This report is based on the findings of a Bank mission which visited Chile in December 1999 and January 2000. The mission met with Mr. Rodrigo Gonzalez, National Director CONADI; Luis Henriquez, Miguel Diaz, Jorge Sanderson, and Domingo Colicoi, CONADI (National); Antonio Mamani, Regional Director, CONADI (I Region); Veronica Silva, Head Social Division, MIDEPLAN; Ana Quintana, Social Division, MIDEPLAN; Carlos Furche, Director ODEPA; Jose Santos Millao and Hilario Huirilaf, Elected Indigenous Board Members, CONADI; Francisco Huenchumilla, Mapuche congresman; Aucan Huilcaman, Victor Naguil, Hector Collasaya, Octavio Viza, Maria Teresa Mamani, Carlos Castillo, Silvia Colque, Crispin Chura, Sergio Plateros, Indigenous leaders; Christian Parker, José Aylwin, Academics; and Domingo Namancura, former National Director, CONADI. The mission was greatly supported by MIDEPLAN and CONADI which provided several background papers prepared by the Chilean Government.
Indigenous Peoples in Chile
Current Situation and Policy Issues

I  Introduction

7.1 Indigenous issues in Chile have become increasingly relevant for policy makers. While there are no current nation-wide estimates, according to the 1992 population census, indigenous peoples in Chile represent 7.5% of the total population, or almost 1 million people, of which about 79% would be urban. Either rural or urban, indigenous peoples experience higher poverty rates (35.6%) than the non-indigenous (22.7%) population and multiple studies indicate that most social indicators for indigenous groups are consistently below national averages. In rural areas, indigenous peoples have little land and tend to be concentrated in extreme fragile, rapidly deteriorating environments. Similarly, water rights of indigenous communities have been severely curtailed. In urban areas, particularly in large urban centers such as Santiago, Concepción and Temuco, indigenous peoples are clustered in the poorest municipalities, with limited access to social services, and a significant proportion of the population is underemployed and/or work in the informal sector. Indigenous peoples struggle with poverty and are subject to racial discrimination, deprived of the means to reproduce its culture.

7.2 Starting in 1990, several steps were taken to improve the situation of indigenous peoples. The Aylwin administration (1990-1994) created the Special Commission for Indigenous Peoples (Comisión Especial de Pueblos Indígenas, CEPI). CEPI drafted an indigenous bill that was widely discussed by indigenous organizations and the national Congress for over two years. After its approval in October 1993 (Ley de Desarrollo Indígena 19.253), a government agency, the National Corporation for Indigenous Development (Corporación Nacional de Desarrollo Indígena, CONADI), was established under the Minister of Planning and Cooperation (Ministerio de Planificación y Cooperación, MIDEPLAN) with the mandate of ensuring the implementation of the indigenous law. CONADI launched several special programs for indigenous peoples, and begun coordinating with other government programs to facilitate indigenous peoples access to them.

7.3 Over the last 3 years, tension between indigenous organizations and the Chilean state have risen and wide-spread mobilizations have taken place. Some of the key issues

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3 Land and Water Fund, Indigenous Development Fund, Indigenous Development Areas, Culture and Education.
indigenous organizations have been rallying over are their right to self-determination, restitution of indigenous lands and water rights.

7.4 This report is based on the analysis of existing information (census data, CASEN 1996, project documents, MIDEPLAN reports and other papers written by Chilean scholars on the subject of indigenous peoples in Chile), as well as information provided by government officials, indigenous leaders and other qualified informants). The report organizes and summarizes existing information. The objective of this report is to provide a rapid assessment of current indigenous issues and government policies in Chile. Specifically, this note: (a) provides a brief diagnostic of the current situation of indigenous peoples in Chile; (b) identifies key policy issues and challenges; (c) describes what the government is attempting to do in the area of indigenous peoples development (d) analyzes what are the chances of the government’s program being successful given the current tensions over such things as land rights between the government and various indigenous groups, especially the Mapuche in the south of the country, and, (e) assesses what role, if any, would there be for the Bank in supporting the government efforts to address indigenous issues.

II Diagnostic

Current Situation of Indigenous peoples

Population

7.5 According to the 1992 population census, indigenous peoples represent 7.5% of the total population. An estimate based on the CASEN 1996 survey suggest a much lower figure of 4.5% (see Table 1). However, most analysts agree that the population census figures are a better estimate, as even the population census would not reflect the actual number of indigenous population in Chile.

7.6 Almost 80% of the indigenous population lives in urban areas and most of them (40%) in Santiago, followed by Temuco and Concepción. Over the last 15 years there has been a steady trend toward urbanization among indigenous peoples in Chile. This is

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4 Recently, these issues have gained public attention through two specific cases that reflect the different dimensions of the conflict: (i) the approval by CONADI of indigenous land permutations necessary for the construction of a hydroelectric dam at Ralco and; (ii) land takeovers of properties disputed with forestry companies (this includes taking over former communal lands, or lands in dispute, obstruction of public roads, burning of forests and private property, and seizure of buildings and public offices).

5 At the time of preparing this report, the most updated quantitative information on indigenous peoples in Chile was the CASEN 1996 survey. The results of the CASEN 2000 were not available at that time. Currently, the Bank has asked MIDEPLAN to have access to the CASEN 2000 survey to process and analyze the data pertaining to indigenous peoples in the context of the Regional Study on Extreme Poverty and Social Exclusion.

6 This sharp difference could be explained by a sampling effect and differences in the questionnaires used by the CASEN survey and the population census. The sample has no representativeness at the municipal level. At the same time, spatial distribution of indigenous population is not uniform across municipalities. Indigenous population is clustered in certain municipalities (rural and urban). Therefore, the sampling strategy of the CASEN survey may result on under-representation of rural areas and urban settings with high concentration of indigenous populations. Regarding the questionnaire, the question of ethnic origin in the CASEN survey is asked in a slightly different way than in the population census questionaire. For further analysis see MIDEPLAN (1998) Encuesta CASEN 1996, Valenzuela (1995) La Población Indígena en la Región Metropolitana, CONADI and, CELADE (1994) Estudios Sociodemográficos de Pueblos Indígenas.
a key element that needs to be taken into consideration when discussing policy options for the social, economic and cultural integration of indigenous groups in Chile⁷. Regarding spatial distribution in urban areas, indigenous groups are clustered in certain municipalities and, more specifically in neighborhoods which responds to existing social networks of the families or groups that have migrated before. In most cases, indigenous groups are located in poor areas either in the periphery of the city or in the depressed downtown areas⁸.

Table 1: Indigenous Population by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>1992 Population Census</th>
<th>1996 CASEN Survey</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Indigenous Population</td>
<td>Percentage from Total</td>
</tr>
<tr>
<td>I</td>
<td>25,320</td>
<td>7.5</td>
</tr>
<tr>
<td>II</td>
<td>16,634</td>
<td>4.0</td>
</tr>
<tr>
<td>III</td>
<td>8,340</td>
<td>3.6</td>
</tr>
<tr>
<td>IV</td>
<td>20,961</td>
<td>4.2</td>
</tr>
<tr>
<td>V</td>
<td>65,270</td>
<td>4.7</td>
</tr>
<tr>
<td>VI</td>
<td>38,004</td>
<td>5.5</td>
</tr>
<tr>
<td>VII</td>
<td>34,899</td>
<td>4.2</td>
</tr>
<tr>
<td>VIII</td>
<td>130,874</td>
<td>7.5</td>
</tr>
<tr>
<td>IX</td>
<td>145,364</td>
<td>18.6</td>
</tr>
<tr>
<td>X</td>
<td>71,106</td>
<td>7.5</td>
</tr>
<tr>
<td>XI</td>
<td>3,473</td>
<td>4.3</td>
</tr>
<tr>
<td>XII</td>
<td>5,105</td>
<td>3.6</td>
</tr>
<tr>
<td>RM</td>
<td>433,035</td>
<td>8.2</td>
</tr>
<tr>
<td>Total</td>
<td>998,385</td>
<td>100</td>
</tr>
<tr>
<td>Urban</td>
<td>794,952</td>
<td>79.6</td>
</tr>
<tr>
<td>Rural</td>
<td>203,433</td>
<td>20.4</td>
</tr>
</tbody>
</table>

7.7 According to the 1992 population census, the Mapuche is the largest indigenous group in Chile, followed by the Aymaras and Rapanui⁹ (see Table 2). From 1993, Chilean law (No 19.023 D.Of. 05-10-1993) recognizes 8 different indigenous groups (Mapuche, Aymara, Atacameño, Rapanui, Colla, Quecha, Yagan and Kawashkar). In this regard, the 1996 CASEN survey, reports (see Table 2) members for the 8 groups. However, it should be mention that ethnographic and linguistic studies suggest that

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⁷ Chile is probably the country that has the highest ratio of urban indigenous population from the region, where indigenous peoples are mostly rural. Different studies suggest that a large proportion of the indigenous population from the region is rural, ranging from 80% in the case of Guatemala to 50% in Peru. See Psacharopoulos and Patrinos (1994) Indigenous Peoples and Poverty in Latin America. An Empirical Analysis, The World Bank; CELADE (1994) Estudios Sociodemográficos de Pueblos Indígenas, CELADE; Jordan (1990) Poblaciones Indígenas de América Latina y el Caribe, FAO/III.

