

RECOGNITION AND SUPPORT OF ICCAs IN CHILE

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Case study for:
RECOGNISING AND SUPPORTING
TERRITORIES AND AREAS CONSERVED BY INDIGENOUS PEOPLES
AND LOCAL COMMUNITIES
Global Overview and National Case Studies

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List of acronyms

AIML	Indigenous Mapu Lahual Association (acronyms in Spanish)
AMCP-MU	Multiple Use Coastal and Marine Protected Areas (acronyms in Spanish)
SBAP	Biodiversity and Protected Area Service (acronyms in Spanish)
CBD	Convention on Biological Diversity
CONAF	National Forest Corporation (acronyms in Spanish)
CONADI	National Corporation for Indigenous Development (acronyms in Spanish)
CORFO-INNOVA	Development Corporation - Innovation Programme (acronyms in Spanish)
FAO	Food and Agriculture Organisation of the United Nations
FPA	Environmental Protection Fund
FPIC	Free, prior and informed consent
GEF	Global Environment Facility
GEF-SIRAP	Regional System of Protected Areas - GEF Project (acronyms in Spanish)
ICCAs	Indigenous Peoples and Local Community Conserved Areas and Territories
ILO	International Labour Organisation
IUCN	International Union for Conservation of Nature
MMA	Ministry of Environment
NP	National Park
NZAID	New Zealand Aid Program
OECD	Organisation for Economic Cooperation and Development
PA	Protected Area
PPA	Private Protected Area
SERNAPESCA	National Marine Fisheries Service
SERNATUR	National Tourism Service
SNASPE	National System of Protected Areas (acronyms in Spanish)
UNESCO	United Nations Educational, Scientific and Cultural Education
UNDP	United Nations Development Programme
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
WWF	World Wide Fund for Nature

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Summary

This case study presents an analysis of the current situation of ICCAs in Chile. As we will see, unfortunately not a very promising situation if action is not taken soon for their adequate recognition and support.

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In the first chapter, we will understand how private conservation (one of the four governance types of protected areas proposed by IUCN) is advancing towards public recognition. In this context, and without diminishing the efforts of the private sector, a major concern regarding ICCAs in Chile, is that they are being considered as part of this governance type, without the appropriate attention and deeper reflection to their particular characteristics.

In chapter two, we highlight the lack of documentation, research and discussion in Chile about ICCAs, which hinders the analysis about their main features. Thus, our hypothesis is that despite the lack of information, there are a wide variety of areas or territories that are being voluntarily conserved by local or indigenous communities throughout Chile, even though their conservation efforts may not always be explicit and recognized. Therefore, in this section, three categories of ICCAs are proposed, regarding their relationship with state protected areas, which, as we will see, have a direct effect on their level of governance.

Considering these initiatives, the main identified threats to ICCAs in Chile are: a) the scarce and inappropriate recognition; b) infrastructure investment and the extractive industry; c) the current administration of National System of Protected Areas (SNASPE) units; and d) the declaration of Biosphere Reserves in the country.

Chapter three, about governance and management, shows that one of the key points faced by ICCAs (mainly by indigenous peoples) is the imposition of formal rules over their customary organizations to manage their territories. Because of these, many communities have limited trust in conservation proposals, fearing that they will be restricted in their customary use of natural goods that support their livelihoods, or even lose property rights over their lands in order to comply with conservation goals.

In Chapter four, the lack of government recognition or direct support to ICCAs in Chile, is highlighted. Existing legislation does not recognize them as a type of governance of protected area or other forms of effective conservation, and it is only in recent years that some local initiatives have begun to open a way for such recognition.

Finally, in chapter five, some future activities and recommendations for ICCA recognition and support are presented. For legal recognition, as there is an ongoing debate on the Bill that creates the Biodiversity and Protected Areas Service, it is urgent to consider ICCAs as one of the four conservation categories proposed by IUCN and not as part of the private PAs as it is currently discussed. This is a necessary previous step to enable the design of differentiated support policies for them, with full participation of the communities involved and with their FPIC. Within the framework of this Bill, it is recommended the design of economic incentives for those communities that are (or could be) contributing to conservation.

1. Country description and context

1.2. Key features of Chile

Located at the southern tip of South America, Chile boasts high levels of biodiversity and endemism due to its unique geography. To the East, the Andes Highlands mark its border with Argentina and Bolivia, with several peaks exceeding 6,000 m above sea level; to the North, Chile is separated from Peru by the Atacama Desert; to the West, its Pacific coast line stretches for over 4,000 km; and to the South, Cape Horn faces the Antarctic.

Its rich flora, fauna, and landscape is strongly determined by its trio-continental extension which gives Chile great diversity in terms of its climate and its terrestrial and marine ecosystems, which its inhabitants have adapted to throughout history.

Continental Chile covers a terrestrial strip of 4,270 km in length and 175 km in width. Insular Chile is composed of a scattered set of small islands and archipelagos, some of which are located in Polynesia and far away from the continent in the Pacific Ocean (these include Easter Island, Juan Fernández, Salas and Gómez and the Desventuradas islands, of which only Easter Island and Robinson Crusoe (in Juan Fernandez) are inhabited. To the southernmost tip of Chile, there are also more than 3,700 islands and 2,100 islets, which constitute nearly 14% of the entire national area. This archipelago has over 50,000 km of coastline, making Chile's coastline the world's third longest, after Canada and Norway. The country also claims sovereignty over 1,250,000 km² of the Antarctic, partially overlapping with areas claimed by Argentina and the UK. Currently, these claims have been suspended thanks to the Antarctic Treaty, and occupation takes effect only for scientific purposes.

Chile's population of about 17 million inhabitants occupies an area of 756,950 km², with a population density of approximately 23 hab/km². Almost 50% of its inhabitants are concentrated in the centre of the territory, where Santiago is also located; none of its other cities has more than 300,000 inhabitants.³ Most of the Chilean population is either white or mestizo. However, according to available statistics (from 2006), the number of people who describe themselves as belonging to an indigenous peoples⁴ is 1,060,786, or 6.6% of the country's population; most of them identify themselves as being *mapuche* (87.2%), while the rest (7.8%) identify themselves as *aymará* (7.8%), *atacameña* or *lickanantay* (2.8%), *diaguita* (0.8%), *quechua* (0.6%), *colla* (0.3%); *rapa nui* (0.2%); *kawéskar* (0.2%) and *yagán* (0.1%). 69.4% of the indigenous population resides in urban areas and 27.1% of them are located in Santiago's metropolitan area (Government of Chile, CASEN Survey 2006).

Currently, Chile is organized into 15 regions, 54 provinces and 346 communes. As a presidential, democratic and unitary State, the President (Head of State) – who is chosen for a four-year period – holds the executive power, the Parliament holds the legislative power and the courts of justice hold the judicial power. In the regions, the highest authority lies with the *Intendente* who is appointed by the president and his regional council. Then the Governor,

³ In the 2002 census, the Gran Valparaíso conurbation had 803,683 inhabitants, it is expected that for the next one in 2012 there will be over a million inhabitants, which will make it the second largest metropolitan area, after Gran Santiago.

⁴ There is an important distinction between the terms 'people' and 'community'. The term people (in Spanish *pueblo*) is used for a whole ethnic group, e.g. the mapuche people; the term community refers to small groups that are part of an indigenous peoples, e.g. the Quinquén community who identify themselves as part of the mapuche-pewenche people.

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who is also appointed, represents the highest provincial authority. At a local level, a mayor leads each municipal government together with a council, both elected by popular vote.

Chile's economy has experienced a fast economic growth in the last three decades. In the Latin American region, it leads the way on a number of different indicators, including the human development index, political stability and how corruption is perceived. It also has relatively low poverty rates, which resulted in Chile's election as a member of the Organisation for Economic Cooperation and Development (OECD) in 2010. It is the first country in South America to join the OECD, and the second in Latin America, after Mexico. However, Chile does have significant levels of inequality within its population, with a Gini index of 54.9 (meaning that it takes 121st place among 135 countries); this is one of the highest levels of inequality in South America. In addition, Chile is also a very unequal country in terms of gender, spatial inequalities⁵, and access to healthcare and education; this contrasts with the overall level of national development achieved so far.

The country's current neo-liberal model has its origins in Pinochet's military dictatorship between 1973 and 1989. Since then the Washington Consensus Principles have been implemented: the privatization of public companies, market deregulation and international trade liberalization have all been at the heart of Chile's approach to development. New social policies were also introduced with the recovery of democracy in 1990, generating important advances for the most vulnerable sectors, but neoliberalism has remained and is still central to Chilean development.

As a result Chile has opened up its economy to international trade with the world's major economies, having signed over fifty free trade and bilateral investment agreements. Such deals have resulted in a rapid increase in foreign investment, primarily concentrating on the exploitation of natural resources. Investments have targeted mining, forest resources and salmon farming. All this has had a marked impact on ecosystems, as noted by organizations including the OECD (2005/2006, and 2011).

1.2. Brief history of conservation, state- and community-based

Conservation in Chile was initially promoted by the State through the creation of reserves and natural parks. The first protected areas were created at the beginning of the 20th century in the southern central area of the country, in a territory that had until then belonged to the mapuche people. In 1907, the Malleco Natural Reserve was established, becoming the first protected area in the country. It was located in the Collipulli commune in what is today known as the region of Araucanía, and currently covers an area of 16,625 ha. Later, in 1926, Chile's oldest Natural Park, the Vicente Pérez Rosales National Park, was created; this park currently has an area of 253,789 ha.

Until quite recently, the protected area (PA) concept promoted by the Chilean government was strongly influenced by the 'Yellowstone Park' model created in the US in 1872, which inspired the creation of protected areas in Latin America during the second half of the 19th century and throughout the 20th century. This approach incorporated a strict protection policy that prohibits the use of natural resources and human occupation. As a result many indigenous communities would have been evicted from their ancestral and/or legal lands and relocated elsewhere (Aylwin 2011).

