communities and stipulate that this status is acquired by means of registration in the National Registry of Indigenous Communities. INAI is responsible for maintaining this registry and for coordinating with provinces that maintain their own registries of indigenous communities. In 2004, INAI established the Indigenous Participation Council as a means of involving indigenous peoples in the development and implementation of its programmes and policies, including those on land surveys and social services.

14. In 2006, in the light of repeated land conflicts between the supposed owners of private property and indigenous communities in various parts of the country, Congress enacted Act No. 26160. The Act suspended evictions of indigenous communities for four years, and charged INAI with the task of conducting a “technical-legal cadastral survey of the situation regarding ownership of the land occupied by indigenous communities” (art. 3). Act No. 26554 of 2009 extended the time limit set out in Act No. 26160 for another four years, until 2013.

15. The National Education Act (No. 26206) of 2006 establishes intercultural bilingual education in order to guarantee the constitutional right of indigenous peoples to an education that promotes indigenous cultures and languages. Act No. 25517 of 2001 provides for the return of the mortal remains of indigenous persons held in museums or in public or private collections to indigenous communities that claim them. Act No. 26522 of 2010 on Audiovisual Communication Services recognizes the right of indigenous peoples to identity-based communication, providing in particular for the establishment of radio stations within indigenous communities. INAI is the State body responsible for implementing these laws.

16. INAI is not the only institution relevant to indigenous peoples. The Office of the Secretary for Human Rights promotes human rights protection through the National Institute to Combat Discrimination, Xenophobia and Racism, and the Ombudsman, an autonomous institution, has paid special attention to the issue of indigenous peoples, visiting them in person to observe their living conditions and seeking resolutions to conflicts involving indigenous claims.

17. In an effort to strengthen the national legal framework, Argentina has ratified several international treaties that are of relevance to indigenous peoples, in particular ILO Convention No. 169, which it ratified in 2000. Argentina also voted in support of the United Nations Declaration on the Rights of Indigenous Peoples when it was adopted by the General Assembly in 2007.

## **B. Provincial laws**

18. Within the federal structure established by article 75, paragraph 17, of the Constitution, Congress has the authority to pass the laws necessary for the minimum protection of the rights of indigenous peoples, while the provinces can enact supplementary norms offering greater protection in this regard. Because the constitutional reforms concerning indigenous peoples are relatively recent, many aspects of the division of powers between the federal and provincial governments are still being worked out.

19. The following provinces with significant indigenous populations have also established constitutional norms on indigenous matters: Buenos Aires, Chaco, Chubut, Entre Ríos, Formosa, Jujuy, La Pampa, Neuquén, Salta, Río Negro and Tucumán. Several provinces also have specific laws on various indigenous issues. Some of these laws are of a

general nature, covering a number of issues related to indigenous peoples, while others focus on a specific topic such as land allocation or the establishment of registries or institutions for indigenous communities.

#### **IV. The Special Rapporteur's main concerns**

20. There are many national and provincial laws and programmes on indigenous matters. There are a number of problems, however, with regard to implementing and guaranteeing the rights of indigenous peoples, particularly in relation to their lands and natural resources and their access to justice, education, health care and other basic services. Generally speaking, the Special Rapporteur noted that there is no suitable policy to prioritize and emphasize the design and implementation of public policies that give effect to the rights of indigenous peoples as recognized in national law and in the international instruments to which Argentina is a party.

##### **A. Land tenure and natural resources**

21. The situation of indigenous peoples in the country with regard to land tenure is a result of the fact that historically they have been dispossessed of large tracts of their land by ranchers and by the operations of farming, oil and mining companies on lands claimed by indigenous communities. The majority of indigenous communities in the country have not received legal recognition of their lands in line with their traditional ways of using and occupying those lands.

###### **1. Identification and legalization of indigenous lands**

###### *(a) Federal cadastral survey programme*

22. INAI pushed for the adoption of the aforementioned Act No. 26160 (para. 14 above) in order to address the problem of indigenous land tenure in the country and to comply with ILO Convention No. 169 on the recognition and protection of the rights of indigenous peoples over the lands which they traditionally occupy (art. 14).

23. INAI then established the National Programme for the Cadastral Survey of Indigenous Communities to carry out the survey called for in the Act. Under this programme, technical and field work is carried out through the coordinated efforts of INAI, indigenous peoples, the provinces, academic institutions and NGOs. In cases where there is no effective mechanism for coordination between INAI and a certain province, or in individual cases where speed is of the essence, the survey is to be conducted by a technical team led by INAI.

24. The survey process includes a study, conducted with the participation of the community, on the social and cultural organization of the community and on the ways it has historically used and occupied the land. This process involves producing a cartographic report that must be approved by the community, a technical dossier containing the information collected, and a description of the steps the community must take to legalize their lands.

###### *(b) Award of land titles by provinces*

25. Some initiatives have been taken at the provincial level to regulate indigenous peoples' possession of their lands. As a result, some indigenous communities hold the title to their traditional lands, or at least to part of their lands.

26. In 1997 the provincial government of Jujuy, under an agreement with the Federal Government, began a programme to regularize and allocate land for the aboriginal population of the province. Under the programme, more than 1,200,000 hectares of land were to be regularized for the benefit of indigenous families or communities. In 2006 and 2007, a total of 33 community titles were issued to indigenous communities under this programme. However, the award of land titles to other communities, under both this programme and Act No. 26160, is still pending.

27. In 1991 the provincial government of Salta agreed to grant a community title to the Lhaka Honhat Communities Association, which comprises about 60 communities of different indigenous peoples. The resulting cadastral survey was conducted prior to the adoption of Act No. 26160 and even served as a model for the INAI cadastral survey programme. However, the delay in granting title for these lands, and the construction of a bridge and other building projects within the territory, remain subjects of controversy and dispute within the inter-American human rights system.

28. The provincial authorities of Formosa reported that 99.8 per cent of indigenous communities have had their lands surveyed and titled. However, it is clear that the vast majority of these titles do not cover all the territory that the communities have traditionally occupied and used. For example, the title obtained by the Potae Napocna Navogoh (Spring) community in 1985 excludes the community's traditional lands that were incorporated into the Pilcomayo National Park or granted to private interests. The community is currently fighting for recognition of these lands.

29. The province of Neuquén has established reservations for indigenous communities since Decree No. 737 was issued in 1964. The decree awarded land titles to some 40 indigenous communities in the province. However, it has been reported that even in these communities there are still some conflicts with private property owners.

(c) *Main problems with the cadastral survey and titling procedures*

30. Although significant national and provincial initiatives have been taken to regularize indigenous lands, there are shortcomings with these initiatives as well as problems with their effective implementation.

31. Several indigenous communities reported that they had complied with the requirements of the federal or provincial survey and land titling programmes but had not received a reply from the relevant authorities. In some cases, the communities reported that they had submitted their documentation on several occasions over periods of up to 15 years, only to be told that the required documentation was missing and that they should therefore start the application process over again. The delays were caused by various factors, including insufficient funds, the complexity of the land tenure situations, and opposition by the landowners or other parties.

32. Another factor that has contributed to the delay in recognizing and protecting indigenous lands is the inadequate coordination between INAI and the provinces in relation to the implementation of national legislation. It has been reported that in some provinces the survey has not yet begun, due to disagreements about how it should be conducted, and the refusal of certain provinces to recognize the rights claimed by indigenous peoples. National regulations stipulate the need for the federal and provincial governments to coordinate and standardize criteria regarding indigenous issues. Although the provinces may exercise the powers set out in article 75, paragraph 17, of the Constitution, case law establishes that they may not obstruct the actions of the national Government.

33. On the other hand, and notwithstanding the involvement of the Indigenous Participation Council in the survey process, indigenous population groups have pointed out that there is insufficient indigenous participation in the national survey programme, and that



the process of selecting indigenous representatives for the indigenous participation councils does not reflect the traditional processes followed by the communities.

34. In addition, although the INAI cadastral survey programme aims to recognize indigenous land tenure in Argentina, it does not include a procedure for awarding title to indigenous lands. INAI has taken an important step towards filling this vacuum by drafting a bill on indigenous communal possession and ownership, which will be submitted to Congress in 2012. Although indigenous representatives recognize this bill as an important step, there are concerns about the extent of consultation with indigenous peoples on this initiative.

35. Another criticism of the INAI survey programme is that it does not establish any mechanisms to resolve cases in which communities assert their right to the restitution of lands of which they have recently been dispossessed, or in which communities and private landowners put forward conflicting claims for recognition of the land. In addition, the survey programme does not apply to communities whose members are dispersed throughout urban areas owing to the dispossession of their ancestral lands several generations ago.

## 2. The extractive and agricultural industries

36. With regard to the legal uncertainty of indigenous peoples' claims over their traditional lands, reference should be made to the extractive and agricultural industries' current or proposed projects on or near these lands. Argentina has a long history of natural resource extraction, but, due in part to the liberalization of the laws and policies regulating these industries in the 1990s, the number of leases granted by the provinces has increased considerably in the last decade.

37. Under article 124 of the Constitution, the provinces have the power to dispose of the resources within their respective territories as they wish. However, the Constitution also stipulates that the Federal Government retains some jurisdiction over matters involving the extractive industries. For example, it is the responsibility of the Federal Government to establish minimum standards on environmental protection, while the provinces set any regulations needed to supplement these federal standards (art. 41, para. 3). It is also the responsibility of Congress to ensure the participation of indigenous peoples in the management of their natural resources, although the provinces have concurrent jurisdiction in this regard (art. 75, para. 17). At the same time, gaps and some confusion still remain regarding the division of powers in terms of the exploitation and management of natural resources in Argentina.

### (a) *Effects on the rights of indigenous peoples*

38. Over the years, the projects carried out by the agricultural and extractive industries in Argentina have undermined a whole series of indigenous peoples' rights, including their rights to their lands and natural resources, as well as their rights to, inter alia, food, health and development.

- **Agricultural industries**

39. As a result of the expansion of agricultural activities, indigenous peoples have lost large tracts of their traditional lands. Indigenous families have been moved out of the areas where they were living, and in some cases have had to migrate to nearby cities to look for work, often suffering from extreme poverty and marginalization. The clearing of land as part of these agricultural activities has also severely limited the availability of and access to game and fish, plants and honey, the materials used by indigenous peoples for housing construction, and access to sites of cultural and spiritual importance, such as burial grounds.