⁸ For further information see Rodrigo Valenzuela (1995) “La Población Indígena en la Región Metropolitana” and by the same author his study “Población Urbana en Chile” (1998), Documento de Trabajo No 8, MIDEPLAN, Departamento de Evaluación Social, Area Indígena. Also, Tabilo et al. (1995) Las Agrupaciones de Residentes Aymara Urbanos en el Norte de Chile: Adaptacion a La Ciudad y Vinculos con las Comunidades de Origen, Taller Estudios Aymara

⁹ The 1992 census only included three groups (Mapuche, Aymara and rapanui), which represent about 95% of the total indigenous population.
besides the Mapuche, Aymara and Rapanui, only two other indigenous groups could be found in Chile (the Quechua and the Kawashkar, with only a few individuals).  

Table 2: Indigenous Population by Ethnic Group

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Population % from total</td>
<td>Population % from total</td>
</tr>
<tr>
<td>Mapuche</td>
<td>928,060 93.0</td>
<td>517,125 81.4</td>
</tr>
<tr>
<td>Aymará</td>
<td>48,477 4.8</td>
<td>90,527 14.2</td>
</tr>
<tr>
<td>Rapanui</td>
<td>21,848 2.2</td>
<td>7,720 1.2</td>
</tr>
<tr>
<td>Atacameño</td>
<td>9,988 1.6</td>
<td></td>
</tr>
<tr>
<td>Colla</td>
<td>5,467 0.9</td>
<td></td>
</tr>
<tr>
<td>Quechua</td>
<td>3,436 0.5</td>
<td></td>
</tr>
<tr>
<td>Yagan</td>
<td>975 0.2</td>
<td></td>
</tr>
<tr>
<td>Kawashkar</td>
<td>138 0.0</td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td>998,385 100</td>
<td>635,376 100</td>
</tr>
</tbody>
</table>

Socioeconomic Conditions

7.8 Indigenous peoples are among the poorest and more vulnerable groups in Chile. The CASEN 1996 survey indicates that incidence of poverty is significantly higher among indigenous (35.6%) than non-indigenous population (22.7%). In average, indigenous families receive almost half the income of non-indigenous families, and 65% of the families are within the lowest two quintiles compared to 44% for non-indigenous. Most economically active indigenous people are in unskilled jobs (31%) and agriculture and fisheries (25%).

7.9 Schooling among indigenous peoples is about 2.2 years below the average years of schooling for the non-indigenous population (9.5). In the case of rural Mapuche population, 80% of household heads have less than 4 years of schooling, and only 3% of the rural Mapuche population above 15 years has some type of education beyond high school. Overall educational attainment and performance among indigenous population is very low. Furthermore, according to the ranking of the national system for measuring the quality of education (SIMCE), from the 44 municipalities with the lowest scores, 26 of them are municipalities with high concentration of indigenous peoples.

10 However, it should be mention that this proposition has been under severe criticism from academics and indigenous organizations. See Sanchez, “Estado Actual de las Lenguas Aborígenes en Chile” in Boletín de la Academia Chilena de la Lengua No 71. The issue that has been questioned is the validity of self-identification (as the only criteria used), vis a vis the command of the language, the identification by other individuals, and the belonging to family or groups that also identify themselves as members of that particular group.

11 Rapanuis living in Easter Island (Isla de Pascua) are the only exception to this rule. According to the CASEN 1996 survey, poverty incidence in the island is only about 3%.

12 For further information see Ministerio de Educación de Chile (1997) Compendio de Información Estadística.
7.10 Regarding access to health services, about 80% of the indigenous peoples relies on public health services and have no access to private medicine, compared with only 43% of non-indigenous population. Infant mortality among indigenous peoples is higher, particularly in rural areas where it may reach up to 50% in some municipalities. Incidence and prevalence of diseases such as diarrhea (among children), tuberculosis (among adults), and different parasitosis are higher among indigenous peoples than non-indigenous from the same socioeconomic level\footnote{See Bustos et al. (1997) *Deficit de Crecimiento en Escolares Indigenas y no Indigenas Expuestos a Diferentes Condiciones de Vulnerabilidad Social*. Universidad de Chile. Also Hector Gonzalez (1995), *Los Migrantes Aymaras en la Ciudad: Acceso a Educacion Vivienda y Salud*.}

7.11 With respect to housing and sanitation, the CASEN survey indicates that only 41% of the indigenous households have sewerage, compared to 76% for non-indigenous. Similarly, only 58% of the indigenous population has access to running water, compared with 90% for non-indigenous. Finally, while 92% of non-indigenous households have electricity, only 65% of the indigenous households have.

*Land*

7.12 From the rural indigenous population, Mapuches represent about 95% of the total. Most rural Mapuche are small scale subsistence farmers that combine on-farm activities (mostly wheat/potato and livestock production and subsistence agriculture) with off-farm activities (seasonal work and petty commerce)\footnote{See Annex O (Volume II) of "Chile. Strategy for Rural Areas. Enhancing Agricultural Competitiveness and Alleviating Rural Poverty". The World Bank (1994). For a detailed analysis of the survival strategies of rural Mapuches see Gacitúa and Bello (1992) "10 Years Of Land Division A Study Of Three Mapuche Communities In Southern Chile", paper presented at the 1992 meeting on the International Rural Sociological Association.}. Overtime, the survival of rural Mapuches has become increasingly difficult due to the decreasing amount of land available for family farming, the lack of local employment opportunities and the poor quality of the services available to them.

7.13 Until the end of the Spanish rule, Mapuche people possessed a territory of almost 10 million hectares which was recognized by the Spanish Crown in the Treaty of Quilin\footnote{Mapuche leaders have also substantiated this demand based on several other treaties, called "Parlamentos", such as the *Parlamento de Negrete* (1803). Mapuche representatives at the UN working Group made reference to several of these treaties which have not been yet fully reviewed in the UN "Commission of Human Rights Study on Treaties, Agreements and other Constructive Arrangements between States and Indigenous Populations". See also, Aylwin, José. 1990. "Tierra Mapuche: Derecho Consuetudinario y Legislación Chilena". Pp.333-354 en Entre la Ley y la Costumbre}. After independence, the newly created Chilean state begun an aggressive colonization scheme to expand the agricultural frontiers and consolidate its control over the territory. In addition continuous land divisions due to population growth resulted in the average farm size per person decreasing progressively from 6.1 ha/inhabitant in 1884 to 1.9 ha/inhabitant in 1963 to less than 0.8 ha/inhabitant in 1980\footnote{See Gacitúa (1992) "Fundamentos Socio-Económicos, Culturales y Jurídicos para el Establecimiento de un Banco de Tierras para Pequeños Productores Mapuches en Tres Microregiones de la IX Región" Informe de Consultoría Instituto Nacional de Desarrollo Agropecuario (INDAP).}.
7.14 From the initial resettlement in reservations to the current situation, it is possible to differentiate five different periods regarding the legal framework that regulated the indigenous’ land tenure system:

(a) **Reservation and Resettlement**: Between 1880 and 1927 the Chilean government granted Títulos de Merced to indigenous families. This process sought to demarcate the lands occupied by Mapuches' families, confining them to a limited territory. The imposition of the reservation system implied a severe reduction of the lands available and a break down of the material and social conditions of the Mapuche society. About 3,000 Títulos de Merced, covering some 525,000 hectares were granted. However, subsequently Mapuches lost a significant amount of their lands due to the lack of secure land titles and continuous encroachment in their lands of mostly large agricultural producers.