⁵ Spatial inequality is the unequal amount or qualities of resources and services depending on the area or location, such as medical or welfare.

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The Chilean report to the Second Latin American Congress on Natural Parks and other Protected Areas in Bariloche in 2007, points out that the detailed history of human occupation in Chile's protected areas has not been properly documented. However, it is recognized that isolated groups and small indigenous villages that have lived in areas that are currently national parks since pre-Columbian times, carry out their occupations inside these units (Torres 2007). So, despite the lack of documentation, there are strong reasons to believe that a significant part of these areas were established in lands and territories that used to be part of the territory of indigenous peoples (Aylwin, 2011), to which we will refer to later on in this study.

Chile's National System of State Wilderness Protected Areas (known by the acronym SNASPE in Spanish), which was established in 1984, constitutes the backbone of the official conservation in the country: it is the main official mean by which Chile's biodiversity is protected. This system is currently under the custody and administration of the National Forest Corporation (CONAF) and includes 100 protected areas, comprising 35 National Parks (NP), 49 National Reserves (NR) and 16 Nature Monuments (NM); all together, they cover approximately 14.5 million ha, representing nearly 20% of Chile's terrestrial area (www.conaf.cl).

Despite this extensive coverage – higher than the 10% recommended by IUCN – several reports indicate that SNASPE does not effectively represent or protect Chile's varied ecosystems. Importantly, it is almost entirely terrestrial, with less than 0.1% of Chile's marine territory under some sort of protection.⁶ In addition, many of these areas are not protected effectively (CONAMA, 2003). Irregular coverage also means that some ecosystems and endemic centres (for both plants and vertebrates) are outside the existing system of protected areas. Many of these important sites are located in private property belonging to individuals or communities.

Besides SNASPE, there is a wide variety of categories that give formal protection of Chile's environmental heritage. The last report regarding protected areas, issued by the Ministry of Environment (MMA), listed 32 different categories under the umbrella of different government institutions with different legal frameworks (Sierralta 2011). The document points out that dispersed and overlapping legal frameworks, as well as insufficient funding, have been permanent features in Chile's protected areas system. At the same time, that focusing only on the 15 governmental institutions directly involved in the protection of biodiversity overlooks the valuable efforts of the private sector.

In this context, the results of the project that GEF-UNDP and MMA have been implementing jointly since 2009 are highly relevant. The project focuses on the creation of a National Integrated System of Protected Areas in Chile, and aims to generate an institutional model covering both the administration and financial support for Chile's terrestrial and marine protected areas, both public and private. This project has been developed in response to what was approved in 2005 in the National Policy on Protected Areas: with respect to tenure and

⁶ This number has been radically modified recently after the creation of the Motu Motiro Hiva Marine Park in November 2010, which makes it the biggest marine park in Chile. It is located around the Salas and Gómez islands, at the eastern tip of Polynesia nearly 410 km from Easter Island. The park's main characteristic is that, due to its large distance from the South American continent, it has roughly had any human influence thus maintaining its ecosystem almost untouched. It covers 150.000 km², close to 4% of Chile's marine territory. Due to its size, today marine protected areas equates the coverage of terrestrial areas (Sierralta 2011).

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management issues, three subsystems were recognized – public, public-private and private (Torres 2007).

In accordance with IUCN's recommendations about types of governance of protected area, Chile is advancing towards the recognition of 'private protected areas' (PPA), in response to the demands of some sectors of civil society. In the meantime, indigenous and local communities' initiatives are still unrecognized, while they are being inadequately and inappropriately included under the frame of private conservation.

2. Features of ICCAs

The scarce documentation, research or reflection in Chile regarding Indigenous Peoples and Local Community Conserved Areas and Territories (ICCAs), makes it difficult to present an exhaustive analysis of their characteristics and specificities. Nevertheless, there is no doubt about the close bond between indigenous peoples and nature, while some recently emerged community-led initiatives, mainly indigenous, have turned the attention of some NGOs and academia (and the public sector albeit at a slower pace) towards the relationship between conservation and communities.

Given the following definition of ICCAs as “*natural and/or modified ecosystems containing significant biodiversity values, ecological services and cultural values, voluntarily conserved by Indigenous peoples and local communities, both sedentary and mobile, through customary laws or other effective means*” (IUCN 2010), we can say that they have, to a large extent, existed since ancient times in Chile, before the creation of the concept and this new conservation paradigm. Thus, our hypothesis is that despite the scarce formal documentation and recognition of 'ICCAs', there is already a wide variety of areas or territories that are being voluntarily conserved by local or indigenous communities throughout Chile, even though their conservation efforts may not always be explicit or recognised. In this sense, we think that developing efforts towards adequate recognition, identification and comprehension of ICCAs, are urgent due to the threats they confront.

2.1. Range, diversity and extent of ICCAs

It is possible to identify a wide range of ICCAs in Chile, therefore in this section they are presented in three categories, based on their relation with state protected areas, which, as we will see, have a direct effect on their level of governance. It is important to highlight that no current legislation nor any other informal means recognizes any of these categories, and that here they are presented as a step forward for the identification and analysis of the ICCAs in Chile.

i) Territories or areas conserved by indigenous peoples and local communities, without relation to state protected areas

As a first type of ICCAs in Chile, we identified some communities (indigenous and non-indigenous) who are conducting explicit conservation efforts in their areas or territories (not without difficulties), but with no relation to the state protected areas. In this case, the community is therefore the only decision maker.

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Illustrative examples in this category that have gained some social recognition⁷ are the initiatives of the Indigenous Association Mapu Lahual and the Pewenche Quinquén Park, both located in the South of Chile, in Los Lagos and Araucanía regions respectively.⁸

The Mapu Lahual ('land of larch' in mapuche native language) is a network of parks that involves nine mapuche-huilliche communities living in the coast of the Osorno province, covering a continuous strip of their ancestral land of approximately 60,000 ha, however only near 9,000 ha of them with legal rights. Their territory stretches from the peaks of the coastal mountain range to the sea, including nearby marine coastal spaces which correspond to one of the three Multiple Use Coastal and Marine Protected Areas (AMCP-MU, for its acronym in Spanish)⁹ that exists in the country, called Lafken Mapu Lahual.



Florentín Hernández Ancapán, holding a changle (edible mushroom), Condor Community in Mapu Lahual territory.

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The Pewenche Quinquén Park located in the Lonquimay commune covers approximately 25,000 ha under the effective ownership of the mapuche-pewenche community which maintains a close relationship with the *pewén* or araucaria, considered a sacred tree on which the economy of many families depend. It is important to add, without taking the credit away from the Quinquén community's achievements, that the pewenche people they are part of, cover an even wider area across the hillsides of the Andes mountain range and that up to date, their contribution to the conservation of this millenary tree, which was been declared a Natural Monument in 1976 (Decree 29 of the Ministry of Agriculture),¹⁰ has yet to be recognized.

⁷ We understand as social recognition different actions such as: public display, official or NGO awards, different kinds of platforms given to communities for disseminating their own initiatives, etc.

⁸ Further information about their initiatives (in Spanish): www.mapulahual.cl and www.quinquen.cl

⁹ The AMCP-MU are not part of SNASPE. The AMCP-MU have been established, combining the legal powers of the Undersecretary of the Navy (DFL 340/60 on maritime concessions) and the Ministry of National Assets (Law 1939/77), based on the allocation of the marine and terrestrial areas. The administration of AMCP-MU is under the management of public-private partnership involving Regional Government and local non-profit organizations (Sierralta, 2011).

¹⁰ The Decree was revoked in 1987 and prompted timber companies to log for araucaria. The Quinquén community mobilization for prohibiting this activity was well received by the government that in 1990 re-established the declaration of the Araucaria as a natural monument.

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Despite of their particular development and historical paths, some key common elements can be identified between them: both evolved confronting different threats that the communities faced at some moment in their territories and natural goods, for which they re-organised to confront them. Later, both have had agreements with WWF-Chile to support their conservation projects. In this collaboration, the Indigenous Conservation Territories (ICT) approach has been introduced¹¹, which has resulted in a work in progress involving other public actors, to promote and implement a management model that combines participatory land use planning, conservation, ecotourism and the production of local goods.

While not as specific in their relation with conservation, other examples can also be found in some communities that are currently exploring the value they can add to their tourism activities by enhancing their natural and cultural heritage. Indigenous and non-indigenous communities such as those located in the Budi Lake, the Alto Bio Bio (Trakelayin), the Araucanía mountain range (Rupu Pewen) or the Huasco Valley (Diaguita Huascoaltina Community),¹² amongst many others, have started working on community-based sustainable tourism activities through ethno-tourism or ecotourism, in ways that can only be developed by those who have kept a deep connection between their livelihoods, culture and natural heritage. Given this relationship, a more detailed review of these communities' initiatives could help to identify new ICCAs in the country, not only managed by indigenous peoples but also those conserved by local communities.

ii) Co-management of state protected areas

Secondly, we find communities whose areas or territories overlap with the State's protected areas, but who have succeeded in establishing different types of partnership or cooperative relations to participate in their management. Unlike in the former category, state institutions – mainly CONAF for terrestrial areas and SERNAPESCA (National Marine Fisheries Service) for coastal and marine areas – and communities collaborate in decision-making processes regarding administration and resource use.

In a recent publication, Aylwin points out that according to CONAF records, considering only the Araucanía region in 2009, there were six working groups focusing on developing collaborative actions with state protected areas. In the same publication, four partnership experiences are highlighted; one of the most representative is the one carried out by the licán-antai or atacameño people in the North of the country. During 2002, these communities and CONAF signed a partnership agreement for the management of seven units within the Los Flamencos National Reserve, which was created in 1990 on 73,000 ha in the licán-antai ancestral land. Due to the benefits that this partnership brought, not only for the communities but also for CONAF, this experience has been recognized as an example of co-management in the country.

¹¹ Indigenous Conserved Territories have IUCN's support since the World Conservation Congress 2008, through resolution 4.050 that urges governments to recognize them and support them properly.

