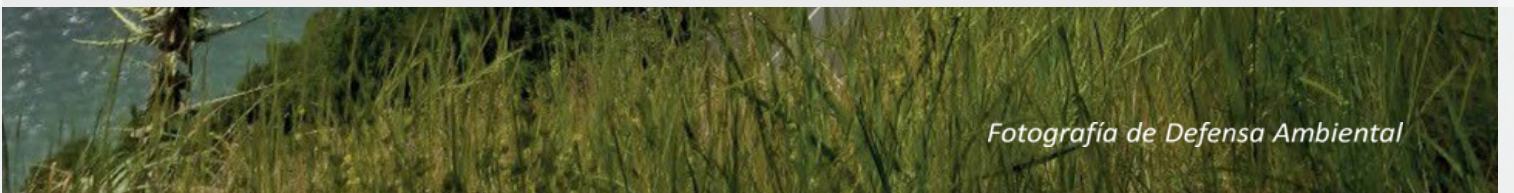




DECLARATION OF THE RIGHTS OF THE BIOBÍO RIVER



Fotografía de Defensa Ambiental

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INTRODUCTION

The main purpose of this Declaration is to establish the fundamental rights of the Biobío River, including its tributaries and basin.

This document is the result of collaborative efforts among various stakeholders from the Biobío River communities, including Indigenous peoples, scientists, civil organizations, environmental activists, local authorities, and the broader civil society. It signifies the launch of a comprehensive and ongoing campaign aimed at protecting and restoring this vital riverine ecosystem, as well as reconnecting communities with their rivers.

This initiative emerged during the [“Somos Cuenca”](#) festival, held in November 2023 in Concepción and Talcahuano. The festival featured a series of workshops that fostered participatory dialogue among attendees, introduced local communities to the topic of the rights of rivers, and contributed to the global movement advocating for the Rights of Nature.

Participants highlighted through a participatory dialogue the socio-environmental problems and threats of the Biobío River and the communities throughout the entire extension of the basin, illustrating the profound connection between the community and the River. With the collaboration of the local, regional and national community, the implementation route of the Declaration was developed, which includes various forms of awareness and the identification of relevant actors in the Biobío River basin.

The text of the Declaration was opened for public consultation between February 20 and 29 (2024) in order to disseminate the Declaration and receive comments and suggestions regarding its content. New consultation, participation and advocacy processes will be opened in the future in order to make this document a living document that reflects the community's link with the Biobío River and its tributaries.

For more information, please visit the [complete report](#) (in Spanish) that we prepared following the workshop.



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PREAMBLE

Aware that the Biobío River is the second longest river in Chile and one of the country's most significant ecosystems. The River's basin constitutes a complex ecosystem, with an exceptional mosaic of habitats and high biological abundance supported by the unique environmental and geographic characteristics of this area [1] [2]. Its vast extension and ecosystem diversity make it a crucial reserve of fresh water and source of nutrients for the multiple terrestrial ecosystems with which it interacts.

The Biobío River is part of an important regional biological corridor, linking areas from the mountain range to the sea, facilitating the mobility of fauna and the functionality of the ecosystem, and contributing to the preservation of aquatic and terrestrial species endemic to our country and in danger of extinction, such as the "Bagrecito" (*Trichomycterus chiltoni*) and the "Carmelita de Concepción" (*Percilia irwini*) [3].

Also aware that the Biobío River plays essential functions in guaranteeing water human consumption, food security and sovereignty for the riverside communities, as well as in the development of economic activities such as agriculture, horticulture, fishing, tourism, and industry.

Reaffirming the profound connection between the waters of the Biobío River and the spirituality of the Mapuche Pewenche and Lafkenche peoples. The worldview of these Indigenous communities emphasizes the necessity of managing their waters in a sustainable and respectful manner, recognizing their intrinsic value. Consequently, the Biobío River stands not only as a cultural, historical, scenic, and recreational resource for the inhabitants of the basin and the nation as a whole, but also as a symbol of cultural identity and a witness to the history of local communities.