(b) **First Division**: By mid 1920s the lands taken from the Mapuche communities by colonist and large agricultural producers needed to be regularized. Furthermore, the expansion of the agricultural frontier required releasing Mapuches’ lands from reservation system under state protection. In 1927, a law was enacted that allowed the voluntary division of the communal lands if all household heads of the community agreed upon the division. From 1927 to 1972 almost 800 communities, about 125,000 hectares, were divided into family units, giving land titles to approximately 13,000 families.

(c) **Agrarian Reform**: After the enactment of the agrarian reform law in 1966, Mapuche's permanent demand for land gained momentum. In 1972 a new law (17.729) came into effect. A specialized state agency, the Instituto de Desarrollo Indígena was created and between 1972 and September 1973, more than 70,000 hectares were transferred to Mapuche communities.

(d) **Second Division**: This period started with the promulgation of decrees 2568 and 2750 in 1979. This new legislation prompted the division of Mapuche communities. According to the law, the owners would receive individual land titles and their lands no longer would be considered indigenous lands and protected as such. As a result, over 1,600 communities were divided 63,600 individual property titles were granted over 315,000 hectares.

(e) **Protection**: With the enactment of the Indigenous Law (No 19.253 D.Of. 05-10-93), for the first time in Chilean history, indigenous peoples were officially recognized and their lands protected. A state agency, the National Corporation for Indigenous Development (Corporación Nacional de Desarrollo Indígena, CONADI), was created and a land fund was established. As a result, from 1994 to 1999 about 112,000 hectares have been purchased, benefiting some 27,000 families.
Sociocultural

7.15 Until recently, the so-called "indigenous question" in Chile was equated with the Mapuches. All other indigenous groups were largely overlooked by policymakers (because of their small numbers and geographic isolation) and were only the concern of academics. It has been only with the explicit recognition in the 1993 law of eight distinct indigenous groups\(^\text{17}\) that Chilean society has been forced to become aware of its ethnic diversity. However, still Chilean society is a long way from changing the stereotypes regarding indigenous peoples, and developing and mainstreaming more culturally inclusive policy instruments.

7.16 In the past, discrimination of indigenous peoples has taken multiple forms, from state policies aimed at the integration of the indigenous population through the educational system, to the use of cultural stereotypes depicting indigenous peoples either as villains or noble-savages or ignorant-lazy people\(^\text{18}\). A recent survey (1999)\(^\text{19}\) shows that there is a widespread misinformation and lack of sensibility in Chilean society regarding indigenous peoples and their situation. The study concludes that most non-indigenous respondents do not recognize discrimination as an issue, while at the same time use stereotypes to describe the Mapuche and their problems. At the same time, indigenous respondents indicate they feel discriminated in several dimensions including their physical appearance, the right to use of their own language, perform sacred ceremonies, access resources, benefit from state programs, and participate in the labor market. Urban Mapuches feel they have difficulties to express and carry out their religious beliefs and ceremonies.

7.17 The educational system has played a key role as a tool for cultural assimilation as well as a channel for disseminating the Chilean view and stereotypes of indigenous peoples and history. It has been only recently that the Ministry of Education has started to review the national curriculum and to develop multicultural and bilingual educational programs. However, these have little resources and very limited coverage. Beyond the educational system, government policies have done little to increase the cultural participation of indigenous groups in Chilean society. There is no public policy to stimulate and facilitate the public expression of indigenous culture, particularly in urban areas.

7.18 Lack of public policy supporting the development and expression of indigenous culture has been a constraint for increasing indigenous participation in Chilean society. Nevertheless, equally important has been the absence of a pluricultural approach to education. Educating Chilean society to respect and value indigenous culture is essential to change the existing stereotypes. The review of the current curriculum has been a first step. However, the exaltation of positive stereotypes is not enough and does not help to resolve the issue of changing cultures that need to be recognized as such. In this regard,

\(\text{\footnotesize\textsuperscript{17}}\text{Mapuche, Aymara, Atacameño, Rapanui, Colla, Quecha, Yagan and Kawashkar.}\)

\(\text{\footnotesize\textsuperscript{18}}\text{A recent newspaper article (El Mercurio, 14 de Mayo 2000), by a well know history professor (Sergio Villalobos) triggered a strong debate on these issues that reflects the prevalent stereotypes regarding Mapuches.}\)

\(\text{\footnotesize\textsuperscript{19}}\text{CERC-Participa. “La Discriminación a los Mapuches”. Resultados Encuesta Julio-Agosto 1999.}\)
it is important to highlight that the government recently agreed with indigenous groups establishing a special commission on “Truth and History” to look into these issues. To summarize, the absence of dialogue between Chilean society, the state and indigenous groups, and the lack of agreements regarding the cultural and political rights of these groups are key problems that undermine the relationship between these actors.

7.19 While the new legal framework (19.253) represented a significant progress in the recognition of the indigenous cultures, there are still some issues that need to be resolved. Chile has not yet ratified the 1989 OIT’s Agreement 169, and the current legislation does not fully reflect its recommendations. Chile’s constitution does not recognizes special minority status to indigenous groups and there are no specific mechanisms for indigenous participation in the legislative power. Further, indigenous participation on policy decision making is limited. Indigenous peoples have little participation on the design or control over the development policies that directly affect them.

7.20 Historically, indigenous groups, particularly the Mapuche, generated a “culture of resistance” against the discrimination they experienced. This resistance was expressed through their social structure and organizations. In spite of diverse ideologies among indigenous organizations, where each one represents a specific type of leadership, which leads to different relationships with the national society, the function of group maintenance has been given greater importance, and has became a true resistance against discrimination and cultural domination.

Organizations and Social Mobilizations

7.21 There are multiple indigenous organizations among the three largest indigenous groups, representing urban and rural communities and a wide variety of objectives and interests. In the north, the Aymara People National Council (Consejo Nacional del Pueblo Aymara) represents more than 200 local and regional Aymara organizations addressing from cultural issues to agricultural production to political rights. The Consejo has become the primary interlocutor regarding Aymara issues and is the official voice when negotiating with other groups or the Chilean state. In 1997, the Consejo Aymara put out a development strategy summarizing their key demands and policy proposals which include intercultural-bilingual education, institutional development and organizational strengthening, economic development funds for indigenous communities, and regularization and protection of water rights, among others 20.

7.22 In Easter Island, the Elders’ Council, a traditionally social structure, officially speaks for the people in the island. Nevertheless, over the last year a group of islanders, linked to small tourist business has challenged the leadership of the council. The issue at stake has been the discussion of control over Government lands that would be transferred to the islanders. The Elder’s Council has advocated community management of the lands, while the challenging group is pressing for private property rights. One of the main concerns of the Council has been to keep their identity and culture, including their language. In that framework, the Council prefers to foster the island development through the gradual empowerment of the community, while reinforcing the traditional

cultural structure. It is important to highlight that the council has strong ties with other Polynesian indigenous groups, as they look towards the Polynesian basin for much of their cultural exchanges. There are a few other Rapanui organizations based in continental Chile that work on cultural issues as well as political rights. While these groups are very important for the islanders living in continental Chile, mostly students, these groups have little influence on the affairs in the island.

7.23 Finally, among the Mapuche there are several hundred rural and urban-based organizations, of which 30 or so claim to have either national or regional representativeness. Recently, some of these organizations, such as the Consejo de Todas las Tierras, the Coordinadora Mapuche Arauco-Malleco, Identidad Lafkenche, and Ad-Mapu, have been successful in getting media attention, presenting their views on key issues and mobilizing their supporters in public demonstrations. While there is no single organization that represents the Mapuche people, there is a common platform shared by most of the organizations which was developed during the National Mapuche Congress in November 1997\textsuperscript{21}. The congress proposed a policy agenda that included among others, assuring Mapuche access and/or control over ancestral lands and water rights, bicultural and bilingual education, constitutional recognition, political representation and autonomy.