¹² For further information see: www.lagobudi.cl; www.trekaleyin.cl; www.rupupewen.cl and <http://www.territoriochile.cl/1516/article-76400.html>

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Eco-Red Lican Antai, Atacama, Chile

(Source: www.travolution.org)

These experiences are the outcome of a state policy that – partially influenced by international guidelines and community demands – has actively sought the development of specific actions aimed at engaging communities in the management of protected areas. Thus, within IUCN’s proposed framework of four governance categories, the State considers these as shared governance experiences. However, we believe that this should be reviewed, as despite the different participation levels reached during decision-making, regarding the territories they inhabit or their neighbouring territories, not all of these agreements have concluded successfully, while some argue that these are partial achievements based on deeper demands based on the right to self-determination¹³. On the other hand, since the ILO Convention 169 came into force in Chile, a new legal framework has now been established for such partnership-based relationships, meaning they need to be reviewed in the light of this agreement.

iii) Indigenous and local communities’ overlapping with state protected areas, without any management agreement

Finally, we find many communities that are overlapping with state protected areas, but with unsolved land tenure and resource-use rights and with no agreements concerning the management of the protected area. They remain excluded from any decision-making processes regarding the territories they inhabit, and – in the worst case – in a situation of conflict.

As previously noted, there is scarce and even contradictory documentation about the history of occupation of these areas. However, there is background information showing that there has been a significant overlapping of indigenous territories and protected areas. Not just in the case of the mapuche territory, but in the entire country and affecting the territories of many other indigenous peoples (Aylwin, 2007).

In 2000, CONAF estimated that, of the total 94 SNASPE units existing at that time, 18 (7 parks, 7 reserves, 2 monuments, and 2 projects, covering 1.5 million ha) were related to indigenous peoples in one way or another, involving a population of close to 17,181 people (CONAF, 2000). In his previously quoted research, Aylwin estimates that the overlap between state protected areas and indigenous ancestral land is now close to 90% of the total

¹³ Information given to the authors in conversations with some of the community representatives (November, 2011).

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area of the protected units. On the other hand, the report Chile presented to IUCN in 2007 argued that if considering inhabitants from the different SNASPE units three different groups can be identified: indigenous communities, landowners of specific property and illegal settlers or *colonos*. Regarding indigenous peoples, the report says that this situation is basically linked to two national parks located in the northern tip of the country, in the Tarapacá region, namely NP Lauca and NP Isluga Volcano. In the case of illegal settlers, it argues that “*it is not a problem of huge dimensions*” and estimates that this only concerns around 200 settlers in the entire country (Torres, 2007).

However, some experiences strengthen the hypothesis that these are not isolated situations, various cases include: the NP Villarica, where the Ministry of National Assets is registering for the treasury property rights despite the opposition from communities that claim its ancestral use, and even though some of these communities have land titles granted by the State¹⁴ (Aylwin 2010); the Easter Island National Park, covering a third of the whole island territory and inhabited by the rapa nui people long before its designation as Chilean territory; the NP Bernardo O’Higgins in Magallanes and the kawésqar community, where an ethnic expedition was carried out in 2010 with the aim of visiting relevant sites of the *kawésqar* culture demonstrating their ancestral presence and establishing a new practice regarding the relation between state protected areas and indigenous communities¹⁵ (however, the kawésqar community of Puerto Edén claims that they were not consulted during the process for zoning of the coastal area of the NP, even though the law obliges the Government to consult¹⁶). These cases, among others, must be revised in the light of the human rights of indigenous peoples.



Kawésqar area in Puerto Edén, Aysén, Chile
(Source: Ethnic Guide of National Park, B. O’Higgins)

While not every community overlapping state PAs can be considered an ICCA, we believe that analysing this situation is relevant to review the relationship between PAs conservation exercised by the State and by communities; this considering that many of these were created without the free, prior and informed consent of indigenous peoples inhabiting these areas, and taking into account that according to IUCN’s resolution 4.052 (World Conservation Congress 2008), their lands and territories must be returned. If this restitution happens, these lands and territories could be considered ICCAs and would require proper state recognition and support.

¹⁴For further information see: ¿De quién es el Parque Nacional Villarica? Published by J. Aylwin in *La Nación* newspaper, Sunday December 7th, 2008 (Aylwin 2010: 84).

¹⁵ For further information see: http://parquenacionalbernardoohiggins.com/docs/guia_etnogeografica.pdf

¹⁶ More information at:

http://www.senado.cl/prontus_galeria_noticias/site/artic/20120104/pags/20120104212129.html

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In sum, there is a clear lack of documentation about ICCAs in Chile, but the previously mentioned categories and cases account for the existence of a wide variety of them in practice. This diversity is evident across the country, from the North to its Southern tip, covering different ecosystems, both terrestrial and marine, and in places with different conservation priorities. At the same time, communities have confronted various historic events and in some cases they have managed to adapt and overcome threats and influences resulting in different levels of autonomy regarding the management of these areas and territories, as exemplified by the Quinquén, Mapu Lahual Park and the licán-antai people.

2.2 Main threats to ICCAs

(i) Scarce and inappropriate recognition

The scarce recognition that until now ICCAs have received in Chile, appears to be one of their main threats. The low reflection and awareness at a national level, concerning ICCAs' contribution to the conservation of biodiversity (both biological and cultural), or of the important role they could play in complying with goals the country has set on this matter by signing international agreements such as the CBD since 1994; maintains them invisible and without the adequate political and financial support that could protect them and strengthen them. On the other hand, the little recognition that some have managed to achieve tends to place them in the category of private conservation. This inappropriate recognition threatens ICCAs under the umbrella of public policies that fail to respond to their special characteristics and needs. In this respect, more analysis to identify the differences between both private and public groups is further needed. Experiences such as Mapu Lahual or Quinquén cannot be compared with PPAs like the Huilo Huilo Reserve or the Tantauco¹⁷ Park because there are significant differences in the land tenure situation, the use of natural resource, landowners' investment capacities, and incentives for conservation, among other elements. These differences should be reflected in differentiated policies, which allow for due recognition and support to be given to each group.

(ii) Infrastructure investment and the extractive industry

Pressure by the extractive industry and from those responsible for developing public infrastructure are also one of the main threats to ICCAs. Forests, in the case of southern communities, are threatened due to the growing forestry industry; water, a scarce resource for northern communities, threatened by mining companies; the sea and its species, which provide food and the main source of income for fisherfolk communities and their families, threatened by the fishing industry; land threatened by mega-corporations; and subsoil threatened by mining and geothermal energy exploration. All these investments are driven by and subject to market forces, with scarce territorial planning by the public sector, which puts countless ICCAs at risk because of their lack and inappropriate recognition.

(iii) Administration of SNASPE's units

Although improvements have been made to the administration of protected areas, this still poses important threats to ICCAs. CONAF and the National Tourism Service (SERNATUR) have been promoting a policy for granting concessions to private investors in PAs. This is

¹⁷ For further information see: www.huilohuilo.cl and www.parquetantauco.cl

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implemented through public tenders, which exclude communities, not just because of the way they make the call (on the internet) but also because of the costly investments demanded, which local and indigenous communities cannot pay (Aylwin 2011). This problem escalated after the Tourism Development Law was passed (Law N° 20.423 from 2010). This promotes private concessions, with a view to developing tourism including infrastructure needed, in the units of the territory. Conversely, there is also a register for commercial exploitation activities within PAs, which have been endorsed by the State. During 2008-2009 seven such cases were documented, among them, exploration for mining, and to extract geo-thermal and other forms of energy (Terram, 2009). In 2011 new cases were also reported.¹⁸

(iv) Declaration of biosphere reserves

These initiatives – whether already agreed or still in the planning stage – set without community consultation, although valuable from a conservation perspective, represent a concern and a threat to indigenous peoples in general and to ICCAs in particular. This implies that approval processes in place do not provide the free and prior informed consent of indigenous and local communities living in the areas in question. Today in Chile there are eight of these reserves, two of which have been established on the ancestral lands of indigenous peoples. In June 2010, UNESCO, with the support of the Chilean government, approved the further expansion of the Las Araucarias Reserve to an area of over 1,140,000 ha where approximately 105,000 people live, most of them mapuche (Aylwin 2011).

3. Governance and Management of ICCAs

3.1. How are ICCAs governed and managed?

There are important differences in the ways in which indigenous peoples organize and make decisions about their own territories. Their ancestral rules and regulations, in the absence of writing, have been transmitted through oral tradition in their respective languages. This makes it difficult for non-indigenous to understand the ways by which they manage their natural assets. On the other hand, despite indigenous resistance processes, many indigenous peoples have been forced to adapt to the dominant culture through different means¹⁹, thus conserving different levels of cultural and organizational autonomy, some stronger than others.

In the case of the Pewenche Quinquén Park,²⁰ the *lonko* or the traditional chief governs the community nowadays through an Assembly and its board. These structures were established by the Indigenous Law (Law N° 19.253)²¹ which came into force in 1993 and controls the formations of indigenous communities, under supervision of the National Corporation for Indigenous Development (CONADI). The *lonko* holds a political and religious role, and in the Quinquén's case, he also functions as the president of the community as formalized under CONADI.

¹⁸ Terram: http://www.terram.cl/index.php?option=com_content&task=view&id=8817

¹⁹ The Chilean State has used different means to force this adaptation; e.g. the prohibition in the past to indigenous children attending formal schools, to speak their native language; or the current obligation to sign on their traditional organizations, complying with new rules set by the Indigenous Law, to be able to apply for government recognition and support, amongst others.

²⁰ Ximena Cuadra documented this experience; she is a sociologist of the Citizens Observatory. Second part of the book 'Conservation Challenges in Indigenous Territories in Chile'.

²¹ Available at: <http://www.conadi.gob.cl/documentos/LeyIndigena2010t.pdf>

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Conversely, heads of family or older men are all recognized in the community as local authorities. They are consulted whenever some issue needs resolution and no big decision is taken without their opinion; they provide ethical and political orientation to the community. There are also a variety of communitarian spaces such as the *nguillatun* (religious ceremony) contributing to processes of family alliances and the recognition of the different roles and functions present in the community.

