

**Rights, Conservation, and Governance: Indigenous Peoples-
National Parks Collaboration in Makuira, Colombia**

By

Julia M. Premauer

A Thesis submitted to the Faculty of Graduate Studies of
The University of Manitoba
in partial fulfilment of the requirements of the degree of

Doctor of Philosophy

Clayton H. Riddell Faculty of Environment, Earth, and Resources

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Abstract

This thesis investigates the contexts, rationales, and practices of collaborative governance between Wayúu indigenous chiefs and Parks (national parks authority) in Makuira National Park, northeast Colombia. The study looks into the Wayúu institutions for territorial governance; policies for conservation, participation and indigenous rights; and key aspects of cross-cultural park governance. The field research was based on an in-depth qualitative case study. I used an ethnographic approach with document review, semi-structured interviews, participant observation, and use of existing qualitative data. The Wayúu people have a system of customary territorial governance that comprises institutions regarding ownership, access, use, and control of territory and its resources. Wayúu sacred places in Makuira Mountains follow spiritual institutions for proper behaviour and respectful relations with supernatural beings. However, Wayúu territorial governance and autonomy is affected by broader contexts of social-political and economic processes. “Parks with People” policy seeks to enhance governance in protected areas by addressing conflicts, recognizing indigenous territories, authority, and mutual collaboration. Co-government is approached as a “signature of agreements” by Parks in Bogotá, as an “ongoing process” by Makuira National Park staff and as an “alliance” by indigenous peoples. While formal co-government process is mostly led by Parks, Wayúu institutions influence informal day-to-day practice. Most Wayúu rights are recognised however, self-determination is not fully recognised. Wayúu park staff helps facilitate cross-cultural respect and achieve more horizontal relations.

These research findings highlight the importance of collaborative approaches for conservation that address historically informed national and local contexts and conflicts that at the same time recognise territorial and self-government rights. Supporting and building upon local institutions and customary management practices are important components of a more inclusive and rights-based practice of conservation. These findings provide for a more nuanced understanding of Indigenous and Community Conserved Areas (ICCAs). While indigenous territories do have protected features; they are combined with other territorial practices that can be regarded as “incompatible” with conservation by other actors. This limits ICCAs ability to leverage for full recognition of indigenous rights. This study demonstrates that such rights recognition should happen at the constitutional level and not be attached to conservation objectives.

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Acronyms

CAR	<i>Corporaciones Autónomas Regionales</i> : Regional Autonomous Environmental Councils
CBD	Convention on Biological Diversity
CBD-COP7	Conference of the Parties
CONPES	<i>Consejo Nacional de Política Económica Social</i> : National Council for Economic and Social Policy
ILO 169	International Labour Organisation-Indigenous and Tribal Peoples Convention 169
INDERENA	<i>Instituto Nacional de Recursos Naturales</i> : National Institute for Natural Resources
INGEOMINAS	Colombian Institute for Geology and Mining
IUCN	International Union for Conservation of Nature
ICCAs	Indigenous and Community Conserved Areas and Territories
MMA	<i>Ministerio del Medio Ambiente</i> : Ministry for the Environment (1993-2002)
MAVDT	<i>Ministerio de Medio ambiente, Vivienda Desarrollo territorial</i> : Ministry for the Environment, Housing and Territorial Development (2002-2011)
MNP	Makaira National Park
MP	Management Plan
NGO	Non-governmental organisation
ONIC	<i>Organización Nacional Indígena de Colombia</i> : Colombian National Indigenous Organisation
PA	Protected Area
PCA	<i>Proyecto Colectivo Ambiental</i> : Collective Environmental Project
REM	<i>Régimen Especial de Manejo</i> : Special Management Regime
SENA	National apprenticeship service
UAESPNN	<i>Unidad Administrativa Especial del Sistema de Parques Nacionales Naturales</i> : Special Management Unit for the National Parks System

Glossary of Spanish Terms

<i>aceituno</i>	tree, genus <i>Simarouba</i> spp, produces edible olive-like fruit
<i>cabildo</i>	council
<i>campesinos</i>	peasants
<i>casimba</i>	a hole dug in the dry riverbed for drinking water
<i>cauquero</i>	small deer
<i>contra</i>	magical amulet
<i>chinchorro</i>	large hammock
<i>chirrinchi</i>	alcoholic distilled drink from sugarcane
<i>chicha</i>	corn fermented drink enrramada
<i>divi divi</i>	pod of a leguminous shrub used in tanning
<i>guanabana</i>	fruit
<i>huerta</i>	cultivation plot: a piece of land used for the cultivation of flowers, vegetables, herbs, or fruit.
<i>jagüey</i>	cistern or pool to store water <i>water reservoir</i>
<i>mamoncillo</i>	fruit
<i>mestizaje</i>	interbreeding of different races
<i>mochila</i>	woven bag
<i>ranchería</i>	place of the houses
<i>resguardo</i>	colonial institution of collective property right
<i>rancherías</i>	sparcerd settlement consisting of small numbers of homeseads
<i>palabrero</i>	<i>Wayuu</i> specialist in conflict mediation
<i>palo de brasil</i>	tree species for timber: <i>Haematoxylum</i> spp.
<i>serranía, sierra</i>	small mountain range with spiky peaks
<i>trupillo</i>	tree species: <i>Prosopis juliflora</i>

Glossary of Wayúunaiki Terms

<i>achuonii</i>	children on the father's side
<i>alünii</i>	grandchildren
<i>alijuna</i>	non-Wayúu people and things, foreign
<i>alaüla</i>	uncle, the traditional chief
<i>apüshii</i>	matrilineal extended family group
<i>ii</i> , <i>ekiwii</i>	site of mythical origin of an <i>apüshii</i>
<i>iruwa</i> (or <i>aceituno</i>)	tree from the genus <i>Simarouba</i> spp. that produces an olive-like edible fruit
<i>juya</i>	the rain, mythical male force "he who rains"
<i>kaurayawa</i>	festivity called the game of the goat
<i>pulowi</i>	supernatural female being, "mistress of wildlife"
<i>pulasu</i>	places with <i>pulowi</i>
<i>püitchipü</i>	mediator palabberos
<i>sukuaipta wayúu</i>	the Wayúu way, Wayúu law
<i>wanewtunai</i>	supernatural being, "man with one leg"
<i>wuinpumüin</i>	north eastern part of the peninsula
<i>wolunka</i>	mythical primordial woman
<i>woumain</i>	wayuu homeland to one <i>apüshii</i>
<i>yanama</i>	collective work
<i>youja</i>	spirits of the dead

CHAPTER 1: INTRODUCTION



Photo 1.1: Serranía de la Makaira *Photo: Julia Premauer*



Photo 1.2: Wayú family resting in *chinchorros* during in a funeral.
Photo: Julia Premauer

1.1 Background and Theoretical Orientation

In the context of conservation, Colombia provides a suitable setting for the study of collaborative governance approaches with Indigenous Peoples in protected areas. Three important elements coincide in the Colombian context: by law, Indigenous Peoples hold self-government and self-determination rights in their territories; there are numerous national parks that overlap with indigenous territories; and the national parks authority, *Unidad de Parques Nacionales Naturales de Colombia* (hereafter *Parques Nacionales*) has a policy in place for developing collaborative governance in protected areas. The example of how the Wayúu people and *Parques Nacionales* are engaging in collaborative governance in Makuira National Park elucidates the nuanced ways in which recognition of indigenous rights, local governance institutions and authority, are negotiated to create a strategic alliance to meet the common objective of protection of the Park territory and maintain respectful cross-cultural relations.

These elements are important to the social and environmental aspects of conservation practice in Latin American biodiversity-rich countries, as well as to the current academic debate about rights-based conservation and the importance of conservation by local communities. This case study research draws on three areas of the literature that underpin the encounters between Indigenous Peoples and parks in collaborative governance: co-management literature, commons theory, and indigenous and community conserved areas policy developments.

In the co-management of natural resources, including biodiversity in protected areas, government institutions share to varying degrees their power and responsibility with the local resource users (Berkes, 2009). A lot of expectation has been placed on co-management as a way to promote more effective natural resource management by using the capacities at both local and government levels and to enable conflict management in those instances where collective and state property rights overlap (Pinkerton, 1989; Singleton, 2000; Houde, 2007; Mabee and Hoberg, 2006). The benefits of co-management arrangements include (more) equitable relations in decision-making, efficient management, conflict resolution, and a recognition of indigenous knowledge

systems and rights (Borrini-Feyerabend *et al.*, 2004a; Armitage *et al.*, 2007). On-going challenges with co-management are the prevalent power inequalities, poor participation, bureaucratic contexts, and failure to integrate different knowledge systems in management (Nadasdy, 1999; Howitt, 2001, Kothari, 2006a). While conditions for success have been widely investigated (Singleton, 2000; Berkes *et al.*, 2001; Pomeroy 2001; Pomeroy, 2007), there is far less understanding of the social, political and cultural contexts that influence relationships, conflict solving, and the nuances in power relations (Pinkerton, 2003; Armitage *et al.*, 2009). This study looks into such contexts and situations within co-government pre-implementation in Makuira National Park.

Falling under commons theory, co-management accepts the existence of a local-level of management, but the overall governance is often multilevel (Berkes, 2007). Local and indigenous resource and territorial governance involves a combination of practices summarised as conservation-through-use and taboo/sacred areas or species protection for cultural/spiritual reasons (Posey, 1999; Colding and Folke, 2001) One way of understanding local resource practices for governing common-pool resources is through the use of a commons theoretical framework that looks at the social arrangements for property rights and institutions (rules, norms, and values) (McCay and Acheson, 1987; Ostrom *et al.*, 1999). Despite their often local focus, commons are examples of complex social-ecological systems, as they are situated very much within larger contexts or structures that have an effect on them (Ostrom, 2005; Berkes, 2006; Wilson, 2006). Within this thesis, I describe how the indigenous people of the area, the Wayúu people, manage their territory according to their customary practices, including taboo places, and locate those practices in broader regional contexts.

One example of the increased international recognition of the relevance of local governance to conservation is the relatively recent concept of Indigenous and Community Conserved Areas (ICCAs), where local and indigenous management is seen to contribute to non-local conservation objectives and goals (CENESTA, 2009). Expanding the range of legitimate social actors involved in conservation is part of a broader international trend to expand the constituency of conservation, making conservation more pluralistic and cross-cultural (Berkes, 2004; Brown, 2002). Yet

despite the international interest in expanding and using different governance regimes for protected areas (Borrini-Feyerabend, 2002), little is known about the situations that can lead to a positive (less conflictive) collaboration between Indigenous Peoples and protected area managers when self-government rights are acknowledged by the state. This case explores what the acknowledgment of indigenous rights may look like in such a context.

Over the last century, Colombia has developed legal mechanisms for the protection of biologically diverse areas and has given legal recognition to a great number of collectively owned indigenous territories, making it necessary for conventional conservation approaches and Indigenous Peoples to find ways to interact and solve conflicts. The country's main strategy for conservation is a national system of protected areas that includes state, private, and community areas. Many indigenous territories hold the legal status of *resguardo* (an institution which dates from colonial times) that grants collective land tenure for the claimant indigenous group. These areas are not for biodiversity conservation *per se*, as their owners have, at least on paper, autonomy to manage their land and sustain their culture in accordance with their own priorities. In Colombia, 29 government-run national parks overlap partially or completely with 59 indigenous *resguardos* (Riascos *et al.*, 2008).

Given this context of potentially conflicting property rights and multiple management authorities, *Parques Nacionales* developed a policy tool — a Special Management Regime — to act as an agreement among public authorities or co-government partners (broader than co-management). Indigenous Peoples have fundamental rights to territory, identity, autonomy, participation and self-determination as recognised by the Colombian state, and they frame their relation with *Parques Nacionales* in the context of these rights. *Parques Nacionales*' mission is clearly towards environmental protection and biodiversity conservation. These two priorities (rights and environmental protection) are at play when co-government agreements are negotiated, but there is an intrinsic tension between the two objectives.

The research presented in this thesis investigates the contexts, rationales and practice of collaborative governance between the Wayúu indigenous people and *Parques*

Nacionales in Makuira National Park, La Guajira. Makuira National Park has had in place since 2006 a strategy for participation to negotiate Special Management Regime or co-government agreements between *Parques Nacionales* and the Wayúu chiefs living in Makuira. In Colombia, “co-government” (Spanish *cogobierno*) refers to the kind of collaboration between *Parques Nacionales* as environmental authority with jurisdiction over a protected area, and an indigenous government (Spanish *autoridad pública especial*) with jurisdiction in their *resguardo* territory. Co-government is not primarily about resource management, but is a political agreement for territorial use planning. It is a governance arrangement that is based on the acknowledgment of indigenous authority over territorial rights and commons institutions.

1.2 Purpose of the Study and Research Objectives

The overall purpose of the research was to understand and investigate the contexts, rationales, and practices of collaborative governance between Wayúu indigenous chiefs and *Parques Nacionales* in Makuira National Park, La Guajira. The specific research objectives were:

1. To describe and analyse the Government of Colombia policy frameworks and *Parques Nacionales*’ policies, concerns and institutions for the management of protected areas that overlap with indigenous peoples’ *resguardos*.
2. To identify and document Wayúu institutions for territorial governance.
3. To investigate and analyse key aspects of the cross-cultural process for setting up formal co-government arrangements in order to reconcile *Parques Nacionales* and Wayúu governance.

1.3 The Field Context

Makuira National Park provides a very suitable setting for addressing the above research objectives due to the indigenous legal ownership of the land where the Park is located, the indigenous governance that is in place, and the recent governance approach between Parks and indigenous authorities for the Park area. The research took place in the Serranía de la Makuira; a small and isolated mountain range located in the north-

eastern part of La Guajira peninsula (Figure 1.1). The peninsula consists of a mix of flat terrain with a number of small mountainous elevations of up to 800 m; it is located in the Caribbean climatic dry belt determining xerophytic (dry-adapted) vegetation and bush savanna with patches of desert (Perrin, 1994; Vásquez and Correa, 2000). The north-east trade winds known locally as “hunger-winds”, determine rainfall, distributed in two seasons with high local variation with the main and most severe dry season from May to September (Perrin, 1994). Administratively, the peninsula is divided into the State of La Guajira (Colombia), and a narrow stripe of the Province of Zulia (Venezuela).

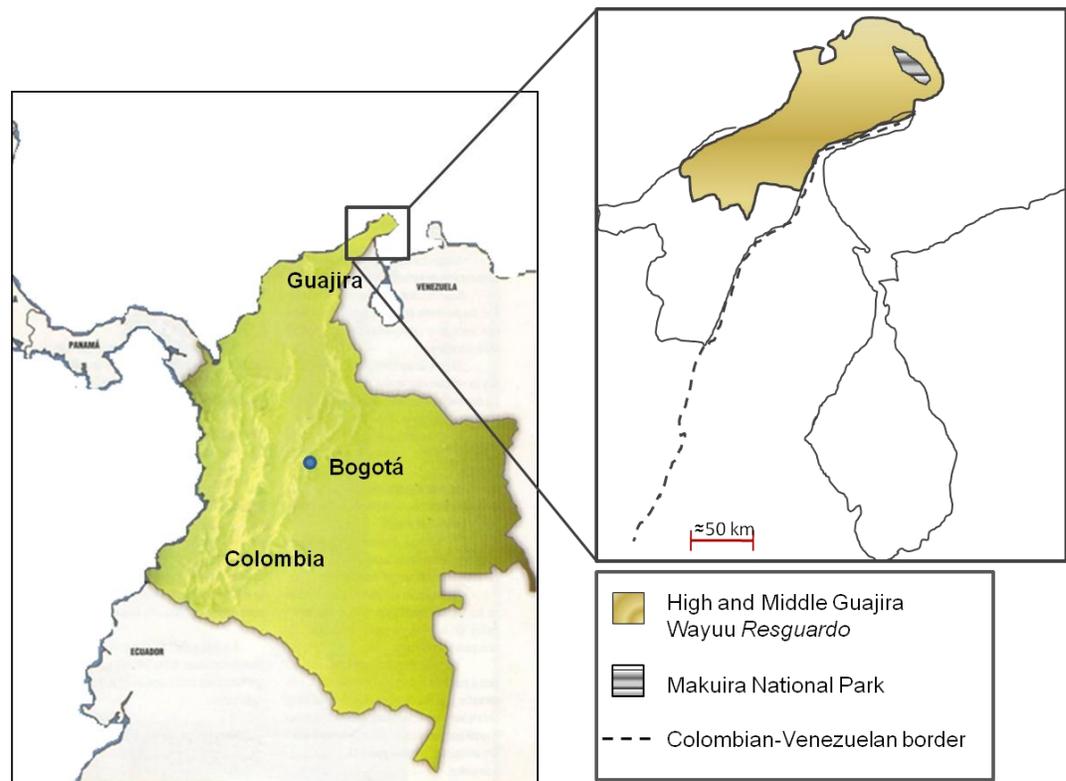


Figure 1.1 Location of Makuira National Park. (Taken from Comisión Colombiana del Océano and Hammen (2003))

La Guajira Peninsula is part of the ancestral territory of the Wayúu people, the most numerous indigenous people in Colombia with a population of 270,413 (DANE,

2007). The State of La Guajira has 98% of the Wayúu population, residing in more than 3,000 *rancherías* (dispersed settlements) (DANE, 2007). Wayúunaiki is spoken by 85% of the Wayúu population, and is thus ranked as a language with a high level of vitality (Girón, 2010). The Wayúu hold both Colombian and Venezuelan nationalities and can cross the border without restriction. The Venezuelan city of Maracaibo has a significant Wayúu population of approximately 30,000 (Vásquez and Correa, 2000). The Wayúu hold collective title to twenty-one legally recognised *resguardos*, the largest of them being the *Resguardo de la Media y Alta Guajira* (1,067,505 ha) that accounts for approximately 70% of the Wayúu population. Wayúu people have been partially marginalised by extractive industries, conservation areas, and tourism and urban development in the peninsula and surroundings. Therefore, they do not control 100% of their legally recognised territory (Vásquez and Correa, 2000).

The Serranía de la Makuira has permanent cloud forests at its peaks and upper northwest slopes, and a number of permanent streams. This contrasts with the western dry lowlands which have no permanent streams. This is due to perpendicular position of the mountains to the northeast trade winds. The maximum elevations of the Serranía de Makuira are found on the three massifs of *Jiwonnee* (735 m), *Walechi* (853 m) and *Palua/Paaluwo'u* (865 m), which are connected by low altitude topography. Makuira has five basic vegetation types: thorn woodland, dry deciduous forests, dry evergreen forest, riparian forest and cloud forest. The kind of cloud forest (dwarf cloud forest) found in the region is the only example of its kind in Colombia (UAESPNN, 2009), growing at an unusually low altitude (below 1,000 m), and almost entirely reliant on horizontal precipitation (*i.e.* fog forming in the windward side of the mountains).

Makuira National Park, established in 1977, covers 25,000 ha, and holds significant plant and bird diversity. Two studies on plant diversity in Makuira reported 345 species, grouped into 89 families (Sudgen and Forero, 1982); a more recent and less comprehensive study found 122 species, in 41 families (Rey-Cáceres, 2007). All forest types, and especially the cloud forest, have been reported to be in a very good state of conservation (Sudgen and Forero, 1982; Rey-Cáceres, 2007). Protection of the dwarf cloud forest is one of the National Park's main conservation objectives. Makuira has

been listed as an “Important Bird Area” for conservation (BirdLife International, 2011), due to its high bird endemism (140 resident bird species with seven endemic sub-species), especially in the deciduous and evergreen dry forests, as well as to its geographical location in the main north-south flyways, making it an important area for migratory species (Marinkelle, 1970, Andrade and Mejía, 1988; Rey-Cáceres, 2007).

Box 1.1 Makuira National Park conservation objectives (PNN Makuira, 2009)

1. To protect the ecosystem and natural resources existing in the bio-geographic island of Makuira National Park, as well as, the species associated with it (migratory, endemic, charismatic, endangered or of cultural relevance).
2. Contribute to the protection of territorial rights of the different Wayúu clans in Makuira Park (as a pivotal strategy to conserve the culture and the mountains).
3. To protect the hydrologic resources such as streams, springs and aquifers recharging areas, that sustain the Wayúu population in Makuira Mountains and its area of influence.