7.24 Due in part to the large difference in population between the three main indigenous groups, Mapuche issues and organizations have overshadowed the other indigenous groups. Nevertheless, with the new legislation and the creation of CONADI’s council, the different indigenous groups have developed stronger coordination among themselves. Last November indigenous peoples elected their representatives to CONADI’s council. While some 83,000 were register to vote, only 20,000 participated in the election\textsuperscript{22}. The high absenteeism is explained by the fact that this was the first time indigenous peoples elected their own representatives and CONADI had been under severe criticism from some indigenous organizations (see below).

7.25 Overtime, indigenous organizations have used multiple strategies for advancing their agenda. Among these, social mobilization has been used at critical times. Recently, three elements have contributed to the development of conflict and mobilization: a) grievances regarding rights to access and control over resources, specifically land and water; b) the lack of a clear government policy and position regarding indigenous conflicts; which indigenous organizations claim has been biased and; c) the demand for autonomy and development policies that would not threaten indigenous rights.

7.26 The relationships between the government, indigenous groups, particularly Mapuches, and Chilean society in general have been strained over three main conflicts: i) the Ralco Dam, ii) forestry industry and; iii) existing legislation and the role of CONADI.


\textsuperscript{22} The council member elected are Carlos Reginio Inquiltupa (Aymaras); Sandra Berna Martínez (Atacameños); Alberto Hotus Chávez (Rapuanui), Ilario Huirilef Parra, José Santos Millao Palacios Francisco Chodiman Arnoldo Nanculef Huaiquinoa (Mapuches) José Llancapan Calfucura (Urban/Mapuche).
Ralco Dam

7.27 The dispute over the construction of the Ralco dam on the Bio Bio river, 500 kms south of Santiago, has been one of the most visible conflicts between indigenous groups, environmentalists, the Chilean government and private sector investors. The dam would create a reservoir with a capacity of 1.2 billion cubic meters of water, which would flood 3,467 hectares of land. That area is now home to 91 Pehuenche (Mapuche) families.

7.28 Tension developed over the issue of land permutations and the required approval of CONADI (under the Indigenous Law) of these swaps. Extensive negotiations took place between the potentially affected families, CONADI, and the Spanish-Chilean company Endesa, owners of the project. As a result, 11 of the affected families refused to abandon their ancestral territory, while 80 agreed to swap their property for land elsewhere offered by Endesa as part of a US$20 million resettlement plan. However, Mapuche organizations accused Endesa of obtaining agreement on the land swaps of the 80 families through deceptive means.

7.29 The approval of the land permutations sparked tremendous controversy in CONADI’s board, ultimately leading to the resignation of two successive CONADI executive directors (and two government appointed board members) who considered the permutations were incompatible with the indigenous law, which would take precedence in the dispute. The government granted Ralco the required permits and the concession for supplying electricity. After a series of court appeals by Mapuche organizations and environmentalists, the Comptroller-General’s office authorized the last two concessions on Ralco exploitation and Mapuche land expropriations. Nearly 30 percent of work on the project has been completed, and Endesa has spend some US$157 million of the planned investment of US$540 million.

Forestry Industry

7.30 The conflict between the Mapuche and the forestry industry is complex. Its origin goes back to the establishment of the reservation system and the transfer of Mapuche and state lands to private owners. After 1974, forestry companies bought significant amounts of this land. At the same time, the enactment of DL 701 in 1974 granted a 75% subsidy to the forestry industry for each planted hectare. As a result, there was a rapid growth of pine plantations in a vast territory, including Mapuche’s ancestral territories in Arauco Malleco and Cautín provinces. Many Mapuche communities lost some of their lands to forestry companies and their traditional means of survival disappeared progressively as they became surrounded by the fast-growing pine plantations which contributed to the depletion of ground water sources, making agricultural production even more difficult.

7.31 According to recent estimates at least 30 Mapuche communities distributed in the VIII, IX and X region are in conflict with forestry companies and private owners over...
some 60,000 hectares of land. During 1999, almost every week there were land occupations by Mapuche communities in the provinces of Arauco and Malleco. These incidents have resulted in occasional violence and confrontations between the police and the indigenous communities.

7.32 The conflict between Mapuche communities and forestry companies has escalated and would be very difficult to resolve for several reasons. First there is neither updated nor valid information regarding indigenous land tenure issues. Secondly, the conflict has been extremely politicized. According to some Mapuche organizations, the lands under conflict would be about 200,000 hectares, considering ancestral territories. It is very difficult to judge the legitimacy of the claims as there are no studies assessing how much Mapuche land would have been transferred.

Existing Legislation

7.33 The two previous cases highlight some of the legal issues that are been raised by indigenous organizations. These conflicts have demonstrated that there are significant limitations in the existing indigenous legislation and that there is no clear legal framework to resolve the disputes. These can be summarized into four main questions: (i) constitutional recognition and autonomy; (ii) ratification of international treaties (OIT 169); (iii) political representation and participation of indigenous peoples; and (iv) the institutional constraints of CONADI, the government agency with government appointees and indigenous representatives, to act independently, to safeguard the indigenous law and to promote indigenous participation in Chilean society.

7.34 Indigenous organizations are calling for a modification in the constitution and the legal framework. One of the proposals is that of Congressman Francisco Heunchumilla, a Mapuche who has become increasingly active in advancing indigenous rights in the Chilean Congress. The proposal calls for a constitutional amendment to grant official status of indigenous “peoples” to the various indigenous groups acknowledged in the 1993 law (19.253). This would entail a political pact -between opposed political forces- recognizing rights to indigenous peoples/nations that would allow indigenous participation in the executive and legislative powers. The proposal seeks to ensure a fair representation and participation of indigenous peoples in all institutions. It proposes the establishment of an indigenous voting register and the election of 3 senators and 10 indigenous deputies for the legislative power, as well as the popular election of additional municipal council members representing indigenous peoples in municipalities with more than 5% of indigenous population. It also proposes specific representation and participation of indigenous peoples in the regional governments. Finally, the proposal considers the creation of an elected Indigenous Congress (Parlamento Indígena) which would be in charge of setting policy, administrating national resources for indigenous development and nominating the director of CONADI or its successor. However, under the current situation it is very unlikely that the National Congress would approve the proposal developed by Congressman Huenchumilla, or other less ambitious efforts to get Congress ratification of OIT 169.

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Government Programs

7.35 Starting in 1990, the Aylwin administration (1990-1994) established a Special Commission for Indigenous Peoples (Comisión Especial de Pueblos Indígenas, CEPI), which drafted an indigenous bill that was widely discussed by indigenous organizations and the national Congress for over two years. In October 1993 the new law (Ley de Desarrollo Indígena 19.253), was approved by the congress. While the law was approved by the congress with significant modifications that curtailed its initial spirit, the law provided a new framework for developing specific policies and programs targeted to the indigenous peoples as well as mechanisms to channel resources through other regular government programs.

7.36 A government agency, the National Corporation for Indigenous Development (Corporación Nacional de Desarrollo Indígena, CONADI), was established under the Minister of Planning and Cooperation (Ministerio de Planificación y Cooperación, MIDEPLAN). CONADI was given the mandate of implementing the indigenous law through specific programs, and coordinating with other government agencies to ensure that other sectoral (health, education, etc.) resources would be accessible to indigenous peoples.

7.37 By law (Article 41, Law 19.253), CONADI’s decisions are taken by a council. The council is a policy making body composed of (8) representatives of different government agencies, and a Director appointed by the Government, and (8) indigenous representatives, elected by indigenous peoples registered to vote in the indigenous peoples voting register. This mixed composition of CONADI’s council was intended as a mechanism to ensure indigenous participation in the decision making process. However, indigenous leaders, as well as legal experts have criticized this arrangement and its outcomes because it has demonstrated serious limitations as the indigenous council members views/votes could be side stepped by the government appointed members and the director. In this regard, the Ralco case put in evidence that the system did not work as intended.

7.38 Between 1994 and 1999, CONADI has implemented four main programs: (i) Land and Water Fund; (ii) Development Fund; (iii) Indigenous Development Areas and; (iv) Culture and Education. CONADI’s total budget for 1999 was MCh$ 13,346,022 or approximately US$ 25.5 million.

Land and Water Fund (Fondo de Tierra y Aguas)

7.39 The land and water fund was established as a mechanism to address land tenure issues, including resolving land tenure conflicts (litigations) between indigenous communities and private owners. The fund has four main components: (i) land acquisition; (ii) acquisition of water rights; (iii) irrigation sub-projects and; (iv) legal support (indigenous lands). The land and water fund represents about 60% of CONADI’s annual budget. Between 1994 and 1999 the total budget of the land and water fund grew
from approximately US$ 5.5 million in 1994 to US$ 16.2 million in 1999 (see table 3 below).