In 1996, *comuneros* (community members) created the Quimke Wentrú Association under the umbrella of the Indigenous Law, to fight together for pending territorial claims and to plan new projects for joint development. Since then, the Association has carried out several projects, where the working agreement with WWF's–Chile Community Conservation Program stands out. It is aimed at strengthening cultural and economic development according to the principles of nature stewardship that the community members have been promoting while defending the Araucaria and their territory.



Elementary school of Quinquén community, in the front a young araucaria tree

© Lorena Arce

In the context of this agreement, the project ‘Indigenous community conserved areas model for ecotourism and biodiversity conservation development: Proposal based on a pilot experience for the Pehuenche park in the Quinquén community, Araucania Andina’²² will bring new ways of governance and management, such as the creation of a cooperative able to deal with the community’s economic issues. However, Ximena Cuadra’s stresses the organisational strength of the Quinquén community and how, despite the conflicts that had arise, it has allowed them to maintain their autonomy in decision-making with respect to their land.

The Mapu Lahual have similar traditions to the Quinquén community since they also belong to the mapuche people, but there are cultural differences as they recognised themselves as huilliches (southern mapuches). During 2001, when the creation of an Indigenous Park Network was planned, their *lonko* were confronted with the fact that they had no legal figure able to represent the seven communities that were willing to be part of the initiative. Thus they also decided to create an Association. However, the Indigenous Law states that “*indigenous associations may not claim the representation of Indigenous Communities*” (Art. 36, Law 19.253); they only represent their members who are individuals (not organizations nor communities). This restriction was set on purpose to impede coalitions of indigenous peoples, and offer a good example of inappropriate recognition through modern law. In order

²² Information about this project is available in Spanish at:

http://chile.panda.org/que_hacemos/protegiendo_biodiversidad/conservacion_comunidades/quinquen/

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to deal with this problem, the Indigenous Mapu Lahual Association (AIML) was created by thirty members from the communities that had participated in the creation of the Park Network, their presidents and *lonkos* among them, in an attempt to guarantee adequate representation of the communities through their individual members. Nevertheless, the *lonkos* have been changing over the years, but the changes were not made in the association statutes – as it involves a lot of bureaucratic hassle; and the communities are therefore sometimes not represented anymore by their actual leaders.

The proposed objectives were broad and not exclusively restricted to the administration of the Park Network; they mainly concerned the self-management of a territory through processes that would fully address the various community demands and needs. In order to achieve this, they created a master plan with a framework covering four different dimensions considered essential for development: Nature and Territory, Culture and Education, Sustainable Economy, and Organization and Policy (Mapu Lahual 2006).

Later on, within the framework of the project ‘Governance and Sustainable Livelihoods’ carried out by the Association with support from WWF, the communities decide to separate policy decisions from decisions about specific economic projects; they did this by creating a cooperative that deals with the promotion of the Mapu Lahual’s economic development in three different areas: ecotourism, handicrafts and preserved foods. Members of this cooperative are also indigenous people, often young, from communities belonging to the Association.

In both cases, traditional natural resource use practices were maintained and are combined with other new practices that were either imposed or introduced through collaborative work with other stakeholders. There have been some positive effects for communities as a result, although in other cases, this combined approach has generated internal conflicts between ‘traditional’ figures and the ‘functional’ figures created by the new regulations, and that communities such as Quinquén has learned to handle.

3.2 Key issues faced in governing and managing ICCAs

One of the key points faced by ICCAs in their governance and management is the imposition of formal ways on their customary ways of organizing and managing territories. Overall, communities have had to adapt to rules imposed by the State, which rarely consulted them or recognized their own organizational customs. The formalization of the communities under Indigenous Laws that not always reflect their customary ways of organizations, and the pressure to privatize their lands, many times in individual properties without consideration of their traditional management of the commons, have created conflicts within their traditional communities.

Because of these impositions, many communities have limited trust in conservation proposals. They fear that these proposals will impose restrictions to their customary use of natural resources that support their livelihoods, while some communities even fear that CONAF will take over their lands in order to comply with conservation goals²³.

²³ Information provided to the author by members of the San Juan de la Costa community (November 2009).

4. Recognition and support to ICCAs

4.1. Government recognition and support to ICCAs

Chile lacks government recognition or direct support to ICCAs, as was previously mentioned, there has been little reflection regarding either local or indigenous communities' contribution to conservation. Existing legislation does not recognize ICCAs as a type of protected area governance or other forms of effective conservation, and it is only in recent years that experiences such as those involving the Mapu Lahual and the Quinquén have begun to pave the way for such recognition (albeit still within the inadequate private protected areas – PPAs – framework).

(i) Legal framework

It has already been mentioned that the current legal framework for conservation and protected areas in Chile is broad and complex. A separate, more detailed exercise is underway to assess this framework from the ICCA perspective²⁴. Here we just mention the main laws that, although not explicitly recognizing ICCAs, are related to them.

The most fundamental one for indigenous people is the Law No. 19,253²⁵ (1993), which establishes rules for protection, promotion and development of indigenous people in Chile, where indigenous rights and areas (not territories) are recognized. It also sets special provisions for the different ethnic groups existing in Chile. The recently approved Law No. 20,249 (2008) that creates the coastal marine space of indigenous peoples gives a new legal framework that contributes to protect their marine ecosystems.

At the same time, Chile has ratified a series of international conventions that provide guidelines for adequate support and recognition of ICCAs, the most relevant being ILO Convention N° 169 about Indigenous and Tribal Peoples in Independent Countries (1989), ratified in 2009, and the United Nations Convention on Biological Diversity (CBD) of 1992, which was ratified in 1994. Chile also supported and voted for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples (2007). Finally, the International Union for Conservation of Nature (IUCN), formed by different States including Chile and environmental organizations, currently being the biggest and most important forum for conservation in the world, has played a key role in revising the protected areas concept and establishing new guidelines regarding the relationships between conservation and communities. Unfortunately, these conventions and guidelines have not yet been reflected within Chile's national legal framework.

(ii) Administrative support for development

Specific practical actions aimed at developing the participation of communities in management of protected areas were initiated in 2002. In this context, the most relevant facts were: the generation of institutional policy in CONAF, capacity building for CONAF staff, the implementation of regional participation plans, and the creation of SNASPE advisory councils (Torres, 2007). This has generated a new relationship between PAs and the various communities, resulting in initiatives such as that of the licán-antai people, who collaborated to develop the Los Flamencos National Reserve or the kawésqar people from Puerto Edén who

²⁴ Jonas et al. 2012.

²⁵ Available at: <http://www.conadi.gob.cl/documentos/LeyIndigena2010t.pdf>

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have been involved and made important contribution to projects in the National Park B. O'Higgins. After reaching explicit agreement about their relationship with each other, CONAF and the communities have developed new management mechanisms for the shared governance of a number of protected areas, recognizing the communities' contributions to conservation.

(iii) Financial support

In Chile there are many channels by which local organizations and communities can apply for government funds. However, in order to access these funds, organizations and communities have to present their initiatives by completing complex project forms that require technical assistance and mediation. Among these, the Environmental Protection Fund (FPA) from the Ministry of Environment stands out. Through it, projects or activities for environmental protection or restoration, sustainable development, and the preservation of nature or environmental patrimony are fully or partially funded.²⁶ The 'Indigenous Environmental Protection and Environmental Contest' is one such strand of funding.²⁷ Its goal is to support community or indigenous associations designing projects that contribute to environmental improvements in their localities.

4.2. Civil Society recognition and support to ICCAs

Some NGOs participating in the international discussion on ICCAs are already involved in actively supporting such initiatives, the clearest example being the work that WWF-Chile has carried out recently with some communities in the South of the country²⁸.

(i) Documentation, research and databases

Although there has not been enough research about ICCAs, the study by the Citizens' Rights Watch²⁹ 'Conservation Challenges in Indigenous Territories in Chile' (Aylwin, 2010) stands out; this research presents important contributions and opens the way for reflecting on this matter. However non-indigenous local communities were not involved in this study, therefore there is a greater information gap in this area.

(ii) Social recognition

The Mapu Lahual Network Park is one of the initiatives that has been given social recognition at international and national level. It has received the WWF International's price 'Leaders for a Living Planet 2006' awarded to outstanding conservation initiatives, which for the first time was awarded to a community in Chile. At the national level, the past President Michelle Bachelet awarded them the 'Bicentenary Seal 2007' (*Sello Bicentenario* in Spanish), which gives public recognition to initiatives coming from civil society, the private sector and autonomous public organisms, with outstanding local impact and contributing to the country's 200 years of independence celebration. Finally, its organizational level and the efforts in order to conserve cultural values associated to a unique ecosystem and to a species of high conservation value such as the larch (*Fitzroya cupressoides*), were the main factors that led

