

Great Tension in the Mapuche Conflict: Forward and Backward Steps

Modifications proposed to the Military Justice System as well as to the Antiterrorist Law, even if they are not able to solve or pretend to solve the problems of people going on a hunger strike, constitute the government's emblematic signals to progress in the current conflict. Substantive policies should focus on the integration of indigenous communities, and on giving them equal opportunities, training and freedom to undertake.

The indigenous problem has been increased these past days with three criminal attempts against private property, a hunger strike that lasts for more than two months and the international organizations observing the conflict.

Hunger strikers have received the authorities' attention on their demands: the Antiterrorist Law is being modified; the same happens with the law that modifies the Military Justice System; moreover, the government is propitious to dialogue, with the intercession of the Catholic Church, in a round table discussion that gathers authorities, church representatives and members of the different Mapuche communities, among others.

Notwithstanding the first months of President Piñeras' administration a calm climate was appreciated in La Araucanía, violence in the area has acquired force in the last months and, in the middle of the hunger strike tensions, urban protests have increased (with invasion of properties and street skirmishes) as can be observed in Chart 1, which shows the evolution of the Mapuches' violent incidents from January to September.

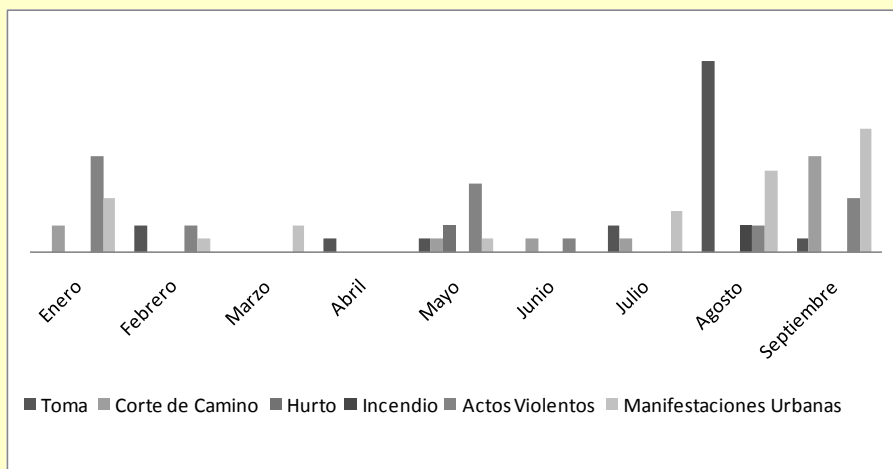
Indigenous Violence in La Araucanía

La Araucanía Region shows the highest poverty rate in Chile and occupies the last place in the Índice de Competitividad Regional¹ (Regional Competitive Index), which together with a complete lack of foreign investment and the violence increase are paralyzing growth in the region.

Nowadays, the region is experiencing a sustained increase of indigenous violence, so it is important that the government, in spite of its efforts to bring to an end the hunger strike, does not submit to illegal pressures since it would demonstrate weakness not only to the Mapuche communities but to the civil society in general, that in the long run would worsen the conflict.

Chart Nº 1

MAPUCHE VIOLENT EPISODES BY TYPE JANUARY – SEPTEMBER 2010



Source: Libertad y Desarrollo

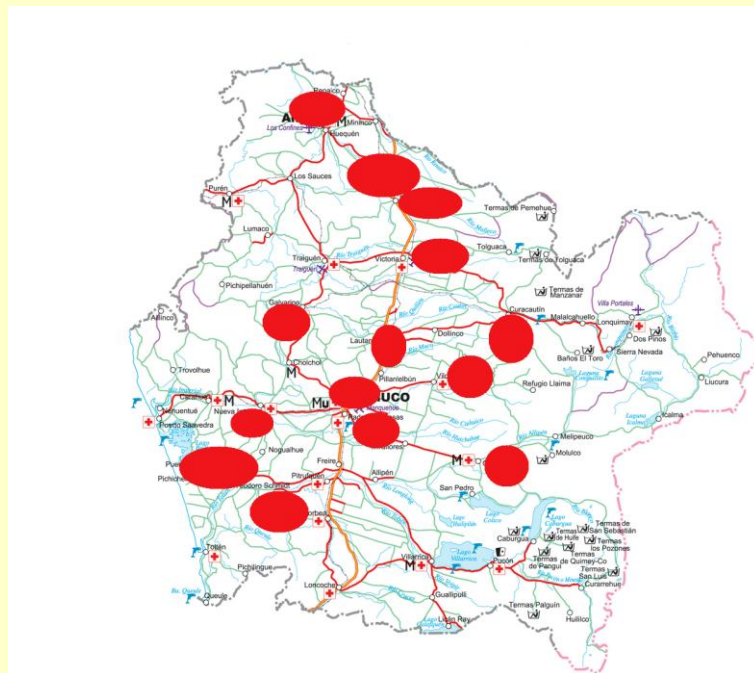
It is impossible to conceive advancing in the dialogue between the parties in dispute which does not consider the recovery of the rule of law. The government must show certain signals that give security to the population but, at the same time, focus on the communities' social and cultural development. Tools must be delivered to these communities so they may participate in their own development, considering the large amount of indigenous people living in the cities (70%).