7.40 About 75% of the annual fund’s budget has been earmarked for land acquisitions. From 1994 to 1999, some 125,000 hectares were acquired under the fund, benefiting approximately 27,000 families. The remaining monies have been used for irrigation (13%), legal costs (5%) and acquisition of water rights (4%).

Table 3: Annual Budget Land And Water Fund

<table>
<thead>
<tr>
<th>Year</th>
<th>US$ (million)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>5.5</td>
</tr>
<tr>
<td>1995</td>
<td>5.1</td>
</tr>
<tr>
<td>1996</td>
<td>8.1</td>
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<tr>
<td>1997</td>
<td>10.9</td>
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<tr>
<td>1998</td>
<td>10.1</td>
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<tr>
<td>1999</td>
<td>16.2</td>
</tr>
<tr>
<td>Total</td>
<td>55.8</td>
</tr>
</tbody>
</table>

Development Fund (*Fondo de Desarrollo*)

7.41 The fund was established to promote and support the development of economic activities through credit, technical assistance and training, seed money and subsidies to indigenous micro-entrepreneurs. To ensure better coordination between programs, most of the activities financed through the fund, particularly those related to small productive projects and technical assistance have been targeted to beneficiaries of the land and water fund. The annual budget for the development fund has remained almost constant over time, experiencing a significant (25%) increase only during 1999 (see Table 4 below). From 1994 to 1999, approximately 8,500 families benefited from the fund. It is also important to highlight that under the fund were financed until 1999 dissemination activities as well as a specific bicultural-bilingual education program.

Table 4: Annual Budget Development Fund

<table>
<thead>
<tr>
<th>Year</th>
<th>US$ (million)</th>
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</thead>
<tbody>
<tr>
<td>1994</td>
<td>2.8</td>
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<tr>
<td>1995</td>
<td>2.9</td>
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<tr>
<td>1996</td>
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<td>1997</td>
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<td>1998</td>
<td>2.9</td>
</tr>
<tr>
<td>1999</td>
<td>3.6</td>
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<tr>
<td>Total</td>
<td>18</td>
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</tbody>
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Indigenous Development Areas (*Areas de Desarrollo Indígena, ADIs*)

7.42 Indigenous development areas (ADI) are defined by law (19.253), as delimited geographical areas inhabited by indigenous peoples. These areas have been conceived as local planning units, used for targeting as well as coordinating different government programs to indigenous peoples. To date there are three established ADIs: (i) *San Pedro de Atacama*, (Aymara communities in Northern Chile); (ii) *Alto Bio-Bio*, (Mapuche-Pehuenche communities in the Ralco dam area); and (iii) *Lago Budi*, (Mapuche communities in the IX region coastal zone). Under study is the creation of at least 6 new ADIs in southern Chile (Lumaco, Puren, Lleu-Lleu, Chonchi, Queilen, Quellon).

7.43 In the ADIs, CONADI seeks to collaborate with other government agencies to ensure the coordination of public programs, specifically housing, education, health and public works. The ADIs are based on detailed participatory diagnostics in which the communities prioritize with local government authorities investments and government spending in the area over time.

7.44 While the three established ADIs have completed their diagnostics and designated their boards, *Alto Bio-Bio* is the most advanced regarding the developed annual investment plans. In total, the *Alto Bio Bio* ADI has channeled almost US$ 6.8 million from different government to this area (see Table 5 below).

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<tbody>
<tr>
<td>Alto Bio Bio</td>
<td>2.18</td>
<td>3.17</td>
<td>N/A</td>
<td>6.83</td>
</tr>
<tr>
<td>Lago Budi</td>
<td></td>
<td></td>
<td>1.48</td>
<td></td>
</tr>
<tr>
<td>San Pedro de Atacama</td>
<td></td>
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<td></td>
<td></td>
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</tbody>
</table>

*Planned

Culture and Education (*Cultura y Educación Indígena*)

7.45 This program involves two main activities: (i) intercultural and bilingual education program and (ii) the scholarship program. The intercultural and bilingual program was recently created (1998) and has little resources to develop independent activities or to support other ongoing programs addressing intercultural and bilingual issues. In 1998, total budget for this program was about US$ 1 million and in 1999 it went down to US$ 895,000. In this regard it is noteworthy to mention the collaboration between CONADI and the National Board of Childcare Centers (*JUNJI*) in Temuco piloting bicultural childcare centers.

Sectoral Programs

7.46 As any other citizen, indigenous peoples are eligible for social benefits and assistance including (i) subsidies for families below the poverty line (*CAS*); (ii) primary health care; (iii) food subsidies for students (primary and secondary) in low income
schools; (iv) housing subsidy; (v) unemployment benefits; (vi) technical and financial assistance for productive projects (FOSIS); and (vii) vocational training. In addition to these benefits and the specific programs described above, some sectoral ministries have programs targeted to indigenous peoples.

**Education**

7.47 The indigenous scholarship program managed by the Ministry of Education started in 1991, providing support only university/technical education. In 1992 basic education and high school scholarships were also included into the program. The program has grown from 5,000 annual scholarships in 1994 to 14,000 in 1999. In 1998, the distribution of the scholarships by educational level indicated that 53% of the scholarships went to basic education, 27% to high school students and 20% to higher education. Although high school and basic education scholarships have increased over time, there still is a great demand for more scholarships, particularly in rural areas. In addition to the scholarship program, the Ministry of Education also runs Indigenous Homes (dorms) for students. These homes provide the students with food and shelter as well as facilities to study. Nevertheless there are only a few and with limited capacity. In Santiago, for example, there is only of these homes, with a capacity for less than 30 students.

**Health**

7.48 Starting in 1996, the Ministry of Public health launched a special program (**Programa Salud y Pueblos Indígenas**), in seven regions (I, II, III, VIII, IX, X, XIII), aimed at increasing access and quality of services provided to indigenous communities. This program involved the training of health staff working with indigenous peoples on intercultural health issues, appointment of intercultural health facilitators in some rural areas with high concentration of indigenous population and support field research on epidemiological and sociocultural factors relevant for indigenous health.

**Agriculture**

7.49 Although INDAP does not have a specific program for indigenous beneficiaries, it has provided support though its current programs to indigenous small farmers. Nevertheless, due to the program’s eligibility criteria the poorest Mapuche farmers are not eligible to participate. At the same since the program operates in a decentralized manner through private sector providers, these have neither incentives nor experience to work with indigenous communities which require special attention.

7.50 Regarding other programs, it is important to mention the social fund (FOSIS) special program to support reforestation among indigenous communities. Also, the Ministry of Housing has special procedures for indigenous applicants to the rural housing subsidy. Similarly, the rural electrification program has targeted indigenous households.
August 1999 Pact

7.51 In May 1999, the Government established an Indigenous Development Task Force, comprising key public figures and indigenous leaders. This group had the task of identifying key issues and proposing policy aimed at improving indigenous peoples’ quality of life. The task force worked for almost three months meeting with indigenous leaders and communities across the country. As a result the task force produced a diagnostic shared by all its members and proposed a public policy agenda that was translated into a development plan (Pacto de Respeto Ciudadano), announced by President Frei on August 5, 1999. The three year investment plan of approximately US$ 270 million, was presented as an answer to the urgent demands of indigenous peoples. The objectives of the plan were to develop a multicultural and inclusive society and to promote indigenous participation and the mainstreaming of their cultures. The plan involved 5 areas: (i) infrastructure; (ii) economic development and productivity; (iii) culture and identity; (iv) health and (v) education. The plan included 23 measures such as constitutional recognition, ratification of article 169 of the International Labor Organization Treaty, debt relief for indigenous peoples in need, new loans, special funding and subsidies for indigenous families, increased scholarships, development of bicultural educational programs, more health coverage, special housing programs, and construction of roads in indigenous communities, among others (see annex 1).

7.52 This pact was the culmination of multiple indigenous mobilizations frustrated with the real limitations of CONADI in handling the “indigenous problem” and community meetings held by government representatives with indigenous leaders. The government bypassed CONADI, created the task force and sent high government officials to address indigenous demands. The plan was view by some as a positive sign that the government was finally attempting to address indigenous issues. Others²⁵, quickly questioned the political intention of the plan, launched a few months before the presidential election, and argued it had no long term sustainability.