²⁶ See: www.fpa.mma.gob.cl

²⁷ More information at: <http://www.fpa.mma.gob.cl/findigena.php>

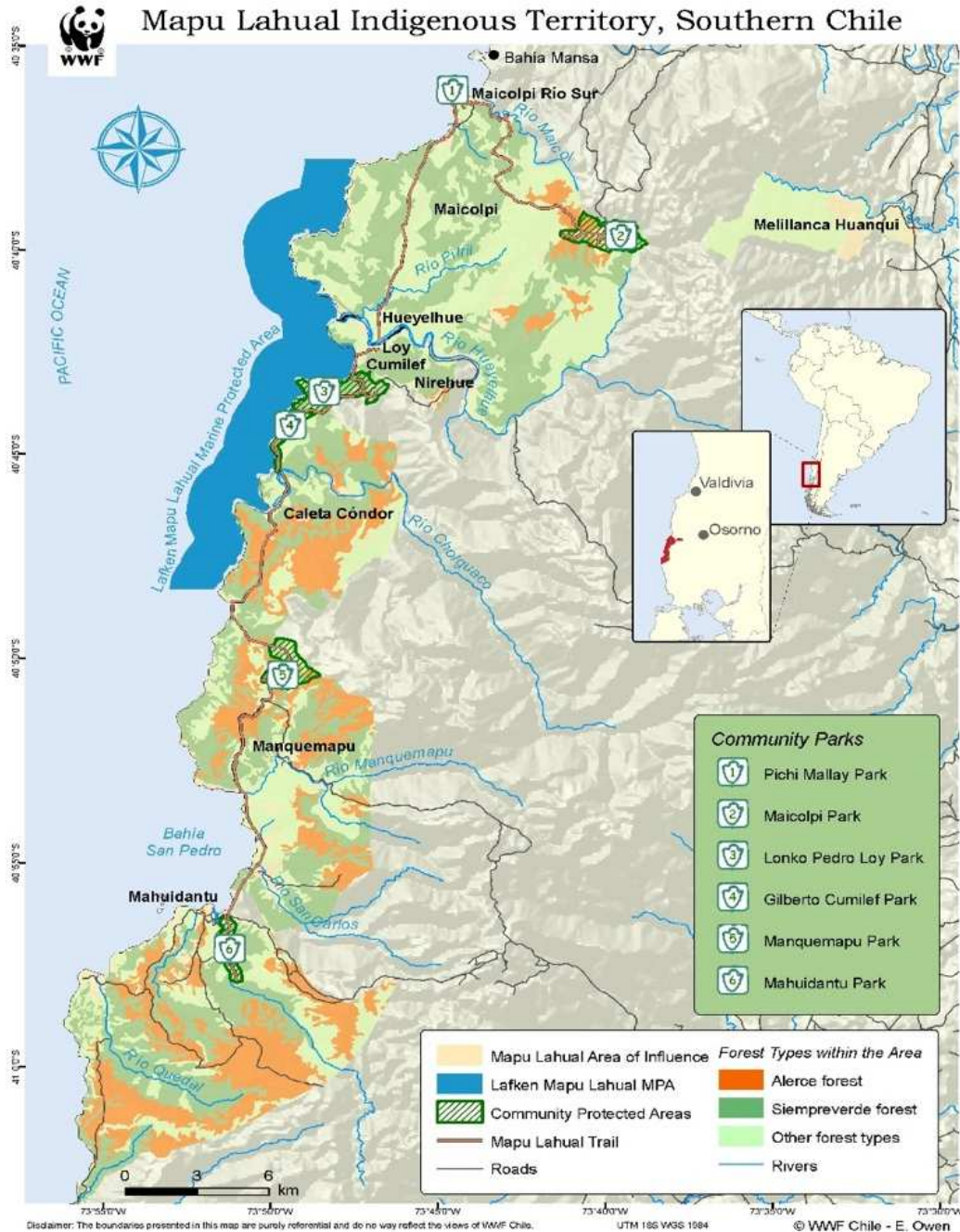
²⁸ More information at:

http://chile.panda.org/que_hacemos/protegiendo_biodiversidad/conservacion_comunidades

²⁹ More information at: www.observatorio.cl

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the Mapu Lahual territory to be designated as a ‘Model for sustainable forest management in Latin America and the Caribbean’ by the Food and Agriculture Organization of the United Nations (FAO), during the International Year of Forests framework.



Map 1: Mapu Lahual Indigenous Territory, Los Lagos, Chile

(Source: WWF Chile, E. Owen)

The Pewenche Quinquén Park has also evidenced important achievements in community-based tourism management and in the development of local products derivatives of the pine nut (*pewén* fruit or *araucaria*); this started to be promoted by WWF Chile as a ‘Model for an Indigenous Conserved Territory in Chile’ relying in the possibility of replication and improvement nationally and set the basis for recognizing Indigenous Conserved Territories ITC, according to IUCN’s guidelines.

(iii) Network creation

The creation of networks between ICCAs is still weak. Based on experiences such as those of the Mapu Lahual and Quinquén, during workshops and seminars aimed at sharing results of their own initiatives and the lessons learned, alliances have been sought in order to promote the constitution of these networks between some communities. In this sense, work is still emerging although some progress has been made as some of these communities continue to meet in recurrent discussion spaces.

(iv) Development support

Agencies like WWF in alliance with NZAID (New Zealand Aid Program) have supported in the medium-term the Mapu Lahual Association and managing to get additional support from different public agencies. In the Quinquén Park case, the support has come from WWF and CORFO-INNOVA³⁰ (Economic Development Corporation). Likewise, based on the implementation of these projects other resources for communities, coming from different public institutions (FPA, SERNATUR, GEF-SGP, CONADI, GEF-SIRAP, among others), have been found.

4.3. Key issues for the recognition and support to ICCAs

(i) Research

As was previously mentioned, there has not been enough effort carried out to generate information, research or records with respect to ICCAs in Chile. There is no clear definition of the different types of conservation territories in Chile, and no recognition of the governance categories as proposed by IUCN; consequently, it is not possible to find databases recording these experiences that could differentiate them from others. These gaps contrast with the available information about private conservation, which through initiatives emerging from civil society in study centres or organizations such as CIPMA and Parks for Chile³¹, have achieved important progress reflected in the recent discussion on legislation and public policy. This shows how important research could be in order to move forward in the recognition and adequate support to ICCAs.

(ii) Recognition and advocacy

This has been one of the weakest aspects in ICCA recognition and support in Chile. Although there is a sector of civil society among NGOs and academia, and informed indigenous organizations, lack of coordination between them, and especially the lack of representative community voices, has hindered an integration of their views in the discussion of public policies affecting them. An example is the minimal representation that they have had in the current discussion of the bill that creates a new Biodiversity and Protected Area Service (BPAS). Environmentalist organizations have strongly questioned this bill due to its content and reduced civil society involvement (www.terram.cl). An analysis of the impacts that this project would impose on ICCAs and the lack of proposals for proper ICCA recognition and support, are virtually non-existent in this discussion.

³⁰ Information available in Spanish at:

http://www.corfo.cl/acerca_de_corfo/emprendimiento_e_innovacion/que_es_innovachile

³¹ For further information see: www.cipma.cl and www.parquesparachile.cl

(iii) Public support

A long-term policy or program that could support these kind of initiatives does not exist, therefore many initiatives are left on their way without any support, such as Mapu Lahual. In most cases their physical isolation and limited means of communication (like Internet and cell phones), presents important limitations for raising funds for their conservation initiatives; while, funding is generally complex and scattered throughout different state sectors. This leads them to depend upon technical assistance for the management of financial resources that could support their projects.

(iv) Networking

The constitution of networks is further challenging due to the following factors: the lack of identification of more ICCAs, limited documentation, lack for dissemination of experiences, and lack of spaces for forums or traditional meetings where communities are able to discuss their views on these matters. This, at the same time, has hindered community participation in the discussions on the creation of the new Biodiversity and Protected Area Service; their views have not been considered, therefore they are exposed to the risk of being excluded or poorly recognized (as part of the PPAs) in public policies arising from this new scenario.

5. The Future

5.1. Future activities planned by the communities, the government, and the civil society; especially in relation to issues of recognition and support

Activities for ICCA recognition and support can be diverse. Nevertheless, lacking stakeholders articulation, both between the ICCAs themselves and between the different supporting agencies, means that these efforts are still dispersed, and we have found only few activities planned for the near future.

(i) Discussion/reflection workshops

Some of these initiatives have been developing during the past years within the context of projects such as the ones by Quinquén and Mapu Lahual supported by WWF-Chile; as well as the Citizen's Observatory project³² 'Development strategies for self-determination and citizen control for a decentralized management of wilderness protected areas in Chile's Araucanía Region and the Neuquén Province in Argentina'. Further activities of this kind are expected to be developed this year, which could also contribute to the creation of a network of ICCAs, as some have already proposed. However, to achieve this, more explicit efforts lead by the communities involved and with financial support will be needed.

(ii) Financial Support

Some communities are receiving financial support for their economic and environmental projects. This will continue, as the Chilean government has many different sectorial programs to support local or community development. Through these means ICCAs (many of them not yet even identified) are receiving support, however, as they are not yet social or legally recognized we do not expect direct funding to strengthen ICCAs in Chile.

³² This project was promoted by the Observatory of Indigenous Peoples Rights, today the Citizens Observatory, the Mapuche de Neuquén Confederation, Pro Patagonia and CET Sur, with support from the Canada's IDRC.

5.2. Recommendations

(i) Fundamental Principles

Involvement: recognition and support to territories or local and indigenous community conserved areas must happen with their substantial and central involvement. In the case of indigenous peoples their free, prior and informed consent must be considered hence, we do not recommend the advance of activities that do not ensure the consent of the communities involved, even if they have good intentions.

Indigenous law: different from local communities, in the case of indigenous peoples the debate about recognition and support must occur within the context of complete respect to their right for self-determination and to what has been established in ILO's Convention 169 and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

(ii) Legal Framework

Indigenous Law: it is critical to search for and use the most appropriate mechanisms in order to respect the right of indigenous peoples to self-determination and to implement ILO Convention 169 and UNDRIP. This means respecting diverse customary forms by which communities organize and manage their natural assets.

Considering the lack of legal recognition provided to iccas and the complexity of the various sets of laws that affect them, we stress the need to review these laws in the light of the impact they are having, or could have, on their different forms of conservation in particular, and in their territories/rights/culture in general, so in the near future they could become appropriately recognized.

The Bill creating the Biodiversity and Protected Areas Service: it is recommended to consider in this debate that is currently being taking place in the Congress, ICCAs as one of the four conservation categories proposed by IUCN, thus enabling the design of differentiated support policies –including community involvement- that respond to these conservation units. Within the framework of this Bill, it is necessary to create economic incentives for those communities that are (or could be) contributing to conservation.