Serranía de la Makuira, however, consists of landscapes that have been shaped by agriculture, grazing and selective forest use. The land is organised in 54 Wayúu extended family territories, each one with land use divisions (*e.g.* houses, home gardens, goats’ enclosures, and sacred areas), and with their own customary authority. Approximately 2,000 Wayúu were living in 2006 in the *serranía* (PNN Makuira, 2008). Makuira also contains culturally protected features (cloud forest and other landscape elements that are valued by the Wayúu), some of them under local protection long before the area came under government conservation. It is sacred for the Wayúu because it is at the heart of the Wayúu mythological origin as a people. It has a great number of dangerous, sacred or mysterious places where appropriate behaviour is to be followed, especially in the upper parts of the mountains (Asociación Wayúu Araurayu, 2004; Premauer and Berkes, 2012).

The closest villages to the *serranía* are: Nazareth, on the North side, with a population of 1,500; Siapana on the South East side; and Tawaira on the South West side of the *serranía*. The local Wayúu, state and other actors present in the Park area are identified in Table 1.1, categorised in accordance with their relevance and involvement with the national park co-government process. State and other institutional actors located at different scales, have mixed degrees of presence in the area.

Table 1.1 State and other social actors present in the Makuira area

Institutional actors	Involvement with Park	Presence in the High Guajira	Role in Makuira and surrounding areas
Indigenous Hospital	Support	Permanent	Provides health services and has facilities in tune with Wayúu ways and needs. The staff speaks Wayuunaiki
Educational-religious institutions	Support	Permanent	Boarding schools in Nazareth (run by Capuchins) and Siapana (secular) Elementary schools (70) provide primary education in the Makuira area
Corpoguajira	Agreement for mutual support	None	Is the environmental authority for the Department of La Guajira with base in Riohacha
Mayor's Office of Uribia	None yet	Very sporadic: when elections are coming up	Municipal administrative authority, with office in Uribia. Sporadic promoters of small development projects: <i>e.g.</i> micro-aqueducts, windmills to extract water, all managed more for political favours than as a coherent development strategy.
Office for Indigenous Affairs	Requested agreement for mutual support	When required	
National Army	None	When required	With a military base in Puerto Estrella, 3 hours away from Nazareth. The National Army takes over security issues that police would normally handle, like drug raids and related arrests.
Illegal actors paramilitary groups	<i>De facto</i> local authorities	Varies from sporadic to permanent	Paramilitaries affect territories, their use of resources and the social dynamics, through actively seeking contacts and land control for commerce of cocaine

1.4 Research Methods

The field research was based on in-depth qualitative case study of the various actors involved in the governance of Makuira National Park. The case study approach was chosen because it fits well with the need for a detailed and comprehensive understanding of the relationship between Indigenous Peoples and conservation authorities in the context of protected area collaborative governance. The selection of Makuira National Park as the case study was based on a combination of location and practicality. Location refers to the cultural importance of the area for the Wayúu people, the fact that the Park is entirely inside the *resguardo*. Practicality refers to the interest of the Park Manager to share their experience of governance. Safety was also a concern; Makuira was chosen because it was judged to be one of the safer options for the study of the interaction of a national park and an indigenous group.

The data collection methods for the case study followed the ethnographic approach and used multiple sources of evidence. The first objective, involving analysis of policy and development of the co-government concept, required less ethnography and more review of government documents, as well as 11 semi-structured interviews with key informants. An ethnographic approach was used during field work in Makuira National Park for objectives 2 and 3. For the second objective, focusing on Wayúu commons institutions, participant observation in the life situations of a Wayúu family that provides tourist accommodations, informal conversations, and existing qualitative data from Park's documents were used. The third objective involved informal conversations, 14 semi-structured interviews, and participant observation in the day-to-day work of the Makuira National Park team. Methods are detailed in Chapter 3.

1.5 Main Contributions to Knowledge

Despite the trend towards a diversification of governance approaches to conservation, including co-management approaches and community conservation, there has been little discussion of what collaboration looks like in conservation contexts where rights to autonomy and self-determination have also been granted to indigenous peoples. The research carried out here contributes to debate and scholarly literature on co-

management in conservation, and recognition of rights and local conservation approaches in several ways:

Co-management of protected areas: This thesis looks at the relationship between Indigenous Peoples and the national parks authority from an indigenous co-management perspective. With a focus on pluralistic conservation, this thesis investigates how a co-management approach in a national park is dealing with recognition of rights. Colombia provides an unusual context, for three reasons. First, National Parks overlap with indigenous *resguardos*. Second, both have common threats, and finally, there is a policy in place for collaborative parks governance with recognition of indigenous rights. The governance relationship in Makuira — with its particular configuration of rights, threats and conservation through collaboration — contributes to the discussion of co-management and other joint governance experiments that includes recognition of rights.

Indigenous conservation and ICCAs: There is discussion in the ICCAs literature advocating for international and national recognition of Indigenous and Community Conserved Areas by acknowledging local management systems consistent with conventional conservation. ICCAs are also seen as mechanisms for recognition of rights and local protection against external threats. As described, the Colombian context is unique and this thesis provides an example as to why such protection and recognition of rights might be more complex than documented in the ICCAs literature.

1.6 Organisation of the Thesis

The thesis is organised into eight chapters, followed by References and Appendices. Chapter 2 covers the theoretical literature and the Wayúu cultural background. Chapter 3 then explains the methodology and specific methods that guided the collection of field data. The three results chapters develop one objective at a time, and each is organised around a set of central arguments. Chapter 4 first describes the Wayúu system of territorial governance, including taboo places, before zooming out to look at the broader regional context in which they are nested. Chapter 5 looks into the development of the “Parks with People” policy and the co-government concept from its conception to its later modifications and forms of implementation. Chapter 6 presents

formal and informal aspects of co-government pre-implementation in Makaira National Park. Based on these findings, Chapter 7 discusses co-government in Makaira as an important step in terms of building cross-cultural relations, while focusing on the key elements at play that pose both challenges and opportunities. Finally, Chapter 8 provides a summary of the principal findings, shortcomings of the thesis, possibilities for future research, scholarly contributions of the thesis, and some overall conclusions.

CHAPTER 2: LITERATURE REVIEW



Photo 2.1: Serranía de la Makuirá *Photo: Julia Premauer*



Photo 2.2: The desert landscape of La Guajira Peninsula. *Photo: Julia Premauer*

2.1 Introduction

Contemporary engagements between Indigenous Peoples and conventional conservation institutions remain contradictory worldwide. The contradiction lies in how protected areas allow indigenous peoples' to further their interests in protecting their lands, and yet more commonly lead to the displacement of indigenous inhabitants (Brockington *et al.*, 2008). By looking at documented encounters of indigenous peoples' experiences with conservation in different parts of the world, Brockington *et al.* (2008) conclude that there seem to be at least some encounters that lead to effective collaboration: indigenous protected areas (Australia and elsewhere), co-management of protected areas in indigenous peoples' ancestral lands (Canada, USA, Australia, New Zealand), pursuing common causes due to a common threat (Latin America), and collaboration through benefit sharing (South Africa).

This thesis deals with collaboration between Indigenous Peoples and the Colombian National Parks authority (*Parques Nacionales*) in the context of overlapping jurisdictions associated with an officially recognised indigenous territory and a protected area: Makuira National Park. The collaborative governance between the Wayúu and *Parques Nacionales* has not been without conflict, but has had some positive outcomes for both parties regarding protection of land. In order to better understand the regional and international context of the Makuira National Park, in this chapter I review three areas of literature that shed light on the encounters/engagements between Indigenous Peoples and conventional conservation approaches in the collaborative governance of a protected area. Figure 2.1 depicts these three areas of literature and their convergence on the topic of collaborative governance. Additionally, the chapter looks at the history and culture of the indigenous inhabitants of the region.

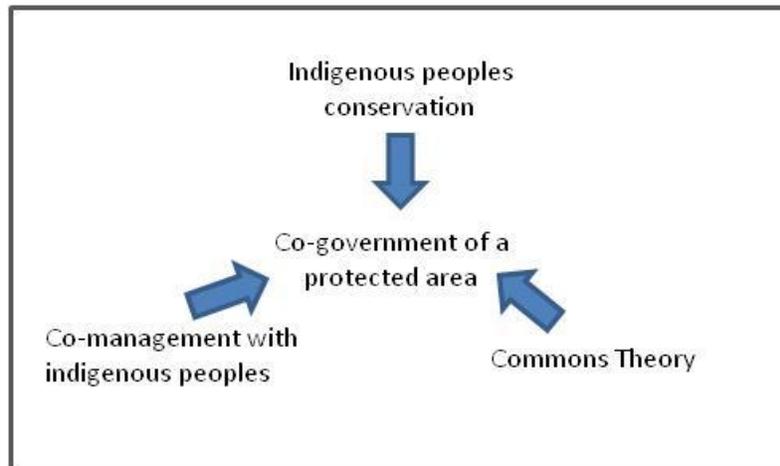


Figure 2.1 Literature areas that converge on the topic of collaborative governance

I start the literature review by looking at the role of “Indigenous and Community Conserved Areas” (ICCAs) in local conservation. ICCAs are the latest in a number of approaches that, since the 1980s, have been trying to better engage people in local conservation efforts. ICCAs deserve special attention here because they are currently being promoted as a means to both expand conservation results while also securing indigenous peoples’ livelihoods and rights (Oviedo, 2006; TILCEPA, 2008). The Makuira Mountains, the location of Makuira National Park, can be understood as a theoretical example of the ICCA concept because there are elements of local conservation in the customary institutions of the indigenous Wayúu, such as taboos on using certain habitats. Closely related to taboo areas is also the scholarly work linking spiritual and sacred sites with conservation.

The literature review then turns to the theme of Common Property Institutions and Conservation to understand how small scale societies devise property rights and institutions (rules, norms, and values) to collectively maintain resource use over time. The commons literature will help to explain how the Wayúu Indigenous Peoples relate to their land and organize the customary use of their territory. At the same time, because there is a national park in the Makuira Mountains, the thesis addresses not only indigenous management and conservation but also the intersection of indigenous territorial governance and state-led protected area management. Here is where I turn from commons theory to the third area of literature: Co-Management and Indigenous

Peoples, with special attention to co-management with Indigenous Peoples in protected areas. I discuss the conceptual and practical issues associated with co-management as an approach through which conventional conservation institutions can engage with indigenous peoples, including the challenges surrounding this form of collaboration that is increasingly taking place in protected areas. I conclude the chapter with a literature review of the Wayúu Cultural Background and a Brief Historical Perspective. The section provides the cultural and historical context on La Guajira peninsula to allow for a better understanding of Wayúu institutions and challenges for territorial governance in the Makuira Mountains.

2.2 Indigenous Peoples and Conservation

The concept of “Indigenous and Community Conserved Areas” — ICCAs for short — was coined in 2003 by the International Union for Conservation of Nature (IUCN) working group Theme on Indigenous and Local Communities, Equity, and Protected Areas (TILCEPA). ICCAs are defined as those natural areas under community governance, self-initiated by local, mobile or Indigenous Peoples (Kothari, 2006a); see Box 2.1 for a complete definition.

Community-driven conservation was being practiced for a long time before IUCN started expanding its categories of protected areas to include ICCAs. Posey (1999) has suggested, based on worldwide evidence, that biodiversity-rich areas are generally found within the lands of indigenous peoples. More recently, global evidence has demonstrated a clear overlap of areas with high linguistic and cultural diversity with areas of high biological diversity (Maffi, 2001; 2005).

Within the conservation community, experimental alternatives to conventional fortress conservation started in the 1980s, and included community-based buffer zones, benefit sharing from park employment and ecotourism, biosphere reserves, integrated conservation and development projects, community-based conservation, collaborative management, as well as the establishment of *de jure* indigenous territories (Colchester 1994). In addition, biocultural diversity has been included as a theme in the action plans of UNESCO (UNEP), the Convention on Biological Diversity (CBD) and IUCN to better

understand, work with, and support the interaction of conservation with local knowledge, language and culture (Maffi, 2007).

Box 2.1. The defining features of ICCAs (Source: CENESTA, 2009)

ICCAs are **natural and/or modified ecosystems** containing significant **biodiversity values, ecological services and cultural values**, voluntarily conserved by **Indigenous Peoples and local communities**, both sedentary and mobile, through customary laws or other effective means. ICCAs can include ecosystems with minimum to substantial human influence as well as cases of continuation, revival or modification of traditional practices or new initiatives taken up by communities in the face of new threats or opportunities. Several of them are inviolate zones ranging from very small to large stretches of land and waterscapes.

Three features can be taken as defining characteristics of ICCAs:

1. **A community is closely connected to a well-defined ecosystem** (or to a species and its habitat) culturally and/or because of survival and dependence for livelihood;
2. The community **management decisions and efforts lead to the conservation** of the ecosystem's habitats, species, ecological services and associated cultural values (even when the conscious objective of such management may be different than conservation *per se*, and be, for instance, related to material livelihood, water security, safeguarding of cultural and spiritual places, etc).
3. The community is the **major player in decision-making (governance) and implementation regarding the management of the site**, implying that community institutions have the capacity to enforce regulations; in many situations there may be other stakeholders in collaboration or partnership, but primary decision-making rests with the concerned community.

As one of the most recent alternative approaches to conservation, the question that remains is: what do ICCAs mean for indigenous peoples? I begin by describing the development of the ICCA concept and exploring the implications of granting official and international recognition to ICCAs. I then turn to a discussion of the broader literature related to cultural conservation systems. Finally, I take a look at what are considered to

be the closest traditional practices to Western conservation: area specific taboos and sacred areas.

2.2.1 Indigenous Peoples' Community Conserved Areas and Territories

The concept of “Community Conserved Areas” became part of the mainstream conservation terminology more conspicuously after 2003, with the recommendation of the Fifth World Park Congress to urge parties to the CBD to recognise and support “Community Conserved Areas” (CCAs). The recommendation describes CCAs as areas under local community control that have substantial outcomes for conservation of biodiversity. In the recommendation text, indigenous conservation areas are also included but treated separately. In 2006, the term was expanded by the IUCN Commission on Environmental, Economic and Social Policy (CEESP) to “Indigenous and Community Conserved Areas” (ICCAs) to more explicitly include both indigenous and community conserved areas. ICCAs worldwide are immensely diverse, being the product of particular cultural and historical contexts. ICCAs differ in size and scale, management practices, biodiversity value, legitimacy of governing institutions, duration, and land tenure arrangements. In 2009, the term was expanded by the ICCA Consortium taking on a political dimension with the distinction being made between community “areas” and indigenous peoples’ “territories”, a very important distinction for the recognition of indigenous peoples’ rights to self-determination (CENESTA, 2009). The acronym is still ICCAs, but it now stands for “Indigenous Peoples’ and Community Conserved Areas and Territories”.

Since the 1980s, the IUCN has been advocating for the diversification of the “Natural Park” approach to conservation by expanding protected area (PA) management objectives, and later, by broadening the range of social actors managing PAs. First, PAs management categories would also include Protected Landscapes and Protected Sustainable Use Areas (Categories V and VI). More recently, IUCN expanded its recognition of PA governance regimes to include private, co-management and community forms of governance. Work on ICCAs started in 2003 within the IUCN Commission on Environmental, Economic and Social Policy (CEESP). In 2008, the “ICCA Consortium” was established as an association of indigenous and non-indigenous

grassroots organisations and small NGOs, as well as IUCN Commissions such as CEESP and the World Commission on Protected Areas. The ICCA Consortium website (<http://www.iccaforum.org>) is the main source of information available on ICCAs. It contains documents on the development of the concept, case studies from several regions, publications, up to date recommendations for policy and research, and future plans.

IUCN interest in strengthening the visibility of and support for areas protected by local communities, and in highlighting their contribution to sustainable use and biodiversity conservation, is part of an international trend that has gained force since the 1980s (MacDonald, 2003; Borrini-Feyerabend *et al.* 2004b). According to Borrini-Feyerabend *et al.* (2004b), the search for alternative models to the classic people-free parks model is part of a larger restructuring of focus in the international conservation community fuelled by: decentralization policies, indigenous social movements since the 1970s and the international recognition of indigenous peoples' rights (MacDonald, 2003; Colchester, 2003). MacDonald (2003) also acknowledges the influence of scholarly research on traditional ecological knowledge (Posey, 1999; Berkes, 2008), on commons (Ostrom, 1990; Ostrom *et al.*, 1999; Dietz *et al.*, 2003), and critiques of conservation practices that deny their political dimensions (Ghimire and Pimbert, 1997). ICCAs have been advocated as one alternative for conserving much of the remaining world's biodiversity from development (TILCEPA/TGER, 2007; TILCEPA, 2008).

Pathak *et al.* (2004) indicate two key events that marked the breakthrough of informal conservation systems gaining international recognition as legitimate conservation efforts: (1) the Fifth World Parks Congress (5th WPC) in Durban, 2003; and, (2) the Convention on Biological Diversity (CBD) at its Seventh Meeting of its Conference of the Parties (COP7) in 2004. The Durban Accord urged parties to the CBD to acknowledge ICCAs nationally and internationally. It also recommended giving ICCAs protection and support, and provided recommendations on governance. The resulting Message to CBD suggested recognizing diverse governance regimes for PAs, such as co-management, private and community (ICCA) governance (Pathak *et al.*, 2004). The following year, CBD-COP7 followed the recommendations of the 5th WPC,

and included for the first time in its main output, the “Programme of Work on Protected Areas”, under Element 2 regarding “Governance, Equity, Participation and Benefit Sharing”, the requirement for all signatory countries to recognise the diversity of PA governance types including ICCAs (Pathak *et al.*, 2004). This has been seen as very significant, since the “Programme of Work on Protected Areas” is an international legal instrument for the countries that sign and ratify it. However, legally-binding international agreements do not oblige signing countries to pass and implement national laws, thus it is difficult to take legal action against governments that fail to fulfil their commitments to the WPC (Posey and Dutfield, 1996).

To arrive at a definition of ICCAs, the phenomenon was surveyed worldwide to reveal their diversity of names, motivations for establishment, type of management, and government recognition of land ownership. ICCAs are known in different places as bio-cultural heritage sites, community forests, community reserves, indigenous protected areas, sacred groves, and the like (TILCEPA, 2008; Oviedo, 2006). People’s motivations to establish ICCAs may be linked to conservation of natural environments for livelihood security, for spiritual, aesthetic, or cultural survival and self-defence (Kothari, 2006). The type of management may follow age-old traditional institutions (*e.g.* Indian sacred groves), or newly crafted collective institutions (*e.g.* community forests in Oaxaca) (Robson, 2007). Local social institutions for management include norms and rules, values and beliefs, and community decision-making mechanisms. Government recognition varies greatly, and the tenure status of communities is one of the most important features requiring further support. Communities might legally own the land and its resources, or have the legal right to use the resources, or they may have only *de facto* control (Kothari, 2006b).

Some ICCAs continue to survive with or without government recognition; others face important external and internal threats to their continuity (TILCEPA, 2008). While not *all* ICCAs under community control have optimal conservation outcomes, there is a great number that contribute to conservation in different ways (TILCEPA, 2008). For instance, by conserving critical ecosystems, species or ecosystem services including water, serving as corridors, or providing lesson for participatory governance, ICCAs can

be key complements to official protected area systems (Oviedo, 2006). Examples of protected landscapes such as Dhimirru indigenous protected area in Australia (Hoffmann *et al.*, 2012), community conserved multifunctional landscape in Mexico (Duran *et al.*, 2012), or management of landscape using customary and formal conservation in Kohoma, India (Broome and Hazarika, 2012) show how different kinds of community protected cultural landscapes contribute to biodiversity conservation.