Shocked by the synergistic and cumulative effects and threats of human activities on the health and well-being of the Biobío River, its basin and its associated ecosystems, we recognize that the Biobío River is one of the most impacted freshwater system in Chile. Among the primary impacts and ongoing threats to its ecosystems and aquatic fauna are the habitat alteration and fragmentation caused by the construction of reservoirs for hydroelectric plants [4], water extraction for irrigation and urbanization, and the development of infrastructure works such as bridges and roads [5]. Additionally, the dumping of industrial liquid waste and sewage [6], the extraction of aggregates [7], the canalization of channels, the replacement of native forest with exotic species [8] of “Pine” (*Pinus radiata*) and “Eucalyptus” (*Eucalyptus* spp.), further exacerbate these issues [9].





Diffuse contamination by pesticides and introduction of invasive species have also contributed significantly to the degradation of the river's ecosystem. These impacts, especially the loss and degradation of habitats and the dominance of invasive species, have led to a homogenization of the river's aquatic systems. This decline in biodiversity and disruption of the hydrological cycle produce adverse secondary effects, including greenhouse gas emissions, the formation of micro-dumps that trigger forest fires, and the presence of diatoms such as the “Didymo” (*Didymosphenia geminata*), which alter the river's color, smell, and overall health.

Concerned about the global climate destabilization affecting aquatic and riverine ecosystems, we find that in the Biobío River, this phenomenon manifests as rising temperatures, altered rainfall patterns, and extreme weather events. These changes directly impact the quality and viability of water and life cycles, hydrological regimes, and evolutionary processes. As a result, biodiversity is lost, and the functionality of the river's ecosystems, as well as the communities that depend on its waters— both directly and indirectly— is compromised [10].

Considering that the current legal framework in our country overlooks the intrinsic value of natural entities and fails to emphasize sustainable development in harmony with Nature, existing legislation and public policies have not provided comprehensive regulations to ensure the protection and restoration of the country's aquatic and coastal ecosystems. Instead, they favor a development model focused on excessive exploitation of Nature. This has resulted in practices that threaten the integrity of vital ecosystems such as the Biobío River. It is therefore urgent to rethink legislative and political strategies to permanently recognize and protect Chile's rivers.

Remembering that at the international level, Chile has signed numerous instruments that establish the foundations for guaranteeing the protection of freshwater, the right to a healthy environment, and the human right to water, including the [Convention for the Protection of Flora, Fauna and Natural Scenic Beauties of America \(1967\)](#), [Convention on Wetlands of International Importance \(1981\)](#), the [Inter-American Convention on Human Rights \(1990\)](#), among others. We especially highlight the [United Nations Charter for Nature \(1982\)](#), the [Kunming-Montreal World Biodiversity Framework of the Convention on Biological Diversity \(2022\)](#), and [advisory opinion No. 23/ 2017 of the Inter-American Court of Human Rights](#)—all instruments that recognize the need to consider the intrinsic value of Nature and its components—as a dimension of the healthy environment and as a key element to be considered in environmental decision-making and in the implementation of access rights in environmental matters and in citizen participation.



Also remembering that over 750 scientists from around the world, through the [Brisbane Declaration](#), have emphatically called for the urgent protection of freshwater ecosystems globally. Their recommendations include implementing and reinforcing environmental flows and taking appropriate measures to ensure quality of water, as well as prioritizing the conservation and restoration of a network of free-flowing and connected rivers, strengthening relevant institutions, and fostering the participation of multiple actors in the management and governance of rivers and their waters.

Guided by the fact that more than 37 countries worldwide have initiated efforts to recognize the Rights of Nature and joined the growing global movement that acknowledges rivers as subjects of rights, various nations have implemented initiatives aimed at balancing human development with environmental preservation. This recognition stems from the understanding that the health of Nature and the preservation of its ecological cycles and evolutionary processes are fundamental for the well-being of ecosystems and communities.