These activities are also harmful to the health of indigenous people because crops are sprayed with toxic agrochemicals.

40. The situation in the region of Chaco Salteño, in Salta province, is of particular concern. Communities of the Wichí indigenous people live in the following parts of that region: Pilcomayo, Norte Bermejo, Rivadavia Banda Norte, Rivadavia, Itiyuro-Ruta 86, Bajo Itiyuro and Ballivián. In these areas, agribusinesses have cleared hundreds of thousands of hectares of forest, on which these communities depend. This situation has persisted in recent years.

41. The adoption of the Act on Minimum Budgets for the Protection of Native Forests (Act No. 26331) represents a step forward in this regard. However, the clearings have continued even since the Act came into force, a situation which has been criticized by the Committee on Economic, Social and Cultural Rights.<sup>3</sup>

- Extractive industries

42. The extraction of natural resources throughout the country has also, in many cases, diminished the territories on which indigenous peoples depend. In the desert areas in the north of the country, specifically in the provinces of Salta and Jujuy, indigenous representatives expressed concern about the amount of water consumed by mining companies and the fear that this could have a disastrous effect on water levels in the area. For example, in the region of Salinas Grandes, which spans the provinces of Salta and Jujuy, it is feared that the proposed extraction of lithium will reduce the water level in this arid region, where water is needed to raise sheep, goats and llamas and is also essential to salt production and harvesting, an important activity within the traditional economy in the area.

43. Another major concern is the pollution caused by mining or oil exploration activities, which in past decades have been carried out without proper environmental controls. The following cases should be mentioned:

(a) In the Kaxipayiñ community, Loma de Lata region, Neuquén province, the Special Rapporteur saw signs of contamination from oil exploration activities, such as several dead goats near a stream reportedly contaminated with oil, and many “Danger” signs around the areas where community members’ homes are located. In November 2011, the company Repsol YPF announced the discovery of a new oil and gas field in the Loma de Lata region, prompting fresh concerns about oil exploration in the area, especially given that the particularly risky method of hydraulic fracturing will reportedly be used;

(b) The Pan de Azúcar community in the province of Jujuy continues to suffer from the effects of pollution left behind by a lead, silver and zinc mine that ceased operation in 1989. The provincial government has taken some measures, such as repairing part of the tailings dam that failed in 2011 and closing a school located inside the contaminated area in 2008 (although a new school has yet to be built). However, there are still many highly contaminated areas, as demonstrated, according to the inhabitants, by red pools of acid mine drainage, among other visible signs of contamination. Reportedly, the only Government action taken has been to fence off some of these areas to prevent persons or animals from entering them;

(c) The problems in the village of Abra Pampa in Jujuy province began with the toxic waste created and the lead contamination caused by the Metal Huasi plant between 1955 and 1987. In 2009 and 2011, the provincial government took action to remove the waste and clean up the area around the defunct plant, which the Special Rapporteur

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<sup>3</sup> E/C.12/ARG/CO/3, para. 10.

recognizes as a positive step forward, but there are still concerns that proper measures have not been taken to address the health problems suffered by the inhabitants, especially children. The Special Rapporteur also takes note of the initiatives taken by UNDP since February 2010 to implement an environmental remediation plan in Abra Pampa.

44. The Special Rapporteur has neither the technical capacity nor the mandate to undertake a comprehensive study of the pollution levels in these communities. However, the amount of information received on this topic and the situations that he personally observed indicate that serious problems remain and that the national and provincial governments have not been sufficiently conscientious in addressing the pollution problem, especially regarding pollution left behind by projects no longer in operation.

*(b) Consultation and consent in connection with these projects*

45. The right of indigenous peoples to be consulted, with the aim of obtaining their consent, is guaranteed by ILO Convention No. 169, which is part of the Argentine legal order, and by the United Nations Declaration on the Rights of Indigenous Peoples, which the Argentine Government supported. However, there is no law or policy at either the federal or the provincial level to regulate a consultation procedure with indigenous peoples. The country's sector-specific laws, such as the Hydrocarbons Act and the Mining Code,<sup>4</sup> also make no reference to consultation with indigenous peoples, although the latter requires the permission of the land "owners" to explore for minerals.<sup>5</sup> Similarly, the General Environment Act refers only in general terms to the right of "all persons" to be consulted, while at the same time stating that "the participants' opinion or objection shall not be binding".<sup>6</sup>

46. Due in part to these legal and administrative gaps regarding extraction projects, there is an absence of consultation processes with indigenous peoples that meet international standards. Many cases of reported lack of consultation have been brought to the attention of the Special Rapporteur. At the same time, it is claimed that the consultation processes that have been conducted have been plagued by irregularities.

47. Generally speaking, indigenous peoples do not directly share in the economic benefits of these projects. In some cases, however, the affected communities have managed to negotiate with the companies involved to obtain benefits such as jobs, a drinking water supply, and the building of schools or roads. In any case, the Special Rapporteur points out that it is the responsibility of the State to provide these types of benefits.

48. The Special Rapporteur also received information about cases in which the companies involved and the provincial authorities have encouraged the practice of forming fictitious indigenous "communities" and granting them legal status, so that all arrangements and negotiations can be conducted through them while the traditional authorities go unrecognized. Sometimes, the territories of these "communities" overlap with those of other, legitimate communities, which in some cases are still waiting to be granted legal status and have their lands recognized.

### **3. Other problems undermining the land tenure of indigenous peoples**

49. There are also concerns about the effects of establishing national parks and protected areas in places inhabited or used by indigenous peoples. In 2005, the National Parks Administration and INAI signed an agreement to assist the indigenous communities located in protected areas. The Special Rapporteur received information about positive

<sup>4</sup> Act No. 1919 (1997).

<sup>5</sup> Ibid., art. 26.

<sup>6</sup> Act No. 25676 (2002), art. 20.

developments in recent years, including indigenous peoples' increased control over the management of some national parks. However, indigenous peoples face continuous challenges regarding access to land and natural resources within protected areas.

50. Another problem is the listing of lands occupied by indigenous peoples, such as the Quebrada de Humahuaca in the province of Jujuy, as United Nations Educational, Scientific and Cultural Organization (UNESCO) world heritage sites. After this site was listed by UNESCO in 2003, there was a huge increase in tourism and in the economic value of the land used and occupied by indigenous peoples in the area. Because of this, the provincial government has issued land titles to foreign investors, and as a result, according to the information received, the surrounding indigenous communities have been dispossessed of their land and have fewer water resources. The communities are not involved in the supervision or management of the site and derive no economic benefits therefrom. Moreover, the provincial government has reportedly still not surveyed the territories of the indigenous communities in the Quebrada de Humahuaca.

## **B. Access to justice, evictions and social protest**

51. Several communities have turned to the justice system in an attempt to obtain protection or legal recognition of their lands, with mixed results. Indigenous peoples seeking justice generally face a number of barriers, including linguistic, cultural and economic barriers and the distance to the courts. In particular, it has been reported that most provincial courts are unaware of, or fail to take due consideration of, national and international law concerning indigenous peoples, mainly with regard to their rights to land and natural resources.

52. Throughout the country, the courts have tended to favour the private property rights of individuals or corporations over collective forms of indigenous ownership. Few court rulings have protected the rights of indigenous peoples. One positive judgement was issued in February 2011 in the case involving the Wencru Trawel Leufú community of Neuquén province. This judgement recognized the obligation of the Piedra del Águila company to consult with the affected community before proceeding with extractive activities. It has been appealed, however, by the company and the provincial State prosecutor.

53. The grave situation of legal uncertainty over indigenous lands is reflected in the high number of indigenous communities that have been evicted. The majority of these evictions have resulted from orders issued by provincial courts in which members of indigenous peoples have been accused of seizing private land. In some cases, the affected communities were not notified beforehand, and the communities had no opportunity to defend themselves during the eviction proceedings. In some cases, the homes and property of members of indigenous peoples, including their livestock and crops, were destroyed during the eviction operation.

54. It is worrying that most of these evictions have occurred since Act No. 26160 of 2006 entered into force. It has been reported that the courts do not give proper consideration to, or are even completely unaware of, the rights of indigenous peoples under the current legislation. In addition, the courts of the different provinces do not apply the same criteria when authorizing evictions. For example, they sometimes do not recognize the indigenous communities registered by INAI in its national registry and do not take into account the results of cadastral surveys.

55. Although the Special Rapporteur is not able to evaluate the specific facts of every case of eviction brought to his attention, he notes that the spirit and intent of Act No. 26160 requires the prevention of potential violations of the human rights of indigenous peoples until their territorial rights have been determined.

56. Indigenous representatives repeatedly told the Special Rapporteur that they felt vulnerable in the face of evictions or projects adversely affecting them. In many cases, indigenous peoples have resisted eviction, or have used peaceful protest to call attention to their situations, for example by blocking public roads or mining company facilities.

57. The Government's response has been to criminalize acts linked to these protests. Many indigenous individuals are prosecuted for alleged offences committed in connection with these protests. In some cases, the protests and the response from the public security forces or from private third parties have led to violence and even the deaths of members of indigenous peoples. It has been reported that several cases have involved the disproportionate use of force by police officers, who have gone unpunished while community members have been charged for their acts of protest.

## C. Social and economic conditions

58. There are few facts on the economic and social reality experienced by the indigenous peoples in Argentina. Given that until 2001 the national census made no mention of indigenous issues, disaggregated data on the economic and social situation of the indigenous peoples of the country are scarce. It is therefore difficult to assess changes in the situation of indigenous peoples over the years or to examine the condition of indigenous peoples as compared with other sectors of the population. This has also hindered the development of public policies to meet the basic needs of indigenous peoples.

59. Nevertheless, the statistics that are available and the information received by the Special Rapporteur indicate that the situation of indigenous peoples is one of serious marginalization, particularly in the case of certain indigenous groups and certain regions. Their situation contrasts with that of the Argentine population as a whole, given that Argentina is one of the most developed countries in Latin America and is ranked by the United Nations as a country with "very high" human development.