The concept of ICCAs is also appealing because of the way it brings together biodiversity conservation, human well-being and livelihood protection (Oviedo, 2006; TILCEPA, 2008). It is not only an acknowledgement of a plurality of conservation practices, including conservation-through-use (Berkes, 2007a), but also the acknowledgement of fundamental indigenous rights. The ICCA Consortium regards as important the ways in which ICCAs contribute to “affirming and implementing the UN Declaration of Indigenous Rights, ILO 169, and international human rights treaties” (CENESTA, 2010, p. 2). Stevens (2010) discusses how recognition of ICCAs is based on the rights recognised by the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007) and ILO 169¹, and therefore has great potential as a way of implementing those rights. Indigenous peoples’ rights acknowledged in ILO 169 and UNDRIP are the following: rights to self-determination and autonomy; rights of ownership, control, management, and use of land and natural resources; rights to culture; rights to self-governance and to participation in decision-making.

However, such enthusiasm overlooks the fact that ICCAs are part of the international conservation community and can serve to romanticise Indigenous Peoples and further entrenched the idea that Indigenous Peoples should remain “traditional”. Thus, rights to self-determination may not be entirely consistent with support for ICCAs. UNDRIP is an instrument for rights recognition, while ICCAs may be a means to achieve some outcomes in states where several rights are not recognised, or to achieve strategic goals complementary to ICCAs.

¹ International Labour Organisation, Convention No.169 Concerning Indigenous Tribal Peoples in Independent Countries, 1989

The first report on ICCAs in South America (Bolivia, Ecuador and Colombia), carried out by Riascos *et al.* (2008), found no current discussions on the specific concept of ICCAs. However, the region has had a history of indigenous peoples' movements and national constitutions acknowledge ILO 169. Thus, there is official recognition of collective territorial tenure and other rights, with a high degree of autonomy for Indigenous Peoples as well as communities of Afro-descendants. As summarised in Table 2.1, such territories have governance arrangements that indirectly or directly coincide with the three defining characteristics of ICCAs (see Box 2.1). The first ICCA characteristic is a profound relationship between culture and nature, which is shown in South American indigenous peoples' interdependence with their environment since the time immemorial, and in communities of Afro-descendants since colonial times. Peasant communities have a sense of place more related to economic interest in the land, rather than seeing their identity tied to it.

The second ICCA characteristic relates to the effectiveness of collective territories in actually conserving nature. However, Riascos *et al.* (2008) warn that the ability to make an assessment of whether or not a community has achieved conservation depends on the collective expectations of the community for their territory and the chosen model of self-development for the use of natural resources. Therefore, not all collective territories have conservation outcomes *per se*.

The third characteristic refers to the governance and institutional arrangements for regulating relations between people and their environment. Riascos *et al.* (2008) identified four different types of governance that reflect stewardship of the environment and social self-regulation of access to, use of natural resources: (1) shamanic and customary institutions of authority for territorial governance that are normally linked with the next type of governance; (2) diverse collective governance institutions that provide representation of the community in their interactions with national government administration; (3) peasant and fisher communities with management committees and written rules to regulate their resource use; and (4) governance (including co-government

and co-management²), a common type of governance found in the region due to the high degree of overlap between protected areas and both *de jure* and *de facto* collective territories.

Table 2.1 ICCA features of collective territories in Ecuador, Bolivia and Colombia base on (Riascos *et al.*, 2008)

ICCA characteristics	Collective territories in Ecuador, Bolivia and Colombia
Strong relationship between culture and nature	Indigenous and tribal peoples (Cultural, identity, economic, and spiritual notion of territory) Indigenous peoples <ul style="list-style-type: none"> • Elaborate systems of TEK and customary institutions • Amerindian Laws of Origin for territorial ordering and management Afro-descendants <ul style="list-style-type: none"> • TEK and customary institutions • but no laws of origin for territorial management Local Communities (Economic notion of territory) Peasants and fishers <ul style="list-style-type: none"> • Local environmental knowledge • Economic management
Has led to conservation	Sustainable use/depends on the visions people have for the self-development in their territories.
Types of governance institutions for regulation of resource use	<ul style="list-style-type: none"> • Community by customary norms and rules includes shamanic institutions. • Community institutions that are part of the state administration (representation). May interact with customary norms. • Co-government arrangements in overlapping protected areas and collective territories.
Legal status of territories	All countries have ratified ILO 196 Legal recognition over all elements and also autonomy

The report highlights the need to look closely at the particular governance types in operation, in order to properly understand the ICCA phenomenon in the region. Overlapping jurisdictions with different landscape management objectives pose challenges; for example, whereas a collective territory may seek to ensure that all

² See co-management definition in Section 2.4.1, and co-government is explained in Section 5.3.4.5.

necessities of those living in the territory are met, national park objectives may be limited to protection of specific natural values.

In Colombia, there are several documented cases of officially established ICCAs that are mentioned in the IUCN literature as examples of ICCAs: Alto Fragua-Indiwasi National Park and the *resguardo* of Matavén. In the case of Indiwasi National Park, Inghano traditional healers requested *Parques Nacionales* to establish a national park. The intention was to safeguard a culturally important area for collection of medicinal plants from colonization by the expanding frontier of coca plantations (Zuluaga *et al.*, 2003). In the case of Matavén, several indigenous communities belonging to different ethnic backgrounds and holding smaller *resguardos* requested of the Ministry of Agriculture that a multi-ethnic *resguardo* be established to safeguard the health of the land and their people (Luque, 2003; Andrade and Ruiz, 2006).

2.2.2 The Paradox of ICCA Recognition and Support

The synthesis document “Community Conserved Areas: a Review of Status and Needs” (TILCEPA, 2008) states a number of key factors required for the continuity of ICCAs. These factors were identified through regional case studies carried out in 2002 and 2007. However, the recommendations for support and recognition of ICCAs developed by TILCEPA-CEESP may also introduce risks to the autonomy and survival of ICCAs when it comes to actually implementing these recommendations in a given country.

The first recommendation, regarded as essential, is the importance of enabling national legal and policy frameworks, which go beyond environmental policies to include: constitutional guarantees for indigenous and local peoples, civil legislation, and land tenure legislation. These frameworks will allow communities to have basic commons rights, such as, secure tenure and access rights over collective resources (TILCEPA, 2008; Oviedo, 2006). This need is also broadly recognised in the commons literature, with defined boundaries and rights of access and use being identified as one of the fundamental requirements for sustainable resource use (Ostrom, 1990).

The second TILCEPA-CEESP recommendation is that ICCAs at different levels of formality should be recognised in legislation and/or included in ICCA databases *only* if the interested community consents (TILCEPA, 2008). They recommend the simple rule that ICCAs should be left alone if they work well and there is no imminent threat to either the local environment or its inhabitants. An example of what could be seen as ICCAs that do not need to be recognised by the state as such because they are working, are found in the state of Oaxaca, Mexico. Oaxaca is considered a biodiversity hot spot, with most of its forests held and managed communally by indigenous communities (Robson, 2007; Camacho *et al.*, 2007).

The most commonly-cited risk with official recognition of ICCAs is that communities could lose some autonomy over control of the area and decision-making. In Peru, for instance, the legislation favouring the establishment of “Communal Reserves” is having discouraging outcomes for the requesting communities. Newing and Wahl (2004) describe the dilemma faced by indigenous organisations: if they apply for a Communal Reserve, they most probably will lose their autonomy in decision-making, due to the amount of bureaucracy required for management; if they do not apply; their land is very likely to be taken up by unscrupulous logging and mining companies. Newing and Wahl also describe the conflict that results from poor cross-cultural communication and different priorities at the local and national levels: for the state, Communal Reserves are identified with biodiversity conservation, whereas for indigenous communities, the reserves are a means for livelihood survival and protection against intruders.

The third TILCEPA-CEESP recommendation is to require that ICCAs must identify their conservation role, clearly articulating what they are conserving and why. In addition, it is recommended that the evaluation of conservation outcomes should rely on technical criteria and indicators, jointly agreed on between local communities and conservationists (TILCEPA, 2008). This is problematic for a number of reasons: it does not clearly acknowledge asymmetries of power and of perceptions of legitimacy of different knowledge systems (traditional and scientific), let alone who will make the final decisions (TILCEPA/TGER, 2007). Conflicting meanings of “conservation” can be

expected at different scales. In addition, there is a lack of willingness and capacity to accept knowledge systems other than the scientific. There are, therefore, potential problems with both cross-cultural communication and the valuation of different knowledge systems. Achieving more effective cross-cultural dialogue requires capacity-building among both local actors and conservationists. There are some who argue that especially in government and non-government organisations, there is an urgent need to build literacy on working within cross-cultural settings (Howitt, 2001) and on exercising reflexivity³ (MacDonald, 2003). Oviedo (2003) encourages further debate to foster an understanding of biodiversity as something that is *used* by people, including for subsistence.

There are other risks associated with the desire to increase the adaptive capacity of communities. Tengö *et al.* (2007) refer to the danger of “freezing” fluid social mechanisms for coping with change, thereby making them not viable any more. In a similar way for fisheries, Johannes (2002) argues that it is the persistence of a capacity for adjustment to local changes of institutions recognised by the different national laws, which has made possible the resurgence of community governance of fisheries in Oceania. In sum, although the formalization of ICCAs may in many cases be helpful, the risks of co-optation and of undermining the adaptive dynamics of local institutions and management systems should first be understood.

2.2.3 Indigenous Resource Conservation Practices

Many indigenous societies do have resource management practices based on traditional ecological knowledge (TEK)⁴ that promote different succession stages and

³ Reflexivity: self-awareness of one's own power and agency.

⁴ A working definition of traditional ecological knowledge is “a cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment”; it is “ways of knowing (knowing the process), as well as information (knowledge as the thing known)” (Berkes, 2008, p.7). A combination of knowledge-practice-belief interrelated features: TEK is knowledge situated in one place, and is based on observations of the environment; it is also practice, being the way in which people use the resources they need for living; and it is also the belief system that holds it together and has an effect on individual perceptions (Berkes, 2008).

restrict access to particular areas of the landscape, and these practises can promote biodiversity. Social mechanisms underlying ecosystem management are framed by worldview and cultural values, and are associated with social institutions such as rituals, ceremonies, stewardship regulations, taboos and social and spiritual sanctions (Berkes *et al.*, 2000; Colding *et al.*, 2003). Informal social institutions and local ecological knowledge are thought to contribute to conservation by promoting ecosystem “resilience” (Colding *et al.*, 2003), understood as the ability of the system to buffer the effects of change and to reorganize and renew social-ecological relations following change. Resilience is therefore regarded as the most important ecosystem property that leads to biodiversity conservation (Colding *et al.*, 2003). In sum, there are indigenous management systems that result in conservation of biological diversity (Gadgil *et al.*, 1993), and maintenance of ecological resilience (Berkes *et al.*, 2000; Berkes and Davidson-Hunt, 2006) and ecosystem processes (Alcorn, 1989). The lessons from traditional management systems are important for international conservation interests looking to ICCAs as effective conservation entities. Following are some relevant examples of indigenous resource conservation practices discussed in the literature.

2.2.3.1 Disturbance and Renewal at a Landscape Level

Creation of resource patchiness through controlled disturbance (*e.g.*, planting crops or using fire), with the consecutive and rotational use of the land, are key practices that enhance ecological diversity (Berkes *et al.*, 2000; Colding *et al.*, 2003; Berkes and Davidson-Hunt, 2006). Berkes and Davidson-Hunt (2006) argue that traditional landscape management practices resulting in patchy, multifunctional landscapes may promote biodiversity conservation through four main mechanisms: the maintenance of diversity of successional stages, the creation of small-scale intermediate levels of disturbance resulting in patches and gaps, the creation of edges (ecotones), and the conservation and enhancement of vertical diversity in vegetation structure. Alcorn (1989), for example, found that indigenous agriculture in the tropical forest in the Amazon and in Mexico is managed as a process of succession from crops to late forest species, at the plot and landscape levels, and seeks to retain nutrients in the form of living biomass.

2.2.3.2 Enhancing Agricultural Plant Diversity

Alcorn (1989) explained in her account of indigenous agriculture that a mental script guides agricultural practices; this mental script guides plant selection and seed saving, which is based on TEK, and is passed down from generation to generation with each traditional farmer adapting it to the conditions of that year. Traditional and indigenous farmers keep a great variety of seeds of each farmed species from which to choose what to plant, depending on the weather (Nabhan, 1989; Nazarea, 2005) and the site. In addition, local cultural values play a key role in selection, enhancement and preservation of new plant traits in a given place (Nabhan, 1989).

2.2.3.3 Sacred Areas: Taboos on Species and Sites

From a resource management perspective, taboos are social mechanisms that restrict access to and use of resources. Literature on social taboos and conservation has identified species-specific and site-specific taboos as having potential to contribute to the conservation of biodiversity (Colding and Folke, 1997; 2001). Colding and Folke (1997) found that 30% of the species with a complete ban on hunting were in the IUCN list of threatened species; they also found some endangered and keystone species under taboo regimes. However, not all taboos promote conservation (Colding and Folke, 1997; 2001). For instance, Saj *et al.* (2006) found that a taboo on a species of monkey in Central Ghana did not provide effective conservation because the monkey's survival was not socially linked with sustainable use of the forest.

However, the main challenge facing species or habitat taboos is their continued relevance in the face of changing social and cultural circumstances, policy interventions, migrations and education (Tengö *et al.*, 2007; Silvius, 2004; Ulloa *et al.*, 2004; Gadgil *et al.*, 1993). Two examples from participatory wildlife management between Indigenous Peoples and NGOs in Brazil and Colombia reveal the weakness of species and habitats taboos in the context of education based on Western school systems, inclusion in the market economy, scarcity of other animals for meat supply, and the impact of other factors in animal populations such as fragmented landscapes (Silvius, 2004; Ulloa *et al.*, 2004). Nevertheless, the study by Ulloa *et al.* (2004) suggests the strategy of creating

new refuges for wildlife — new taboo places — was a culturally appropriate alternative for wildlife management. Moreover, Silvius (2004) suggests that despite the vulnerability of taboos in the Amazon, these and other social strategies rooted in TEK, as well as the role of knowledgeable elders and shamans, show great potential for conservation, especially by way of joint efforts between Indigenous Peoples and conservationists.

Regarding taboos on habitats, Colding and Folke (2001) conclude that there are important commonalities in function between “resource and habitat” taboos and formal institutions of conventional conservation. The authors suggest attending more to informal institutions in conservation programmes, as voluntary compliance with taboos reduces enforcement costs for conservation agencies. Tengö *et al.* (2007) looked at taboos in the forests of Madagascar and found taboo systems associated with burial grounds and economic activities (*e.g.*, honey forests). In communities with taboos, and well-established systems of forest monitoring and material sanctions, the taboos resulted in effective conservation. The effects of taboos were found to be long lasting, but at the same time dynamic and diverse from community to community. Despite the high population of the study area, taboos and related enforcement institutions result in effective conservation of certain habitats (Tengö *et al.*, 2007).

Sacred sites are part of the diversified uses and cultural or spiritual meanings embedded in landscapes, and are as varied as the cultures that created them. The working definition used in the publication *Sacred Natural Sites* is, “areas of land or water having special spiritual significance to peoples and communities” (Oviedo and Jeanrenaud, 2007, cited in Verschuuren *et al.*, 2010, p.1). Sacred sites include sacred mountains, entire landscapes, seascapes, islands, pilgrimage routes, water bodies and springs, and single trees to sacred groves (Schaaf and Lee, 2006; Verschuuren *et al.*, 2010). The spiritual or sacred significance of particular natural places is often related to beliefs and traditions, such as mythology, tribute to ancestors, access to supernatural dimensions, and residence of spiritual entities and gods (Schaaf and Lee, 2006; MacDonald, 2003). Species endemism and high ethno-botanical importance might also be reasons for the existence of sacred areas (Anderson *et al.*, 2005).

Social institutions (rules and norms) associated with sacred sites of living cultures often include site-specific taboos (Verschuuren *et al.*, 2010). The sacred aspect denotes a clear differentiation between the sacred place and the surrounding areas where everyday life occurs (MacDonald, 2003). This “enclosure” that is characteristic of sacred places, and the accompanying restrictions of access and use, may result in conservation of important refuge for different species (Schaaf and Lee, 2006; MacDonald, 2003). Conservation may be promoted indirectly as a result of the authority of spiritual leaders and their ability to enforce resource use regulations, including fines (Tengö *et al.*, 2007), and the fear of supernatural sanctions for improper behaviour (MacDonald, 2003). Thus, traditional sacred places with boundaries and rules that restrict access can be equated with protected areas. However, in the eyes of many indigenous peoples, their whole territory is sacred; “this includes our homes, communities, farms, footpaths, markets and meeting places [...] in layers of sacredness often with different purposes including those that are material and functional to humans” (Verschuuren *et al.*, 2010, p. 293).

The compatibility between sacred sites and official conservation schemes, together with the linkages between local culture and food security, have been used to develop guidelines for the granting of international support for the protection of sacred natural areas. UNESCO has encouraged the development of protective and legal measures to “safeguard” sacred natural sites, cultural landscapes and their bio-cultural diversity, for instance, by including them in the UNESCO-Man and the Biosphere programme (Schaaf and Lee, 2006). However, some scholars are suspicious of the conservation policy outcomes that will result from the notion that “safeguarding” sacred sites entails ensuring the sites, and people’s relationships to those sites, remain static (Sheridan, 2008). Given the dynamic ecological and cultural diversity of sacred sites, the assumption that these sites will be unchanging can be counterproductive. For instance, because African sacred groves are highly dynamic in their ecological, historical and cultural nature, it would be unrealistic to expect to maintain them unaltered (Sheridan, 2008).

In sum, the likelihood for conservation is increased if local people have close personal relationships with the land and one another, maintain local traditional ecological knowledge that informs their land use and is attuned to the natural dynamics of the local

ecosystems as a result of long term interaction, and they possess effective local institutions for regulating access to, use and control of resources (Berkes, 2008).

2.2.4 Indigenous Peoples and Conservation Debate

Despite the extensive environmental knowledge and beliefs that support the conservation value of traditional management practices, not all traditional practices lead to conservation, and there are scholars who seriously question the contribution of indigenous peoples' practices to safeguarding biodiversity (Redford and Stearman, 1993). The detractors argue that if conservation results from traditional management, it is due to low human population numbers and isolation; the most probable outcome is preservation of habitat structure, but not all components of biodiversity (*i.e.* composition, function and structure) are likely to be preserved (Redford and Stearman, 1993). There is evidence of non-industrial societies that have caused extinction of hunting animals and caused habitat degradation (Diamond, 2005). In addition, it is argued that much of hunting or harvesting behavior is akin to individual maximal gain through maximizing harvests, which is not compatible with conservation (Alvard, 1998; FitzGibbon, 1998; Hammill *et al.*, 2007). Thus, it has been argued that indigenous protection seems to be more important for broader habitats, and less so for conservation of preferred hunting species (Borgerhoff and Coppolillo, 2005).

At the same time, while local and indigenous land use practices are not always effective at conservation, they are often more attuned to local conditions, providing valuable place-based knowledge for conservation (Borgerhoff and Coppolillo, 2005). There are those who have failed to conserve, or manage resources sustainably (Alcorn 1993), and those who have experienced resource collapse, learnt from their errors, and created a better resource use practice to ensure long term use (Berkes, 1998). Some argue there is no such thing as "wilderness" (Gómez-Pompa and Kraus, 1992); rather, natural diversity is the result of effective traditional land use practices, which accounts for the correlation between areas with high levels of biodiversity and indigenous people's home lands (Posey, 1999; Fairhead and Leach, 2008-1995). Likewise, archeological evidence from the Brazilian Amazon reveals the highly managed nature of the Amazon forests, which the authors refer to as "cultural parkland" (Heckenberg *et al.*, 2003). Such findings

suggest a strong coupling of social and ecological systems, and therefore the importance of human agency in the creation and maintenance of biodiversity (Heckenberg *et al.*, 2007). Opinions differ on the role of Indigenous Peoples in creating and maintaining biodiversity.

In order to better understand how local and indigenous conservation work, including the social institutions (*i.e.* rules, norms and values) associated with controlling access to and use of land and natural resources, Berkes (2007a) suggests the need to use the lessons from commons research. The literature on commons has confirmed that the importance of social institutions (*i.e.* rules and norms) for conservative resource use lies in their ability to restrain individual short-term interest in favour of long-term group interest.