Countries such as Ecuador, New Zealand, Bangladesh, Canada, the United States, and Colombia have recognized rivers as subjects of rights or have granted them legal personality. They have structured their regulatory frameworks around a precautionary and ecosystem-based approach, emphasizing principles of interconnection, reciprocity, and responsibility for the protection of their hydrological systems. These global initiatives provide an inspiring framework to advocate for similar changes in Chilean policies and legislation.

Inspired by the legislative advances of various nations in the realm of permanent river protection the United States, Canada, Mexico, Norway, Finland, Spain, and New Zealand—as well as regulations that impose restrictions on the construction of dams, such as those in Slovenia, Brazil, India, Costa Rica, and Mexico [12].

We celebrate the progressive advances of the national legal framework aimed at narrowing the gaps in protection of the environment and aquatic ecosystems, such as the General Law of Environmental Bases [13], the Reforms to the Water Code [14], the Escazú Agreement [15], the Urban Wetlands Law [16], the Climate Change Framework Law [17], the Economic and Environmental Crimes Law [18], and the Biodiversity and Protected Areas Service Law [19].



Motivated by the widespread interest in protecting and restoring the Biobío River basin and its associated ecosystems, we gather through this act to celebrate its significance and recognize its inherent rights. This acknowledgement aims to ensure the preservation of its ecosystem functions and the rights of present and future generations.

Convinced that the inclusion of the Rights of Nature represents a powerful mechanism for achieving a paradigm shift in environmental protection, we believe it allows for stronger measures to mitigate climate change and reduce biodiversity loss. This approach fosters a precautionary perspective that comprehensively considers the health of ecosystems in environmental decision-making while also promoting the full implementation Indigenous peoples' rights and encouraging citizen participation.

DECLARATION

In this act we come to *declare* that:

1. The Biobío River, along with all its tributaries, is a subject of rights.
2. The Biobío River, along with all its tributaries, have intrinsic and permanent rights, which include [20]:
 - a. The right to exist.
 - b. The right to sufficient surface and underground flow to maintain the health of the ecosystems of the entire river system.
 - c. The right to free flow and connectivity from mountain range to sea for the maintenance of a sustainable hydrological regime.
 - d. The right to maintain the integrity of its structure, the ability to fulfill essential functions, life cycles, and evolutionary processes.
 - e. The right to feed and be fed by its tributaries in a sustainable manner.
 - f. The right to its ecologically determined location in the landscape.
 - g. The right to native biodiversity, free of invasive species.
 - h. The right to ecologically sustainable climatic conditions.
 - i. The right to be free from all contamination and degradation.
 - j. The right to regeneration and restoration.
 - k. The right to representation and legal standing to act before the courts of justice in the exercise of one's own legal rights and interests.
 - l. The right to exercise regular and permanent ties with the riverside communities, which includes free access to the river by them.