7.53 The plan came under fire by Indigenous leaders soon after it was announced. Indigenous leaders claimed that the plan involved little new investments (above those already planned under the sectoral tri-annual budgets), and that the moneys were those regularly assigned to government services in the regions. In any event, the empirical question that remains is whether the US$ 90 million per year assigned by the government would be enough to match the needs and to resolve the structural problems indigenous leaders are pointing out. In this context it is important to indicate that if the 150,000 hectares that the Mapuche are claiming (and the government has promised) were to be bought by the Land and Water Fund at market value, this investment would be approximately US$ 225 million, not considering any additional investment in water rights, productive infrastructure, or training. Also, it is important to mention that the plan is mostly targeted to rural Mapuche. Aymaras, Quechuas, Rapanui have been marginally

considered. Further, urban indigenous groups have not been specifically contemplated in the plan.

III POLICY ISSUES

7.54 At the beginning of the 1990s, the situation of indigenous peoples in Chile was critical. The existing legal framework at that time neither recognized indigenous rights whatsoever nor provided special mechanisms for addressing indigenous peoples’ issues. Indigenous peoples had almost no participation in government or policy making. Poverty among indigenous peoples was significantly higher than among non-indigenous population. In the case of Mapuches, as a result of several laws (DL 2.578 and 2.750) there had been a systematic loss and fragmentation of indigenous property. Racial and cultural discrimination against indigenous peoples in every-day life were not even considered an issue.

7.55 The Nueva Imperial accord signed between indigenous leaders and the future Aylwin administration on December 1989, the establishment of CEPI, and later on the passing of the indigenous law on October 1993 changed the framework for addressing indigenous issues in Chilean society. As a result, a significant improvement of the conditions of indigenous peoples has taken place over the last decade. Nevertheless, the current situation indicates there is a crisis in the relationship between Chilean society-State and indigenous peoples (both urban and rural). There are five main policy issues that require special attention: (i) Legal/Institutional; (ii) Organizational; (iii) Participation and Autonomy; (iv) Access to Resources; and (v) Culture and identity.

Legal Institutional

7.56 The legal framework dealing with indigenous issues and the institutional arrangements resulting from that framework need to be improved. The current legislation has significant limitations that make it difficult to resolve the current crisis. First, law 19.253 does not provide for a constitutional recognition of indigenous peoples as distinct groups with special rights. Similarly, there is no ratification of article 169 of the International Labor Organization treaty. Indigenous leaders have already proposed a new indigenous bill addressing these two issues, as well as the right of indigenous peoples to elect their own representatives to the congress and local governments.

7.57 Second, at the operational level, the institutional arrangements have proven inadequate. CONADI’s board mix composition (indigenous representatives elected by universal vote and government representatives appointed by the executive) is not working as it was intended. Indigenous participation has been subordinated to “national interests” when conflict has arisen (such as in the case of the Ralco dam and other emblematic development projects). It seems that CONADI has not been able to provide or develop...
the mechanisms for allowing independent indigenous participation. At the same time, CONADI appears with severe constraints to advance a clear and unequivocal government policy towards the indigenous peoples. As a result, decisions over sensitive issues in which there is no agreement among the Board members are delayed or carried out without the support of the indigenous representatives which are a minority (8 to 9) in the board. This situation has generated frustration among indigenous peoples and increasing mistrust on CONADI and the government in general.

7.58 From an operational standpoint, CONADI, as the sectoral institution in charge of implementing the indigenous policy, lacks the resources and staff required to carry out its responsibilities. CONADI executive staff has systematically requested more resources for increasing the staff and expanding their activities. However, due to fiscal constraints, CONADI has not received the funds to go up to the required level of operations. Despite the budget increases in 1999 (17.7%) and 2000 (22.5%), still CONADI does not have enough funds to respond to the demands coming to the Land and Water Fund or the Development Fund. Particularly critical is the situation of the culture and education program which from 1998 has experienced a decrease of 10% in its budget.

7.59 Finally, another important issue that needs to be resolved is the lack of consistency between the current indigenous law and other regulatory frameworks such as the electric and water laws. Again, the Ralco dam has put in evidence discrepancies between these legal frameworks needs to be resolved. Issues such as water rights, requisites for land swaps, and the final precedence of each of these regulatory frameworks have different interpretations that need to be harmonized to ensure proper resolution of the current conflicts. Under the current legislation and institutional arrangements, or if a new indigenous law is passed in the future, it is essential to resolve disputes over competence between different legal frameworks addressing indigenous issues. Legal studies are required to assess which legal framework takes precedence under what circumstances and, if needed suggest modifications to these regulations to ensure the existence of transparent and consistent norms and regulations.

7.60 Under the current legislation, it would be advisable to revise CONADI’s regulations and operational procedures. Existing institutional mechanisms would need to be adjusted. In this regard, there could be two alternative scenarios. First, if indigenous representatives would not have the power to affect government decisions at CONADI’s board, it would be best to have an only-government appointed board. In this case, indigenous participation could be channeled mainly through their organizations and potentially elected representatives to the National Congress in the long term. The second alternative would be to increase the autonomy of CONADI’s board to define policy issues, administer resources, programs and projects.

Organizational Development

7.61 Most indigenous organizations are weak and lack strong coordination among themselves. Further, the existing organizations (urban or rural) have been unable to generate large grassroots support. Each organization has a small group of supporters (or clientele) and most indigenous peoples (particularly among the Mapuche) do not feel represented by the existing national level organizations. There is a problem of
representativeness which poses a serious challenge for indigenous organizations. While the existence of multiple organizations will continue to be a reality, and it could be argued is a strength of the indigenous movement in Chile, the need for coordination and establishing common strategies aimed at increasing representativeness and participation at all levels is crucial.

7.62 There is an urgent need for organizational development and institutional strengthening. Indigenous organizations need training to develop a new generation of leaders that will be more responsive to their membership and capable of coordinating among themselves. Strengthening indigenous organizations is a crucial condition to ensure broad representation and participation of the indigenous peoples at all institutional levels, from the National Congress to the local governments. Today, most indigenous organizations and their leaders have not developed the skills and expertise required to take full advantage of the existing institutional mechanisms. Further, by strengthening a wide range of organizations the existing problem of lack of representativeness of some of the current leaders will be minimized as more organizations will be able to participate in the political arena and become valid interlocutors with the state and other civil society organizations.

7.63 It would be advisable to develop an organizational development and institutional strengthening program targeted to local and regional indigenous organizations. Special attention would need to be given to urban organizations, trying to facilitate the dialogue and coordination between urban and rural organizations, as well as organizations from the different indigenous groups. In this regard, CONADI could play a key role in implementing this program, as well as other government agencies already involved in similar activities, such as the Ministry of Education, Instituto Nacional de la Juventud, and Secretaria General de Gobierno. Also, it would be highly desirable to include in its definition and implementation non-governmental organizations and academic centers already working with indigenous peoples along the country.

Access to Resources

7.64 The issue of access to resources should be carefully analyzed as it has different dimensions for urban and rural families as well as for the different indigenous groups. Increasingly, the indigenous population in Chile will become more and more urbanized. This fact does not necessarily mean that the absolute number of indigenous families living in rural areas will decrease substantially. Rather, it indicates that a growing proportion of indigenous peoples will live in urban settings.

Urban

7.65 In the case of the urban indigenous population the key issues regarding access to resources are related to: (i) human capital; (ii) labor market discrimination; and (iii) access to capital. Regarding human capital, most of the indigenous peoples living on urban centers or migrating to them do not have the technical skills required to have access to better employment opportunities. In fact, most of the urban migrants end up
working as unskilled construction workers (males), domestic services (females); food industry/service employees (males and females). In the case of Mapuches living in small towns and secondary cities, there is also a significant proportion (males and females) which combine seasonal agricultural work and informal sector activities.

7.66 A further problem (that will be analyzed in detailed below) is that even when a indigenous worker has the required technical skills he or she faces a strong labor market discrimination. There are multiple examples of this blunt discrimination from professionals to middle level technical staff, but more importantly among skilled and non skilled workers that are subject to race-based discrimination in hiring and dismissal practices affecting female categories of occupation such as secretarial work, as well as male-dominated categories, such as construction.