2.3 Common Property Institutions and Conservation

2.3.1 Commons Basics

The scholarly literature on common property theory provides important insights on human-environment interactions for the praxis of biodiversity conservation and sustainable resource use. It studies the link between social organisation and natural resources management by investigating how social institutions and systems of property rights deal with the potential for overexploitation of natural resources (McCay and Acheson, 1987; Ostrom *et al.*, 1999). During the past 30 years much more information has become available from case studies where local collective management systems have successfully persisted for millennia (Ostrom, 1990; Ostrom *et al.*, 1999; Dietz *et al.*, 2003), where others have failed, and yet others that have gone through cycles of crisis and recovery in both resource availability and institutional continuity (Berkes, 1987). Many cases have demonstrated that even where societies have misused their natural resources, they were capable of devising management strategies allowed for conservation, sustained resource use, and renewal, following a recovery from crisis (Berkes, 2006).

Common-pool resources,⁵ or “the commons”, are those natural resources for which: (1) excluding access by potential users is very difficult, and (2) resource consumption by one user reduces the resource availability for other users (Ostrom *et al.*, 1999). These two fundamental characteristics are known as *excludability* and *subtractability*, and apply to many renewable natural resources such as fish, wildlife, forests products, water, pastures, and environmental sinks (Ostrom *et al.*, 1999). These two characteristics pose to common-pool resource users a dilemma in how to negotiate between short-term individual interest and long-term group interest. The key to solving this problem is the difficult task of devising governance regimes to exclude outsiders and to regulate common-pool resource use through self-devised management rules (Berkes, 2006).

The exclusion problem is important for ICCAs, since conservation or sustainable use is considered more likely if resource users enjoy exclusive rights to use the resource and have an interest to conserve it. Thus, the provision of tenure security to a local community associated with an ICCA is critical if these areas are to realise their potential for conservation (Kothari, 2006b). The subtractability issue is also vital to ICCAs, since communal conservation efforts in an ICCA are based on local social mechanisms that restrain individual behaviour; as the definition of ICCA asserts, “the community possesses — *de jure* or *de facto* — the power to take and enforce the key management decisions regarding the territory and resources” (TILCEPA, 2008). However, common property mechanisms for exclusion may break down due to internal and external factors such as population growth (or loss), technology change, and economic transformation. In addition, external forces such as colonialism and globalization create conditions that undermine common property mechanisms of exclusion (Berkes, 1989).

⁵ In early literature, both within the field and outside the field, the term ‘common property resources’ was used, leading to much confusion between the resource itself and the human institutions of property rights. In *The Drama of the Commons* (Ostrom *et al.*, 2002), the authors decided to use the term ‘common-pool resources’ to refer to the resources themselves and differentiate these resources from the institutions of a common property regime.

2.3.2 Early Developments of Theory

The idea that humans are inexorably unable to deal with the common-pool resource dilemmas of excludability and subtractability has been and still is part and parcel of resource management theory. Since the 1950s, economists and resource management scientists have postulated that since rational individuals will always prefer short-term individual gain over the collective good, collective action for management of common-pool resources will invariably cause resource depletion (Gordon, 1954; Olson, 1965; Hardin, 1968). Thus, the widely applied solution has been to convert common property into government or private property; an idea that has become the core of natural resource management science and policy (Feeny *et al.*, 1990).

Researchers from diverse disciplines (political science, economics, human ecology, cultural anthropology) confronted Hardin's influential essay "The Tragedy of the Commons" (1968), and with this debate emerged a new field of study: common property theory. In his seminal article, Hardin (1968) argued that collective use of any common-pool resource invariably results in overexploitation and resource exhaustion, using a hypothetical example of an overgrazed medieval communal pasture. The reason for overexploitation being that every individual will only choose to act to maximize their own gain when using the common-pool resource. In his own words "freedom in the commons brings ruin to all", unless the commons is privatized or put under strict outside control (Hardin, 1968, p. 1244). Nonetheless, empirical evidence and theoretical work by "pioneer" commons scholars questioned Hardin's Tragedy thesis and demonstrated that the "tragedy of the commons" occurs only under certain circumstances. Most important, they demonstrated that small-scale social groups with the appropriate conditions would have the capacity to regulate their resource use and overcome common-pool resources dilemmas through collective action (for examples see McCay and Acheson, 1987; Ostrom, 1990; Baland and Banteau, 1996). They pointed out that what Hardin was actually describing was an open access regime, with no rules, rights and responsibilities, and for which there is consensus that overexploitation will occur (Feeny *et al.*, 1990).

2.3.2.1 Property Rights and Bundles of Rights

The authority to carry out particular actions related to a specific area of influence is contained in the concept of property rights (Hardin, 1968; Schlager and Ostrom, 1992). Ostrom and Schlager (1996) have discussed five types of rights in property as follows:

1. **Access:** Entrance to a defined physical area and enjoyment of non-subtractive benefit.
2. **Withdrawal:** Procurement of the resource units or “products” of the resource (*i.e.* “use”).
3. **Management:** Regulation of internal use patterns and transformation of the resource by making improvements.
4. **Exclusion:** Determination of who will have a right to access the resource and how that right may be transferred.
5. **Alienation:** Sale or lease of part of all of the above collective choice rights.

These five types of rights are independent of each other and any given user can have different types. In addition, to have one type of right generally requires the possession of other types of rights; for instance, a resource user needs access rights to be able to exercise withdrawal rights. Consequently, each user in a common property regime has a specific *bundle of rights* rather than just one particular right, as illustrated in Table 2.2 (Schlager and Ostrom, 1992).

Table 2.2 Bundles of Rights (Source: Schlager and Ostrom, 1992; Ostrom and Schlager, 1996).

	Owner	Proprietor	Claimant	Authorized user	Authorized entrant
Access	X	X	X	X	X
Withdrawal	X	X	X	X	
Management	X	X	X		
Exclusion	X	X			
Alienation	X				

Property rights have further been defined as “a bundle of rights and responsibilities of individuals or groups to the use of a resource base” (Berkes, 1995). This definition provides greater understanding of property rights by referring not only to the rights

people have to use the resources, but also to the *responsibilities* associated with maintaining and improving those resources. Schlager and Ostrom (1992) identified three consecutive levels of property rights: operational, collective-choice, and constitutional. Regardless of the resource involved, the most relevant operational-level rights are rights of *access* and resource *withdrawal*. Collective-choice level rights such as *management*, *exclusion* and *alienation* become important for the definition of future operational-level rights. Constitutional-level rights are identified with the creation of the collective-choice rules that define the nature of specific rights.

To govern and manage common pool-resources, four general types of property rights regimes exist: private property, state property, common property, and open access (Ostrom *et al.*, 1999). With private property, rights an individual or entity holds rights to exclude others and use the resource. With government property, rights to the resources are held exclusively by the government, which controls access and regulates use. A common property regime gives to a community of users the right to exclude outsiders and to regulate use by community members. In an open access context, there are no well-defined property rights (Ostrom *et al.*, 2002).

In practice, these property rights regimes overlap and pose conflicts of interest in the management of common-pool resources (Feeny *et al.*, 1990; Pomeroy, 2007). This is the case with National Parks in Colombia, where government and *common* property rights overlap in areas of high biodiversity. In addition, there would appear to be a risk that protected areas could become *de facto* open access in the event of an armed conflict, or where protected areas function under a low operating budget and lack personnel to enforce protected area boundaries and regulations – all possibilities in the Colombian context. In non-industrial societies, property rights vary between different resources and are much more fluid, often subject to competing claims. In addition, two or more property rights regimes may co-exist in space and time (Bremner and Lu, 2006), or there may be different property rights regimes assigned by gender (Rocheleau and Edmunds, 1997).

Institutions, a key concept for common property theory, can be defined as any form of constraint such as formal rules and informal norms that help to give structure and guidance to human interaction and behaviour (North, 1990). Collective action scholars and game theorists have concluded, based on observations of laboratory economic experiments, that for individuals the cost-benefit balance of conservation is better achieved in the long term when they act collectively, or make their own collective rules, and when they have incentives for conserving their resources (Ostrom, 1990). Using laboratory and field evidence, Ostrom *et al.* (1994) found that the capacity to change rules is central to the development of long-lasting common-pool resource institutions.

Eight universal attributes or “design principles” found in long-lasting common property institutions for resources use were identified by Ostrom (1990), as shown Box 2.2. Agrawal’s (2002) more recent work and extensive analysis of case studies demonstrated that there are between 30 and 40 enabling variables that can contribute to successful commons management. Yet Ostrom’s original eight principles have stood the test of time and are used as guidelines for the diagnosis and assessment of common-pool resources problems Ostrom (2005). A study analysing 91 cases by Cox *et al.* (2010) found that Ostrom’s principles are well supported by empirical evidence, even if further fine-tuning is needed for some of them.

Box 2.2. Design principles for long-lasting commons institutions. Sources: Ostrom (1990, p. 90) and Cox *et al.* (2010, p. 15).

- 1) Clearly defined boundaries
 - a) User boundaries: Clear boundaries between legitimate users and nonusers must be clearly defined.
 - b) Resource boundaries: Clear boundaries are present that define a resource system and separate it from the larger biophysical environment.
- 2) Congruence between appropriation, condition rules and local conditions
 - a) Congruence with local conditions: rules for benefits and costs are congruent with local social and environmental conditions.
 - b) Appropriation and provision: The benefits obtained by users from a common-pool resource (CPR), as determined by appropriation rules, are proportional to the amount of inputs required in the form of labour, material, or money, as determined by provision rules.
- 3) Collective choice arrangements
- 4) Monitoring
 - a) Monitoring users: Monitors who are accountable to the users monitor the appropriation and provision levels of the users.
 - b) Monitoring the resource: Monitors who are accountable to the users monitor the condition of the resource.
- 5) Graduated sanctions
- 6) Conflict resolution mechanisms
- 7) Minimal recognition of rights to organize
- 8) Nested enterprise

2.3.3 Institutions and Context: Critiques to Commons Theory

In spite of the contributions of the literature on commons theory and the collective action school, there are criticisms from scholars in human ecology, political science, cultural anthropology and sociology. Two aspects stand out: first is the need to see individuals and the institutions they create situated in social and cultural contexts (McCay, 2002; Baker, 2005); second is the importance of understanding the impact of history and global economic and power processes on local-level commons institutions (Goldman, 1998; Johnson, 2004).

Human ecologists and cultural anthropologists have pointed to the narrow definition of institutions as rules-in-use as reflecting a lack of awareness of the social and cultural dimensions of how commons institutions work and how individuals are motivated to cooperate (McCay, 2002; Baker, 2005; Prakash, 1998). McCay (2002)

argues that the collective action school has taken a too narrow meaning of “context” in the analytic framework they use to explain successful institutional and environmental outcomes. When these scholars refer to context they mean features such as group size, communication and group history, which reflects their roots in an experimental behaviourist approach. Instead, McCay (2002) proposes to work from the premise that human behaviour, motivations and institutions are a mixture of rational choices and their situatedness (or embeddedness) in social and cultural contexts. Thus, it is vital to acknowledge and understand the effects of particular social, historical and ecological forces on human-environment relations and the institutions that mediate these relations.

Baker’s study (2005) shows the importance of values, customs and cultural qualities to account for the endurance of commons regimes. The author studied the patterns of change and persistence of institutional arrangements for irrigation channels in the Indian Himalayas, in the context of substantial regional social and economic change and natural disturbance. Baker (2005) argues that to be able to understand the reasons for long-lasting institutions, the cultural, political, institutional and environmental processes of the region need to be linked to an understanding of the internal challenges to collective action. Thus, for a common property regime to persist there will need to be more than merely rational economic choice to motivate people to follow or not follow rules, to make and monitor rules (Prakash, 1998; McCay, 2002; Baker, 2005). Social and cultural contexts shape the way social capital (*e.g.*, trust, reciprocity, social networks) is built and whether rules are seen as fair (Prakash, 1998). Much of Prakash’s writing bears a strong similarity with the theory of moral economy, which focuses on the interaction between moral and cultural beliefs, and resource use decisions and activities (Scott, 1977; Thompson, 1991).

Commons theory has also been criticised for the reduced attention it has given to wider historical, political and economic dimensions that shape and influence the commons outcomes, a short-coming resulting from the desire to find universal principles upon which to make models for successful institutional innovation (Goldman, 1998; Johnson, 2004). Thus, a scientific, universalising, and value-free methodology does not account for the key historical processes that shape commons institutions. Johnson (2004)

reminds us of the “historicity of social contexts”, but remains pessimistic about how a positivist scientific methodology can ever become more reflexive and particularized. Additionally, Goldman (1998) argues increased attention is needed to power-related macro-forces like structures of dominance, colonial relationships and political economy. Commons academics and consultants are challenged to increase their reflexivity about their practice, and to acknowledge the political nature of the scientific knowledge they are producing (Goldman, 1998).

In sum, the understanding of commons institutions will not be complete if there is a lack of articulation of research on local commons institutions with that on broader social, cultural, historical and political contexts, including the non-local forces (economic and power related) that influence the durability of local institutions (McCay, 2002; Baker, 2005; Prakash, 1998). As a result of the critiques of common property literature, the definition of institution has expanded from a set of rules-in-use to include social and cultural dimensions in the form of norms, cultural values and beliefs. At the same time institutional arrangements are recognised to function within a multi-level world where local, regional, national and global levels are interconnected, for better or for worse (Young, 2002; Berkes, 2002). More recently, Basurto and Ostrom (2009) called for building a diagnostic theory of common property regimes that incorporates contextual factors, overcomes the analytical trap of “overgeneralisation principles vs. my case is unique”, and works with both qualitative and quantitative approaches.

2.3.4 Commons as Complex Social-Ecological Systems

A major publication in the field, *The Drama of the Commons* (Ostrom *et al.*, 2002), identified emerging issues such as a better understanding of complexity, uncertainty, and institutional change. Thus, it was suggested to scale-up lessons from local commons to devise institutions for global commons such as ocean fisheries and climate (Dietz *et al.*, 2003). However, using complex systems thinking reveals that multi-level commons problems are not solved by simply scaling-up lessons, since different emergent properties and problems will be determined by scale, requiring different kinds of management (Berkes *et al.*, 2006; Ostrom, 2005). Commons thinking has recently

introduced complexity and social-ecological systems thinking to help understand and deal with contemporary commons problems where global issues have direct impact of local institutions (Berkes, 2006; Ostrom, 2005; Wilson, 2006). Commons regimes have multiple and linked social and ecological dimensions, with distinct characteristics also found in complex systems, such as, scale, path-dependency, nonlinearity, high uncertainty, fluctuations, emergence, and self-organisation (Berkes, *et al.*, 2003; Berkes, 2007). Ecosystems behave in non-linear, unpredictable ways as a result of issues of scale, nested hierarchies, and multiple stability domains, all of which are characteristic of complex, adaptive systems (Levin, 1999). Conservation can be understood as a complex systems problem as it deals with institutions at various social organisational levels from the local to the global Berkes (2007).

The incorporation of complex systems thinking into Ostrom's work is shown in the book, *Understanding Institutional Diversity* (Ostrom, 2005). Ostrom (2005) still supports the importance of the "design principles" she developed in (Ostrom, 1990), yet they are not treated anymore as a blueprint solution; rather, they are seen as characteristic features of commons that have been maintained and adjusted in the face of recurrent challenges in the natural environment and in socio-political and economic contexts. Acknowledging the challenges of complex systems, Ostrom concludes: "policies involving rule changes must be viewed as experiments. Further, since ecological, economic, social and political settings change over time, no specific set of rules will produce the same distribution of benefits and costs over time" (Ostrom, 2005, p. 255). This re-conceptualization of the commons has important consequences for biodiversity conservation by arguing for the movement away from blueprint solutions (Berkes, 2007a). Berkes (2007a) points to the importance of promoting institutional diversity, use of partnerships at multiple levels, pluralism in knowledge and objectives, as well as adaptive management approaches.

2.3.5 Commons Institutions and Cross-Scale Linkages

Although most of the research reported on in the commons literature has been done at the level of community-based management, local management regimes are

nested within national policies and legislation, which can have both positive and negative effects on local institutions. In this sense, the interplay between the local, national and international levels of organisation is important to address in the understanding of commons dilemmas (Young, 2002; Berkes, 2002). Institutional cross-scale linkages are the different forms of interaction between institutions that exist on specific horizontal (spatial) scales and on vertical scales, or different levels of social organisation (Berkes, 2002). Both Young (2002) and Berkes (2002) review the effects of asymmetric relationships between global, national and local forces on commons management. Examples of sources of negative effects include: centralized decision making, change in knowledge systems, colonization, nationalisation of resources, increased participation in markets, and development policies (Berkes, 2002). While there will always be a fundamental tension between national objectives (economic development) and local-level (livelihood) objectives (Young, 2002), there are also ways in which national institutions can have positive effects on local institutions and processes (Berkes, 2002). Examples of positive interventions by state institutions include: state legitimisation of local institutions, enabling legislation, revitalization of culture, capacity building, and institution building (Berkes, 2002).

State legitimisation of local institutions and common property rights may be a positive intervention and condition for the guarantee of sustainable resource use, but not a sufficient condition, (Berkes, 2002). Higher-level institutions and other drivers of change, such as the market economy, population changes and mass migrations, may have widespread impacts on local-level institutions (MEA, 2005). Berkes (2002) argues for institutional forms that facilitate interactions across levels of organisation (global/national/local), since too much centralization or decentralization are both ineffective in engendering successful common property regimes. Management at the local level and connected to government-level management through partnerships, is the simplest kind of cross-scale institutional linkage (Berkes, 2002). Co-management is another option for bridging scales; although the term covers a wide range of institutional arrangements, a common feature is that a local institution and several state institutions are responsible for different aspects of management (Berkes, 2002).

This section followed the development and basic tenets of conventional commons theory, then introduced some expanded approaches for understanding how commons institutions work and persist, and how they are open systems characterised by uncertainty and change. Lastly, the idea of institutional linkages across levels was introduced as a means to facilitate interactions between the local and national levels of organisation and management. Makuira National Park is an example of how protected area management is working in collaboration with indigenous territorial governance; therefore, a review of the co-management literature is needed to better understand the challenges associated with collaboration between protected areas institutions and indigenous peoples.

2.4 Co-Management and Indigenous Peoples

Collaborative arrangements for environmental management between the government and local stakeholders have been promoted in the last three decades as a governance model that enhances sustainability of resources use, decentralises management decisions, and reduces conflict resulting from competing property rights over land and resources. Co-management approaches with Indigenous Peoples in protected areas are premised on this same rationale.

2.4.1 Defining Co-Management

The term “co-management” is used broadly in the literature to refer to a whole range of degrees of participation in decision-making. At its core, the term refers to connections across levels of political organisation (Reid *et al.*, 2006) and can be defined as “sharing [of] power and responsibility between government and local resource users” (Berkes *et al.*, 1991, Berkes, 2009). Other definitions include reference to a broader range of actors, including government agencies, local communities, local resource users, NGOs and other stakeholders (IUCN, 1996). Forms of co-management can fall anywhere on a continuum from “weak” to “strong”, depending on how authority and responsibility are shared between partners. Power-sharing can be conceptualised in a hierarchical way (see Table 2.3): starting with no sharing of power or centralized management by government; then, government “informing” and “consulting” without sharing power;

then, increasing amounts of power-sharing (all of which can be regarded as degrees of co-management); and ending the spectrum, community self-control (Berkes *et al.*, 1991).

IUCN defines more weakly indigenous co-management of protected areas as collaboration with Indigenous Peoples as stakeholders. Their definition of protected areas collaborative management does include sub-types such as “informing” and “consultation”, “advisory boards” and “joint management”, as explained by Borrini-Feyerabend *et al.* (2004a, p. 22):

In collaborative management, for instance, formal decision-making authority, responsibility and account ability may rest with one agency (often a national governmental agency), but the agency is required – by law or policy – to collaborate with other stakeholders. In its *weak* form, “collaboration” means informing and consulting stakeholders. In its *strong* form, “collaboration” means that a multi-stake holder body develops and approves by consensus a number of technical proposals for protected area regulation and management, to be later submitted to the decision-making authority. In *joint* management, various actors sit on a management body with decision-making authority, responsibility and accountability.