### 1. Education

#### (a) Access to education

60. During his visit, the Special Rapporteur's attention was repeatedly drawn to the issue of education. Indigenous peoples continue to face serious obstacles to their access to education, including a lack of schools, especially secondary schools, in many of the rural communities where they live. They also face particular barriers because of their poverty, which often forces them to choose between education and work. The increasing numbers of grants awarded by INAI to indigenous students represent an important step towards remedying this problem (according to the available data, the number of grants awarded rose from 5,000 in 2003 to 11,000 in 2006). However, this number is still not enough to meet the needs of indigenous communities, and in addition there are significant delays in the payment of the grants.

61. Despite these problems, according to data reported by the United Nations Children's Fund (UNICEF), which in turn is based on official data, the vast majority (94.6 per cent) of indigenous children between 5 and 14 years of age attend school. However, school attendance for this age group is much lower among certain indigenous groups, such as the Mbyá Guaraní, Pilagá, Toba, Mocoví and Wichí peoples, and generally speaking indigenous people tend not to complete their mandatory schooling (up to high school), let alone attend university.

(b) *Bilingual intercultural education*

62. As previously mentioned (see paragraph 11 above), there is a high level of legal recognition of the right to bilingual and intercultural education in Argentina, under combined federal and provincial jurisdiction. At the national level, INAI has launched the Support Programme for Intercultural Indigenous Education, which includes the following components: grants for indigenous students; intercultural instruction (arranged by the communities themselves); literacy training; revival and consolidation of indigenous communities' ancestral knowledge; and support for indigenous students at the higher levels of education.

63. Many of the provinces are in the process of developing their own programmes and policies on intercultural bilingual education. The Special Rapporteur was informed, for example, about: initiatives in Formosa province to incorporate intercultural bilingual education in primary, secondary and higher education; the establishment of institutes to train intercultural teachers; and support for the development of intercultural curricula.

64. Despite these important initiatives, in all the places the Special Rapporteur visited he was informed that bilingual intercultural education was not being properly implemented and that sufficient resources had not been allocated to it. There is still a lack of teacher training in this area, especially for teachers from the indigenous communities themselves. In addition, concern was expressed about the lack of curricular guidelines on bilingual intercultural education, and it is reported that teaching materials still do not adequately reflect the realities of indigenous peoples; some materials still include misleading information about them (for example identifying the Mapuche as an indigenous people that only exists in Chile). One promising INAI programme in this area involves publishing materials developed by members of the communities.

65. Bilingual education is provided only in language classes; the other core subjects are not taught in indigenous languages. According to UNICEF, this problem is most serious in areas where indigenous peoples still use their own languages and do not speak much Spanish, such as in the Mbyá Guaraní communities in Misiones province and the Wichí communities in Chaco, Formosa and Salta provinces. The illiteracy rate in Spanish of Mbyá Guaraní and Wichí people over the age of 10 in these provinces is 9 or 10 times higher than the national average of 2.6 per cent (29.4 per cent and 23.4 per cent respectively).

(c) *The situation of indigenous women and girls*

66. Indigenous women and girls face particular challenges with regard to access to education. Girls are frequently deprived of the opportunity to study, because they often abandon their studies to fulfil family obligations or because indigenous families give priority to boys. The Ministry of Health has concluded that indigenous women have a lower level of education than either indigenous men or non-indigenous women.

67. Another specific problem identified was the vulnerability of female students who migrate to towns or cities in order to gain access to education. Such students have to stay in hostels during the week, sometimes in the same room as male students and under male supervision. This leaves them extremely vulnerable to sexual abuse, and some of them have left the hostels pregnant. In schools without hostels, girls often have to work to pay their basic living expenses, taking jobs as domestic workers or nannies, with meagre wages and very long working hours.

**2. Health**

68. The data provided by the Ministry of Health indicate that, in general, indigenous peoples enjoy a high level of access to the free health services provided by the State (that is, access to a hospital or a primary health-care centre). Despite this widespread accessibility,

however, the opening hours of health centres in rural communities are sometimes limited, and there are insufficient health-care professionals, medicines and ambulances to meet the needs of the indigenous population.

69. Several sources said that the lack of specific official data on the health of indigenous peoples was one of the main barriers to providing adequate health-care services. However, the Special Rapporteur has been struck by some of the data that are available. A study conducted by the Ministry of Health in 2007 found, for example, that 12.65 per cent of the indigenous women interviewed had at least one child who died before his or her first birthday, and that 60 per cent of these deaths were from highly preventable causes.

70. Specific situations also testify to the serious health problems facing indigenous communities in Argentina. In 2007, the Ombudsman brought a case before the Supreme Court involving a number of deaths of members of the Toba indigenous people in the region known as El Impenetrable, in Chaco province. In that case he denounced the extreme level of malnutrition and neglect of indigenous peoples by the national and provincial governments. The Supreme Court ordered the national and provincial governments to take a series of actions to ensure that the inhabitants of the region receive health care and adequate food, and it is reported that the Government has made progress in this regard. Another situation of particular concern is that of the community of Quebrachal II, inhabited by members of the Wichí people, in Salta province, where it is reported that in recent years several children and other members of the community have died from malnutrition.

71. Poverty among indigenous peoples, especially in rural areas in the north of the country, is one of the primary factors contributing to their health problems, according to the Ministry of Health. Indigenous communities' limited access to land and natural resources in Argentina contributes to their lack of access to basic services. For example, according to the information received, the Potae Napocna Navogoh (Spring) community in Formosa is forbidden from taking clean water from the lakes in the Pilcomayo National Park, which are located in what they consider to be their traditional lands, and this has contributed to severe dehydration among members of this community.

72. Indigenous people, especially indigenous women and particularly in cities, are also discriminated against when they access medical services in health centres, in that sometimes they are attended to only after non-indigenous people. Indigenous people who use their own language face discrimination and communication barriers when dealing with medical staff. In this regard, the Special Rapporteur notes the programme conducted by UNDP in 2011 to support INAI efforts to combat the stigma faced by indigenous persons and eliminate barriers to their access to health care.

### **3. Poverty and community development**

73. Indigenous peoples in Argentina suffer from low levels of economic and social development in comparison with the non-indigenous sectors of the country. According to UNICEF, 23.5 per cent of indigenous households have unsatisfied basic needs, compared with 13.8 per cent of non-indigenous households. In the provinces with the highest levels of unsatisfied basic needs among indigenous households – Formosa (74.9 per cent), Chaco (66.5 per cent) and Salta (57.4 per cent) – the levels are alarming. Moreover, according to a study conducted by the Ministry of Health, the income of indigenous households is on average seven times lower than that of Argentine households as a whole.

74. In order to address this situation, INAI has established the Directorate for the Development of Indigenous Communities to design projects for the “comprehensive development” of indigenous communities. The projects are based on assessments conducted within the community assemblies and, according to INAI, “seek to legitimize

and consolidate land tenure, in implementation of Act No. 26160, which will be the main focus of action for the next two years”.<sup>7</sup> The Special Rapporteur has not received any information on the success of these projects, but he notes the important recognition of the close link between protection of the lands of indigenous peoples and their economic and social development.

75. Nevertheless, there has been no adequate response from the authorities to the demands of indigenous peoples regarding access to services in their communities. For example, in the community of Aguas Calientes, in El Carmen department of Jujuy province, several families from the community claim that they have neither a home of their own nor clean drinking water, despite repeatedly reporting this situation to the authorities. Also, in Quebrada de Maimará, in Jujuy province, the Special Rapporteur was informed about efforts by members of the communities in the region to build the necessary infrastructure to bring drinking water to the area where they live, since the authorities had not taken any action in that regard.

76. The reasons cited for the failure to implement national development projects include: delays in signing the relevant agreements between the federal and provincial governments; delays in signing the agreements between the provincial and municipal authorities; and difficulties in finding specialists to carry out the projects. There are also cases in which development projects proposed by the indigenous communities themselves have been rejected by the provincial government because the communities do not hold the title to their land.

77. Of particular concern regarding access to basic services is the situation faced by the Nivaclé indigenous people, whose traditional territory covers the border area between Paraguay and Argentina. According to the information received, some 130 Nivaclé families who are living in Formosa province and include at least some members born in Argentina do not hold Argentine identity documents because the State authorities consider them to be Paraguayan. This lack of identity documents prevents them from accessing basic services.

78. The Special Rapporteur was also informed about development proposals put forward by the indigenous peoples themselves. An interesting example is the Diaguaita community of Amaicha del Valle, in Tucumán province, which is conducting a self-development project that involves, inter alia, the installation of a communal winery, the installation of solar panels, and the management of forest sanctuaries. Representatives of the community said that the secure legal status of their lands had been essential to the success of these projects.

## V. Conclusions and recommendations

### Legal and institutional framework

**79. The Argentine State has taken important steps to recognize the rights of the indigenous peoples in Argentina. These include: reforms to the Constitution of 1994 relating to indigenous peoples; the adoption of Act No. 26160 (and its extension through Act No. 26554), initiating a process to regularize indigenous lands in the country; the ratification of the ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169); and the vote in the United Nations General Assembly in support of the United Nations Declaration on the Rights of Indigenous Peoples.**

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<sup>7</sup> INAI, “Desarrollo de las comunidades indígenas”, available at: [www.desarrollosocial.gob.ar/Uploads/i1/Institucional/2.DesarrolloDeComunidadesIndigenas.pdf](http://www.desarrollosocial.gob.ar/Uploads/i1/Institucional/2.DesarrolloDeComunidadesIndigenas.pdf).



80. There remains a significant gap, however, between the established regulatory framework on indigenous issues and its actual implementation. The Government needs to prioritize, and make greater efforts to implement, the human rights of indigenous peoples at both the federal and provincial levels. In particular, the Government should adopt clear public policies and develop guidelines for government officials at both the federal and provincial levels, along with additional legislative and administrative measures to increase awareness of, and State action on, indigenous matters by all parties, including Government ministries, members of parliament, judicial authorities and law enforcement officials.

81. Given the concurrent jurisdiction of the federal and provincial governments, the Federal Government must take the necessary measures to ensure that legislative and other measures adopted by provincial governments are consistent and uniform, so as to fully implement the provisions of the Constitution and of other legislation on indigenous matters, in accordance with international standards. This process should be carried out with the participation of the indigenous peoples.

