

# Mapuche: People of the Land and Sea

**Chile's indigenous fisherpeoples, struggling to protect their livelihoods, find that laws protecting their customary rights are in direct conflict with sectoral laws that seek to open up the natural resource base to commercial exploitation**

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The Bay of Mehuín in the southeast Pacific region, 800 km south of Santiago, Chile, has been home to fishing communities and deep-sea divers for hundreds of years. The Mapuche-Lafkenche is one such community that lives along the bay in the Region de Los Ríos in south Chile, meeting its livelihood through fishing, harvesting shellfish and farming benthonic resources.

The Mapuche-Lafkenche people have a complex relationship with their land and marine environment. The natural resources which sustain them physically and economically in the form of food and material resources also sustain their cultural, religious and spiritual lives. Vital ingredients for medicines and health are extracted from the natural resources they harvest. Sea water, for instance, is used as a Mapuche medicine at certain times of the year. Seaweeds like *cochayuyo* (bull kelp) and *luga* (a type of seaweed) are used to treat not just human beings but also animals. The traditional doctors and *machis* (shamans) use a large variety of plants found along the coastal strip as cures. In the words of Boris Hualme Millanao, a leader of the Mapuche-Lafkenche community and spokesperson for the Marine Defence Committee of the Mehuín

community: "These natural products give us our life, our food and our economy."

These natural resources also allow the community to practise barter and commerce (*trafkintun*). Although barter may no longer be the sole means of exchange, it is still practised by the community at a time when Chilean society increasingly calculates value only in terms of money, ignoring collective interests or customary rights.

Customary rights to the use of their ancestral land and water resources have supported the traditional livelihood forms of the Mapuche-Lafkenche community for generations. Of primary importance today is that these rights be secured through legislation. Two specific advances for customary rights have been the 1989 International Labour Organization (ILO) Convention 169 at the international level, and the Law No.20.249 (passed in November 2007), better known as the "Lafkenche Law". The struggle now is to seek interpretation of this legislation in ways that reinforce customary rights. The legislation, however, is in direct conflict with sectoral laws relating to natural resources. There is the mining law, which takes precedence over almost all other laws, not only the indigenous one. Further pieces of legislation being drafted are the Water Code, the Law on Native Woodlands, and the Fisheries Law. These sectoral laws specifically seek to open up natural resources to exploitation by various economic interests.

An example of this struggle with private economic interests is the 15-year-old conflict with Celulosa Arauco y Constitución (CELCO), for alleged human-rights violations. The Valdivia pulp mill, one of several owned by CELCO, is located 500 m from the south bank of the Cruces River in the Los Ríos region, upstream from the nature sanctuary and 40 km from the Bay of Mehuín, where the Mapuche-Lafkenche and other indigenous fishing communities live. The pulp mill produces 550,000 tonnes of pulp a year for export. Pulp production is a highly polluting process and expels large amounts of toxic chemical effluents. The company plans to lay a 40-km waste pipeline from the pulp mill to Mehuín, with a 2-km undersea extension, through which the plant's effluents can be discharged directly into the ocean at a depth of 18 m.

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Mapuche Lafkenche leaders gathering in the Bio Bio region, Chile. Customary rights to use their ancestral land and water resources has supported traditional livelihood

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CELCO was granted permission to build the waste pipeline on 24 February 2010 by the Regional Commission for the Environment (COREMA). The pipeline is expected to be completed in two years' time. The population that will be affected by the project includes 20 coastal communities of Lafkenche people and the traditional fishing communities of Mehuín, Cheuque, La Barra and Mississipi. Another 20 native communities further south, and associations of fishing communities with nearly 1,000 members in neighbouring bays and inland areas could also be negatively impacted. The Defence of the Sea Committee (Comite de Defensa del Mar) appealed to the courts against the environmental permit granted to the company, and demanded that the lives of indigenous people as well as their right to live on the coast, which is guaranteed under Chilean law, be protected. But the appeal was rejected by the Supreme Court in Chile. Denied justice, the Defence of the Sea Committee took its case to the Inter-American Commission on Human Rights (IACHR), seeking urgent precautionary measures and a restraining order against pipeline construction.

Today the challenge before the Mapuche-Lafkenche community is to be able to build a movement to defend its customary rights and to demand the implementation of legislation that defends these rights against predatory private interests. Critical to this would be

the sharing of experiences between local communities, and studying the new legislation in order to interpret it in ways that protect Lafkenche interests. Studying the Lafkenche Law, however, throws up several basic questions starting with how the law defines the Mapuche-Lafkenche people.

Boris Hualme Millanao, a Mapuche leader, explains: "The Chilean State describes the Mapuche-Lafkenche as 'people of the land'. This position leaves the community without any customary rights over the sea and coastal resources. This justification is sought to be imposed through anthropology and the educational system, fooling the Lafkenche society into believing that the law only applies to the land. This interpretation has to be challenged, not only with the State and private economic interests, but also within the community itself, in order to reclaim our traditional rights. This is the biggest challenge before the community leaders."

This will not be an easy struggle. As Boris Hualme Millanao says, "We know that this will come at a high cost. They will imprison us, apply the Anti-terrorist Law to stop us, and create many other difficulties. But what is clear is that we must not get distracted by this or that small project, or by a government that brings us suitcases full of money to buy our co-operation. To be true to our way of life and to defend our rights, we must never give up." ❏