7.67 Finally in the case of urban (as well as rural) small/micro entrepreneurs or self employed workers they face significant constraints accessing (seed or operational) capital for starting and/or expanding their activities. First, the issue of discrimination plays a significant role in limiting their access to credit. Secondly, lack of collateral and poor knowledge of the system restrict their access too. In this regard, the Development Fund established by CONADI is filling a gap. Nevertheless, the budgetary constraints of CONADI has imposed a severe cap to the program.

Rural

7.68 In the case of the rural indigenous population there are two main issues that are the most conflictive ones and have capture all the media attention: (i) land access/control and (ii) access/control of water rights. The land problem affects primarily the Mapuche rural population, while the water issue is relevant for Aymara and Quechua as well as Mapuche communities.

Land

7.69 Since their forced confinement to reservations the Mapuche people has demanded compensation and rehabilitation for what they consider a historic debt that the Chilean State and society have for depriving them of vast areas of their land. Estimates suggest that by the late 1970s, Mapuche communities had lost some 250,000 hectares from the original Títulos de Merced27. Today, Mapuche leaders demand land compensation. This compensation would range from 150,000 hectares for the more conservative estimates made by some leaders that only seek the restoration of the land granted in the Títulos de Merced (for example the Mapuche organization Ad-Mapu as well as other Mapuche leaders that are in CONADI’s board) to more ambitious demands that indicate as goal the indigenous territories occupied before the settlement in reservations, or about 1 million hectares (as the Consejo de Todas las Tierras headed by Aucan Huilcaman has suggested), to others than do not set a specific target but leave it open and related to the establishment of

territorial autonomy. In this regard, it is important to note that during the recent presidential campaign promises were made to restore 150,000 hectares, which would represent the restitution of the lands granted under the *Títulos de Merced*. Land (and territory) is a key component of the Mapuche demand in particular and of indigenous peoples in general. For Mapuches land is a central component of their world-view, not only as a mean of subsistence but also as an integral part of their identity and relationship with Chilean society.

7.70 Addressing the legal-civil dimension of the land question is a necessary step to resolve the current crisis. Recognizing the land rights indigenous groups have is a necessary step to in part compensate them for material losses as well as to rehabilitate them from the historical and socio-cultural perspectives. However, it is essential to keep in mind that the restoration of land does not guarantee the development of socially and environmentally sustainable strategies and does not resolve the long term problem of rural indigenous poverty and increasing land pressure (due to simple demographic growth).

7.71 Land access is a difficult bottleneck for Mapuche small farmers. Most rural indigenous families have little land in rapidly deteriorating environments with few productive alternatives. However, even if the land available to these families would be doubled from 5 hectares per family to 10 hectares, or tripled to 15 hectares per family, most of these rural Mapuche families would not be able to get enough income as to move out of poverty solely based on an on-farm-based production strategy (including agricultural production, forestry, livestock, etc.). The development of sustainable natural resources management and agricultural production strategies is necessary to generate a subsistence basis. But these need to be in combination with off-farm productive activities, which are essential to ensure the sustainability of the small family farm units. Further, generating off-farm employment opportunities and providing training to the young rural indigenous population is essential to facilitate their out-migration and insertion in the labor market.

**Water**

7.72 According to the water legislation (*Código de Aguas*) passed in 1981 and the constitution of Chile, individuals or enterprises, can obtain private water rights by receiving a grant from the state for new water sources, by prescription or by purchasing water rights, which are fully tradable and transferable. The law differentiate two types of water rights: (i) consumptive, which entitle the owner to completely consume the water without any obligation to replenish it, or (ii) non-consumptive, in which the holder must restore the water at a stipulated quality and quantity. The law also distinguish different categories of consumptive and non-consumptive rights.

7.73 In 1975, the government through administrative orders froze the use of water at 1975 levels. After the 1981 water code was passed, water rights of indigenous groups

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28 See Ancan, Jose and Margarita Calfio (1999), “El retorno al País Mapuche. Preliminares para una utopia por construir” en Liwen # 5 Pp 43-78

were either transferred directly to the private sector (through prescription) or were acquired through non-contested application or bidding and subsequent registration in the water registry (Registro de Propiedad de Aguas del Conservador de Bienes Raices). As a result of the above, water rights of indigenous communities have not been regularized, or are been contested, particularly by non-consumptive users (power-hydroelectric companies).

7.74 Several conflicts have occurred among different users of water resources, particularly among consumptive and non-consumptive ones. Indigenous groups have been particularly affected by these conflicts over water rights particularly with power companies, as well as with water and sewerage companies, the mining industry, and the forest industry. In a lesser degree there have been also some conflicts with other private users.

7.75 Currently there are no estimates of how many families/communities are part of these conflicts, or how much resources are involved. Nevertheless, and indication of the extent of the problem is that CONADI has assisted over the past 5 years more than 4,500 families claiming their water rights.

7.76 Developing human capital is essential to facilitate and strengthen the social, cultural and economic inclusion of indigenous peoples in Chile. It would be recommendable to develop a technical/vocational training program specifically targeted to indigenous peoples. At the same time it would be important to strengthen the access of indigenous peoples to existing training alternatives (Ministry of Education, Technical Training Service, National Institute for the Youth) through dissemination, special recruitment programs, financial assistance (scholarships), decentralized programs, and on the job-training programs.

7.77 Regarding access to productive resources CONADI’s Development Fund has proven to be a powerful tool to facilitate access to capital to small/micro entrepreneurs and independent workers. To increase its current impact, the Fund’s financing scheme would need to be expanded to match the demand that it has. In addition to expanding the financial resources available to the fund, it would be important to develop a stronger coordination between the fund, FOSIS and training programs, to ensure that the new trainees have access to resources to put to work their skills.

7.78 Land restoration is essential for achieving a solution to the current land conflicts. The issue is defining the criteria, procedures and the time frame for completing this compensation/rehabilitation of indigenous peoples (particularly Mapuches). The first step would be to clearly map the current land tenure situation and identify the demand for land. It would be essential to identify to the most accurate level possible the current land tenure situation and the demand for land. That is, in order to develop a viable solution it is necessary to have a detailed cadastre of the indigenous lands. After having established the current land tenure situation it would be essential to assess the costs and financial implications involved and initiate a negotiation process. Thirdly, criteria, procedures and
mechanisms for implementing this measure would need to be developed\(^{30}\). In this regard it would be highly advisable to revitalize the fora\(^{31}\) established by the government with the participation of representatives of all stakeholders, including the private sector (forestry industry, power companies).

7.79 Regarding water rights, it would be advisable strengthening the efforts of the General Directorate of Waters (DGA) to complete a cadastre of indigenous communities’ water rights, as well as to foster collaboration between CONADI and DGA to arrive to a clear account of the existing water rights conflicts. With respect to the water code, it would be advisable to analyze possible modifications to it in order to: (i) make sure that indigenous water rights (consumptive/non-consumptive) are properly recognized; (ii) simplify the procedures for indigenous peoples for constituting water rights (over new waters) and registering those rights; and (iii) recognize in the case of conflicts between non-consumptive users and indigenous communities the right of the latter to participate in the administration (and the benefits) of those rights.

7.80 Finally, it would be important to strengthen the Water and Land Fund, both with staff and the resources necessaries to carry out the work above indicated. At the same time, more resources would be needed to acquire water rights. This would be of particular importance for communities that have lost their rights and for those that would eventually get more land. It would be unrealistic to think of the expansion of indigenous lands without providing the required water.

**Participation and Autonomy**

7.81 A key issue raised by all indigenous organizations is the lack of participation of indigenous peoples at different levels. It has already been mention that participation within indigenous organizations needs to be strengthened. However, the issue refers more to the lack of participation at the policy decision making level, either in the way in which funds for indigenous programs are allocated, or the administration of those programs, or the direct participation in the implementation of those activities, or the more broader absence of indigenous participation in the political and institutional system.