82. The legal framework, including the Civil Code, the Criminal Code, the Mining Code and other relevant national and provincial legislation, should be updated as necessary to ensure that they are not inconsistent with the Constitution, federal legislation or international standards in matters concerning indigenous peoples. In any case, existing laws should be interpreted and applied in accordance with the recognized rights of indigenous peoples.

83. The Special Rapporteur recognizes the important work carried out by INAI, especially in relation to cadastral surveying, but notes that the low budget allocated to this institution seriously hinders its ability to function effectively. There is also a worrying lack of participation by indigenous peoples themselves in the development and implementation of INAI programmes and policies.

84. The Government should take all necessary steps to remedy these problems and, in particular, INAI should review its current programmes, in consultation with indigenous representatives selected by the indigenous communities themselves, and should modify those programmes as necessary to respond adequately to the demands and aspirations of indigenous peoples. In turn, the Government should ensure that INAI has the financial and institutional capacity to effectively carry out its work to promote and protect the human rights of indigenous peoples.<sup>8</sup>

85. The Government should develop a consultation mechanism or procedure, in accordance with international standards, to increase the participation of indigenous peoples in decisions affecting them,<sup>9</sup> which could be achieved with the support of the United Nations system in Argentina.

#### Land and natural resources

##### Recognition of the rights to land and natural resources

86. Although the Government has taken important steps to recognize and protect the rights of indigenous peoples to their traditional lands and natural resources, there is still a widespread lack of legal certainty in Argentina regarding these rights.

87. The federal and provincial governments should redouble their coordination efforts to conduct the necessary cadastral surveying and recognize the legal status of indigenous communities or peoples, and should also sign the agreements necessary for

<sup>8</sup> See also CERD/C/ARG/CO/19-20, para. 22.

<sup>9</sup> See also CERD/C/ARG/CO/19-20, para. 23.

that purpose, thereby preventing any harmful effects on the rights of indigenous peoples that this lack of coordination and consistency might bring about.<sup>10</sup>

88. The federal and provincial governments should provide the indigenous peoples with the necessary technical support to prepare the documentation required for a cadastral survey of their community, obtain recognition of their legal status and complete the necessary procedures once they have submitted the completed dossiers.

89. Given the delays in the surveying process under Act No. 26160 and Act No. 26554, the legislature should consider extending the time limit in those acts beyond 2013. The Government should also speed up the process of cadastral surveying and provide INAI with the technical and financial resources necessary to successfully complete the process.

90. Lastly, progress needs to be made in developing effective mechanisms and procedures for demarcating and legally recognizing the lands over which indigenous peoples have rights. The processes established for these purposes should be conducted in consultation with the indigenous peoples.

#### **Extractive and agricultural industries**

91. Consultations should be carried out, in accordance with the relevant international standards, with the communities that might be adversely affected by development projects and the exploitation of natural resources, with the aim of obtaining their free, prior and informed consent on any aspects of these projects that infringe their human rights.<sup>11</sup> This could be facilitated by drawing up regulations for a procedure for consultation with indigenous peoples.

92. As part of this process, and especially with regard to proposals for future projects, the federal and provincial governments should conduct comprehensive studies on the potential social and environmental impacts of such projects, including on natural resources such as water and on the rights of indigenous peoples.

93. Appropriate measures should also be taken to minimize these impacts and to provide reparation and fair compensation to indigenous communities that suffer from the harmful effects on the environment or their health caused by projects currently or formerly operating in or near lands inhabited by indigenous peoples.<sup>12</sup>

94. The Government should investigate the allegations of serious irregularities in the procedures involving existing agricultural and extraction projects, with a view to developing new consultation processes if necessary.

#### **National parks and protected areas**

95. The Government should review its policy on establishing national parks and protected areas in order to ensure that they do not infringe the rights of indigenous peoples to their lands and natural resources within these areas. It should also remedy the situations in which the establishment of national parks or protected areas has hindered the enjoyment of these rights.

96. In addition, the Government should guarantee suitable processes for consultation with indigenous peoples when a proposal is made to establish a national park or protected area that might adversely affect them. It should also encourage and

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<sup>10</sup> See also E/C.12/ARG/CO/3, para. 8.

<sup>11</sup> See also E/C.12/ARG/CO/3, para. 9 and CERD/C/ARG/CO/19-20, para. 26.

<sup>12</sup> See also E/C.12/ARG/CO/3, para. 9.

take measures to ensure that the indigenous peoples who live in or around these areas share in any tourism or other benefits generated by these sites if they so wish.

97. With regard to Quebrada de Humahuaca, listed by UNESCO as a world heritage site, the Federal Government, the provincial government of Jujuy and representatives of UNESCO should increase the participation of indigenous peoples from the surrounding areas in the management of the site, while ensuring that these peoples can continue to carry out their traditional and subsistence activities within Quebrada de Humahuaca.

#### Evictions and access to justice

98. The multiple cases of evictions of members of indigenous peoples from land claimed by them on the basis of their traditional or ancestral occupation of it are of great concern to indigenous peoples throughout the country.

99. The Special Rapporteur calls on the Federal Government and, especially, the provincial governments and the courts, to apply the letter and spirit of Act No. 26160 and Act No. 26554 and suspend all legal or administrative proceedings to evict indigenous communities until a technical and legal survey has been conducted of the lands occupied by indigenous peoples. In particular, immediate measures should be taken to respond to the demands of indigenous communities facing an imminent risk of eviction.<sup>13</sup>

100. All necessary measures should also be taken to remove any obstacles faced by indigenous peoples in their efforts to obtain access to justice, especially in relation to their efforts to protect their rights to their lands and natural resources.<sup>14</sup>

101. Training programmes should be launched for judicial officials at the federal and provincial levels on national and international standards concerning indigenous peoples, and in particular on their rights to their lands and natural resources. This could include discussion forums for judicial officials and, inter alia, academics, jurists and representatives of the United Nations system, for the purpose of exchanging experiences and knowledge in this area.

#### Social protest and criminalization

102. The Special Rapporteur notes that the lack of a mechanism to defend the rights of indigenous peoples over their traditional lands or to compensate them for the loss of their lands might have contributed to an atmosphere of confrontation in which some members of indigenous peoples felt that they had no real options and therefore opted to engage in social protest that, in some cases, involved committing acts contrary to public order.

103. The criminal policy followed in recent years with respect to indigenous peoples and their acts of protest needs to be reviewed, with a view to creating a criminal justice policy with a focus on solutions that are compatible with public order and respect for international human rights standards.

104. The Government should also adopt measures to prevent, investigate and punish all acts of violence, threats and intimidation directed at members of indigenous peoples by both public officials and individuals.

<sup>13</sup> See also CCPR/C/ARG/CO/4, CERD/C/ARG/CO/19-20, paras. 20 and 26.

<sup>14</sup> See also CERD/C/ARG/CO/19-20, para. 21.

### **Social and economic conditions**

105. The Government should take steps to collect more official data on the social and economic situation of indigenous peoples, especially with regard to their health. These statistics are necessary to develop public policies and programmes that respond effectively to the problems still facing indigenous peoples throughout the country.<sup>15</sup>

### **Education**

106. The Special Rapporteur urges the federal and provincial governments to take steps to eliminate the barriers to access to education for indigenous peoples, especially at the higher levels, by, inter alia, building more secondary schools in rural areas and awarding more grants to indigenous students.<sup>16</sup> The Government should pay particular attention to indigenous peoples with lower school attendance rates, especially the Mbyá Guaraní, Pilagá, Toba, Mocoví and Wichí peoples.

107. While the Special Rapporteur notes with satisfaction the substantial legal recognition of the right to bilingual and intercultural education, he is of the view that efforts should be redoubled to give effect to this right and more resources should be allocated for this purpose.<sup>17</sup> In particular, the Government should take steps to train indigenous teachers in bilingual intercultural education and, in consultation with indigenous peoples, should develop more curricular guidelines and materials for bilingual intercultural education. The Government should also consider providing basic classes taught in indigenous languages, especially in areas where indigenous peoples still use their own languages.

108. The Government should make greater efforts to respond to the structural problems limiting access to education for indigenous women and girls. It should also ensure that indigenous girls staying in school hostels in urban areas are not left vulnerable to discrimination and abuse.<sup>18</sup>

### **Health**

109. The Special Rapporteur acknowledges the generally high level of access to free State health-care services enjoyed by indigenous peoples. At the same time, in order to ensure proper access to these services, it is necessary to extend the opening hours of these services and to increase the number of health-care professionals attending to patients and the supply of medicines in health centres, especially in rural areas.

110. The Government should make concerted efforts to address the structural factors contributing to the health problems suffered by indigenous peoples in the country, including poverty and a lack of access to their traditional lands and natural resources. Measures also need to be taken to combat discrimination against indigenous peoples in health centres and to ensure that those people who use their own language can communicate with and understand medical staff.

### **Social development**

111. The federal and provincial governments should make greater efforts to respond to indigenous peoples' demands for access to basic services in rural areas, especially water supply services. The Government should adopt a long-term vision for the social

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<sup>15</sup> See also CERD/C/ARG/CO/19-20, para. 29 and CRC/C/ARG/CO/3-4, para. 22.

<sup>16</sup> See also CRC/C/ARG/CO/3-4, para. 68 (a).

<sup>17</sup> See also E/C.12/ARG/CO/3, para. 24 and CERD/C/ARG/CO/19-20, para. 19.

<sup>18</sup> See also CEDAW/C/ARG/CO/6, para. 42 and CRC/C/ARG/CO/3-4, para. 32 (a).

**development of these areas, taking into account the importance of traditional lands to the lives and cultures of indigenous peoples.**

**112. The development proposals put forward by indigenous peoples themselves to promote the proper management of their natural resources and economic self-sufficiency for their communities should be supported.**

**113. The Government should pay particular attention to the situation of the Nivaclé and other peoples living in the border areas of Argentina, with a view to guaranteeing their citizenship in accordance with the relevant laws and international standards and providing them with the necessary health and social services.<sup>19</sup>**

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<sup>19</sup> See also CRC/C/ARG/CO/3-4, para. 41.

