

# **PROTOCOL OF GOOD PRACTICES FOR THE PROTECTION OF YAGHAN INDIGENOUS CULTURAL HERITAGE**

**Indigenous Yaghan Community of Bahía Mejillones**

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In Puerto Williams, dated May 13, 2017, the Indigenous Yaghan Community of Bahía Mejillones declares that, within the framework of ILO Convention 169 in force in Chile since 2009, the exercise and protection of indigenous rights must be carried out comprehensively. Therefore, it must be kept in mind that, among the minimum intangible rights of indigenous peoples, is the right to cultural integrity enshrined in ILO Convention 169 in the following articles:

**"Article 5 a)** the social, cultural, religious and spiritual values and practices of these peoples shall be recognized and protected and due account shall be taken of the nature of the problems which face them both as groups and as individuals; **b)** the integrity of the values, practices and institutions of these peoples shall be respected."

**"Article 2.1** Governments shall have the responsibility for developing, with the participation of the peoples concerned, coordinated and systematic action to protect the rights of these peoples and to guarantee respect for their integrity."

Thus, the right to cultural integrity implies the protection of the social and cultural identity, customs, traditions, own institutions and ways of life of indigenous peoples, through the exercise of the right of participation established in the following articles of Convention 169:

**"Article 6 b)** Establish the means through which the peoples concerned can participate freely, at least to the same extent as other sectors of the population, at all levels of decision-making in elective institutions or administrative and other bodies responsible for policies and programmes which concern them."

Thus, we as the Yaghan people are those who must decide the form and content of any action related to our indigenous cultural heritage.

In this sense, the Yaghan people through our Indigenous Yaghan Community of Bahía Mejillones, community heir to the millennial cultural tradition of our people, as a collective subject of rights and in exercise of our right to self-determination, come to declare our collective will to protect our Yaghan Indigenous Cultural Heritage according to the following:

As the Indigenous Yaghan Community of Bahía Mejillones, we define and recognize as our Indigenous Cultural Heritage the set of knowledge, practices and cultural expressions, traditional and contemporary, such as: our language, navigation, our food, our handicrafts, our songs and dances, our sacred and/or culturally significant sites, our memory and our history. We also consider as part of our heritage the raw materials necessary for carrying out our traditional and contemporary practices, recordings of any nature that contain elements of our heritage, our community and each of the people who comprise it, and the territory in which all the mentioned elements that compose our Indigenous Cultural Heritage are carried out, both historically and currently.

Likewise, we declare that any person or public or private entity that intends to work on matters related to our Yaghan Indigenous Cultural Heritage or that may affect it in any way, must consider the following guidelines:

### **On the existence of the Yaghan people**

1. As the Yaghan people, we are a millennial people, with approximately 7,000 years of presence in our territory, since long before the creation of the current Chilean and Argentine States with their borders. Notwithstanding the usurpation of our territory, forced displacement, kidnappings, the imposition of religious beliefs, and the prohibition of cultural practices such as language, the performance of ceremonies such as the Chiajaus and the Kina, navigation, with its current limits and prohibitions, and the hunting of our traditional foods, such as birds and sea lions; to this day our people remain fully alive, maintaining our consciousness of collective indigenous identity.

In accordance with this, we demand that the qualifier "last" not be used to refer to any member of our community.

### **On the history and memory of the Yaghan people**

2. Any official account about the history of this territory and the Yaghan people must consider the collective memory of the Community. This implies having authorization from the Community to refer to Yaghan themes and resorting to the Community as the first source to refer to the Yaghan people.

**a.** For the case of tourism. As a Community we determine that tourist activities that take place in Bahía Mejillones, Villa Ukika and other territory that the Community occupies or uses in one way or another, the historical narrative must be in charge of a guide from the Yaghan Community.