7.82 The demand for constitutional recognition of the status of indigenous peoples is an expression of the indigenous peoples’ desire to have full participation and control over decisions affecting them. Currently, with a few exceptions, the existing channels for participation at the local level are not working properly. Indigenous participation in the local governments is rather low. This is consequence first of the electoral/political system that does allow the expression of indigenous demands, unless they are a majority in the circumscription and, secondly, even if there are a majority, the lack of appropriate institutional mechanisms for participation and disadvantaged position of the indigenous peoples hampers their capacity to really participate. In this regard, it should be point out that the institutional mechanisms for citizens participation in the local government (such

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\(^{30}\) It would be essential to fully apply the mechanisms provided by the current indigenous law (19.253) to protect and regularize indigenous lands and implement the tax exemption provided in the law (to this end an agreement between CONADI and the Ministry of Finance would be required).

\(^{31}\) The Lagos administration recently (March 14, 2000) convoked a official “Mesa de Diálogo Indígena”.
as the municipal council and the neighborhood associations) are not used by many indigenous people who prefer their traditional organizations and networks to participate.

7.83 At the macro-level, indigenous participation in the political system and government administration is quite limited. CONADI is the only institution that has attempted to institutionalize a mechanism for indigenous participation in the management of the agency. However, as it was discussed before, this initial intention needs to be revisited in light of the existing conflicts and apparent lack of power of the indigenous representatives to effectively influence the decision making process.

7.84 Regional governments in areas with indigenous populations have no special mechanisms to facilitate or ensure their participation. The Indigenous Development Areas (Areas de Desarrollo Indígena, ADIs) could be a significant step in that direction; however, in terms of political representation, there are no direct mechanisms for the expression of indigenous views neither at the local/regional government level nor at the legislative level.

7.85 All these demand have been articulated into a much complex issue: autonomy. The demand for territorial and or political autonomy (in different degrees) has been manifested by several Mapuche organizations as well as the Consejo Aymara. In the case of the Aymaras, the demand for autonomy refers to the recognition of the Consejo Nacional Aymara (as a legislative body), changes in the electoral law to ensure indigenous representation in the local and regional governments, and changes in the judicial system to transfer the resolution of certain legal conflicts to traditional local authorities. Mapuche organizations have been much more ambitious in their demand for autonomy, which includes a territorial dimension. Even though the territorial dimension has not been clearly defined, it would include the current areas of Mapuche rural settlements in the VIII, IX and X regions32. In this regard, the bill proposed by Congressman Huenchumilla represents a clear attempt to force the discussion at the national level regarding indigenous participation in the executive power (regional governments) and the legislative power (through the establishment of an Indigenous Legislative Body, the election of a proportion of indigenous representatives to the National Congress and the election of indigenous council members at the municipal level based on the proportion of indigenous peoples in the circumscription).

7.86 There are several areas in which it would be possible to strengthen indigenous peoples participation. First, it would be important to strengthen indigenous civil society organizations. In this regard it would be advisable to develop new and expand the existing programs for training indigenous organizations and leaders. Also, it would be important to develop a communications program to disseminate information to and among indigenous organizations and communities. Along with the above, it would be important to develop second tier organizations empowered to represent indigenous interests and negotiate with the government, the private sector and other civil society

32 For a detailed discussion of this issue see Ancan, Jose and Margarita Calfio (1999), “El retorno al País Mapuche. Preliminares para una utopia por construir” en Liwen # 5 Pp 43-78, also Reiman-Huilcaman, Alfonso (1999) “Solo Tenemos porciones de tierra pero no control de un espacio territorial en Liwen # 5 Pp99-118. Finally, Elicura Chihuailaf (1999) in Recado Confidencial a los Chilenos, provides a general framework linking the demand for participation political and territorial autonomy.
organizations. Similarly, the role of traditional organizations should be strengthened by recognizing their authority to resolve conflicts within the communities and manage resources.

7.87 Indigenous participation would be greatly enhanced if municipal governments would receive specific support to facilitate indigenous participation in local government decision making processes. Municipalities need institutional and operational strengthening to develop specific mechanisms to work with indigenous peoples, particularly in rural areas, but also in urban municipalities. Extension and communication services specifically targeted to the indigenous population would contribute to promote their participation. In this regard, the ADIs constitute an innovative attempt to provide a channel for indigenous participation in the definition of investment priorities and the management of public funding in geographical areas broader than municipalities. Despite the current limitations of the ADIs which do not provide a framework for participation at the regional government level (in terms of balancing funding priorities between different investments), the procedures for establishing and managing an ADI are highly participatory and provide a real opportunity for increasing indigenous control over resource allocation and fostering political participation. In that context, it would be important to expand the number of ADIs and to provide them with additional resources earmarked for supporting and expanding the role of the coordinating units that are supposed to define the investment priorities.

Culture and Identity

7.88 Indigenous peoples in Chile have faced permanent discrimination by their different physical appearance, social behavior, beliefs, and world view; to sum up, because of their culture. Indigenous peoples have their own culture and history, which makes them different from Chilean society. Because of that, indigenous peoples have systematically experienced discrimination. Nevertheless, indigenous peoples have resisted and today they are demanding full recognition of their rights as a distinct people.

7.89 Indigenous societies have experienced significant social and cultural changes over the last 100 years. These changes have been the result of a complex process of transformation carried out by the indigenous groups to manage their conflictive relationship with Chilean society. In other words, such changes represent the elaboration by the indigenous groups of the problems emerging from their relationships with Chilean society, rather than the adoption of cultural patterns or norms imposed by mainstream Chilean society. The indigenous groups’ culture and specific group identity have changed but they have remained distinct to that of the Chilean society. Further, within each group different types of identities might have developed over time and changed according to the status of the relationships with Chilean society, in some cases leading to the denial of their own identity. But, in any case, those changes have never erased ethnic identity as inter/intra group categories. In this context, ethnic identity has recently become a source of conflict and mobilization as indigenous groups seek the status of "peoplehood" and other forms of self-determination and autonomy.

7.90 In this regard, the key problems that indigenous groups face today are related to: (i) the lack of public recognition and legitimacy of their cultural specificity; (ii) the public
use (by the government, the media, the educational system, etc.) of contradictory stereotypes that distort (and deny) their identity; and (iii) the lack of resources and support to express, to develop and to advance their cultural manifestations and identity in Chilean society.

7.91 The existing conflicts and prevalent interpretations suggest that Chilean society needs to modify its perception and attitude towards indigenous peoples. A public education and dissemination campaign could contribute to a better understanding of the issues providing coverage of (i) the current situation of indigenous peoples, (ii) the historic causes of its current situation based on the indigenous point of view, (iii) indigenous peoples’ values, norms, and social organization; (iv) indigenous peoples’ expectations and; (v) the potential and value of having a multicultural society.

7.92 Multiple actions could be taken to develop an inclusive socio-cultural environment. As a first step to achieve this objective, the Government and indigenous peoples have agreed on the establishment of an independent multicultural commission for truth and reconciliation that would look into the general issue of systematic discrimination and the specific cases of violations of indigenous rights through history. The creation of this commission could be a good instrument to develop a more permanent dialogue and would provide the basic elements for a negotiation between the Chilean state and indigenous groups.

7.93 At the educational level, the government could review the curriculum and texts used to ensure at all educational levels that potentially racists and/or discriminatory contents would be eliminated and a multicultural multiethnical approach would incorporated. Also, the curriculum could include specific sections on indigenous culture, identity and history (from the indigenous point of view), presenting indigenous cosmogony, social order, norms and values.

7.94 Regarding bicultural/bilingual education, it would be important to develop bicultural/bilingual educational programs particularly for daycare centers, preschool and primary school indigenous students in (rural and urban) areas with high concentration of indigenous peoples. To this end it would be necessary to form qualified teachers and universities would have to develop new academic programs in bilingual/bicultural education. Bilingual/bicultural educational programs would greatly contribute to establish the required educational basis. However, it would be essential to expand the secondary and higher education opportunities for indigenous students. More scholarships, access to credit, and housing facilities would be required.

7.95 The establishment of a Indigenous Cultural Fund could be an instrument to provide financial support to the expression of multiple indigenous cultural manifestations. At the same time, the National Science and Technology Commission (CONICYT) could establish a special funding program for academics working on indigenous issues to increase the knowledge on indigenous issues and to facilitate its dissemination and understanding.

7.96 Finally, it would be important to include the indigenous dimension as a criteria for assessing the impact of all pertinent government initiatives. In this regard, it would be
advisable to incorporate “indigenous impact assessment variables” in the monitoring and evaluation systems used by the different government programs to assess their outcomes and impacts.