## Apéndice

[Español solamente]

### **Resumen de información y alegaciones proporcionadas por representantes de pueblos, comunidades y organizaciones indígenas al Relator Especial sobre los derechos de los pueblos indígenas**

#### **Provincia de Río Negro**

Comunidad de Huenchupan: falta de reparación de rutas de acceso y de titulación de tierras.

Comunidad mapuche Chewelche “Kintul Folil”: falta de implementación de la educación intercultural bilingüe y de consulta por reinicio de actividades de la mina de Hierro Patagónico.

Comunidades mapuche de Currug Leufu, Puel Mapu: preocupación por reapertura del proyecto minero Calatreu, la demora en la titulación de tierras y la necesidad de políticas públicas por efectos de erupción del volcán Puyehue.

Comunidad Lof Paineofil: la Dirección de Tierras de la provincia no reconoce los derechos territoriales de la comunidad y necesitan servicios sociales por efectos de cenizas del volcán Puyehue.

Comunidad Lof Paso-Huentelaf: ha tenido una disputa legal con propietarios privados sobre tierras que comunidad intenta recuperar, y exigen título de propiedad comunitaria.

Comunidad de Lof Wiritray: exige la titulación de territorio luego de terminar relevamiento, en tierra que forma parte de parque nacional.

Comunidad Kume Peuke Mapuche: esta comunidad ha llevado conflicto con familia de terratenientes por más de 3 décadas quienes han alambrado tierras tradicionales de la comunidad, y describe un violento desalojo ocasionado en 1967.

Consejo de Desarrollo de Comunidades Indígenas (Co.De.C.I.) y Coordinadora del Parlamento Mapuche de Río Negro: falta de fondos para Co.De.C.I.; falta de implementación de política educativa intercultural; efectos que generarían proyectos mineros de Calcatreu y Mina de Ángela; impacto económico y ambiental del volcán Puyehue.

Comunidad mapuche Lof Che Cañumil: procesos penales contra las autoridades indígenas por usurpación, a pesar de completarse relevamiento en su territorio, y exigen titulación de tierras.

Comunidad Lof Mapuche Ancalao: conflicto con familias de terratenientes, quienes han alambrado tierras de la comunidad e iniciado causas legales contra dirigentes comunitarios por usurpación.

Comunidad Lofche Kona Niyeu: falta de programas de educación intercultural, falta de consulta en el manejo de área natural protegida Meseta de Somuncura, y situación de emergencia económica debido a cenizas del volcán Puyehue.

Comunidad mapuche “Tequel Mapu”: procesos penales contra varios miembros de la comunidad, que no cuentan con fondos para contratar abogados.

Comunidad mapuche Roberto Maliqueo: desalojo por institución de Parques Nacionales. Quieren recuperar sus tierras y viven en condiciones precarias de vivienda.

Comunidad mapuche Telhuelche Río Chico: preocupaciones sobre proyecto minero que se pretende en sus tierras, y efectos del volcán Puyehue sobre la salud y economía de los habitantes.

Comunidad Nehueh Ñuke Mapu: muerte de animales como consecuencia del volcán Puyehue; solicitud de educación, centro de salud y proyecto integral de desarrollo.

Comunidad mapuche Tacul-Chewque: comunidad desalojada en 1953 por autoridades de Parques Nacionales, exige titulación de tierras luego de finalizar proceso de relevamiento en 2011.

Comunidades Pucurrha, Chaiful, Luis Julián Santos, Zungun Curratañipuche, Putrhewtli, y otras: informan sobre sus acciones legales contra el proyecto Calcatreu, y exigen que se les consulten.

Comunidad Mapuche Kezzuwen: comunidad desalojada en 2010; habitantes acusados de usurpación por propietario quien no les permite obtener agua de territorio.

Comunidad Lof Lafkenche: sus miembros se sienten amenazados de desalojo debido a intereses inmobiliarios.

Comunidad Eluney Lof Ojeda: busca la recuperación de territorio ancestral en manos de propietario privado.

Comunidad Mapuche Santa Rosa Leleque: busca recuperación de territorio ancestral en manos de la empresa Benetton, que había solicitado órdenes de desalojo.

Comunidad Mapuche Millalonco- Ranquehue: denuncian presencia de ejército y desalojos a lo largo de varias décadas, y presencia de residuos peligrosos en territorio.

Comunidad urbana mapuche Lof Colhuan Nahuel: comunidad en área urbana busca recuperar territorio en área ancestral, donde se construyó una plaza sin consulta.

Comunidades Follil, Nehuen Che y Tequel Mapu: buscan participar en manejo de Reserva Natural y de la Biosfera Cerro Perito Moreno; preocupación por posible disminución de agua.

## **Provincia del Chaco**

Comisión de Derechos Humanos de la Cámara de Diputados de la provincia: presenta denuncia recibida de comunidades qom de Maipú y Barrio Belgrano sobre basural a cielo abierto instalado por municipio de La Leonesa. Datos sobre demanda del Defensor del Pueblos contra el Estado por condiciones infrahumanas de indígenas en Chaco.

## **Provincia de Formosa**

Representantes wichí de Área Lote 8: falta de educación, servicios de salud, capacitación para docentes y agentes sanitarios.

Comunidad wichí de la comunidad Barrio Obrero: solicita mesa de diálogo con el Gobernador provincial para solucionar temas de vivienda y servicios básicos.

Comunidad Toba (Qom) Potae Napocna Navagoh (La Primavera): buscan solución de demandas territoriales y denuncian desalojo violento y muerte ocurrida en noviembre de 2010. Buscan mesa de diálogo con Formosa.

Comunidad Qom Potae Napocna Navagoh (La Primavera): describe demandas territoriales, y denuncia criminalización de miembros de la comunidad por sucesos de noviembre de 2010, y falta de reconocimiento de su líder.

Pobladores indígenas del departamento de Ramón Lista: solicitan mejorar calidad educativa y que el Instituto de Comunidades Aborígenes recupere autonomía.

Representantes de comunidades wichí de El Portillo, Santa Teresa, Lote 8, Tucumancito, El Chorro, El Quebracho, en el departamento Ramón Lista e Ingeniero Juárez: exigen que comunidades reciban regalías por actividades petroleras, contratación de indígenas y capacitación en gestión de proyectos.

Cacique de la Comunidad toba de la Ciudad de Clorinda: falta de terrenos para comunidades.

Organización Interwichí (Integrada por comunidades Laka Wichí; Colonia Muñiz, Lote 27, Lote 47, Lote 42 y la Pantalla de las Lomitas; Campo de Tres Pozos de Juan G. Bazán y Tichá de Pozo del Mortero): educación deficiente y no culturalmente apropiada; imposición de formas de organización por gobierno; situación de salud por Chagas; criminalización de comuneros por demandas territoriales.

Comunidades Nivaclé de El Potrillo, San José, Guadalcázar, San Cayetano, Media Luna y La Madrid y San Martín Número 2: viven en condiciones precarias, sin territorio y sin documentos nacionales de identidad (son considerados paraguayos); falta de educación intercultural.

Comunidades de El Tucumancito y Lote Uno: problemas en reconocimiento de territorio, denuncias de que individuos están alambrando sus territorios; necesidades en vivienda y salud.

Comisión Interétnica de los estudiantes de los Pueblos Originarios (Wichi, Qom, Pilagas) de la Universidad Nacional de Formosa: invitación a Primer Congreso Latino Americano de Estudiantes de Pueblos Originarios; solicitud de financiamiento para congreso.

Asociación Comisión Vecinal, Comunidad Wichí Barrio Obrero: una solicitud para solucionar falta de vivienda de 900 familias en zona urbana no ha sido atendida.

Miembro de la comunidad Santo Domingo: denuncia por usurpación y no cuenta con título de propiedad.

Miembro del Concejo de Comunidades Originarias: problemas territoriales y hechos de violencia.

Comunidad Aborígen Km. 503: han solicitado a autoridades ampliación de medición de territorio por riesgo de inundación, y hay riesgo de desalojo.

Asesores jurídicos del Barrio Nam Qom: informan sobre criminalización de protesta.

## **Provincia de Misiones**

Pueblo Mby'a Guarani: efectos culturales y ambientales de represa Yacyretá; relocalización e indemnización inadecuada.

## **Ciudad de Buenos Aires**

Unión de Pueblos de la Nación Diaguita, Salta: temas de representatividad dentro de institución provincial para pueblos indígenas.



Miembro de la comunidad Nam Qom: falta de consulta respecto aprobación e implementación de Ley de Educación Nacional 26206.

Equipo de Comunicadores de los pueblos originarios: avances que se han dado en área de comunicación indígena a raíz de la Ley de Servicios de Comunicación Audiovisual.

Comunidad Warpe, Provincia de San Juan: restitución de restos ancestrales en la Universidad Nacional de San Juan.

Representante de la Comisión de Juristas Indígenas de Argentina: pocos avances en registro de comunidades en RENACI; casos judiciales, conflictos, y asesinatos de dirigentes indígenas a raíz de reclamos territoriales indígenas.

Consejo Plurinacional Indígena: escaso avance de relevamiento territorial en distintas provincias; desalojos de comunidades; injerencia de Estado en organizaciones indígenas; falta de consulta y participación.

Autoridad de la comunidad wichí “Honat le’les (hijos de la tierra)”: denuncias de deslizamiento, inundaciones y consiguiente desplazamiento de comunidades indígenas por tala indiscriminada de bosque nativo.

Abogada indígena: describe gestiones legales de Tribu de Coliqueo para reconocimiento.

Miembro del pueblo Diaguita Cacano, Provincia de Santiago del Estero: tala de bosques tradicionales por ganaderos: desalojos de comunidades, persecución policial.

Representante de la Organización de Comunidades de Pueblos Originarios, Provincia de Salta: represión policial; deforestación de territorio para construcción de canchas de rugby.

## **Pueblo mbya y otros en Misiones**

Comunidades de Ka’a Kupe o Kuña Piru II Arroyo Liso; Ysyry; Alecrín; Katupyry; Pindo Poty; Tamanduá; Pozo Azul; Ka’aguy Poty; Tekoa Pora; Tekoa Guaraní; Jeji: inacción de la Provincia ante propuesta de ley para pueblos indígenas.

