

State Frontiers and Indian Nations: Commentary on Implications for the Mapuche and Indigenous Peoples



by Aucan Huillcamán Paillama

In cultures around the world, formal law often stands in antithesis to justice and rights. The Council of the Indies, an administrative structure that the Spanish colonial government imposed on what they deemed the "New World," legalized an oppressive system toward us as Indigenous peoples.

Historically, oppressive laws which states imposed by force suppressed persistent Indigenous uprisings in defense of our life, rights, and freedom. Today, many claim that times have changed. However, the formation of the current state has maintained the oppression initiated by these early colonial institutions. Not only were states established ignoring existing Indigenous territories, but state institutions have not been able to administer justice among Indigenous peoples.

It was not through carelessness or ignorance that the institutionalization of Spanish colonial legal systems clashed with Indigenous cultures. Many times they have made us believe, incorrectly, that through courts we can obtain justice. At other times we attempted to improve our position by submitting amendments to modify the state constitution. Although today the Chilean state has approved laws relating to Indigenous peoples, these have undermined Indigenous systems of justice.

While we are claiming our rights, justice, dignity and freedom, the ideology of colonialism continues to distort our reality as Indigenous peoples. Legal language continues to define us as "ethnic minorities" without defining the nature of our ethnic character. This ignorance reduces us to simple statistics. The state continues to deny our inalienable right to self-definition. This is a right that we as Indigenous peoples have never yielded. We have not given anyone the

right to define who we are.

An administrative division of lands carried out during the colonial period forms the basis of many of the current state borders. States, in turn, are founded through force and violence. In our perspective, we Indigenous peoples, as the real Nations, consider the founding of the nation-state as a perpetuation of our oppression. The *Criollo* (the colonial elite descended from the Spanish conquistadors) independence did not mean independence for us as Indigenous peoples. The colonial borders that were transferred to independent state boundaries are still only inventions, walls that separate Indigenous peoples. They are ideological, legal, political, and institutional walls. It is commonly said that "the walls have fallen in the modern world," and that we are quickly advancing to an integrated, developed, modern existence. Nevertheless, how do we define the walls that divide, for example, the Aymara Nation into Bolivians, Peruvians, Chileans, and Argentineans? The Mapuche Nation also has its own wall. Today, the Chilean and Argentinean border divides us.

Violence mars the history of the fragmentation of the Mapuche people. The Spaniards, upon entering Wallmapuche (Mapuche territory), imposed their will by force. Alonso de Ercilla, author of *The Araucanian*, describes the battles fought by the Mapuche in defense of their lives, dignity, freedom, and rights. Based in part on this information, the Spanish kings believed that there had been a war in Mapuche lands. Charles V made decisions based on the supposed War of Arauco, the name that the Spaniards gave to our Wallmapuche.

In 1641, before the Mapuche uprisings, limited Spanish military capacity forced the Spaniards to meet with the Mapuche. They established the first Parliament of Quillem on January 6, 1641. At this meeting they fixed the Mapuche territorial border at

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the Bio-Bio River to the south. Our territory then comprised eleven million hectares of land. The Parliament of Quillem also recognized our absolute independence in the interior of our territory. The Mapuche were forced to accept the introduction of missionaries into our territories during the summers. In addition, the colonizers requested the return of the Spaniards captured by the Mapuche.

The Mapuche demanded that the Spaniards retreat from Los Confines, which today is the city of Angol. Each time the Spaniards, in violation of the Treaty of Quillem, were militarily able to penetrate Mapuche territory, they did. After the Mapuches expelled them, they agreed to sign new treaties to delineate borders and support the political independence of the Mapuche people.

At the time of Chilean Creole Independence (1810), the Mapuche often supported the Spanish Creoles. During that period of our history, it was inconceivable that the Mapuches not ally with the independence process from Spain. Finally, the Chileans militarily invaded the Mapuche territory. This did not happen, however, until 1881; the Mapuche maintained their independence 71 years after the formation of the Argentinean and Chilean states.

To achieve the submission of the Mapuche people, the two states had to coordinate their military forces. In Argentina the military campaign was called the "Conquest of the Desert" ("desert" because whites did not live there), while in Chile it was called the "Pacification of the Araucania" (or, the "Pacification of the Savages"). Both actions were nothing short of the execution of state-sponsored genocide, sanctioned by their respective legal systems.

In 1883, Chile and Argentina permanently demarcated their state borders. In the logic of state structures, we Mapuches who remained under the jurisdiction of the Chilean state became Chileans. Those who remained under dominance of the Argentinean state became Argentineans. The unilateral actions of states are well known, and similar to the Papal Bull Inter Caetare proclaimed by Pope Alexander VI when he divided Indian territories between the kingdoms of Portugal and Castilla in 1532.

In 1990, the Mapuche organizations existing under

Chilean and Argentinean state jurisdiction began a process of decolonization. To work toward this goal, we decided to revive the emblem of the Mapuche Nation. This action provoked reactions in many different socio-political sectors. Our traditional Mapuche authorities, however, were firm and clear. In their words, the "flag is not meant to deny anything to anyone, nor to impose on anyone, nor to invade other people. Rather, it is a flag which reaffirms our identity as a distinct culture. We accept that the Spanish and Chilean people exist, in the same way that we the Mapuche exist. Because of this, we have legitimate rights to manifest our culture, our reality. The Mapuche national flag is not a conquering symbol like the flag of Napoleon Bonaparte. To the contrary, it is a manifestation of our existence within human diversity, and therefore is fully legitimate and valid."

One Lonko (a traditional Mapuche leader) said, "Now we have the following alternatives: To follow the flags of the state and of political parties, or the flag of the Mapuche Nation."

The most powerful tool that we Indigenous peoples have is that of consent. We have not resigned our fundamental rights. The day Indigenous peoples accept the concept of the state as a Nation will be the day we have given up our fundamental rights. We have consented to the state on one level when we participate in

their elections. To participate in that process is equivalent to the acceptance of a system that does not recognize us. It is also an ideological contradiction of our peoples, even if, frequently, it is the efforts of some determined leaders who push us in that direction.

Consent is our only tool for achieving change. States can continue to make laws and impose them; these will be invalid, for we Indigenous peoples have not expressed our willingness to conform. What states seek through their new colonialism is to involve us: They have designated it "participation through conference," as if the only right that we have is to be consulted. However, our true Indian liberation will begin when we assume our condition of immemorial identity, when we abandon the identities of the national states that dilute and disavow us.



Mapuche Lonko (chief) displays a flag symbolizing Mapuche unity across colonial borders.