(iii) Support Programs

Development of public support programs: many communities require financial and technical support in order to strengthen their conservation activities and sustainable use of natural assets. Creating financial and administrative support programs is advised in order to strengthen ICCAs: in their management capacity; in their responses to threats; and get them to receive benefits from conservation and in their economic activities, among others.

Legal support: many communities, as Mapu Lahual, need legal support to claim their property rights. Although this has been part of the work done by CONADI the past 25 years, through the Fund for Land and Water, this has been insufficient to resolve historical land claims of many communities.

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Network strengthening: creating networks between ICCAs is advised thus allowing for exchanging experiences, knowledge and relevant information among them. It is important to point out that these kind of activities are confronted with physical and virtual isolation that many ICCAs experience. Most of them are located in extreme or isolated areas of the country, while virtual communications - that could facilitate networking- are not easily accessible to them. The efforts that some communities, such as Mapu Lahual, have made were affected due to lack of funding, hindering their intention to create an ICCA network in Chile.

ICCAs Workshops: networking should be combined with creating open spaces for discussion and reflection on this issue at all levels, within current and potential communities identified as ICCAs, with technical support agencies and the State, and at a local, regional and national level. The inclusion of international experiences could bring to these spaces important contributions.

Training: community training activities are needed to strengthen management capacity, by iccas, the government and supporting agencies; or to strengthen the importance of ICCAs amongst different actors.

Research: To respect traditional norms, customary laws or regulatory systems such as the az mapu (the mapuche normative system), it is necessary to open channels that can facilitate their better understanding and acknowledgement. In this context, it is important to understand the traditional forms of natural resource management in order to learn from them. To this end, a more equitable relationship between the development agencies supporting initiatives and communities such as the Mapu Lahual and Quinquén could be very beneficial. Agencies should not only provide support to the communities but could also learn from them, systematizing and sharing such knowledge with public and private stakeholders working on conservation. In this regard, it is worth asking how much has formal conservation learned from the indigenous peoples' experiences. There is limited related documentation or reflection that would allow for the recognition and absorption of this knowledge. Searching for ways in which the community members could share their knowledge directly (without the need of interpretation or intermediaries) could also be a way forward, but it has barely been explored so far.

Therefore, promoting research and systematization is advised. Research projects are needed for documenting communities self-identified as ICCAs (or potential ICCAs); to identify main threats and design strategies to deal with them; to better understand their use and management of their natural assets. These are some of the subjects that study centres and academia interested in supporting ICCAs recognition in Chile could address.

References

- Aylwin, J., and Cuadra, X. 2010. *Los desafíos de la conservación en los territorios indígenas en Chile*. Observatorio Ciudadano. Temuco, Chile.
- Biblioteca del Congreso Nacional. Análisis crítico del proyecto que crea el Derecho real de Conservación, Informe de la Biblioteca del Congreso Nacional de Chile. Texto completo del Boletín N° 5823-07 disponible en: <http://sil.congreso.cl/pags/index.html> (Abril 2009).
- Consortio ICCA. 2010. *Diversidad biocultural conservada por pueblos indígenas y comunidades locales. Ejemplos y análisis*. Disponible en: <http://www.iccaconsortium.org>
- CONAF. 2000. Lineamientos Estratégico Institucionales Areas Silvestres Protegidas del Estado y Comunidades Indígenas. Santiago de Chile.
- CONAMA. 2003. Estrategia Nacional para la Biodiversidad de la República de Chile. Santiago de Chile, 19 p.
- CONAMA. 2005. Política Nacional de Áreas Protegidas. Disponible en: www.conama.cl
- Correa, M. 2003. El Parque Nacional Chiloé y las comunidades Huilliches, ponencia presentada al seminario Taller Areas Protegidas y Comunidades Humanas, Chiloé, 24-26 de agosto de 2003, inédito.
- GEF. Sistema de Areas protegidas. Creación de un Sistema Nacional Integral de Áreas Protegidas para Chile, disponible en: www.proyectogefareasprotegidas.cl
- Jonas, H., A. Kothari, and H. Shrumm (eds.). 2012. *An analysis of the interaction between international law, national legislation, judgements, institutional frameworks, and indigenous peoples' and local communities' territories and conserved areas*. Natural Justice, Bangalore.
- Mapu Lahual, Rewe Lafken. 2006 Plan Maestro. Documento interno de la Asociación Indígena Mapu Lahual. No publicado.
- Martin, G. et al. 2010. Negotiating the Web of Law and Policy: Community Designation of Indigenous and Community Conserved Areas in Mexico. *Policy Matters*, Issue 17, pp. 195-204.
- OCDE/CEPAL. 2005. Evaluaciones del Desempeño Ambiental. Chile. Disponible en: <http://www.eclac.org/publicaciones/xml/2/21252/lcl2305e.pdf>
- OCDE. 2006. Territorial Reviews, Chile. Disponible en: http://www.oecd.org/document/15/0,3746,en_2649_34413_43274127_1_1_1_1,00.html
- Sierralta L., R. Serrano, J. Rovira and C. Cortés (eds.). 2011. *Las áreas protegidas de Chile*. Ministerio del Medio Ambiente, Santiago de Chile. 35 p.
- Stevens, S. 2010. Implementing the UN Declaration on the Rights of Indigenous Peoples and International Human Rights Law through Recognition of ICCAs. *Policy Matters*, Issue 17, pp.181-194.
- Terram. 2009. Minuta Servicio de Conservación de la Biodiversidad y Areas Protegidas. Disponible en: www.terram.cl
- Torres, H. et. al. (eds.). 2007. Informe Chileno al Segundo Congreso Latinoamericano de Parques Nacionales y Otras Áreas Protegidas de Bariloche el 2007. Disponible en: www.u-cursos.cl/forestal/2008/1/EP039/1/material.../530
- UICN/CEESP. 2010. Nota Informativa N° 10: Fortalecer lo que funciona – Reconocimiento y apoyo a pueblos indígenas y comunidades locales en sus logros de conservación. Consortio ICCA. Disponible en tres idiomas en publicaciones de: <http://www.iccaconsortium.org>

RECOGNITION AND SUPPORT OF ICCAS IN CHILE

UICN/CEESP. 2008. Nota Informativa N°9: Recognising and Supporting Indigenous and Community Conservation – Ideas and Experiences from the Grassroots. Consorcio ICCA. Disponible en ingles en publicaciones de: <http://www.iccaconsortium.org>

Laws and decrees

Ley de Monumentos Nacionales N° 17.288 de 1970.

Constitución Política del Estado, 1980.

Código de Aguas (D.F.L. N° 1.222 de 1981).

Ley N° 19.253, Ley Indígena, 1993.

Ley N° 19.300 de bases sobre el medio ambiente, 1994.

Ley sobre Recuperación del Bosque Nativo y Fomento Forestal N° 20. 283 de 2008.

Ley N° 20.249 (D.O. 18/2/2008) que crea el espacio marino costero de los pueblos originarios.

International conventions

Convención de Washington para la Protección de Flora, Fauna y Bellezas Escénicas Naturales en los Países de América, 1940.

OEA, Convención Americana de Derechos Humanos, 1969.

-----, Declaración Americana de los Derechos y Deberes del Hombre, 1948.

OIT, Convenio N°169 sobre pueblos indígenas y tribales en países independientes, 1989.

ONU, Convención sobre Diversidad Biológica, 1992.

-----, Declaración de Naciones Unidas sobre Derechos de los Pueblos Indígenas, 2007.

UNESCO, Convención para la Protección del Patrimonio Mundial Cultural y Natural, 1972.

Annex 1: Futangue Declaration (in Spanish)

Declaración de Futangue
Futangue, 25 de noviembre de 2010

Los representantes de pueblos originarios que suscriben, somos parte de un grupo de organizaciones de pueblos originarios interesados en el tema de la conservación de la biodiversidad y las áreas protegidas. En el marco del seminario-taller "Los Derechos de los Pueblos Originarios en la Nueva Institucionalidad Sobre Áreas Protegidas y Biodiversidad", y constatando la ausencia de espacios de participación de los pueblos originarios en la formulación del proyecto de ley que crea el nuevo servicio de áreas protegidas y biodiversidad, hemos decidido hacer llegar a ustedes nuestra visión y propuestas, esperando sean tomadas en cuenta, en especial que se cumpla adecuadamente y de buena fe el derecho a consulta, consignado en el artículo 6 del convenio 169 de la OIT, ya que estas medidas legislativas afectarán a parte importante de nuestros territorios ancestrales.

Las siguientes propuestas constituyen aspectos básicos que deben ser considerados dentro de las leyes medioambientales en un marco de respeto a los derechos de los pueblos originarios.

Que se tengan en cuenta los derechos colectivos de los pueblos originarios, incorporando de manera transversal a todo el cuerpo legal los principios del convenio 169 de la OIT y la declaración de Naciones Unidas sobre los derechos de los pueblos indígenas.

Que se creen categorías de áreas protegidas de pueblos originarios (APPO), distintas a las áreas protegidas privadas: los pueblos originarios habíamos desarrollado modelos de manejo de los ecosistemas presentes en nuestros territorios, basados en nuestros propios sistemas de conocimiento, equivalentes a la filosofía y ciencia de cualquier otro pueblo, adecuados a las necesidades espirituales, sociales y económicas de cada pueblo y territorio. A pesar de la enajenación territorial y colonización sufrida desde hace 500 años y hasta el presente, los pueblos originarios hemos logrado mantener gran parte de este conocimiento y relación espiritual con la tierra, llegando a establecer nuevos equilibrios de uso sustentable en los territorios conservados, estos últimos muchas veces de características inhóspitas, que ancestralmente eran utilizados sólo como espacios de uso económico y ritual por nuestros pueblos, como las zonas alto andinas y los bosques nativos templados valdivianos. Sin embargo, el empobrecimiento de nuestras comunidades, asociado a la situación de dominación, nos han obligado a relacionarnos con el mercado desde una posición en extremo desfavorable, presionándonos a prácticas que no son sustentables, proceso avalado por la cultura dominante, que sólo ve recursos económicos allí donde nosotros entendemos que existe una unidad biológica y espiritual. Es por todo esto que consideramos que un nuevo servicio de áreas protegidas y biodiversidad debe apoyar las iniciativas de conservación de nuestros pueblos, ya sean iniciativas comunitarias o individuales, respetando esta relación especial de los Pueblos Originarios con el territorio, ya sea que se quiera mantener o retomar.