Borrini-Feyerabend *et al.* (2004b, p. 69) provide a more precise definition of co-management, based on what it entails, in practice:

a partnership by which two or more relevant social actors collectively negotiate, agree upon, guarantee and implement a fair share of management function, benefits and responsibilities for a particular territory, area or set of natural resources.

Borrini-Feyerabend *et al.* avoid creating a definition based on the extent of formal power sharing, arguing that often it is not easy “to identify a sharp demarcation between formal types of participation and actual power sharing in management activities” (2004b, p. 69). The literature on co-management has not given much attention to this important point. Government conservation agencies, or any other natural resource management agencies, are not monolithic; they do not always exercise power uniformly when they interact with local contexts (Robbins, 2004). For instance, Feit (2005) shows how at the same time that co-management in James Bay (Canada) expanded state authority, it also enhanced unofficial recognition by government employees of local practices of conservation and governance. Similarly, Kofinas (2005) describes how co-management

of caribou in the Northwest Territories (Canada) led to less visible boundaries between state and indigenous authorities during the difficult process of relationship-building.

Table 2.3 Comparison of the kinds of co-management described by Borrini-Feyerabend *et al.* (2004) and Berkes *et al.* (1991). Co-management is abbreviated as Co-M.

Degree of power-sharing	Berkes <i>et al.</i>, 1991	Borrini-Feyerabend <i>et al.</i>, 2004
Government management	Enforces rules, penalizes noncompliance	PA run by government
Informing	Government has made all decisions: informs the community	▲ Co-M: Inform
Consulting	Government makes all decisions: mechanisms for local consultation are in place	↓ Co-M: consult
Co-operation	▲ Co-M: Community has input into management	↓ Co-M: Seek consensus
Communication	↓ Co-M: Two-way information exchange; local concerns are represented in management plans	↓ Co-M: Seek consensus
Advisory Committees	↓ Co-M Users advise government of decisions to be taken and government endorses these decisions	↓ Co-M: Negotiate & develop agreements
Partnership	▼ Co-M Partnership of equals with joint decision-making	↓ Co-M: Formally sharing authority and responsibility
Community control	Power delegated to community to make decisions and inform government of these decisions	ICCA's with recognition of rights and Private PAs

More recently, co-management has been reconceptualised as a form of adaptive management, given that co-management is intrinsically dynamic in nature, maturing over time, involves greater complexity, and requires learning and flexibility to cope with this complexity (Armitage, 2007). Learning processes are necessary for problem-solving in situations characterised by change (Berkes, 2007b). In sum, while a number of scholars have drawn attention to the need of a more precise definition of co-management (Pinkerton, 2003; Castro and Nielsen, 2001; Plummer and FitzGibbon, 2004) a single definition of co-management remains evasive. Plummer and FitzGibbon (2004) suggest using co-management as an overarching term, while specifying different forms according

to three criteria: how much power is shared, who participates in the process, and the degree of formality of the process.

2.4.2 Perceived Advantages of Co-Management

A large and growing body of literature looking into co-management of natural resources holds the shared conviction that it “can be used to guide the stewardship of the world’s natural resources into the future” (Natcher *et al.*, 2005, p. 240). Co-management is perceived by many as a way to resolve conflict, enhance enforcement and monitoring, and reduce long-term costs (Pinkerton, 1989; Singleton, 2000). As a part of international conservation efforts, co-management seeks to increase the extent of global protected areas and enhance public support for conservation (Borrini-Feyerabend *et al.*, 2004b). Co-management arrangements are believed to provide advantages in effective management of natural resources, thereby leading to sustainable use, and in management of conflicts over resource use.

These arguments for adopting co-management are based on the value of achieving efficiency, legitimacy and equitability (Pinkerton, 1989; Singleton, 2000; Houde, 2007; Mabee and Hoberg, 2006). Efficiency, it is argued, increases in co-management as a result of having higher quality data for decision-making, given that both local and scientific expertise is used (Singleton, 2000). In addition, local participation increases efficiency by helping produce better monitoring results and stricter enforcement of rules (Singleton, 2000). This argument is based on the assumption that working with complementary forms of knowledge and responsibility at the local and national levels can overcome the weaknesses of both a top-down or community-based approach to natural resources management. Collaboration in decision-making increases the perception of rules as legitimate at the local level and thus greater compliance with them is achieved (Pinkerton, 1989; Singleton, 2000).

Further, increased sharing of power over decision-making processes through co-management should better align decisions with local realities and needs, thereby reducing conflict (Pinkerton, 1989; Mabee and Hoberg, 2006; Singleton, 2000). Singleton (2000) argues that although co-management will not eliminate conflict, if appropriately

implemented it has the potential of restructuring established relationships, opening possibilities for new forms of constructive engagement.

2.4.3 Co-Managing Protected Areas

The rationale behind protected areas co-management is that it allows for enhanced conservation and equity (Borrini-Feyerabend *et al.*, 2004a). Enhanced conservation is achieved through more willing compliance with “agreed-upon” rules and the exercise of conservation responsibilities⁶ by communities. In the end, the key questions are concerned with who assigns responsibilities and determines conservation priorities, and how people are encouraged to comply without conflict. This resonates with the environmental approach of the state to resource management, in that “technologies of self and power are involved in the creation of new subjects concerned about the environment” (Agrawal, 2005, p. 166). Regarding equity, the IUCN approach focuses on recognition of indigenous rights in conservation and securing of an equitable sharing of monetary benefits (Borrini-Feyerabend *et al.*, 2004a). In general terms, conservation with equity should respect human rights and should not do harm or increase poverty; any loss of use as a result of conservation should be compensated for by the provision of economic benefits (Borrini-Feyerabend *et al.*, 2004a). Thus, co-management is seen by some as a way to reduce the social impacts of conservation and recognise indigenous rights (Lane, 2001). However, as much as co-management holds promise as a more equitable approach to conservation, achieving these results in practice has proven to be complicated; both the conservation outcomes and equity outcomes for Indigenous Peoples have been mixed (Borrini-Feyerabend *et al.*, 2004b; see also cases in Policy Matters No. 12, 2003).⁷

⁶ The exercise of responsibilities means that any given body of natural resources needs to be perceived and dealt with as natural heritage *per se* and for the benefits of all generations. In this sense, a body of resources may not always be able to meet all the present local needs, and resource use may need to be restricted to reach particular conservation objectives. This matching of rights and responsibilities is crucial for conservation. The key question is how to assign responsibilities fairly and effectively – including restrictions in resource access and use – while maintaining an overall rights-based approach.

⁷ Retrieved on August 24, 2012, retrieved from http://cms.iucn.org/about/union/commissions/ceesp/ceesp_publications/pm/index.cfm

The implementation of protected area co-management practice will be different in every social, political and historical context (Bauman and Smyth, 2007; Brockington *et al.*, 2008). Co-management arrangements in parks in wealthier, developed countries such as Australia, Canada, South Africa, and New Zealand, are well documented. For instance, Australia has developed protected areas co-management approaches since the 1970s, and in the 1990s established policy on Indigenous Protected Areas (Bauman and Smyth, 2007). Despite many improvements in collaboration, however, Indigenous Peoples in Australia are still in a position of weakness; for example, land claims are often accepted on the condition that the land is leased as a protected area (Brockington *et al.*, 2008). Reliance on short-term funding, and the limited respect for and acknowledgment of traditional aboriginal owners of the land in decision-making, are among other persistent challenges (Ross *et al.*, 2009). In Canada, co-management of national parks occurs through advisory boards in which ultimate decision-making authority is held by Parks Canada; only in Gwaii Haanas National Park Indigenous Peoples do have equal decision-making authority (Weitzner and Manseau, 2001). Cross-cultural challenges in co-management are further discussed in section 2.4.5.

For Latin-America, the literature on collaboration in protected areas is less comprehensive. According to Colchester (2003), while many countries in Latin America have already recognised indigenous rights in their constitutions, conservation policies and laws have not caught up to these changes; thus, many protected areas are only making their first steps towards inclusion of local communities in management. Internationally known Colombian examples of successful parks-Indigenous Peoples collaborative management include Cahuinarí National Park (Cayón and Turbay, 2005), Alto Fragua-Indiwasi National Park (Zuluaga *et al.*, 2003), and the biosphere reserve and national park Sierra Nevada de Santa Marta (Borrini-Feyerabend *et al.*, 2004b; Ulloa, 2005).

2.4.4 Conditions for Successful Co-Management

A significant proportion of the literature on co-management (including adaptive co-management) focuses on discussing conditions for its success (Pinkerton, 2003; Singleton, 2000; Berkes *et al.*, 2001; Pomeroy 2001; Pomeroy, 2007; Armitage *et al.*,

2009). Defining what is meant by success has to be approached with caution, since “success” is in the eye of the beholder, as a number of authors have warned (Nadasy, 2003; Pomeroy *et al.*, 2001; Brockington *et al.*, 2008). Co-management is a dynamic process, so both the identification of successful outcomes and the patterns of conditions that lead to success will change over time (Brockington *et al.*, 2008; Chuenpagdee and Jentoft, 2009). It has also been emphasized that local conditions for success are specific to specific social, economic, political and ecological contexts (Spaeder and Feit, 2005). Understanding historical, regional and global contexts is important for successful collaboration between indigenous and conservationist interests (Brockington *et al.*, 2008). Nevertheless, in the same way that Ostrom’s sustainable commons principles are used as a guide, here too, the “conditions for success” discussed here may be used as a general guide to evaluate co-management arrangements.

Conditions for success⁸ in co-management include building of trust, respect, institutions, and capacity (Carlsson and Berkes, 2005), as well as learning-by-doing (Borrini-Feyerabend *et al.*, 2004b). In the literature, the types of variables leading to successful co-management are often divided into exogenous and endogenous sources at three levels: (1) supra-community level or government (*e.g.*, enabling policies and legislation, provision of financial and technical assistance); (2) resource users or community level (*e.g.*, participation by those affected, local leadership, community organisations); and (3) household level (*e.g.*, incentives, more benefits than costs) (Berkes *et al.*, 2001; Pomeroy, 2001; Pomeroy, 2007). Further conditions for success that have been suggested include: adequate financial sources, accountability, assistance by external agents, building of good quality relationships (*e.g.*, social networks, trust, and leadership), flexible institutions, effective conflict management, social learning, and the presence of bridging organisations (Folke *et al.*, 2005; Armitage *et al.*, 2008; Berkes, 2009).

⁸ Successful co-management in the context of fisheries and coastal resources is defined by Pomeroy (2007, p. 173) as “overall institutional performance in terms of efficiency (optimal rate of resources use; transaction costs), equity (equitable distribution of benefits; pattern of redistribution of benefits), and sustainability (stewardship of the resource, resilience of the management system; rule compliance)”.

In sum, the following conditions seemingly need to be in place to facilitate the development of successful co-management: respect and basic trust, open-minded attitudes, incorporation of traditional ecological knowledge in decision-making, a balancing in how decision-making takes place and how meetings between indigenous and national government are organised and conducted, along with mutual social, political and economic benefits (Wietzner and Manseau, 2001).

Challenges to co-management that originate in government bureaucracy have been identified by Pinkerton (2007). First, the author refers to the tendency of government to perform short-term rather than long-term planning. There are also contradictions and incompatibilities with legislation, and divisions of responsibility and authority that favour competition between agencies instead of cooperation. In addition, there is a fragmentation of interests and values within government that allows for the predominance of the most vocal and powerful interests groups. Lastly, supportive policies that are developed are often not being executed in practice (Pinkerton, 2003).

The importance of relationship-building among actors has been highlighted by a number of authors as being at the core of co-management (Pinkerton, 1989; Pretty, 2003; Natcher *et al.*, 2005; Plummer and FitzGibbon, 2006). A substantial amount of time and effort is necessary to build respect and trust (Singleton, 2000, Reid *et al.*, 2006), and bridging roles are important to foster good relationships among partners. Especially in cross-cultural co-management with indigenous peoples, cultural and power differences require increased effort in building mutual respect and acknowledgement of differing worldviews (Natcher *et al.*, 2005).

A number of authors have pointed out the necessity of individuals or NGOs playing an active role in connecting local, national, and international levels, for collaboration in resources management (see Figure 2.2); for example, an external agent can act as a facilitator, a mediator, or a bridging organisation (Borrini-Feyerabend, 2004b; Pomeroy *et al.*, 2001; Folke *et al.*, 2005). In addition, intermediaries in development and conservation projects can provide linkages between communities and national or global sources of funding (Wells, 1983; Chernela, 2005). As Chernela points

out however, such intermediaries are no guarantee for fair participation and collaboration, and can perpetuate dominant discourses, power inequalities, and dependency (Chernela, 2005).

In co-management, bridging organisations are normally third parties situated between co-management partners (*e.g.*, local communities and other agencies at national or international levels); they facilitate vertical and horizontal collaboration by helping to build trust, identify common interests, foster learning, create shared understandings, and generate and communicate relevant knowledge (Folke *et al.*, 2005; Hahn *et al.*, 2006). Leadership roles are also important since, as with bridging organisations, they help reduce costs associated with conflict management; have been shown to be key to innovation, and serve as buffer when dealing with changes in personnel and institutional setting (Folke *et al.*, 2005; Olsson *et al.*, 2007). However, the literature on co-management has not yet looked in detail at issues of power asymmetry and accountability associated with bridging roles in the context of cross-cultural co-management.

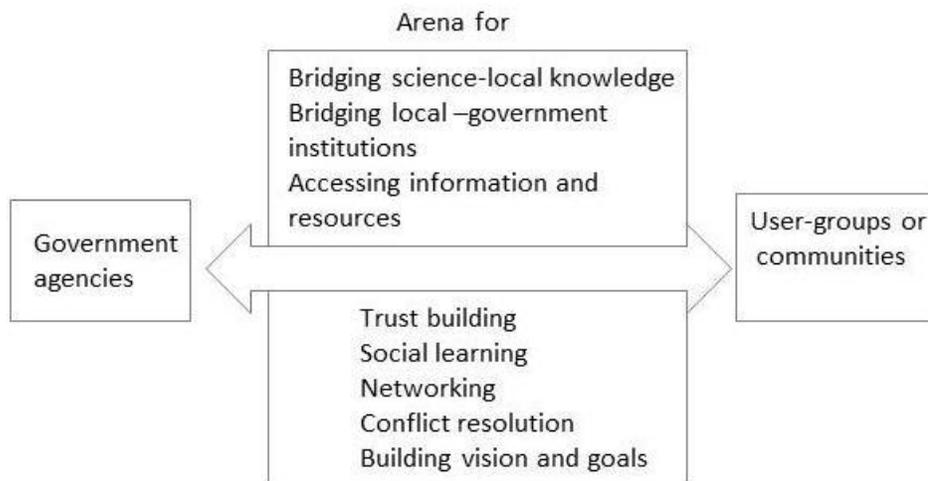


Figure 2.2 Roles of bridging organisations in co-management (Modified from: Berkes, 2009)

The next section expands on the challenges of co-management with indigenous peoples, taking into account social and political successes such as recognition of indigenous knowledge, rights to land, resources use, and self-determination.

2.4.5 Critiques of Co-Management

The main critiques of co-management management literature and practice concern the narrow focus on criteria for successful co-management in terms of resource management sustainability, participation, and shared decision-making. Indeed, Nadasdy (1999) insists that co-management should not be seen as an alternative to top-down decision-making, but rather a more subtle way for governments to remain in control, which resonates with Agrawal's (2005) environmentality. In many cases, the state holds control over the definition of objectives, procedures, and most final decisions, with "collaboration" reduced to mere provision of advice (Nadasdy, 1999; Howitt, 2001). It is being increasingly recognised that geographical, social, political and historical contexts, unequal struggles, resistance, and the negative social impacts of co-management need to be taken into account to understand under which circumstances it is or is not working (Spaeder and Feit, 2005; Brockington *et al.*, 2008).

Several authors suggest there remain issues of power (in)equality in co-management (Nadasdy, 1999; Ross *et al.*, 2011). Various authors have highlighted two prominent barriers to successful co-management: (1) the epistemological challenge of achieving an equal dialogue between science and indigenous ways of knowing; and, (2) the structural challenge of overcoming bureaucratic procedures that effectively marginalise indigenous peoples' voices in management (Ross *et al.*, 2011).

Balancing different worldviews and values remains a barrier since, in many cases, the state and the dominant paradigm have a tendency to assimilate in a de-contextualized and selective way only those aspects of indigenous knowledge that can fit within a scientific worldview (Nadasdy, 1999; Stevenson, 2006). Some scholars claim that co-management should not attempt to "integrate" scientific and local knowledge systems because this is not possible and has many disempowering consequences for Indigenous Peoples (Nadasdy, 1999; Stevenson, 2006; Howitt, 2001). For Blaser (2009), the

problem lies not in there being different epistemologies but different ontologies, and thus different, incommensurate worlds.

Furthermore, formal arrangements for co-management are established in pre-existing and highly bureaucratic administrative contexts (Nadasdy, 2005). Such contexts allow for the increased dominance of centralized state control over the social structures of Indigenous Peoples (Nadasdy, 1999; 2005; Newing and Wahl, 2004). Mabee and Hoberg (2006) show that a lack of capacity building for local and Indigenous Peoples to participate (*e.g.*, negotiation and language skills), creates unequal power relations. However, while partially supporting Nadasdy argument for the disempowering effects of co-management (2005), there are cases where an extension of state control through co-management has at the same time positively redefined power relations between the state and Indigenous Peoples (Spaeder, 2005; Kofinas, 2005). Local political processes and larger historical and geographical contexts account for the differences in outcome (Spaeder and Feit, 2005). Recognition of rights to autonomy, self-determination, and rights to territory are fundamental for Indigenous Peoples (Weitzner and Manseau, 2001); however, these rights are lacking in many co-management arrangements worldwide.

Understanding the broader socio-political context — the resistance to conservation, indigenous rights, as well as the asymmetries in power and knowledge — is necessary to assess whether or not collaboration in co-management is working, and why. Common to the critiques of co-management is the need for attention to the hidden asymmetries that reproduce imbalances of power in relations between the state and indigenous peoples, and to the factors that help restructure those relations; these critiques also point to the need for co-management regimes to address issues of plurality and respect, and recognise the autonomy and authority of indigenous partners (Weitzner and Manseau, 2001; Spaeder and Feit, 2005; Stevenson, 2006).

2.5 Wayúu Cultural Background and Brief Historical Perspective

We are conscious of our historical path and starting with ourselves we know the necessity of intercultural exchange. ... The encounter comes from the necessity to build a society that allows us to live together respecting our diversities. Among the Wayúu there are groups of people who have understood that cultures are not static, they get richer in their interaction with other ways of living different from our own. The important thing is to take the useful aspects of each culture.

(Aguilar Ipuana, 1990, p. 279)

Wayúu leader and artisan Iris Aguilar Ipuana acknowledges the centrality of cross-cultural exchange to the Wayúu as a people. Wayúu cultural identity, economic, social and political practices, including their territorial governance, are the result of an intense and prolonged cross-cultural interaction with *alijuna* (non-Wayúu) since colonial times. This section focuses on the Wayúu cultural and historical context on La Guajira peninsula to provide a better understanding of Wayúu institutions for territorial governance and control in the Makuira Mountains, as well as current governance challenges for the Wayúu.

2.5.1 The Wayúu People: A Brief History

The dispersion of the Arawak language family, to which the Wayúu language belongs, is a prominent feature in the cultural history of the Caribbean region, both in the mainland and islands. The Arawak language family originates in the Amazon lowlands, in the region between the high and middle Orinoco River, and the Vaupés and Negro Rivers (Landaburu, 1999); it indicates a long trip by the ancestors of the Wayúu, from the Amazon rainforest to the coasts.