- 3.** Nature is an interconnected whole, with each of its systemic components acting in relation to one another to enable existence, maintenance, and regeneration. The rights recognized in this Declaration aim to ensure the health not only of the Biobío River and its tributaries but also the entire basin, encompassing all ecosystems and the natural beings within them. Each of these entities possesses, at a minimum, the fundamental rights to exist, prosper, and evolve.
- 4.** The Rights of the Biobío River basin are intrinsically and inseparably linked to Human Rights and the well-being of present and future generations. To safeguard the rights of the River, it is essential to ensure a supportive and safe environment for environmental defenders of the Biobío basin, enabling them to fully exercise their rights to information, public participation, and access to justice in environmental matters.
- 5.** We assert that the principles and rights established in this Declaration are essential for guiding decision-makers in adopting an ecosystem-based vision and precautionary approach to the development and implementation of public policies, legislation, and actions aimed at protecting and restoring the Biobío River basin. We urge national, regional, and local authorities to respect and promote this Declaration recognizing its significance for the health of the Biobío River basin's ecosystems. Furthermore, we urge these authorities to develop a sustainable development strategy that spans from the mountain range to sea, fostering the well-being of the diverse beings inhabiting the Biobío basin, acknowledging the ecosystemic value of its waters and tributaries, and ensuring the active participation of riverside communities.
- 6.** We strongly urge the relevant authorities to implement binding measures to prohibit the establishment of any future mega hydroelectric projects in the Biobío River basin. Additionally, we call for the removal of all dams and other risky and obsolete infrastructure that do not serve a compelling social or ecological purpose, or that lack full, free, prior, and informed consent of Indigenous communities and other affected communities [21].
- 7.** We call on State institutions to embrace the vision of sustainable future development advocated by the public and private entities, organizations, and communities within the territory. In this sense, the signatories commit to promoting the respect, protection, and conservation of the Biobío River, as well as, when necessary, the regeneration of the life cycles, evolutionary processes, and vital balances of the Biobío River.



FOOTNOTES

1. It is a transition zone between a Mediterranean climate to the north and a cold temperate climate to the south.
2. Díaz Burgos, ME (2017). Evaluación de los servicios ecosistémicos asociados al recurso hídrico: Cuenca del río Biobío como caso de estudio. Tesis para optar al grado de Doctor en Ciencias Ambientales con mención en Sistemas Acuáticos Continentales. Facultad de Ciencias Ambientales, Universidad de Concepción; Villagrán C & Hinojosa LF (1997). Historia de los bosques del sur de Sudamérica, II: Análisis fitogeográfico. *Revista Chilena de Historia Natural* 70(2): 241–267.
3. Reglamento para la Clasificación de Especies Silvestres, 2023.
4. Currently, five hydroelectric plants with reservoirs have favorable environmental evaluation. “Ralco Hydroelectric Plant”, owned by ENEL Generación Chile, is in the operation stage; the “Pangué Hydroelectric Plant”, owned by ENEL Generación Chile; the “Angostura Hydroelectric Plant”, owned by Colbún S.A. The “Rucalhue Hydroelectric Plant”, owned by Rucalhue Energía SPA, and the “Frontera Hydroelectric Plant”, owned by Inversiones La Frontera Sur SPA, are in the construction stage. In addition, a sixth project is planned under the name “San Carlos Hydroelectric Plant.”
5. For example, the construction of the “Concesión Vial Puente Industrial”, consisting of a viaduct and road connection works of approximately 6.4 kilometers in length, the “Costa Mar” highway projects in San Pedro de la Paz and “Costanera” in the commune of Chiguayante.
6. Among them, those issued by forestry companies such as Compañía Manufacturera de Papeles y Cartones (CMPC) with the operation of its Santa Fe Plant in the commune of Nacimiento.
7. There are numerous projects for the extraction of aggregates from the river bed, both legal and illegal. Among them, the project for the extraction of aggregates in the San Pedro de la Paz sector, consisting of the extraction of sand from the Biobío River bed in a volume of 2,100,000 m³ over a period of 3.5 years, whose environmental assessment was terminated early due to the lack of sufficient evidence to rule out the effects of Article 11 of Law No. 19,300.
8. Chiang G, Munkittrick KR, McMaster ME, Barra R & Servos M (2014). Regional cumulative effects monitoring framework: gaps and challenges for the Biobío River basin in South Central Chile. *Gayana (Concepc.)* 78(2): 109–119; Habit E, Parra O & Valdovinos C (2005). Ictiofauna de un sistema fluvial receptor de aguas servidas: respuestas a una nueva planta de tratamiento (río Quilque, Chile central). *Gayana* 69: 94–103.