La función principal de las APPO es la protección de sistemas bioculturales, donde existen valores de conservación desde el punto de vista de la diversidad biológica, y también desde el punto de vista de los pueblos originarios, en virtud de su relación sociocultural con un determinado territorio.

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Las APPO deben considerar una diversidad de situaciones, las que pueden ser equivalentes a las diferentes categorías de gestión de APs definidas por UICN.

1. - Propietarios indígenas que desean conservar dentro de sus predios particulares, o en asociación con otros propietarios. (ejemplos: un Trayen - cascada; mawizantu - sistema boscoso; Men'oko - ojo de agua, todos lugares de alta significación cultural para el pueblo mapuche).
2. Comunidades indígenas que destinen una zona específica de su territorio a la conservación.
3. Espacios Costeros Marinos de Pueblos Originarios (ECMPO) y Áreas de Manejo de Recursos Bentónicos (AMERB) administrados por comunidades o asociaciones indígenas: En la actualidad los pueblos originarios del borde costero hacen grandes esfuerzos por proteger estos espacios marinos, ante la codicia de las empresas pesqueras y las prácticas no sustentables de pescadores artesanales y buzos externos a las comunidades. Con planes de administración y manejo adecuados, más los recursos necesarios para su implementación y cuidado, estos espacios pueden constituirse en áreas de protección y uso sustentable de los recursos bentónicos, pesqueros y de recolección.
4. Territorio de Conservación de los Pueblos Originarios, o Territorio Biocultural de Pueblos Originarios: Territorios definidos por los pueblos originarios, orientados a su desarrollo integral, con planes de vida o planes de desarrollo territoriales. Postulamos esta categoría para aquellas iniciativas en que un pueblo originario o parte de él, desee conservar un territorio en su integralidad, con miras a practicar y, si es necesario recuperar, las prácticas de uso sustentable que permiten a ese pueblo obtener los medios de vida adecuados para su desarrollo económico, social y espiritual. Los Planes de Ordenamiento Territorial asociados y Planes de Vida de estos territorios pueden incluir espacios afectos a las categorías anteriores.

Independientemente de lo anterior, que se reconozcan los 4 modelos de gobernanza propuestos por UICN, (gobernanza por gobiernos, gobernanza compartida, gobernanza privada, y gobernanza por pueblos indígenas y comunidades locales), y que se avance hacia la gobernanza indígena en aquellas áreas protegidas del estado que han sido impuestas sobre territorios de pueblos originarios. También que se incorpore explícitamente la gobernanza compartida (co-administración o co-gestión) como alternativa en aquellos casos en que las comunidades afectadas lo consideren adecuado, bajo su consentimiento previo, libre e informado. Al respecto, el artículo 15 del convenio 169 de OIT expresa lo siguiente: "Los derechos de los pueblos interesados a los recursos naturales existentes en sus tierras deberán protegerse especialmente. Estos derechos comprenden el derecho de esos pueblos a participar en la utilización, administración y conservación de dichos recursos". Además especifica que el término tierras "deberá incluir el concepto de territorios, lo que cubre la totalidad del hábitat de las regiones que los pueblos interesados ocupan o utilizan de alguna manera".

Que se establezcan mecanismos que permitan corregir las vulneraciones a los derechos de los pueblos originarios dentro del sistema vigente de áreas protegidas del estado, se restituyan las tierras ancestrales que están en manos del estado, y se asegure el acceso a los recursos naturales de uso ancestral por parte de las comunidades aledañas. Además, y en consonancia a lo dispuesto en el artículo 16 del convenio 169 de la OIT, se deben contemplar fórmulas de compensación, negociada o consensuada con las comunidades o pueblos afectados, en los casos en que el territorio ancestral no se pueda restituir o esté degradado por haber sido sometido a usos no sustentables, y por el tiempo en que las comunidades afectadas han sido privadas de sus recursos naturales.

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Que tenga la facultad y el mandato de establecer una nueva priorización de ecosistemas críticos para la conservación, integrando las variables biológicas con las variables socioculturales, en un proceso participativo, donde los pueblos originarios y comunidades locales en general, deben ser considerados en su especificidad cultural. Los ecosistemas que constituyen medios de vida de pueblos originarios deben ser áreas prioritarias de conservación, en especial si esos pueblos plantean un uso sustentable de ellos.

Que el estado ofrezca incentivos para la conservación, que permitan una mejor distribución de sus costos y beneficios dentro de la sociedad. Que estos incentivos promuevan el desarrollo de medios de vida sustentables para las comunidades que hacen esfuerzos de conservación, o que son afectadas por ellos. Asimismo, creemos que la nueva ley debe contemplar recursos que apoyen las iniciativas de conservación de pueblos originarios, en especial en lo relativo al manejo, cuidado y mantención de las áreas protegidas, tanto en la tierra como en el mar.

Que se cree un Consejo Regional de Pueblos Originarios para la Conservación de la Biodiversidad, de carácter permanente, que actúe como contraparte y asesore al servicio de APP y Biodiversidad en todos aquellos aspectos que tengan relación con territorios y comunidades de pueblos originarios, en cada región con presencia de pueblos originarios (Al menos las regiones 1ª a 3ª y desde la 8ª a 15ª).

Todas las propuestas anteriores nacen de nuestra propia convocatoria para opinar sobre el nuevo servicio de áreas protegidas y biodiversidad, pero en ningún caso pueden sustituir un proceso de consulta serio y de buena fe a los pueblos originarios del país.

Firman:

Norma Vargas Q.	Comunidad Williche Ñielay Mapu, Puyehue.
Baldemar Huanquil	Comunidad Williche Mahuidantu, Purranque
Nelson Marileo	Comunidad Williche Manquemapu, Purranque
Gustavo Paillamanque	Comunidad Williche Maicolpi, Asociación Mapu Lahual
Marcos Cea	Comunidad Williche Ñielay Mapu, Puyehue
Marisol Gonzales	Comunidad Toconao
Sabina Cruz	Consejo de pueblos Atacameños
Sergio Rain	Asoc. MAPUMAWIDANKO
Hector Jaramillo	Asoc. MAPUMAWIDANKO
Javier Ancapan	Comunidad Williche Manquemapu, presidente Asociación Mapu Lahual
María Antiñir	Comunidad Williche Melillanca Guanqui
Patricia Naguil	Puaicho, San Juan de la Costa
Rosa Quinchalef	Comunidad Williche Melillanca Guanqui
Saturnino Antriao	Comunidad Williche Trafunco Los Bados
Juan Melillanca	Comunidad Williche Melillanca Guanqui
Marcos Cea	Comunidad Williche Ñielay Mapu
Sergio Raín	Comunidad Williche Hualaman Ancapan
Ana Barrientos	Asociación Mapu Lahual del Butahuillimapu
Odet Vargas	Comunidad Williche Caleta Cóndor
Luis Pailapichun	Comunidad Williche Chaiguaco
Armando Jaramillo	Comunidad Williche Melillanca Guanqui
Hector Jaramillo	Comunidad Williche Melillanca Guanqui
Fernando Rivera	Asoc. MAPUMAWIDANKO

Annex 2: Letter to the president Piñera
(in Spanish)

CARTA A PRESIDENTE PIÑERA

Santiago, 08 de octubre de 2010

Señor
Sebastián Piñera
Presidente de la República
Palacio de la Moneda
Presente
De nuestra consideración:

Somos un conjunto de organizaciones de la sociedad civil y de pueblos indígenas de diversas regiones del país, interesadas e involucradas en iniciativas de protección del medio ambiente y conservación de la biodiversidad, así como en la promoción de los derechos ciudadanos.

En el marco de un seminario convocado por nuestras instituciones, y al que se invitó a participar a los Ministerios del Medio Ambiente y Bienes Nacionales, se manifestó públicamente nuestro interés en formar parte activa en el proceso de elaboración del anteproyecto para la creación del Servicio de Biodiversidad y Áreas Protegidas, previsto en la Ley N°20.417 de enero de 2010, que reformó la Ley de Bases del Medio Ambiente (N°19.300 de 1994) y creó el Ministerio del Medio Ambiente. Cabe recordar que, de acuerdo al Artículo 8vo transitorio de la ley reformada, Usted tiene, en su calidad de Presidente de la República, el plazo de un año para enviar al Congreso Nacional uno o más proyectos de ley con esta finalidad.

Faltando sólo cuatro meses para el cumplimiento del plazo asignado por el legislador para el cumplimiento de tan importante mandato, queremos manifestar nuestra preocupación frente a la escasa participación que organizaciones como las que representamos hemos tenido a la fecha. Consideramos fundamental hacer llegar a usted la visión y los aportes de las organizaciones de la sociedad civil y de las organizaciones de pueblos indígenas interesadas en esta materia para que pueda ser recogida por su Gobierno en la elaboración del anteproyecto de ley sobre la materia, antes de su envío al Congreso Nacional para su discusión y aprobación.

En el caso de los pueblos indígenas, los fundamentos de esta participación se encuentran contemplados en el Convenio N° 169 de la OIT, ratificado por Chile el año 2008, que establece el deber del Estado de consultar a estos pueblos de buena fe, a través de procedimientos apropiados y con la finalidad de llegar a acuerdos, cada vez que se prevean medidas legislativas como esta iniciativa o administrativas susceptibles de afectarles (Art.6.1 y 2).