Comunidades del Valle de Kuña Pirú: Yvu Pyta, Ka’aguy Poty y Kapi’i Poty: presencia de empresas madereras; acción legal por reconocimiento de tierras.

Comunidad Alecrín: conflicto y disputas legales entre comunidad y empresa forestal.

Comunidades Tekoa Yma, Kapi’i Yvate, Aracha Poty y Takuaruchu: demanda por posesión y propiedad comunitaria, por daños y perjuicios por actividades madereras.

Comunidad Ka’a Kupe o Kuña Piru II: empresa ha intentado desalojar comunidad, la cual ha puesto demanda por propiedad y daños y perjuicios.

Comunidad Ysyry: intentos de desalojo por parte de autoridades municipales y propietarios privados; esperan relevamiento por parte de INAI.

Comunidad Mbokajaty (Palmar): intento de desalojos y actos intimidatorios por titulares privados.

Comunidades Tekoa Porá y Guaraní: ha denunciado a empresa papelera por desmontes de sus tierras.

Comunidad Mbya Guaraní Tacuapi: efectos de cultivos de parcelas familiares sobre tierras de la comunidad.

## **Provincia de San Juan**

Pueblo warpe: falta de acceso a suficiente agua potable y para uso agropecuario; exclusión de comunidades en proceso de relevamiento; exclusión de docentes warpe en educación intercultural; exclusión de indígenas urbanos en censo; falta de consulta en decisiones tomadas por delegado de Consejo de Participación Indígena; restitución de restos ancestrales.

## **Provincia de Neuquén**

Comunidades mapuche de la zona centro (Lonko Purran, Agrupación Mapuche “Felipin” y otras): conflictos permanentes por invasión y avance de ejidos urbanos municipales, ganaderos, empresas forestales, proyectos mineros, turísticos e inmobiliarios. Imputación a indígenas por usurpación.

Confederación Indígena Neuquina: relevamiento territorial aún no iniciado; inexistencia de legislación provincial sobre titulación de tierras y consulta previa; exclusión de jurisdicción indígena en nuevo código procesal penal provincial; decreto provincial de personería permite autoridad provincial reconocer o negar personalidad y no reconoce registro de comunidades de INAI; exclusión de comunidades en educación; desalojos y criminalización de la protesta indígena; desconocimiento de identidad indígena por poder judicial.

Lof Mapuche Placido Puel: efectos de venta de tierras alrededor de Lago Aluminé, despojo de tierras y causas judiciales contra comunidad.

Lof Quintriqueo: conflictos con propietarios privados e institución de Parques Nacionales respecto a acceso a tierras y recursos naturales.

Comunidad Mapuche Kaxipayiñ: efectos ambientales por explotación de yacimiento petrolero Loma de Lata; negación de registrar personería jurídica de comunidad.

Confederación Indígena Neuquina: impacto de empresas petrolíferas en zona centro de Neuquén, falta de consulta, contaminación ambiental, falta de indemnización por daños.

Confederación Mapuche: incumplimiento de Ley de Servicios de Comunicación Audiovisual; medios de comunicación no reflejan diversidad cultural y Gobierno no ha dado financiamiento.

Representante de la Comunidad Puel Pujú: presenta propuestas para una nueva ley de educación en la provincia de Neuquén.

## **Provincia de Jujuy**

Comunidad Aborigen Malón de la Paz y residente de ciudad de Abra Pampa: efectos ambientales y de salud por planta Metal Huasi; plan de remediación no contempla tratamiento médico de niños.

Comunidad Aborigen Maymaras: falta de titulación de tierras y presencia de comunidades ficticias que son reconocidas por INAI y provincias.

Comunidad Aborigen Agua Caliente de la Puna: no han recibido carpetas de relevamiento después de dos años de haberse finalizado.

Comunidad Aborigen de Cobres y Comunidad Aborigen de Santuario de Tres Pozos: falta de consulta por explotación de litio en la región Salinas Grandes de la Laguna de Guayatayoc. Afecta a comunidades en provincias de Salta y Jujuy.

Comunidad Aborigen Aguas Blancas: tiene personería jurídica y ha entregado documentación pero no cuenta con territorio legalizado. Falta de consulta sobre exploración y explotación de litio en Salinas grandes, notando daños ambientales.

Pueblo Indígena Atacama: solicitan investigación y procesamiento judicial de director de la Escuela 363 Policía Federal Argentina por ser un peligro para niños y niñas en centro educativo.

Comunidad Aborigen de Olaroz Chico, Comunidad Aborigen de Pastos Chicos, Comunidad Aborigen de Catua, Comunidad Aborigen de Puesto Sey y Comunidad Aborigen de Huancar: solicitan respeto a su decisión de permitir extracción de litio, y que Estado garantice efectiva participación y reparto de ganancias por actividad minera.

Comunidad Aborigen Pueblo Atacama Cobres: gobierno no ha brindado ayuda social, salario universal y se han dado graves impactos ambientales por explotación de litio.

Comunidad Aborigen de Pozo Colorado: solicitan mayor cantidad de agua de calidad; realización de exploración y explotación de litio sin información y consulta.

Comunidad Aborigen de Rinconadillas: solicitan el reconocimiento de su título comunitario. Existe escasez de agua.

Comunidades Aborígenes del Departamento de Cochino (Abra Pampa – centro urbano y cabecera de departamento), Abrolaite, Agua Caliente de la Puna, Agua de Castilla, Río Grande, Agua Chica, Arbolito Nuevo, Barrancas, Casa Colorada, Casabindo, Cochagaste, Cochino, Doncellas, Guadalupe de la Peña, Lumará, Miraflores de San José, Miraflores de la Candelaria, Muñayoc, Pasajes, Potrero de la Puna, Puerta Potrero, Quebraleña, Quera, Queta, Quichagua, Rachaite, Rinconadillas, Rumi Cruz, Santuario, Sayate Este, Sayate Oeste, Tabladitas, Tambillos, Tinate, Tusaquillas, Ugchara y Comunidades de la Jurisdicción Municipal de Puesto del Márquez: Chipaite, Llamería, Puesto de Márquez, Mocoiraite, Pueblo Viejo, Tinte, Redonda, Llulluchayoc, entre otras): actividades mineras sin previa consulta, en comunidad Quebraleña por Mina Aguilar, comunidades en la Laguna de Guayatoc y Salinas Grandes por extracción de litio; la comunidad Quichagua por proyecto minero Iván Alberto. Existen pasivos ambientales generados por las empresas en toda la Puna, incluyendo empresa Metal Huasi en Abra Pampa y el Proyecto Iván Alberto. Señalan poco acceso a la educación y carencia de educación intercultural bilingüe.

Consejo de Salud Indígena de Jujuy: deficiencia en funcionamiento de puestos de salud, falta de reconocimiento de la medicina ancestral, ausencia de los agentes sanitarios, y falta de consulta de pueblos indígenas en la programación de políticas de salud.

Mina Pirquitas (Pueblo Kolla): solicitan verificación ambiental de los impactos ambientales de la Mina Pirquitas Inc.

Comunidad Aborigen de Lipán: solicita el relevamiento del territorio comunal; informan sobre explotación minera inconsulta de la empresa Sulboro, Exar, Oro Cobre, entre otras, y la escasez de agua.

Comunidad Aborigen de Quebraleña: el Gobierno de Jujuy no ha cumplido con entrega del título comunitario, a pesar de haber presentado la documentación requerida; preocupaciones sobre la escasez de agua por actividad minera de la empresa Aguilar SA y por la aprobación sin consulta de leyes que declaran la importancia de los proyectos mineros, principalmente de litio.

Comunidad Aborigen Pan de Azúcar: afectación ambiental y a la salud ocasionada por antigua explotación minera de la empresa Samic Río Cincel y falta de un centro educativo.

Comunidad Aborigen de Rinconada: denuncia falta de entrega de su título comunitario, y adhesión de la Comisión Municipal de Rinconada al Decreto 7984 de la Ley 5653 sobre

regalías mineras que beneficiaría solo a municipios que no se hayan opuesto a la actividad minera.

Comunidad Aborigen San Miguel de Colorado: escasez de agua para actividades tradicionales; esperan acuerdo con propietarios privados para solicitar conjuntamente a provincia un título comunitario.

Comunidad Aborigen Santuario de Tres Pozos: solicitan título comunitario; carecen de agua para las actividades agrícolas.

Comunidad Aborigen Pórtico de los Andes Susques: su título comunitario no incluyó zona urbana; empleados de empresa provocan divisiones para lograr partidarios de la explotación de litio.

Consejo de Organizaciones Aborígenes de Jujuy: discriminación por parte de maestros y directores de escuelas contra mujeres indígenas, problemas con acceso a la educación y adecuación cultural de la educación, tierras, recursos naturales y consulta previa.

Comunidad aborigen Wanhlai-Aguas Calientes: informan sobre la falta de agua potable; carencia de viviendas.

Comunidad Aborigen “Pueblo Tilian”: denuncian amenaza de muerte contra jurista indígena en contexto de conflicto con terrateniente que ha alambrado territorio.

Comunidad Kullasuyu Marka: comunidad dentro de terrenos privados obligada a pagar alquiler, es sujeta a desalojos, vive en condiciones insalubres; su reconocimiento como comunidad está en trámite.

Consejo de delegados de las comunidades aborígenes del Pueblo Ocloya: solicitan aplicación del derecho a la consulta en la implementación de políticas y ejecución de proyectos.

Comunidad aborigen Tilquiza-Pueblo Ocloya: tierras reclamadas por la comunidad dentro de tres fincas privadas donde se realizan actividades forestales y de turismo que impactan comunidad. La comunidad ha interpuesto medidas cautelares que no están siendo cumplidas.

Organización Asamblea del Pueblo Guaraní Tradicional: problemas con educación intercultural bilingüe, la falta de reconocimiento de la medicina tradicional, situación de extrema pobreza. El Gobierno provincial ha incumplido el compromiso de entregarles 11.000 hectáreas.