It has been calculated that the Wayúu reached La Guajira peninsula and the surrounding area just before the arrival of the Spanish (Vásquez and Correa, 2000). One of the interpretations given to the origin story of the Wayúu, and of the Makuira Mountains is the “Story of the Three Brothers” (see Box 2.3), that describes the journey from inland to the peninsula (Correa, 1995). The ancestors of the Wayúu people stayed in the peninsula, adapted their practices, and created their own territory. Spanish chronicles mention the presence of several indigenous groups inhabiting La Guajira peninsula at the

time, and classified them as goajiros, guanebucanos, and cosinas, each indigenous group struggling to control the area (Vásquez and Correa, 2000). Today goajiros and guanebucanos refer to themselves as Wayúu.

Box 2.3 Wayúu Story of the Three Brothers

Three brothers departed from the Low Guajira on a journey to the High Guajira in search for food and good land for their livestock. They went together taking dry meat, roasted maize, and mango *chicha* [fermented drink made out of fruit or maize]. During the journey the first brother got diarrhoea and when he crouched down he turned into a mountain, *Epitsü* [meaning “person with diarrhoea”, also known as, *Cerro de la Teta*]. The second brother called *Itujolu* continued walking and at one point his sandals tear. When he sat down to fix them he turned into the *Itujolu* Mountain, which means “roasted maize”, in reference to him having had maize in his bag along with other seeds. The third brother was not aware of the fate of the other two, and continued walking. He was very thirsty and therefore hurried to continue the journey. He arrived at the seashore and drank a lot of water but because he did not know how to swim, he drowned. His belly exploded becoming the Monki islets.

The relatives of the brothers divided in groups and went out to look for them. As time passed, one group got tired and sat down to rest, while others continued the search. Each group eventually became the small mountain ranges of *Jarara*, *Cojoro* and *Makaira* dispersed in the High Guajira.

Because the second brother, *Itujolu*, was carrying seeds when he became mountain, the seeds fell on the ground, and this is the reason why in Makaira there are so many wild fruits like *aceituno*, *guáimaro*, *jobo silvestre*, *algarrobo*, *mamón*, *cotoprix*, and many more.

Narrator: Alicia Jayaliyuu, 70 years old, lives in *Mekijano 'u*, Makaira.

Source: Asociación Wayuu Araurayu, 2004.

Wayúu ancestral territory covers the whole peninsula from the city of Maracaibo (*Marakai*) to Riohacha and the lands located to the south of the Ranchería River. The territory encompasses a wide range of habitats, from dry and semi-desert, to fertile savannahs on both sides of the Colombia-Venezuela border. On the Colombian side, the administrative division of the State of La Guajira consists of High, Middle and Lower

Guajira. The Wayúu today have collective territorial property rights over the High and Middle Guajira in their largest *resguardo* land. However, they also maintain *de facto* governance in their ancestral territory outside of the main *resguardo*. It is important not to forget that for the Wayúu, the geographical boundaries of their ancestral territory are much more fluid than the above description suggests.⁹

2.5.2 Wayúu Economic Activities

Since the arrival of Europeans, the geographical location of La Guajira Peninsula, in the northern most part of South America in the Caribbean sea, has engendered very dynamic and intense relations between Wayúu and non-Wayúu (*alijuna*). As a result, a number of scholars have argued that Wayúu culture cannot be understood without first accepting that it has been and continues to be shaped by constant interaction with non-Wayúu (Perrin, 1987; Correa, 1993; Pérez, 2004). One century after the arrival of the Spaniards, the Wayúu people had incorporated trade with *alijuna* into their livelihood system (Goulet, 1981). Consequently, most Wayúu had become keepers of livestock they acquired either through theft, or as gifts given to them to build alliances (Pérez, 2004). The adoption of livestock herding brought with it profound changes to Wayúu political and social stratification, as well as the development of a system of compensation for wrongdoings paid with livestock (Guerra, 2002). As a result, the shepherd's worldview became incorporated into Wayúu mythology. Even the sea and its resources are understood in terms of pastoralism (Guerra, 2004); the perception of the sea as *corral* with the marine fauna as the herd of *Pulowi* (dangerous feminine being who is owner of wildlife on the land and in the sea) is an example of this worldview. Livestock, in Wayúu

⁹ The Wayúu orientation in their ancestral territory in several distinct directions: *Wuinpumüin*, (towards the waters) corresponds to the north eastern High Guajira (including Makuira), which is the area of the mythical origin of their clans. Ancestral clan territories with their cemeteries are located in *Wuinpumüin*. Also, *Jepira*, or the place where Wayúu live after death, and several sacred mountains are located there. *Wopumüin*, (where the paths take you), corresponds to the Middle and Low Guajira, is the extension of land that people usually travel in their yearly changes of residence. *Jala'alamüin* (towards the central hilly area of *Jalala*), *Anoulimüin* (towards the plains in the south) and *Pa'laamüin*, (towards the sea) is the coastal zone in the Western part of the peninsula and *Uchumüin* the mountains in the south (UNAL, 1996; Vásquez and Correa, 2000).

oral history, have their origins in the sea, as this fragment of the “Turtles of Pájara” story illustrates:

In the past, *Pulowi*'s livestock,
Used to come to graze on the land,
They would turn into cattle.
The turtles were beautiful and large cows,
That would graze at night.
In the morning they would go back
To the prairies of the sea.
They were large turtles
That would swim during the day.

(Story told by Rafael Pana Uriana, cited in Guerra, 1990, p. 186-7)

Livestock is used in ceremonies such as burials and wakes, for subsistence, for compensation payments, matrimonial alliances, and economic exchanges. It is the basis of the reciprocity and redistributive systems that guarantees wellbeing and alliances among the Wayúu, and with the world of the dead and supernatural beings (Goulet, 1981). Complementary to livestock rearing, in some areas of the peninsula Wayúu families have seasonal or permanent vegetable gardens and carry out gathering of wild plants. Subsistence fishing is also an important activity for Wayúu living on the coast.

Since the sixteenth century, and parallel to the rise of pastoralism, an extractive economy, trade and smuggling became important parts of the economy of La Guajira (Pérez, 2004). In the past, extractive economy was based on: pearls, “Palo de Brasil” timber (*Haematoxylum* spp.), *divi-divi* (pod of a leguminous shrub used in tanning), and leather; today, important resources include salt, coal, and oil (Correa, 1993). The Wayúu maintained occasional commercial exchange with English and Dutch pirates, and later, with illegal traders of rum, fabrics, firearms, and more recently, gasoline, marihuana, and cocaine. However, in the cocaine trade Wayúu have worked only in support jobs, such as drivers, guides, providers of hiding places, rather than in the trade itself. The Wayúu and their territory have played a central role in smuggling activities, leading to an uneasy multi-ethnic coexistence borne of mutual dependency (Correa, 1993).

In the twentieth century, Wayúu people have experienced increasing and faster-paced incorporation in the national economies of both Colombia and Venezuela. In the 1930s Venezuela started oil exploitation in the adjacent lake of Maracaibo (Pérez, 2004). Most extended families now have both relatives in their ancestral territory, and relatives living or staying for periods of time in the cities of Maracaibo or Riohacha. As in other rural communities experiencing out-migration, Wayúu migrants continue to maintain close contact and reciprocity with their relatives (Pérez, 2004). Not surprisingly, remittances sent by migrants back to their families have caused changes in land use and made them less resource dependant. Women make and sell handcrafts, trade gasoline, textiles and other merchandises across the Colombian-Venezuelan border (Mancuso, 2005; Gutiérrez, 2007). Attempts by the Colombian state to stop the illegal trade of gasoline across the border have encountered strong resistance by the Wayúu, who defend this trade as a traditional activity (Gutiérrez, 2007).

2.5.3 The Wayúu Stronghold and Cultural Continuity

The Wayúu were able to retain a relative high degree of political and social autonomy and control over their territory during the colonial period and into more recent centuries; this Wayúu stronghold only receded in the beginning of the twentieth century (Correa, 1993). It has been argued that La Guajira peninsula played a prominent role as a refuge zone for the Wayúu, enabling their continued survival as a people, especially since the eighteenth century. This was possible due to a number of historical and cultural factors identified by Vásquez and Correa (1986), Correa (1993) and Polo-Acuña (2005): First, the peninsula was (and still is) a frontier space, meaning a site of cultural interaction and confrontation but also a space that is beyond the control of centralized powers. Second, the colonial geopolitics of the Greater Caribbean Region and the Antilles, in which La Guajira held a strategic geographical position for the colonial political and economic interests in commercial monopoly, navigation, and military control by the powers in dispute – Spain, England and France (Polo-Acuña, 2005). Thirdly, the peninsula was a site of Wayúu cultural resilience, alliance, and hostility (Vásquez and Correa, 1986; Correa, 1993; Polo-Acuña, 2005), including resistance, using weapons provided by Spain's enemies, to various attempts by the Spanish crown to

conquer the peninsula (Pérez, 2004). Thus, each of the colonizing powers (*i.e.* Spain, England and France) used the peninsula to further their interests and thereby, at different moments, either became allies with or fought against the Wayúu. In the Republican Era (1830-1900 approx.) local non-Wayúu elites that also benefited from trade in contraband, resisted control of the peninsula by the new government.

Even *mestizaje* Wayúu, or the processes of mixing Wayúu with other races, preserved much of their identity as Wayúu (Vásquez and Correa, 1986). Most marriages leading to *mestizaje* (*i.e.* *mestizo* or people of mixed-descent) were between *alijuna* men and Wayúu women. In the Wayúu matrilineal social structure, children from such marriages are still considered Wayúu. This characteristic allowed for the incorporation of Wayúu *mestizos* into their social and cultural world. With time, *mestizaje* generated social actors that were “in between cultures”, bilingual and knowledgeable of both cultures. They often acted as intermediaries. Puerta (2010) affirms that such intermediaries are still a key element for Wayúu resilience and cultural and social continuity.

The Wayúu stronghold weakened at the beginning of the twentieth century (Vásquez and Correa, 1986). The loss of control followed a combination of environmental, economic and political factors that made the Wayúu vulnerable to outside change. The Capuchin missionaries, after 300 years of being in the region, finally entered and established themselves permanently in the High Guajira with two schools, one of them in today’s Nazareth village (est. 1914).

The broader historical context shaped and was shaped by the Wayúu culture and society. In the words of Polo-Acuña (2005, p. 3): “A frontier culture cannot be understood without taking into account conflict and exchange, occurring in many ways, in which at the same time there is adaptation, trans-culturation, assimilation, syncretism and resistance happening”. With this in mind, the next subsection briefly describes some aspects of the Wayúu cultural background, important for understanding their territorial governance institutions.

2.5.4 Wayúu Cultural Background

To represent the complexity and comprehensiveness of Wayúu society and culture for the purpose of this study, I use a framework developed and tested in the context of cross-cultural negotiations between the Wayúu and the national government in Colombia (Echavarría and Correa, 1999; Correa, 2005). The framework links the five fundamental indigenous people's rights (identity, territory, authority, participation, and self-development (Correa, 2005). to the specific form that these rights take in the Wayúu context. Following figure 2.3, I briefly describe, in turn, Wayúu cosmology, Wayúu social organisation, their territorial ordering, authority and social regulation, interactions with national actors, and the Wayúu conception of development.

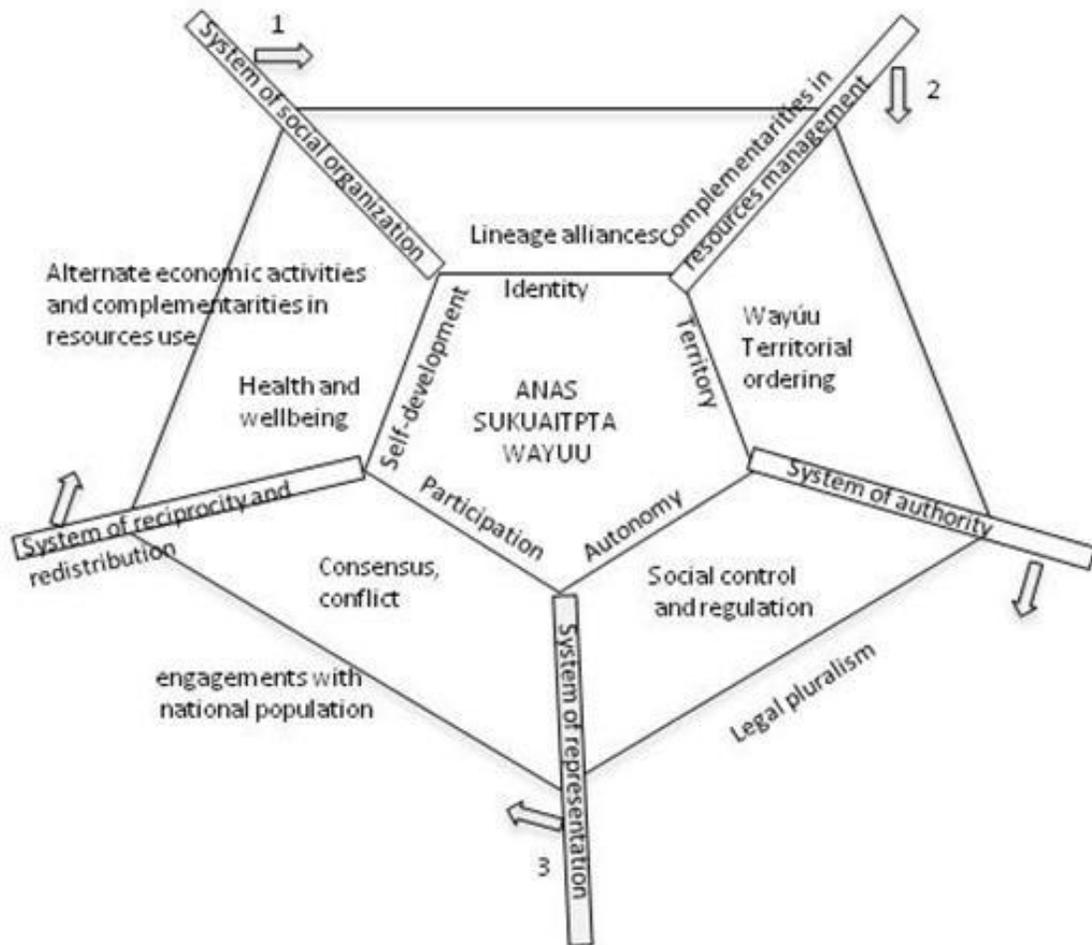


Figure 2.3 Framework representing Wayúu cultural system and rights (Adapted from Correa, 2005).

2.5.4.1 Cosmology Underpinning Wayúu Society

Juyá, *Pulowi* and *Ma'a* are three important characters that play a major role in Wayúu cosmology. *Juyá* (“he who rains”) is not a force that causes rain but is the rain itself, a male entity that travels the peninsula fertilizing *Ma'a* (“earth”, or “mother”). As *Juyá* travels around the peninsula he visits his wives known as *Pulowi*. *Pulowi* is a multiple and dangerous feminine being, known as “water spirit” or “deer charmer”. She is the owner of a vast herd comprising all wildlife, including marine fauna. *Pulowi* is associated with the sea, with specific places on the land (mainly related to surface water), and patches of forest. *Pulowi* and the places where she lives are feared because of her ability to inflict punishment as illness and death. This mythical pair (*Juyá* and *Pulowi*) mirrors Wayúu social organisation (men are more mobile than women), their system of land ownership, and the regulation of access to and use of resources (Perrin, 1987).

In the Wayúu worldview, there are two interrelated worlds: *anasü* the visible world of day-to-day social life and *pülasü* the other/invisible world of the dead, spirits and mythical beings (García-Gavidia and Valbuena, 2004). *Pülasü* is present in *anasü* and affects it. Every individual has their physical body in *anasü*, while their spirit connects to *pülasü* at night when dreaming. The shaman, with the help of tobacco juice, accesses *pülasü* at will (Perrin, 1992). Correa (1995) describes dreams as an “institution for social regulation” that dictates moral values; “dreams are at the heart of Wayúu norms.” While asleep, dead relatives or spirits convey to the dreamer messages to avoid or solve problems (García-Gavidia and Valbuena, 2004). Dreams are interpreted every day, and almost everybody knows the cultural lore needed to interpret them (Watson, 1981). Instructions delivered in dreams are obligatory to be followed. They influence individual and collective actions for managing livestock and taking decisions in disputes, political crises and marriages (Watson, 1981). Thus, the connection between worlds has an influence on everyday life.

2.5.4.2 Wayúu Social Organisation

The metaphor of flesh (*eiruku*) defines Wayúu individual and group identity and social organisation (Perrin, 1987b; Rivera, 1990). *Eiruku* is a polysemic word that means

the inherited flesh, “flesh of my flesh”, “names of flesh”, the human flesh (“my/our flesh”), and the herd (“flesh of cow, goat, sheep”) (Perrin, 1997; Rivera, 1990). This flesh is transmitted from mother to child, and so therefore is clan identity; blood is transmitted from father to child (Goulet, 1981). Wayúu in Colombia and Venezuela currently have 27 *eiruku* or clans, inherited in a matrilineal system and established in mythical times (Guerra, 2002). These *eirukus* are different from one another in size, social status, wealth and political power (Perrin, 1987). *Eiruku* do not act as a collective and are not associated with a specific area of land (Saler, 1988).

The Wayúu refer to the smaller, localised groups of relatives sharing the same mother lineage, the same flesh, as *apüshii*.¹⁰ However, not everyone sharing the same “name of flesh” (*eiruku*) belongs to the same *apüshii*. *Apüshii* are defined by their territory of origin. This is why in Makuira there are 13 *eirukus* (with Aapüshana and Uliana being the most numerous) distributed among 54 *apüshii*-owning territories. Thus, the Wayúu always differentiate between a person Uliana with origin in a certain place, from a person Uliana with origin in another place, such as Uliana from Jiwonnei (*apüshii*) or Uliana from Jurali’i (*apüshii*). Those *apüshii* with the same *eiruku* claim a special affinity and share a mutual expectation of friendship and hospitality (Goulet, 1981).

The *apüshii* act as a cohesive group, and have collective social obligations and responsibilities (Goulet, 1981). The entire *apüshii* pays and receives, collectively, any compensation in the form of livestock and/or money that results from disputes or offences. Likewise, they assume collective responsibility for expenses related to bride wealth, wakes and funerals. If conflicts between *apüshii* go unsolved they have the obligation to go to war as a group. An *apüshii* also owns a territory of origin, the family cemetery where the second burials take place (a number of years after the first burial, exhumation is carried out and the remains buried again), and sometimes also one or several territories of residence. *Oupayu* are the family relatives from the paternal lineage or “blood of my blood”; their action as a group relates to matters where physical blood

¹⁰ *Apüshii* is used interchangeably with clan in Makuira National Park documents.

has been spilt: marriage alliances, injuries, and offences that imply blood has been spilt (Guerra, 2002).

2.5.4.3 Wayúu Territory

Identity is also connected with Wayúu organisation for ownership and control of their ancestral land in smaller territories, based on matrilineal lineages and origin myths. Following Correa (2005), the Wayúu collective ancestral territory can be seen as socially organized in a complex and multilevel way that covers several places and scales: the Wayúu ancestral territory, multiple places of residence, territories of origin, and territories of historical occupation. Wayúu rights to territory confer legitimate use and management of the territory's natural-resource diversity, based on complementary use of different ecosystems (*i.e.* savannahs, woodlands, coastal areas, swamps and streams, and marine areas). Chapter 4 will look in detail at Wayúu institutions for territorial governance of the *apüshii* territories.

The Wayúu ancestral territory embodies the Wayúu identity as a people. Important places are known by all Wayúu through their oral history of sites where mythical and historic events happened. The Wayúu do not have a name for their ancestral territory, however names are given to each territory (one or several) belonging to the specific *apüshii* (Rivera, 1995). The Wayúu occupy their territory in a system of spread-out settlements formed by several residential units that are separated by tens of meters from each other. These settlements accommodate up to 300 *apüshii* members, who share one local water source and a cemetery through a tight network of cooperation (Perrin, 1994; Vásquez and Correa, 2000).

Superimposed on this “patchwork quilt” of collective *apüshii* territories, is the network of social relations of extended families that allows for Wayúu to move between multiple residences spread across one or several *apüshii* territories; this system also enables people to visit cities where they have relatives (Echavarría and Correa, 1999; Rivera, 1995). Each *apüshii* has at least one other (*ranchería*) to pasture their livestock during periods of drought. In general, families move their livestock in the dry season from the High and Middle Guajira to the Low Guajira, close to urban centres, and return

with the rainy season (Vásquez and Correa, 2000). These movements across multiple residences are an important part of the Wayúu strategy of maintaining complementary livelihood sources to ensure social continuity (Echavarría and Correa, 1999; Rivera, 1995).