Consideramos fundamental la incorporación en el anteproyecto para la creación del Servicio de Biodiversidad y Áreas Protegidas las siguientes materias que son de relevancia para las organizaciones que representamos:

El Servicio de Biodiversidad y Áreas Silvestres Protegidas debe ser una institución del Estado de carácter autónomo, es decir, que no responda a los intereses de los ministerios sectoriales. Su misión y rol fundamental debe ser la protección del patrimonio natural de Chile, en especial la biodiversidad y los recursos hídricos. Para ejercer esta función, debe contar con directrices claras, capacidad de interlocución tanto con los distintos organismos del Estado como con la ciudadanía, organizaciones de la sociedad civil y el sector empresarial. Además,

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debe ser descentralizado y con un presupuesto que le permita realizar adecuadamente las funciones que por ley se le encomienden.

Respecto a las áreas silvestres protegidas terrestres, marinas o de aguas continentales, el Servicio debe ser el encargado de generar propuestas para establecer Áreas Protegidas públicas, promover el establecimiento y adecuado manejo de áreas protegidas privadas, e integrar ambos tipos de iniciativas con un enfoque ecosistémico en sistemas nacionales, regionales y locales, coordinando con países vecinos la gestión integrada de Áreas Protegidas binacionales.

El Servicio de Biodiversidad y Áreas Silvestres Protegidas estará a cargo de la conservación de la biodiversidad, recursos naturales y recursos hídricos. Para cumplir con este cometido, entre sus funciones se debe contar:

Elaborar, administrar y actualizar una base de datos sobre biodiversidad y recursos hídricos; mantener actualizado un inventario de especies nativas y endémicas.

Aplicar la clasificación de especies en categorías de conservación según las pautas de la Unión Mundial para la Conservación de la Naturaleza, UICN.

Aplicar la clasificación de categorías de manejo y tipos de gobernanza de las áreas protegidas, según las pautas de la Unión Mundial para la Conservación de la Naturaleza, UICN.

Establecer una clasificación oficial de ecosistemas relevantes y/o amenazados.

Establecer los sitios prioritarios para la conservación y proponer la creación de nuevas áreas silvestres protegidas.

Elaborar e implementar planes de recuperación de especies y ecosistemas.

Elaborar e implementar planes para erradicar especies invasoras.

Establecer un sistema de acreditación y certificación de áreas protegidas privadas.

Apoyar la creación de corredores biológicos.

Desarrollar e implementar un programa nacional de formación y acreditación de guardaparques tanto para áreas protegidas públicas como privadas.

Coordinar la administración de un sistema nacional de áreas silvestres protegidas públicas y privadas, terrestres y acuáticas.

Promover el establecimiento de sistemas regionales que promuevan el desarrollo local sustentable en torno a las áreas protegidas.

Elaborar y ejecutar estudios y programas de investigación, protección y conservación de la biodiversidad y recursos hídricos.

El nuevo Servicio debe asumir competencias en materia de conservación de la biodiversidad, recursos naturales y recursos hídricos, dentro y fuera de las áreas protegidas, aplicando de manera complementaria y no alternativa los diferentes instrumentos de gestión ambiental para garantizar la continuidad de los procesos ecológicos a una escala de paisaje. Ello implica reconocer los planes de manejo y la zonificación establecidas para un área protegida como instrumento de gestión ambiental de rango superior a las resoluciones de calificación ambiental de proyectos sometidos al Sistema de Evaluación Ambiental, los que debieran ser complementarios y nunca contraponerse al contenido de dicho instrumento. Asimismo, debe otorgarse reconocimiento legal al área de influencia del área protegida y establecerse medidas de resguardo ante usos del suelo no compatibles con la conservación, o proyectos industriales o de infraestructura que afecten a la cuenca o la unidad ecológica funcional en la que se inserta el área protegida.

En consonancia con los lineamientos definidos por UICN (2004), es indispensable reconocer explícitamente la existencia de cuatro tipos de gobernanza de las áreas protegidas, incluyendo la gobernanza por parte del gobierno, tanto aquellas del gobierno central como las áreas protegidas que puedan impulsar los gobiernos regionales y municipales. Además, que se reconozcan las áreas protegidas de gobernanza compartida, que incluyen aquellas que involucran a gobiernos y a actores no gubernamentales, y que se expresan en modalidades de

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co-manejo, co-gestión, gestión compartida en base a acuerdos celebrados entre dichos actores, en especial las comunidades rurales y pueblos indígenas. Que se reconozca también las formas de gobernanza privadas, que comprenden aquellas que están bajo control y propiedad de personas, cooperativas, organizaciones no gubernamentales con o sin fines de lucro, así como las áreas de gobernanza de pueblos indígenas y de comunidades locales, establecidas y gestionadas por ellas.

En el caso de los pueblos indígenas, de conformidad con el Artículo 8J de la Convención sobre Diversidad Biológica de la ONU de 1992, que valora y protege el aporte de los conocimientos tradicionales de estos pueblos a la conservación de la biodiversidad, y también en consonancia con los lineamientos de UICN (2008), se propone que se reconozca una participación activa de las comunidades indígenas en la gestión de las áreas protegidas del Estado. Además, se propone que se potencien las iniciativas de conservación indígenas a través del reconocimiento en la ley de la figura de los “territorios indígenas de conservación”, que comprenden sitios, territorios, paisajes terrestres y marinos y lugares sagrados conservados, administrados y manejados por pueblos indígenas y comunidades locales.

También, de conformidad con los lineamientos de UICN (2008) y el Convenio 169 de la OIT, en el caso de los pueblos indígenas debe prohibirse expresamente que las áreas protegidas de gobernanza pública o privada puedan constituirse sin su consentimiento libre e informado sobre tierras, territorios o recursos que estos pueblos ocupan tradicionalmente. Así también, se debe garantizar que se resuelvan adecuadamente los reclamos territoriales de las comunidades indígenas sobre aquellas áreas protegidas que hayan sido establecidas sin su consentimiento, incluyendo entre las alternativas posibles, que estas áreas protegidas sean objeto de restitución a los mismos pueblos para que sean gestionadas por ellos como territorios indígenas de conservación.

Respecto a las áreas protegidas de gobernanza privada pertenecientes a comunidades locales o a pueblos indígenas, se propone que la legislación establezca mecanismos expeditos para su declaración como tales, explorando distintas figuras legales para estos efectos, tales como la servidumbre de conservación u otras, así como su integración y coordinación en sistemas de áreas protegidas. Además, la legislación debe garantizar el resguardo de estas áreas de gobernanza no estatal frente a cualquier amenaza de la que puedan ser objeto, en particular frente al desarrollo de actividades comerciales que pueden resultar en la destrucción de las tierras y recursos naturales que en ellas se encuentran.

La nueva institucionalidad para las áreas protegidas debiera reconocer un principio de equidad en la distribución de costos y beneficios de la conservación, contemplando herramientas para la resolución de conflictos con las comunidades aledañas, a través de una adecuada metodología de valoración de costos y beneficios, y del establecimientos de instancias de participación que faciliten la negociación de acuerdos compensatorios y el establecimiento de programas de desarrollo local que promuevan modos de vida sustentable en las comunidades aledañas a las áreas protegidas. Para ello, debe contemplarse el establecimiento de órganos colegiados con representación de los actores locales que hagan seguimiento a los acuerdos y propuestas.

Dada la relevancia de la conservación de determinadas áreas para la protección de la biodiversidad, se propone la creación de un fondo para la conservación de las áreas protegidas de gobernanza privada, comunitaria y/o indígena, la que debiera contar con fondos anuales dentro de la ley de presupuesto. La distribución de dichos fondos debe realizarse mediante criterios objetivos, a través de concursos canalizados por una instancia pública que cuente con participación de instancias privadas, de comunidades locales y de pueblos involucrados en la tarea de conservación. Este fondo debe estar destinado principalmente a apoyar acciones de conservación ejecutadas por pequeños y medianos propietarios, así como por comunidades

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indígenas, organizaciones locales y ONGs, tanto en áreas silvestres protegidas públicas y privadas, terrestres y acuáticas.

La nueva institucionalidad debe generar y facilitar la descentralización en la gestión de las áreas protegidas, otorgando a los gobiernos municipales y regionales la posibilidad de crear y administrar áreas. Además, debe servir de soporte para la creación de Sistemas Regionales de Áreas Protegidas, que potencien el rol que tienen las áreas protegidas en la provisión de bienes y servicios ambientales para sectores clave de la economía regional, y promuevan la aplicación de instrumentos de fomento del desarrollo local sustentable en las comunidades aledañas a éstas. Asimismo, esta nueva institucionalidad debe reconocer una figura específica para las áreas protegidas urbanas y periurbanas, homologable a las áreas de preservación ecológica de los Planes Reguladores Urbanos, las que debieran gestionarse a nivel municipal. Junto con ello, se deben contemplar figuras de gestión específica para las áreas protegidas binacionales, ubicadas en áreas de frontera o que incluyan aguas de jurisdicción internacional. Junto con hacer llegar a usted estas propuestas, que consideramos pueden enriquecer de manera significativa un borrador de anteproyecto sobre esta materia, solicitamos una reunión con la autoridad responsable de la Secretaría General de la Presidencia u otra instancia de gobierno encargada de la elaboración del mismo. Esto, con la finalidad de dialogar en forma directa sobre esta iniciativa, y contribuir de esta manera a que el anteproyecto que se envíe se potencie con la inclusión de las temáticas de mayor preocupación por parte de la sociedad civil y los pueblos indígenas, de modo de sumar la visión de actores claves en la conservación de la biodiversidad.

Se solicita enviar respuesta a la dirección postal Av. Gral. Bustamante 24 of. 5i, Providencia, o a la dirección de correo electrónico fliberona@terram.cl

Atentamente, le saludan,

Javier Ancapan, Presidente de la Asociación Mapu Lahual del Butahuillimapu, manquemapu@gmail.com

Sabina Cruz, Presidenta del Consejo de Pueblos Atacameños, shilla_7124@hotmail.com

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cc. Ministro Secretario General de la Presidencia
Ministra del Medio Ambiente
Ministra de Bienes Nacionales
Ministro de Agricultura