Miembro de la Asociación WARMI, presidente de la comunidad de Liviara y abogado apoderado de las comunidades indígenas de la provincia de Jujuy: informan sobre acciones legales de amparo por problemas de tierras y otra por contaminación de abastecimiento de agua.

Autoridades indígenas e integrantes de la comunidad de Palca de Aparzo: los títulos recibidos en 2011 no comprenden todo lo que constituye sus territorios.

Pueblo Omaguaca: despojo de territorios; solicitan Plan de Desarrollo Comunitario consensuado entre los gobiernos nacional y provincial y las comunidades del pueblo Omaguaca; contaminación por desechos cloacales, residuos de mina y basureros cercanos a la Quebrada de Humahuaca. Entrega de tierras comunitarias a particulares, falta de consulta sobre minería y turismo en la zona.

Comunidad aborigen de Guerrero – Pueblo Kolla: mantienen un conflicto judicial con un terrateniente que ha realizado alambrado y extraído recursos naturales a pesar de medida de no innovar a favor de comunidad hasta que se resuelva el litigio.

Comunidades del Pueblo Fiscara: solicitan el reconocimiento como pueblo Fiscara y la restitución de las tierras ancestrales y protección frente a la urbanización de las tierras comunales por la provincia, así como a la realización inconsulta de proyectos.

Presidentes de las Comunidades del Pueblo Quechua, Departamento de Santa Catalina, Presidentes de las Comunidades del Departamento de Rinconada, y Representante del Pueblo Kolla: denuncian falta de consulta en relación a realización de un mapeo geoquímico y evaluación de recursos minerales en los departamentos de Cochinoqa, Santa Catalina y Rinconada.

Comunidades pertenecientes al pueblo kolla de la Región Puna: informan no ser consultados sobre las actividades del gobierno en torno a la educación bilingüe, la contaminación de la comunidad Pan de Azúcar y actividad minera.

Representante del pueblo kolla de la Región de la Puna: Denuncia persecución, intimidación y discriminación en contra de su persona por haber realizado denuncias públicas sobre las anomalías en la implementación del Programa de Relevamiento Territorial de Comunidades Indígenas (RETECI).

Presidente de la Comunidad Aborigen de Yumpaite: denuncia amenaza por parte del Instituto Provincial de Colonización. Se le quiso obligar a firmar un aval de un mapa de croquis a cambio de que dicho instituto no trabe los títulos comunitarios de dicha comunidad.

Comunidad Aborigen de Oros mayo Grande: denuncian discriminación y violación al derecho a la consulta y participación de la comunidad respecto a la concesión de la empresa Incovi SRL para la extracción de áridos.

Comunidad Aborigen de El Portillo: denuncian violaciones al derecho a la participación y consulta respecto de la explotación sobre el cauce del río Yavi Chico que realizó la empresa Jumi SRL.

Comunidad Aborigen Sarahuaico: denuncia falta de personería jurídica, título comunitario y por conflicto que mantiene con la Comunidad Cueva del Inca, quien si tiene personería pero ha asentado sobre tierras reclamadas por Sarahuaico.

Comunidad Raíces Andinas: señalan que no se ha respetado el derecho a la consulta en los proyectos mineros desarrollados en la zona.

Comunidad Aborigen El Angosto y Oca-Sol de Mayo: preocupación sobre abastecimiento de agua en general, así como la falta de regularización de sus títulos de propiedad.

Comunidad aborigen de Sianzo: señalan que no se les quiere reconocer su título comunitario y muestran preocupación por la escasez de agua y por posibles actividades de extracción de litio que se podrían llevar a cabo en su territorio.

Comunidad aborigen de Cochagaste: informan que desde que cuentan con el título comunitario, les cobran impuestos inmobiliarios, que según señalan no deberían pagar.

Comunidad Indígena de Corralitos del Pueblo Atacama: denuncia sobre falta de consulta en la implementación de diversos proyectos. Informan de la existencia de contaminación de la empresa Oro Blanco SRL.

Comunidad aborigen San Francisco de Alfarcito: preocupación por actividades mineras de extracción de litio, la escasez y la actual contaminación del agua. Hace diez años que vienen solicitando su título comunitario.

Comunidades Originarias del Pueblo Quechua, Departamento de Santa Catalina: falta de implementación efectiva de proyectos sociales a favor de la comunidad; la existencia de

discriminación en contra de la mujer indígena por el poco acceso a la educación y gran nivel de desconocimiento del idioma castellano.

Comunidad Indígena Tilkara “Wilkiphujo”: denuncian problemas derivados de la declaración de patrimonio de la humanidad de la Quebrada de Humahuaca, alega que gobierno entrega territorio a privados, preocupación por la escasez de agua, por su contaminación por la empresa minera Aguilar SA y por los desechos cloacales que son depositadas en el río Grande sin tratamiento alguno.

Comunidad Indígena Angosto El Perchel, Marka Tilkara: denuncian usurpación de sus tierras por comunidades que el INAI registró sin hacer un riguroso estudio sobre su verdadera historia de ocupación, y por la cual existe superposición de territorio con ambas comunidades.

Comunidades Kollas asentadas en el territorio de la Quebrada de Humahuaca: a raíz de la declaración de patrimonio de la humanidad a la Quebrada de Humahuaca, se ha incentivado el despojo de su territorio en la medida que ha puesto en valor estos territorios, y se ha ocasionado la escasez de agua por el turismo. Esta declaración se hizo sin el consentimiento previo, libre e informado de las comunidades, así como sin la realización de un relevamiento de los territorios poseídos tradicionalmente por las comunidades.

Comunidad Aborigen Mudama y Simarrones: requieren la construcción de carreteras que los acerque a las escuelas y a los puestos de salud. Les preocupa la escasez de agua y problemas derivados de la declaración de Patrimonio de la Humanidad por alto precios de inmuebles y costo de alimentación.

Comunidad El Toro y Rosario de Susques: señalan que el Gobierno no quiere reconocerlos como comunidad aborigen. Solicitan que los recursos naturales, paleontológicos, históricos, culturales, arqueológicos y antropológicos que forman parte de sus lugares sagrados no se encuentren dentro de parques turísticos y empresas mineras. Señalan minería sin consulta previa, que ha producido la escasez y contaminación del agua en sitios donde se extrae litio.

Comunidades Kollas del departamento de Cochino: desde 1996 han solicitado reconocimiento de su territorio. Señalan que existe un fallo del Superior Tribunal de Justicia en el que erróneamente se considera que el gobierno provincial cumplió con entregar la totalidad de territorios.

Comunidades Indígenas del departamento de Yavi: no cuentan con el reconocimiento de su territorio. En 2010, el Superior Tribunal de Justicia falló erróneamente señalando que el gobierno provincial cumplió con entregar la totalidad de territorios. Solicitan se incluya a la Educación Intercultural Bilingüe en los programas y currículas oficiales y que los equipos de trabajo y planeamiento estén conformados por representantes genuinos de las comunidades.

Comunidad Indígena de la Pulpera: existen desechos producto de la actividad minera que no han sido tratados en la comunidad La Pulpera, Cangrejillos, El Tolar y Punta de Agua. Se interpuso una denuncia al respecto, luego de dos años el Tribunal Federal de Jujuy se declaró incompetente y derivó la denuncia a la justicia ordinaria, quedando el juicio paralizado.

Comunidad Aborigen Primero de Agosto: solicitan la construcción de un playón polideportivo para los niños y adolescentes requerido hace aproximadamente 10 años.

Comunidades Aborigen Cangrejillos, La Pulpera y El Tolar: señalan que se realiza actividad minera a pesar de haber expresado desacuerdo con los Informes de Impacto Ambiental y sin haber respetado el derecho a la participación efectiva.

Comunidades campesinas e indígenas en el departamento de Santa Bárbara: señalan que están siendo afectadas por los desmontes autorizados, el avance de la frontera agropecuaria, y enfermedades producidas por fumigaciones.

## Provincia de Tucumán

Unión de Pueblos de la Nación Diaguita: descripción de desalojos de comunidades indígenas Diaguitas y Lule incluyendo comunidad de Quilmes, El Nogalito, Valle Tafí y sucesos de violencia y asesinato de comunero en comunidad de Chuschagasta.

Comunidad indígena Diaguita Amaicha del Valle: presentación de política y económica de desarrollo comunal.

## Provincia de Salta

Comunidad Guaraní (1) El Arenal - Prof. Salvador M.; Pets; Torta; Pteu; Tgal; Cheresterareta de Embarcación: denuncian que estas comunidades fueron desalojadas en 2007.

Comunidad Indígena Diaguita Calchaquí de Animana: a partir del año 2003 comenzaron los desalojos y usurpación del territorio por empresas y atropellos por parte de las fuerzas policiales, así como la pérdida de sus plantas medicinales, zonas de pastoreo, frutos y animales, destrucción de sitios sagrados, y afectación por desmonte y perforación de pozos.

Comunidad Indígena Suri Diaguita Kalchaki: denuncia la desaparición y muerte de un delegado indígena de la comunidad Sur, como parte de una política aplicada en varias provincias para desalojar a indígenas de sus territorios.

Comunidad Diaguita Las Pailas: denuncian desalojo de diciembre 2010, donde 39 personas entre niños, mujeres y ancianos fueron desalojadas y destruidas sus casas, cercos y sembradíos.