To have relatives in different places acts as a safety network that enables Wayúu to move according to their needs and the availability of livelihood opportunities. For example, the Wayúu move their livestock to places with grass and water across the peninsula, find temporary wage work in the city of Maracaibo in Venezuela, or during high tourism season, women travel to sell handcrafts in Riohacha and Santa Marta in Colombia. If someone needs to go to the hospital, to study at the university, or buy food provisions in town, there is always a relative with a place where they can stay.

2.5.4.4 Wayúu Chiefs, Palabrerros, and Leaders

The right to autonomy is exercised by Wayúu authorities in charge of their territories and internal social regulation, using the “Wayúu law” (*sukuaipta Wayúu* or “the Wayúu way”) and the system of compensations for social offences. The Wayúu authorities for dealing with internal Wayúu issues are the *alaiüla* (*apiüshii* chief), the *ouutsü* (spiritual healer) and the *palabrero* (mediator in disputes).¹¹ To interact with the state and non-Wayúu actors in the Wayúu *resguardo* and ancestral territory, the Wayúu have leaders, associations, organisations, as well as *cabildos* to represent group interests to non-Wayúu in various economic, political, social and cultural matters.

Autonomy exercised within the Wayúu society

Wayúu social organisation in autonomous *apiüshii* that are linked to one or several territories, is the basis of a decentralized governing system. The oldest living maternal uncle is normally the head of each corporate family group (Watson, 1970; Goulet, 1981). The chief is called *alaiüla* (maternal uncle), *ta'laula* “my uncle”, or “my chief” to show him respect (Iguarán, 2007). He is a man who has prestige within the family group, has the gift of knowing how to talk well to people, knows the Wayúu law,

¹¹ *Palabrero* is s.b. who mediates, or “takes good words” between offended families.

and is repeatedly sought by the family group as the wisest man they think can best speak for their collective interests in their dealings with another Wayúu *apüshii* (W. Guerra, interview, February 15, 2010). Guerra (2004) points to the dynamic nature of the Wayúu *apüshii* chiefs: there can be one or several well-respected uncles who, depending on their experience and prestige, may be asked to deal with an issue at hand. Even in times of hardship, older wise women, possibly *ouutsü* (spiritual healers), may assume temporary leadership when so required (W. Guerra, interview, February 15, 2010). The older leadership is also regularly contested by younger generations, as explained by Wayúu anthropologist, Weildler Guerra: “In a unit of uterine relatives that may have tens or a hundred members, the men are constantly competing for a better social standing within the group, making younger brothers who are entrepreneurs, brave and charismatic, compete for leadership with their uncles” (W. Guerra, interview, February 15, 2010).

The tasks of an *alaiüla* include: to maintain the unity of the *apüshii*; represent the interests of the *apüshii* in disputes, negotiate compensation payments and civil arrangements (marriage), control access to *apüshii* land by outsiders, and act as military leader in case of war (Watson, 1970; Goulet, 1981; Guerra, 2002; Iguarán, 2007). The *alaiüla* redistributes the property of deceased kinsmen (Watson, 1970) and, if his *apüshii* has to make compensation payments, he sets the quota of goats, per nuclear family. Further, the *alaiüla* watches over the organisation of funeral wakes, looks after the family cemetery, and defends and preserves the collective territory and its natural resources (W. Guerra, interview, February 15, 2010). Thus, the *alaiüla*, knows the limits of the territory, its history, the cemeteries, the water sources, and the lineages of all inhabitants (Iguarán, 2007).

*Palabrerros*¹² are the Wayúu authorities in the mediation of disputes between *apüshii*. They each have different specialities for mediation in certain kinds of disputes, such as those involving the spilling of blood, death, or robbery; others specialise in mediation for settling marriages and minor disputes (Guerra, 2002). *Palabrerros* are widely known to be pacifists, and experts in solving difficult conflicts. They “take”

¹² In 2010 *palabrerros* and the Wayúu normative system was awarded by UNESCO as intangible cultural heritage of humanity.

spoken words back and forth between the disputing groups until an agreement for compensation is reached. The goal is to avoid a war between *apüshii*, since war is always a possibility. There are strict protocols of diplomacy and transaction that have to be followed in any Wayúu mediation: *palabrer*os must apply the Wayúu law, which is centered on the Wayúu concept of well-being (*aná*s) that requires collective social responsibility for the behaviour of any individual *apüshii* member. Transactions and compensations are based on rigid principles of redistribution and reciprocity (Correa, 2005).

With regards to decision-making, decisions that concern the whole *apüshii* are always made on a consensus basis, in consultation with the heads of the nuclear families (Watson, 1970). Both young men and women, and especially the older women, take part in decision-making processes. Although women do not normally speak at public meetings, they are consulted by chiefs in private, at home (W. Guerra, interview, February 15, 2010).

Autonomy exercised with respect to people outside of Wayúu society

Among Wayúu, mediation through the *palabrer*os works to solve conflicts and arrange marriages. When dealing with people outside of Wayúu society, community leaders, Wayúu associations, organisations, and *cabild*os act as intermediaries in interactions with *alijuna* (non- Wayúu), and especially development representatives in La Guajira. Community leaders are young, bilingual and literate Wayúu men, and increasingly women, whose roles are different from those of the chief.

Working at the interface between Wayúu and *alijuna*, the role of the leaders is to negotiate Wayúu rights, interests and requests. Leaders are said to act together with the *apüshii* chief to negotiate with development or political representatives over the economic or infrastructure benefits for their communities; however, since the negotiations also involve a promise of local votes, there is political clientelism (W. Guerra, interview, February 15, 2010). Moreover, these leaders may also act for their own benefit, generating conflict inside families. The young leaders (often mistaken as “traditional chiefs” by the national society) and Wayúu associations are often the

resguardo representatives working to obtain state budget transfers for health or education projects (W. Guerra, interview, February 15, 2010).

2.5.5 Systems of Reciprocity and Redistribution: Wayúu Notion of Development

[Foreigners] have never understood our socio-economic reality: we produce what we need according to our own economic laws, which are not related to productivity and excessive profit; our production is neither small nor large; it is simply the necessary amount to live the way we want to live.

(Aguilar Ipuana, 1990, p. 278)

The Wayúu concept of *anáas* (wellbeing) is related to the Wayúu idea of development and increasing prestige of a person or an *apüshii*. Wayúu perception of the values that should attend self-development is well expressed in the quote by Wayúu leader and artisan, Iris Aguilar Ipuana. A good life means to be able to alternate between economic activities according to available opportunities; to be able to move between livestock keeping, fishing, trade, handcraft production, growing food, wage labour, and extracting sea salt. A good life also means to be able to operate effectively in Wayúu society, to increase one's own social standing or the prestige of one's *apüshii*. This is achieved through the system of compensation payments and redistribution of livestock since prestige is directly related to Wayúu wealth and measured in livestock ownership. The more animals a family has, the more able are they to fulfill the social obligations of their *apüshii* associated with wakes and funerals, bride price arrangements, or compensation payments. In wakes, for instance, goats are sacrificed for the dead to take with them to the other life. The meat is then distributed among attendants according to strict rules, which increases the prestige of a family when people positively comment on the generosity of the family; this, in turn, generates more invitations to future wakes, or funerals. Thus, *anáas* (wellbeing) and prestige are linked.

From the Wayúu perspective, well-being is also related to the availability of water. Water allows for life; for continuity of natural cycles and for growth. An abundance of good water helps bring prestige by supporting the livestock and agriculture that fulfil the social obligations of reciprocity and redistribution. Prestige is also increased by good management of conflict; that is, the ability to maintain peace. While

traditional activities are considered important to well-being, the Wayúu also regard as highly important the ability to access schools and health centers. Learning Spanish, reading, writing, and math skills is perceived as important to being able to successfully interact with the *alijuna*, increase social connections, and learn about job opportunities (Ballesteros *et al.*, 2001; Echavarría and Correa, 1999).

At the core of the Wayúu system of reciprocity and redistribution, stand the first and second wakes and the funerals; these are central social events in Wayúu life. Navigating the two realms of reality—the visible world of day-to-day life (*anasü*) and the invisible world of the spirits (*pülasü*)—is something every person has to accomplish as part of their life cycle, and proper practice of communication with the world of the spirits ensures that the natural cycle of life and death is perpetuated (García-Gavidia and Valbuena, 2004). Second funerals are carefully planned; close and distant relatives, clients and friends are invited. They may last a week or more, and may be used for different purposes according to the economic condition and social aspirations of the hosting family group. During the funerals the hosts build alliances, settle former debts and obligations, as well as establish new obligations and debts (Goulet, 1981).

Distributions of large numbers of livestock take place at funerals. The livestock that belonged to the deceased is distributed as meat to mourners, who are not direct family, according to strict rules of distribution and reciprocity. When a Wayúu accepts the offered meat or livestock, they become indebted to the hosts to invite them to future funerals (Goulet, 1981). Thus, in this manner, social solidarity, redistribution and reciprocity are guaranteed. Cycles of interchange are created between relatives and in-law relatives. In the Wayúu worldview, life consists of a continuous chain of favours done for other people in exchange for the return of favours by others (Goulet, 1981). Wayúu funerals are therefore imbued with meanings both highly symbolic and practical: maintain the cosmic cycles and maintain economic and reciprocity exchanges.

The Wayúu cultural and historical context on La Guajira peninsula has been one of continuous relations with outsiders through resistance, alliances, and hostility. This has signified continuous cultural adaptation, trans-culturation, assimilation, and syncretism. Such processes are tangible in the Wayúu cosmology, social organisation, organisation of territory, Wayúu authorities and social regulation, and interactions with national actors, as well as their conception of development. Those aspects of the Wayúu cultural background covered here help to understand their territorial governance institutions for territorial governance and control in the Makuira Mountains, as well as current governance challenges.

CHAPTER 3: METHODOLOGY AND METHODS



Photo 3.1: The journey to Makuira National Park. *Photo: Julia Premauer*



Photo 3.2: Participant observation in Park meetings. *Photo: Julia Premauer*

3.1 Research Worldview Assumptions

My research philosophy, the basic assumptions about the world and how we can understand it, is derived largely from post-positivist and social-constructivist philosophical stances (Creswell, 2009). I share with the post-positivist worldview the assumption that some part of reality is independent of our thinking and therefore our observations are never completely objective and require triangulation to improve accuracy. I believe however, that there are perspectives that remain incommensurate with one another, something which post-positivists don't agree with. I follow also a constructivist approach that assumes human beings construct meaning out of their surroundings as they engage with experience. In this perspective, "we are all born to a world of meaning bestowed upon us by our culture" (Creswell, 2009, p. 8).

This research has been informed to a greater extent by the constructivist worldview, but still there are aspects of post-positivism in it. The post-positivist worldview is certainly part of my training as a biologist. In terms of this research, a post-positivist worldview was manifest in my setting out of a series of logical steps to complete my field work, and in the thesis itself which is structured using a scientific approach (*i.e.* research problem, objectives, methods, results, conclusions). At the same time, a constructivist worldview was the most influential in this research. I have acquired this perspective through my experiences in both master's and doctoral programs, through the literature I have read, and through discussions with professors and fellow-students. Social-constructivism informed all aspects of this study. First, the questions addressed were about building an understanding of cross-cultural collaboration in a particular National Park. Second, this understanding was based upon the meanings that multiple actors and documents gave to co-government between parks and indigenous authorities. Lastly, this research took into account the contexts in which these processes and meanings unfold. Thus, my aim as researcher was to interpret the significances that others gave to the relationship between parks and Indigenous Peoples in a particular site.

3.1.1 Case Study Research Strategy

The research approach for this thesis was a case study. It was chosen because it fits well with the need for studying the relationship between Indigenous Peoples and conservation authorities in the context of protected area collaborative governance. According to Yin (2003), a case study allows one to get a comprehensive understanding of the ways in which events develop, and why, through in-depth immersion in a real life setting. In addition, a case study approach allows for using different sources of data, and incorporating historical, social, and political issues influencing the case under study (Stake, 1995). In addition, a case study allows for a more in-depth understanding of a phenomenon; it allows the researcher to “capture various nuances, patterns and more latent elements that other research approaches might overlook” (Berg, 2004, p. 251).

To comprehend how collaboration between *Parques Nacionales* (National Parks authority) and the Wayúu occurred in Makaira National Park, required a broader investigation of context, including national policies that address participation in conservation and recognition of indigenous rights. What occurred within the boundaries of the Park itself was also connected to wider regional contexts and to the headquarters of *Parques Nacionales*. Thus, in addition to spending time at the Park site, my fieldwork also included the cities of Riohacha, Santa Marta, and Bogotá.

The case study approach has been criticized for its lack of capacity to build generalizations that are applicable to other, similar studies. However, Yin (1994, p. 37) argues that “the problem lies in the very notion of generalizing to other studies. Instead, an analyst should try to generalize findings to theory, analogous to the way a scientist generalizes from experimental results to theory.” Generalizations in this document are based on experiences with Makaira National Park co-government, and with consideration of broader theoretical concepts in indigenous co-management of protected areas. Moreover, the in-depth understanding of phenomena and their contexts which the case study allows for provides not a single answer but a set of patterns, each of which depends on specific historical and geographical situations. Brockington *et al.* (2008) regard such

patterns as important to understanding the types of relationships that are likely to occur between Indigenous Peoples and conservationists under a variety of contexts.

The data collection methods for the case study followed an ethnographic approach and used several sources of evidence. To address Objective 1 (see Chapter 1) required less ethnography and more review of government documents, as well as semi-structured interviews. To address Objectives 2 and 3, an ethnographic approach was used during field work in Makuira National Park and was based on informal conversations, formal semi-structured interviews, and participant observation in the life situations of a Wayúu family that provides tourist accommodations, as well as in the day-to-day work of the Makuira National Park team. The following two sections provide details on data collection techniques and methods employed for each objective.

3.2 Research Methods

The qualitative ethnographic methods used in this study included extended field work, document review, formal and informal interviews, and participant observation. Such methods provided a high level of detail about actors at different sites, and their understandings and experiences regarding collaborative management with Indigenous Peoples (Hammersley and Atkison, 2005). I describe below the methods I used and explain how they were relevant.

3.2.1 Document Review

During my stay in Colombia, I reviewed documents in an ongoing process that provided me with a better understanding of the historical, political, economic and social contexts of the peninsula in which the natural park and Wayúu territory are located. I reviewed working papers, reports, and government documents obtained from the *Parques Nacionales* office (*Unidad Administrativa Especial de Parques Nacionales, Parques Nacionales*). *Parques Nacionales* documents and legal regulations for national parks were used as a key part of the analysis of the evolution of the co-government concept or Special Management Regime (Spanish acronym, REM) within *Parques Nacionales*. Also consulted were books, videos, theses and publications produced by regional and

national academic institutions (Universities in Bogotá and the University of La Guajira in Riohacha), indigenous organisations, and the Colombian Institute of Anthropology (*Instituto Colombiano de Antropología*). The public library in Riohacha had detailed material on historical and political background in the region as well as on Wayúu society. The Provincial Government of Riohacha provided the economic development plan and environmental planning for La Guajira Department. Online blogs maintained by Wayúu organisations and national newspapers provided information about Wayúu culture and the ongoing contravention of human and indigenous rights in La Guajira.

3.2.2 Participant Observation

Participant observation is a research method that enables a researcher to become closely acquainted with a community and the day-to-day activities of its members, through an intensive engagement as a participant (DeWalt and DeWalt, 2002). Being there and participating in daily activities are what allows a researcher to distinguish the difference between what people say they do (*e.g.*, in data from interviews and focus groups), and what they *actually* do (Guber, 2004). Informal unstructured discussions in every-day casual conversations, was another method for making general observations (Bernard, 2011).

In the context of this research, participant observation involved being present at and observing daily internal meetings and fieldtrips in Makuira National Park, and helping out with other tasks being performed by Park staff. I took part in three Park-Wayúu meetings not directly related to the co-management formal negotiation, but during a moment of tension in their relationship. Participant observation also involved talking to Wayúu, and taking part in the daily activities of the Wayúu household in which I was staying. I participated in their social gatherings, the most prominent of which were wakes and funerals and regularly visited relatives and the cemetery; I also took trips to the mountains to bathe in streams, following directions given in a dream. Participant observation gave me a broader understanding of the Wayúu cultural context and the nuances that only become apparent by being there for an extended period of time and participating in activities. It also gave me a more intimate understanding of interactions

between local Parks staff and Wayúu authorities, and between local staff and the *Parques Nacionales* central office in Bogotá. Participant observation allowed me to become known in the community and build rapport with Wayúu authorities I expected to interview at a later stage (but these interviews were not accomplished due to problems with legal bureaucratic procedures to obtain permission by the Wayúu, regarded as valid to *Parques Nacionales*, as well as security-related complications).

I had at all times a small notebook in which I jotted data and notes. In the evenings, I made detailed descriptive notes of my observations, especially on internal Makuira Parks meeting and Wayúu every-day life. I also wrote methods notes about how to adapt my strategies of enquiry to the specific challenges I encountered. I made also analytical notes and, finally, more self-reflective notes about my biases and personal challenges (see Watson, 1999; Guber, 2004).

3.2.3 Daytrips in the Serranía and Visits to Wayúu Cemeteries

I accepted all invitations to go on daytrips in the *serranía*. On one occasion, one of the members of the household in which I was staying dreamt that he had to go and bathe in the waterfall of Princess Makuira; we went the following Saturday. On another occasion, I accompanied the schoolteachers to the water pools in the Wayúu territory of *Kajashiwou*, about one-and-a-half hours by car from Nazareth. I also visited for a weekend the territory of *Jalein*, on the dry side of the *serranía*, and four hours by motorbike from Nazareth; on this occasion, one of the Wayúu Park staff invited me over to his territory to visit his family. Such settings were very suitable to conversations about past and present uses of natural resources, Wayúu activities in the *serranía*, personal and historical anecdotes, and stories. These opportunities helped me to gain a sense of other territories.

I was also often invited to Wayúu cemeteries. I attended wakes and funerals in three different cemeteries with my host family: a first burial, a multitudinous second wake and burial, and a small commemoration of someone being nine-months-deceased. These experiences allowed for rich informal conversations with Wayúu people who spoke Spanish and wanted to tell me about their customs, the important things in Wayúu

life; what is still relevant and that which “the grandparents did”. I learnt for instance the relevance of dreams and dangerous/*Pulowi* places in the daily life of Wayúu, and the nature of conflicts with the Park. These types of interactions contributed to my being able to make ethnographic accounts of Wayúu resources management and cultural practices.

3.2.4 Semi-Structured Interviews

Semi-structured interviews involved a systematic procedure that established in advance the questions and topics that were to be addressed by each interviewee in a consistent order, while at the same time allowing them to wander and provide more well-rounded answers (Berg, 2004). I conducted 22 semi-structured interviews throughout the fieldwork (see Table 3.1). I gathered data on the establishment of *Parques Nacionales* participation policy and its subsequent development, diverse views on and critiques of this Policy, and past and present management and co-management process in Makuira National Park. I also gathered data on Wayúu social institutions and management (Objectives 1 and 3).

I prepared the interview guides following my research themes and questions (see Chapter 1). I adjusted the themes and the vocabulary used in interviews to suit different people being interviewed, and further developed, in an iterative manner, the questions in response to ideas expressed by interviewees. I had the opportunity to make four follow-up interviews. Most of the work was done in Spanish. Only two interviewees in Los Flamencos Nature Sanctuary were monolingual Wayuunaiki speakers, so a translator was required. Cross-checking was conducted throughout the research process to verify accuracy. Interviews were recorded when people felt comfortable with that, otherwise I took detailed notes during the interview and added my observation afterwards.