9. For example, native species such as “el tollo” (*Diplomystes nahuelbutaensis*), which is in danger of extinction, have suffered fragmentation of their populations and displacements from their natural distribution. In contrast, the only species that have expanded their distribution in the Biobío River are highly tolerant introduced species typical of degraded systems such as the gambusia (*Gambusia holbrooki*) and the “carpa común” (*Cyprinus carpio*).
10. Yevenes MA, Figueroa R & Parra O (2018). Seasonal drought effects on the water quality of the Biobío River, Central Chile. *Environmental Science and Pollution Research* 25: 13844–13856. <https://doi.org/10.1007/s11356-018-1415-6>.
11. Alex Putzer, Tineke Lambooy, Ronald Jeurissen y Eunsu Kim (2022) Poniendo los derechos de la naturaleza en el mapa. Un análisis cuantitativo de las iniciativas de derechos de la naturaleza en todo el mundo, *Journal of Maps*, 18:1, 89-96, DOI:10.1080/17445647.2022.2079432.
12. Perry, D.; Harrison, I.; Fernandes, S.; Burnham, S.; Nichols, A. (2021). Global Analysis of Durable Policies for Free-Flowing River Protections. *Sustainability*. 13(4):2347. <https://doi.org/10.3390/su13042347>.
13. Ley N°19.300, que “Aprueba Ley sobre Bases Generales del Medio Ambiente”, del Ministerio Secretaría General de la Presidencia, promulgada y publicada el 01 y 09 de marzo de 1994 respectivamente, con sus modificaciones. Sumado al Dto. N° 40 de 2012 del Ministerio del Medio Ambiente que establece su Reglamento, con sus modificaciones.
14. Ley N°21.435 que “Reforma el Código de Aguas”, del Ministerio de Obras Públicas, promulgado el 25 de marzo de 2022 y publicado el 06 de abril de 2022, que modifica el DFL N° 1122 del Ministerio de Justicia que “Fija Texto del Código de Aguas”.
15. Decreto N°209 que “Promulga el Acuerdo Regional sobre el Acceso a la Información, la Participación Pública y el Acceso a la Justicia en Asuntos Ambientales en América Latina y El Caribe y su Anexo 1”, del Ministerio de Relaciones exteriores, promulgado el 06 de julio de 2022 y publicado el 25 de octubre de 2022.
16. Ley N°21.202 que “Modifica diversos cuerpos legales con el objetivo de Proteger los Humedales Urbanos”, del Ministerio del Medio Ambiente, promulgado y publicado respectivamente el 16 y 23 de enero de 2023. Acompañado de su Reglamento establecido por el Decreto N°15 del Ministerio del Medio Ambiente.
17. Ley N°21.455, “Ley Marco de Cambio Climático”, del Ministerio de Medio Ambiente, promulgada el 30 de mayo de 2022 y publicada el 13 de junio de 2022.
18. Ley N°21.595, “Ley de Delitos Económicos”, del Ministerio de Justicia y Derechos Humanos, promulgada y publicada el 07 y 17 de agosto de 2023, respectivamente.
19. Ley N°21.600 que “Crea el Servicio de Biodiversidad y Áreas Protegidas y el Sistema Nacional de Áreas Protegidas”, del Ministerio del Medio Ambiente, promulgada el 21 de agosto de 2023 y publicada el 06 de septiembre de 2023.
20. The rights listed in this Declaration are derived from comparative legislation aimed at the permanent protection of rivers and wetlands. The main sources are the Universal Declaration of the Rights of Rivers and the Universal Declaration of the Rights of Wetlands.
21. An example of an instrument that promotes these ends are the friendly settlement agreements that individuals and/or communities can sign with the State of Chile under the supervision of the Inter-American Commission on Human Rights, as has already occurred previously in cases such as the so-called “Mercedes Julia Huenteeo Beroiza and others with Chile”. Available at: https://www.ciel.org/Publications/Ralco_CIDH_Informe.pdf

AN INITIATIVE ORIGINATED IN:



PROMOTING ORGANIZATIONS:



ADHERING ORGANIZATIONS:





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