However, a group of Mapuche people has continued the hunger strike, arguing that the legislative measures adopted by the government to solve the conflict are not enough. Strikers and their families appealed to international organisms like United Nations and the International Labour Organization to request for protection of the "aboriginal people's" rights. Concerning this point, one may ask oneself about how "aboriginal" are the Mapuche communities, since although they lived in the Chilean territory before the Spanish conquerors arrived, their origins do not belong to the Chilean lands, but to Argentina's, from where they migrated and entered the Pehuenche territory, located between the Itata and Toltén rivers.

Migrations and conquests have constituted the mankind history, in all latitudes, so it does not justify that in a nation based on a democratic system and the rule of law, a minor group of people can justify their claims by means of violence. They cannot demand either that laws are not applied to them arguing that their claims are “historical”, while the rest of the population, subjected to the same regulations, is punished when perpetrating the same offenses.

Map Nº 1

CONFLICT ZONES IN LA ARAUCANÍA, 2010



Source: Libertad y Desarrollo

Government's Answer: Changes in Military Justice and Antiterrorist Law

The government has given two precise signals concerning the strikers' claims. On one hand, a bill draft has been introduced in the Congress to withdraw from the Military Courts' competence both the Weapons Control Law and the aggression against the police, limiting the competence of military courts strictly to the military scope and discipline, which is positive.

Moreover, Sebastián Piñera had offered these modifications in his government program. We should remember that, at the present time, Military Courts (except when members of the armed forces are involved, which is not the case) cannot take cognizance of terrorist crimes.

The second amendment refers to the Antiterrorist Law, which mainly seeks to eliminate the presumption of innocence, that is, that by the sole act of committing a serious crime using explosive substances or great destructive weapons, it shall be understood that the “terrorist crime” condition required by the law has been fulfilled in order to sanction this type of offense. Although this is going the right way, the Opposition has refused to approve part of the draft, arguing that it does not include the derogation of the fire or property crimes as terrorist behaviours. The truth is that the common citizen would not easily understand that in case he places a bomb or fire device in a school, synagogue or the Congress building, by the sole act of not killing anybody (for example, because at that moment there was nobody inside) this act does not constitute a terrorist behaviour.

We hope that our parliament members take into account that there exists a constitutional ban that prevents both the Executive and the Legislative from dedicating to pending cases which are in the Courtsⁱⁱ, since this action would constitute a serious attack against the democratic system, the independence of the government branchesⁱⁱⁱ and the people’s defence when confronted to the State’s power. In fact, the law must always be abstract and general, and shall not serve to any particular group. Any person may be a potential victim or perpetrator of a terrorist crime and it is not possible to legislate by establishing discriminatory privileges or exceptions.

Conclusions

The concern about the Mapuche conflict has grown these last days. A group has not put their hunger strike aside in spite of the fact that the administration has offered different ways for getting closer. In the last past hours, certain signals have come out that allow concluding that both positions are coming closer.

It is urgent to solve this dispute, and this requires that the Mapuche communities and their representatives recognize that the administration is doing the necessary efforts to resolve their claims, and change their attitude. In case they do not, we shall understand that their motivations are political and that their purpose is to raise a conflict and to harm the government, defying the rule of law.

Besides, the bridge laid to finish with this hunger strike, to defend the strikers’ life, it is important that the so called “dialogue table” becomes a

working group which obtains some results in order to find a long term solution to the conflicts in La Araucanía.

In this sense, modifications proposed to the Military Justice System as well as to the Antiterrorist Law, even if they are not able to solve or pretend to solve the problems of people going on a hunger strike, constitute the government's emblematic signals to progress in the current conflict. Likewise, substantive policies should focus on the integration of indigenous communities, and on giving them equal opportunities, training and freedom to undertake, so they may overcome poverty by fully respecting the institutional framework and their traditions.

ⁱ Índice de Competitividad Regional 2008, see: www.subdere.gov.cl

ⁱⁱ Art. 76, first clause. Constitución Política de la República.