Unión de los Pueblos de la Nación Diaguita-Salta: presenta varios casos que presentan problemas de protección de derechos sobre tierras y recursos naturales:

- Comunidad Diaguita Calchaquí de Animaná: tala de Bosques Nativos e incumplimiento de la Ley 26331, cierre de caminos ancestrales y comunitarios;
- Comunidad Diaguita “el Divisadero”: denuncian persecución policial, usurpación de tierras, cobro de pastaje, juicios de desalojo, destrucción de lugares sagrados y desaparición de bosques nativos para desarrollar el monocultivo de la vid. Existencia de proyecto de canalización de vertientes y ríos que provee agua a toda la comunidad, realizado sin su consulta y participación;
- Comunidad Originaria Diaguita Calchaquí “El Algarrobal”: juicio de desalojo por vencimiento de contrato y falta de pago en contra de uno de los miembros de la comunidad. Señalan que el gobierno provincial ha demorado en registrar la personería jurídica de la comunidad;
- Comunidad Originaria Diaguita Calchaquí Jasimaná: señalan que en la zona se desarrolla minería a cielo abierto, generando contaminación;
- Comunidad Diaguita “Juan Calchaquí”: informan sobre la falta de acceso al agua y luz y posible ruta construida en medio de comunidad;
- Comunidad Diaguita Calchaquí “La Paya”: canalización inconsulta del río comunitario por parte de los terratenientes, impidiendo el acceso a los miembros de

la comunidad. De otro lado, afirman que existe discriminación por parte de la directora de la escuela;

- Comunidad Diaguita Calchaquí “Potrero de Díaz”: cobro de pastaje;
- Comunidad Diaguita Calchaquí Payogasta: existen alambrados que impiden el uso del territorio. Gobierno provincial niega la inscripción de su personería jurídica;
- Comunidad Diaguita Calchaquí Piul: cobro de pastaje, amenazas e intimaciones a miembros de la comunidad y negación de la inscripción de su personería jurídica;
- Comunidad Diaguita Calchaquí Buena Vista: miembros de la comunidad sujetos a amenazas de desalojos y muerte por parte de terratenientes. Informan sobre matanza de sus animales y negación de la inscripción de su personería jurídica;
- Comunidad Diaguita Calchaquí Molinos: cobro de pastaje y amenazas de muerte a los miembros de la comunidad;
- Comunidad Diaguita Calchaquí San Miguel La Poma: cobro de pastaje; persecución de los comuneros por los terratenientes para hacerles firmar contratos de arriendos y así producir desalojos de la comunidad;
- Comunidad Diaguita Calchaquí Inti Huaman: contaminación del aire por actividad de la mina don Otto y negación de la inscripción de su personería jurídica.

Organización Zonal Wichi Tch’ot Lhamejenpe: exploración inconulta de área hidrocarburífera “Morillo”, afectación del territorio y los recursos naturales de las comunidades Wichi Lewetes Kalehi (Misión Los Baldes), La Represa, La Cortada, El Chañar y los Blancos.

Comunidad Guaraní Carapari – Etnia Guarani: denuncia construcción de gaseoducto por empresa Refinor SA sin previa consulta y sin hacerse estudios de impacto ambiental, social y cultural y la imposición de un gravamen sobre las tierras comunitarias. Petición presentada a la Comisión Interamericana de Derechos Humanos (CIDH) en el año 2008.

Federación Wichí Cuenca del Río Bermejo Rutas 81 y 53 en formación Jurisdicción Embarcación, Salta: incumplimiento de la Ley 26160, falta de consulta para realizar actividades petroleras; falta de respuesta a solicitud de informe sobre impacto ambiental y social en relación a la extracción de petróleo; asimismo, existe desmonte en la zona.

Unidad Norte Indígenas en Salta: construcción inconulta del gaseoducto Pocitos – Campo Duran, que causó gran destrucción en la comunidad. La comunidad ha interpuesto una acción de amparo y ha presentado el caso ante la CIDH.

Unidad Norte Indígena en Salta: contaminación por explosión e incendio de la planta de Refinor SA, lo cual impactó negativamente en la salud de habitantes de la Comunidad Campo Duran.

Fortín Dragones: señala situación de damnificados en la Cuenca del Norte – Jurisdicción Fortín Dragones, así como la falta de reconocimiento de sus territorios y falta de agua.

Comunidades Wichí de El Traslado: Hup Wumek – Zopota y El Escrito: falta de entrega de títulos de propiedad; realización de desmontes, la tala ilegal, alambrados y portones colocados por ganaderos, así como de la criminalización y persecución de líderes indígenas.

Autoridades del Consejo Indígena del Pueblo Tastil: falta de reconocimiento de la existencia del pueblo Tastil por parte de la provincia, retardo en la tramitación de la personería jurídica de sus comunidades y judicialización de la posesión del territorio. Además presentan los siguientes casos:



- Comunidad Indígena Las Cuevas: agresión física y verbal contra los pobladores por parte de terceros particulares;
- Realización de actividad de la empresa minera Salta Exploraciones SA sin el debido proceso de consulta. Existe amenaza de contaminación de la población y de las aguas superficiales y subterráneas;
- Preocupación por la posibilidad de que declaren su territorio como Patrimonio Cultural de la Humanidad “Proyecto Q’apak Ñan”;
- Comunidad Quebrada de Toro: litigio entre la comunidad y la firma Foster SA por el territorio;
- Comunidad Indígena El Gólgota: amenazas de desalojo y preocupación por la construcción de una playa de descarga de minerales que contaminaría el territorio de la comunidad;
- Comunidades Indígenas Los Alisos, Inkawasi y Valle de Sol: proceso entre las familias de estas comunidades y particulares por la posesión del territorio.

Comunidad Indígena del Pueblo Diaguita Potrero de Díaz, Camino a Cachi: denuncian que tierras de pastoreo compradas a favor de la comunidad en 1986 todavía figuran como tierras fiscales, informan sobre la inaplicación de la Ley 26160 y usurpación de tierras por parte de particulares.

Asociación de Comunidades Aborígenes Lhaka Honhat: falta de cumplimiento de la entrega de título de propiedad; tala ilegal de madera, cercos y alambrados por no indígenas; falta de consulta y participación en la realización de obras hídricas, que ha tenido impactos ambientales.

Universitarios indígenas: solicitan becas para jóvenes estudiantes indígenas.

Asociación El Quebrachal Ballivián, Misión El Quebrachal, General Ballivián, comunidad Aborigen Quebrachal II, Misión Quebrachal II General Ballivián: carecen de agua potable y enfrentan emergencia sanitaria por contaminación de agua ocasionando enfermedades, desnutrición y muerte.

Organizaciones de Comunidades Aborígenes de Nazareno, Unión de Comunidades Aborígenes Victoreñas, Comunidades Indígenas Alta Cuenca Río Lipeo, Consejo Indígena Kolla de Iruya y TINKUNAKU: solicitan títulos comunitarios.

Comunidades wichí: Chustaj Lhokwe (San José); Cuchuy; Corralito y Chaguaral, Zona Este de Ballivián: Incumplimiento del relevamiento de tierras y efectos generados por desmontes realizados sin previa consulta. Incumplimiento de medida cautelar otorgada para suspender los desmontes. Señalan que privados han alambrado y colocado portones restringiendo la libre circulación y acceso a su territorio. Alegan además que carecen de agua por contaminación de, aguadas, represas y lagunas artificiales.

Comunidad Indígena Lules de Finca Las Costas: informan de la existencia de desalojos y usurpaciones por parte de terratenientes y gobierno; el procesamiento de 14 miembros de la comunidad por turbación, posesión, lesiones y amenazas a raíz de sus acciones por defensa de territorio. Solicitan reconocimiento como pueblo. Les preocupa la posible instalación de canchas de Jockey en la Finca Las Costas.

Comunidad Kolla Los Naranjos: falta de atención a temas de territorio indígenas y de educación. Posibles afectaciones por la construcción de un túnel en “Mal Paso”. Informan de la existencia de organizaciones que obtuvieron su personería jurídica para representar a los pueblos indígenas pero que en realidad no los representan. Denuncian no tener libertad para elegir a los miembros del Consejo de Participación Indígena. Falta de consulta cuando

se construye una obra o realiza un proyecto minero, la devolución de tierras, y la adecuación de políticas educativa o de salud.

Comunidad Aba Guaraní “El Estación”: existencia de una disputa entre la comunidad y la empresa Seaboard Corporation por la propiedad y posesión del territorio, existiendo maltratos por los propietarios administradores de la empresa.

Grupo de estudiantes de la Universidad Nacional de Salta provenientes de pueblos originarios y campesinos: solicitan al Relator Especial que actúe como mediador con la presidenta de la Nación para lograr su inclusión en el Programa Conectar Igualdad con la finalidad de obtener una computadora portátil para cada estudiante.

Delegado del Consejo de Participación Indígena del INAI: informa sobre depredación de bosques, falta de reconocimiento del territorio ancestral y denuncias por usurpación en la comunidad de San Ignacio; falta de reconocimiento del territorio ancestral, denuncia por usurpación en la comunidad de las Juntas; y solicitud de ampliación de territorio por parte de la comunidad indígena Kolla Guaraní Río Blanco Bando Norte.

Comunidad Indígena del Pueblo Kolla Tinkunaku: violación del derecho a la consulta y participación y daño ambiental generado por construcción de gaseoducto Norandino SA a las comunidades Ayllu San Andrés y Ayllus Los Naranjos.

Comunidad Condorhuasi Diaguita Calchaquí Salta: solicitan capacitación de los funcionarios públicos, profesionales en general y a estudiantes en temas relacionados a los derechos de los pueblos indígenas.

Quillamarca – Coordinadora de Organizaciones y Comunidades Kollas Autónoma de la Provincia de Salta: informan sobre varios asuntos:

- Falta de reconocimiento del territorio de las comunidades de Finca Tipayoc, Finca Corpus Niok, Finca Uchuyoc- Matancillas, Fincas Santa Rosa y Arpero, San Pedro, Alisar del Porongal, y Centro Comunitario de Finca San José;
- Solicitan la creación de un Organismo de Educación Intercultural autónoma, mayor participación en la selección de docentes, y la ampliación de becas;
- Necesidad de regularizar las personerías jurídicas indígenas a fin de evitar duplicidad y conflicto dentro de las comunidades;
- Falta de reconocimiento de la propiedad comunitaria de las Comunidades de Alta Cuenca del Río Lipeo, Baritú y Arazay debido a la creación del Parque Nacional Baritú;
- Comunidad Originaria El Arazay afectada por la basura proveniente del pueblo Los Toldos, sin realizarse tratamiento alguno; ha denunciado autorización sin previa consulta de desmonte a favor de empresarios madereros por lo que solicitan un control efectivo de la extracción de recursos naturales.

Comunidad Aborigen Colla de Mecoyita: informan sobre la falta de reconocimiento de su territorio, y el de la Comunidad Kolla de Santa Victoria, las cuales se encuentran en fincas privadas.

Comunidad San José de Esquina Blanca: solicitan el reconocimiento de su territorio y señala efectos de presencia de gaseoducto que ocupa gran espacio de la comunidad.