**b.** We make a call to all persons and public and private entities, national and international, such as museums, tourism companies, publishers, communication media, among others, to establish mediation to correct the data and information they have disseminated erroneously about the Yaghan people, when requested by the Indigenous Yaghan Community of Bahía Mejillones or any of its members.

**3.** We ask all persons and public and private entities, national and international, to respect and correctly disseminate the self-denomination of our people which is "Yaghan." We reject and consider incorrect the use of the term "Yamana" to designate our people.

### **On recordings of Yaghan Indigenous Cultural Heritage**

**4.** There is an urgency to recover our cultural heritage, our traditions and our knowledge from our grandparents and ancestors. In this line, we consider it fundamental to have access to all recordings (sound, audiovisual, photographic, written, among others) that contain elements of our Indigenous Cultural Heritage, regardless of when they were made and who made them.

**5.** Any recording of any nature (sound, audiovisual, photographic, written, among others) of the Indigenous Cultural Heritage of the Indigenous Yaghan Community of Bahía Mejillones or individual of any of our members, requires collective and/or individual consent, prior, free and informed, making clear the nature, purpose and destination of said recordings.

**a.** This consent will only be valid for the explicitly informed purposes.

**b.** A copy of the complete recording must remain in the hands of the Community and/or person who participated.

**6.** The use of iconography, old or contemporary photographs, audios, videos or any type of recording of the different elements of Yaghan Indigenous Cultural Heritage, must have the collective and/or individual consent of the community, the family/families and/or the person/people involved.

**7.** We make a call to all persons and public and private entities, national and international, who have recordings of any nature that contain elements of our Yaghan Indigenous Cultural Heritage, which rightfully belong to our people, requesting their restitution to the Indigenous Yaghan Community of Bahía Mejillones.

## **On handicrafts of the Yaghan people**

8. Handicrafts of Yaghan origin, in their various manifestations, are an important part of Yaghan Indigenous Cultural Heritage and property of this people, for which reason only its members can elaborate and commercialize handicrafts that indicate they are of Yaghan origin.

## **On the realization of projects of diverse nature, by persons or public or private entities, that relate to or may affect in any way the Yaghan Indigenous Cultural Heritage**

9. Any meeting with the Community must be requested with a minimum of seven days in advance, and it must be presided over by the director of the Community or the person she designates.

10. Any person or public or private entity that wishes to carry out a research, artistic, audiovisual, dissemination, educational or any other type of project related to Yaghan Indigenous Cultural Heritage, must first present their project to the Community Assembly for it to evaluate and decide on its pertinence and convenience, also establishing the terms and conditions, duties and rights of each party in the realization of said project.

11. Any dissemination of information that relates to Yaghan Indigenous Cultural Heritage must be previously reviewed and approved by the Community Assembly.

12. The Community will always have the right of co-ownership over the products that result from projects that relate to Yaghan Indigenous Cultural Heritage, regardless of who finances or carries out said projects.

## **On our territory**

13. We recognize and claim as ancestral territory of the Yaghan people the Archipelago of Tierra del Fuego, including Navarino Island and the southern islands and adjacent channels up to Cape Horn, which in Yaghan language is called Loköshpi.

14. As a people who have traditionally lived from the marine and terrestrial resources of the territory, we demand that our people have free access to traditional resources for our subsistence, such as artisanal fishing and mussel collection, as well as for our cultural practices, such as the collection of rushes and tree bark for handicraft elaboration, among others. We demand the protection of hydrobiological and phytogenetic resources present in the territory that the Yaghan people occupied and occupies or uses in one way or another.

## **Navigation as an ancestral practice linked to territory**

**15.** We declare, as a canoe people, that currently we are prohibited from ancestral navigation, which constitutes a transgression of a cultural practice, violating our right to cultural integrity established in article 5 of ILO Convention 169. Therefore, we demand that corresponding measures be taken for the restoration of this millennial right.

**Indigenous Yaghan Community of Bahía Mejillones**

**Yaghan People**