Table 3.1 Semi-structured interviews

Number	Interviewees
2	<i>Parques Nacionales</i> staff at Participation Office in Bogotá
2	<i>Parques Nacionales</i> staff at Regional Office
2	Parks policy developers in 1998-2002 (formers Parks Director and advisor)
3	Makaira National Park managers
3	Makaira National Park Wayúu staff
3	Indigenous National Organisations
2	Wayúu professors (Bogotá and Riohacha)
3	Wayúu Authorities at Los Flamencos Nature Sanctuary
1	<i>Resguardo</i> Wayúu legal representative at Los Flamencos Nature Sanctuary

3.2.5 Use of Existing Qualitative Data

I used existing qualitative data from Makaira National Park internal reports that assessed the social, cultural and environmental features of the protected area. This report was a public document provided to me by the Park Manager. In Colombia, protected areas have to assess these issues as part of a *Parques Nacionales* pre-implementation process for collaborative management agreements. In Makaira, the assessment was performed by Park staff over a period of three years. Most Wayúu chiefs were identified, interviewed, and their extended family territories mapped. The document also included reports on previous Park work, including meetings and workshops on the process of establishing co-government agreements. I assessed the information in the report as adequate to be used in addressing Objective 2. I based my positive evaluation of the document on the detailed information it contained. In any case, asking again the same questions to Wayúu interviewees would have been neither practical nor wise.

One issue with the use of existing data generated by other people is that the context and nuances of “having been there”, so important to qualitative methods, are missing (Heaton, 2004). Fortunately, for this study I spent five months in the area, met the Park staff that did the existing research, and gained an understanding of the cultural context through participant observation; this allowed me to verify that the material I used from the report is reliable. The information in the Park assessment report was triangulated with a number of published ethnographies, theses, reports, and other

documents about the Wayúu. In addition to an assessment of the validity of existing data, I followed procedures to protect the confidentiality of informants in the Park document, and filtered out any information that could be harmful to the people involved in the research.

This thesis is based on a mix of document analysis, participant observation, use of existing qualitative data, and original interviews. Table 3.2 provides the numbers of people interviewed, by objective.

Table 3.2 Summary of the number of interviews by objective

	Semi-structured interviews	Informal conversations	Total interviews
Objective 1	11	-	
Objective 2	2	12	
Objective 3	10	7	
Totals (minus duplication)	20	18	40

3.3 Methods and Questions for Research Objectives

3.3.1 Objective 1

Describe and analyse Colombian policy frameworks and Parques Nacionales policies, concerns and institutions for protected area management, when these overlap with indigenous peoples' resguardos.

Public policies can be seen as socio-cultural phenomena. In this sense, public policy “carries questions of legitimacy, government and exercise of power, rules norms and social institutions, language, discourse, interpretation and meaning, the links between local and global, and the structure vs. agency debates” (Shore, 2010, p. 295). Consequently, not only were the policy documents analysed, but so too were the following: the ideas of people responsible for implementing policy in *Parques Nacionales*; national and international policies; developments after policy has been established; and, perceptions of the current state of policy in its implementation phase.

Table 3.3 Questions and methods for Objective 1

Methods used	Main research questions
<p>Semi-structured interviews: (2) developers of ‘Parks with People’ policy; (4) <i>Parques Nacionales</i> current employees in Bogotá and St. Marta; (2) Makuira PA managers; (3) indigenous peoples’ national organisations</p> <p>Proceedings of the 1st National Conference on Protected Areas, Bogotá, 2009 <i>Parques Nacionales</i> published documents, internal reports, Decrees, policy documents, 1991 Political Constitution</p>	<p>What has been the history of relations between <i>Parques Nacionales</i> and indigenous peoples?; Why and how did <i>Parques Nacionales</i> develop a public policy of “participation in conservation”?; How did the policy understand participation and conservation in relation to indigenous peoples?; How was the policy institutionalized?; How has the co-management concept evolved from its conception to its current implementation in overlapped territories?</p>

3.3.2 Objective 2

To describe and analyse the Wayúu institutions and priorities that allow for territorial governance.

For the purpose of this research, I focused on the Wayúu social institutions for territorial control and for dealing with issues of excludability and subtractability of natural resource use. To understand how the Wayúu organize control of their land, I considered the social territorial organisation and institutions. I also analysed the broader impacts of non-Wayúu property rights regimes that overlap with the Wayúu ancestral territory under *de jure* common property rights (*resguardo*).

Table 3.4 Questions and methods for Objective 2

Methods used	Main research questions
<p>Participant observation. Spontaneous conversations with members of my host Wayúu families in Riohacha and in Nazareth. Semi-structured interviews with Wayúu anthropologist, and Wayúu professor of ethno-education at the U of La Guajira, and a political activist.</p> <p>Use of existing qualitative data: (6) Verbatim transcripts of focus groups conducted by Makuira National Park (2), and meetings of territorial limits conflict resolution among 3 Wayúu extended families (4). 25 transcripts of interviews with Wayúu chiefs in MNP. Ethnographic literature.</p>	<p>How is the Wayúu territory organized? What are the social institutions (rules and norms) for territorial management? What are the concerns about territory and resources? How are the regional contexts influencing the institutions governability and autonomy? How do Wayúu see their relation with the Park?</p>

3.3.3 Objective 3

Investigate and analyse key aspects of the cross-cultural process for setting up formal co-government agreements, to reconcile Parques Nacionales and Wayúu governance.

Any study of relationships between Indigenous Peoples and protected areas should consider not only the formal but also the informal aspects of this relationship, as well as the broader contexts in which the relationship is situated. In this sense, I inquired on the history of the relations between the Wayúu and *Parques Nacionales* in Makuira National Park. To understand how the concept of REM was being played out in the park, I looked into the formal documents and procedures for REM implementation, as well as investigated how the day-to-day collaboration worked.

Table 3.5 Methods and questions for Objective 3

Methods used	Main research questions
Participant observation Semi-structured interviews: (4) <i>Parques Nacionales</i> employees in Bogotá and St. Marta; (3) Makuira PA managers; (3) Makuira PA Wayúu staff; (4) Wayúu authorities, Wayúu leader, Wayúu legal representative in Los Flamencos Nature Sanctuary	What is the history of Park-Wayúu relationships regarding participation and governance in the Park area? What does collaboration between Parks and Wayúu authorities look like on a day-to-day basis in Makuira National Park? How has formal co-management been pre-implemented so far?
Makuira management plan 2006, REM working document Makuira2007, REM working document Makuira2009 Makuira Strategic Plan2009 Parks’ transcripts of 4 meetings with Wayúu authorities (<i>Consejo de Sabios</i> 1,2,3,4) Parks’ transcripts of 2 Meetings with <i>palabrerros</i> 1 Meeting about ecotourism 1 Meeting for prior consultation REM Document Los Flamencos	How is the co-government concept in the participation policy being put into practice in Makuira National Park? What are the points of encounter and disagreement between Wayúu and Parks?

3.4 Consent and Confidentiality

As stipulated by Decree 1320, any research in protected areas needs formal prior consultation with Indigenous Peoples (Decree 1320, 1996). I provided an informal oral explanation of the purpose and nature of my research to a small number of Wayúu authorities and they gave their oral permission for me to conduct my research. However, and despite being present as witnesses when the permission was given by the Wayúu “autonomous authorities”, Park staff would not allow me to work inside their jurisdiction without the legal procedure of the prior consultation. Thus, I was not able to interview Wayúu chiefs in Makuira National Park.

In Los Flamencos Nature Sanctuary, which is close to the city of Riohacha, I went on my own, to speak directly to the Wayúu authorities in charge; I asked for their consent to ask them a few questions about their co-management experience with the Los Flamencos Nature Sanctuary and they agreed.

For the semi-structured interviews, I obtained oral consent from each participant; people in Colombia who are literate often feel uncomfortable with the formality of written consent, and if they are not literate, they are suspicious of the researcher's motives in having them sign a written consent form. I met with each interviewee in a setting and at a time of their choice, normally in their home or workplace. Most interviewees did not mind being identified by their names in the quotes; however, on issues for which they indicated they did not want to be identified, this was respected.

The revisited (Park report) data was part of a public document, however, confidentiality was ensured in information coming from interviews. I used pseudonyms when using quotes to respect their right to confidentiality. The raw information has been kept confidential, accessed only by me, my Colombian thesis committee member and my Canadian thesis advisor.

3.5 Validation and Reliability of Data

Validation of data from qualitative research is important for ensuring the credibility or trustworthiness of results and seeking reliability of the data to guarantee that bias is avoided. Achieving validity reflects the efforts taken by the researcher to ensure accuracy of data and provide sufficient justification for emerging results and themes (Creswell, 2007). I follow Creswell (2007) usage of the term 'validation' rather than 'trustworthiness'. Two approaches were employed to ensure the validity of research findings: triangulation of data sources and member-checking (getting feedback on the interpretations from informants). Information related to Parks co-government policy and its local implementation was checked, when possible, against at least other two sources. I checked back with participants after partially analysing data, in order to verify accuracy of my interpretations of what they had said.

Achieving reliability of data requires minimizing errors and biases (Yin, 1994), keeping in mind that researchers cannot be completely objective. As Martin explains (1990, p. 104), researchers "will retain cultural filters- their own personal ways of looking at the world, conditioned by how they were raised and educated." Therefore, I used several ways to be aware of my subjectivity, and to lessen its influence on field

data. For instance, making self-reflective entries in my notebook, consciously keeping an open attitude and paying attention to learning from people and situations I encountered; I also made a conscious effort to adopt a slower pace to how the days unfolded, not rushing interactions with people or trying to get to the point quickly in a conversation. I adjusted to the local rhythms and had important conversations before dawn, drinking the morning coffee with my host family, before people became busy with their daily activities. As Martin (1990) suggests, I practised being a good listener, allowing people to express themselves in the manner they preferred. I arranged interviews at the most convenient times for interviewees and stayed aware of when people became tired. In the community there were people that enjoyed telling exaggerated stories for the fun of it. Thus, I needed to constantly cross-check information with other people to get a sense of the accuracy of some people's accounts.

3.6 Analysis of Data

Analysis of data involved moving between different analytical levels, from initial coding to showing relationships among categories. This was done throughout field work, as the different analytical "steps" were connected and often occurred at the same time. I describe my analysis process following Creswell's (2007) description of "loops" used in case study analysis. First, I performed data management, in which I transcribed onto a computer most interviews and written field notes, and organized files of data. The next step consisted of reading through the transcribed texts, making notes and performing initial coding. The next level of analysis involved classification or use of categorical grouping to establish themes or patterns. Finally, findings were interpreted and represented using narrative text, tables, and figures, to provide a detailed explanation of the case.

3.7 Research Timeline

Field work began in late 2008 and ended in August 2010. Table 3.6 provides a temporal and spatial sense of where and when fieldwork took place. My base in Colombia was the city of Medellin. Travelling from Medellin to Bogotá for fieldwork, required an 11- to 23-hour bus trip, depending on road conditions. Travelling by air plane

was a much more expensive option and one that I did use sparingly. The Government Ministries and *Parques Nacionales* central office are located in Bogotá. So every trip to Bogotá was also used to perform document review in libraries and universities. Riohacha, the capital city of La Guajira, is a 24-hour bus trip away from Bogotá. To make that trip by air was very expensive, but it was less expensive to fly to Santa Marta and then make a 5-hours drive to Riohacha. Between Riohacha and Makuira National Park there are no roads, only tracks in the desert that are used in either the dry or rainy season, depending on where it is actually raining at the time of travel. On the Colombian side of the peninsula, there is no public transportation to Makuira. The options for getting to Makuira were: the National Park pickup truck, if available; the hospital transportation if it happens to be in town and has a spare seat; or a 4-wheel drive off-road truck that travels more-or-less on a weekly basis, taking people, animals and goods. Using any of these options, the trip can last between 10 hours and a few days, depending on the time of the year and the driver's ability to fix vehicle breakdowns.

Table 3.6 Fieldwork timeline

Field Site	Dec 2008	Jan 2009	Feb 2009	Mar 2009	Apr 2009	May 2009	Jun 2009	Jul 2009	Aug 2009	Oct-Nov 2009	Jan 2010	Feb 2010	Mar 2010	Aug 2010
Bogotá	X	X		X	X					X	X		X	X
Riohacha		X				X						X		
Makuira		X	X			X	X	X	X					
St. Marta								X						

December 2008 and January 2009 were spent in Bogotá, in the long and uncooperative process of trying to get a research permit from *Parques Nacionales* (see Section 3.8), identifying informants for Objective 1, and starting the document review. I arrived in Riohacha late January 2010 and stayed for 2 weeks, conducting a document review at the University of La Guajira and establishing contacts both at the university and with a Wayúu family. Then, I made my first visit to Makuira. During March and April of 2009, I conducted the principal phase of data collection for Objective 1, which involved interviews and document review in Bogotá. Then, during May of 2009, I

returned to Makuira to conduct the principal data collection phase for Objectives 2 and 3, which involved participant observation, interviews, and everyday interaction with Wayúu people and the Makuira Park team. In July of 2009, I spent a week in Santa Marta to conduct interviews at the Regional Caribbean office of *Parques Nacionales*. During October and November of 2009, I attended a national conference in Bogotá on protected areas, organized by *Parques Nacionales*, and continued with document review and interviews.

I stayed in Riohacha for 3 weeks in February 2010, initially hoping to get to Makuira the first week; however, the manager of Makuira National Park advised me not to make the trip because of security issues. Since I was already in Riohacha, I went for a few days to Los Flamencos Nature Sanctuary to see if I could interview some of the Wayúu authorities there. I wanted to have an idea of the experiences of another protected area in working collaboratively with the Wayúu. It turned out the first manager of Makuira National Park was living in Riohacha and so I was able to interview him. From April to July 2010, I waited to return to Makuira, while transcribing interviews and doing preliminary analysis; unfortunately, as is explained in Section 3.8, it was not possible to make that trip because of paramilitary activity in the area. In August 2010, I did the last 4 interviews in Bogotá.

3.8 Implementation Challenges

After I have described the methods that were used in my research, it is both necessary and highly informative to discuss the challenges I encountered in conducting research in Makuira National Park. These challenges led to adjustments in the amount of time I was able to spend in the Park and the extent of original data collected.

The present study received ethics clearance from the University of Manitoba. It was undertaken with the assistance of a Colombian scholar, Astrid Ulloa. I received an informal permit from the Makuira National Park manager and team, and was welcomed to work in Makuira by five of the Wayúu family groups associated with the Park. However, the research never received an official Parks research permit, about which I will explain below.

My initial plan with regards to gaining permission to access and work in Makuira National Park was simple: I would find out who the local authorities were in Makuira, introduce myself and the research to them and the community, adjust my research objectives according to discussions, and ask for their approval to conduct the research. I then expected to apply for a research permit from *Parques Nacionales* in Bogotá. However, this process which seemed relatively straight-forward from the outside, ended up being a “mission impossible” for a student researcher. One of the most challenging aspects of this research was dealing with the official legal requirements for researchers working in any National Park that overlaps with an indigenous territory.

At the *Parques Nacionales* office in Bogotá, I first filed in an application for a research permit but *Parques Nacionales* was unsure if my research, which did not involve the collection of biological specimens, even required a permit or whether I needed to do a formal prior consultation. *Parques Nacionales* sent me to the Ministry of Environment, Housing and Territorial Development (MAVDT), where I had to file a formal letter asking this very question, and to which I received no response for a month. The MAVDT response said I would need an authorization from *Parques Nacionales* that required a formal process of prior consultation according to Decree 1320¹³. However, neither MAVDT nor *Parques Nacionales* were able to tell me how to initiate a formal process of prior consultation so they sent me to the Indigenous Affairs Office (IAO) of the Ministry of Interior and Justice.

Indeed, the people from the *Parques Nacionales* in Bogotá tried to convince me to give up my thesis or work somewhere else, as it was going to be very difficult to get the required authorization. I persevered, however, and paid a visit to the Indigenous Affairs Office, where I learnt about the official procedure for carrying out a prior consultation as stated in Decree 1320. In doing so, I was shocked to hear that in addition

¹³ The 1998 Decree 1320 regulates the implementation of Prior Informed Consultation with ethnic groups. It was developed for multinational projects on development and resources exploitation. Implementation of Decree 1320 has been surrounded by intense debate. The ultimate decision-making power lies with the government, and there is little room for negotiation. National and regional indigenous peoples' organisations are against Decree 1320. They argue that the way it has been implemented is not safeguarding their fundamental rights (A.Valbuena, personal communication, March 14, 2010).

to the travel, accommodation and food expenses that would need to be covered for meeting with all 54 Wayúu authorities, I would also be asked to pay the travel costs incurred by officials from the MAVDT, the IAO and the regional environmental agency, all of whom would need to witness the procedure to ensure that I was not co-opting the process. I responded by writing a number of letters that explained I was not a multinational company, but rather a research student without the financial resources to make a prior consultation according to Decree 1320. I received no reply so went again to make my case in person and the answer was that they understood my predicament, but the norm was the norm.

I was between a rock and a hard place. Thankfully, I took the advice of my Colombian committee member, Dr. Ulloa, and set off to Makuira National Park to see if I could directly present and discuss my proposed project with the community, hoping that they would be interested and grant me permission there and then, thereby negotiating my way around my bureaucratic nightmares with the powers-that-be in Bogotá. However, even then I encountered a number of new challenges. First, upon arrival I learnt that the Park was officially closed to visitors due to an attack of Africanised bees that had killed a man. Second, some Wayúu members of the Park staff said initially that no research proposal was welcomed in indigenous territories. Colombian National Indigenous Organisation (ONIC) had made an official announcement in 2006 stating that all research activities in indigenous territories were suspended, because there were no government guaranties that indigenous people's rights would be respected. Thus, the lack of reception to research by Parks personnel reflected the complex political relationship between national government and Indigenous Peoples in Colombia, since the government attitude has been for some time characterised by a lack of acknowledgement of indigenous peoples' rights.

After the Wayúu staff allowed me to explain again what I wanted to do, they agreed for me to work there, but I still had to follow the legal procedures for prior consultation. However, later that day, and to add to my confusion, the Park manager—who was from Bogotá— privately advised me to ask the Wayúu for permission informally, since they would be extremely suspicious if government representatives start

arriving to conduct a formal prior consultation. After several days of discussion, I decided to explain my situation again, and suggested an alternative plan that involved asking a reduced number of Wayúu authorities for permission to do the research in their territories and only work with them. With the help of the Park manager, the Wayúu staff agreed and I presented my research project in the context of a larger Park meeting with a number of Wayúu authorities. The Wayúu authorities who attended the meeting saw no problem with my proposal and immediately gave me their oral consent to work with them. This Wayúu oral permission to carry out the study was a critical breakthrough, five months into the project.

But even then, a new set of problems arose. According to the permission I had secured from several Wayúu authorities, I would be able to work with them in their territories since they are the “autonomous” authorities that govern those lands. However, for *Parques Nacionales* headquarters in Bogotá, this informal consultation was not valid. Indeed, on my second visit to Makuira, I found that the Wayúu staff had suddenly changed their minds. As a result, the only option the Park manager and staff gave me was to grant an informal authorization with the condition that I work on the co-government, or Special Management Regime (REM) process “from a distance”. This meant I was able to work with Park staff as a fellow staff member, participate in any management tasks, interview staff and take notes. I was also given access to Parks documents and the archive. However, I was not allowed to work directly with the Wayúu chiefs inside the Park itself.

That was as far as I was able to get in the process of gaining access and permission to conduct my research. I followed their instructions to not interview Wayúu authorities in the Park area during the remaining time of my first visit (one month in total) and on my second visit. Fortunately, I stayed on both occasions with a Wayúu family on the outskirts of Nazareth, which allowed me to meet other Wayúu people, attend culturally important events, participate in daily Wayúu life, and have very interesting conversations in the evenings. In addition, I decided to focus more on the role of Wayúu staff in the co-management of Makuira National Park, since I had by that time come to realise they were influential actors in the Park.

The convoluted process that I was forced to go through illustrates the irony of how the very legal norms that are set up to help guarantee Indigenous Peoples a fundamental right to prior informed consultation become, on the one hand, co-opted by multinationals and other elites and, on the other hand, leave Indigenous Peoples and academic researchers powerless to establish other types of approval to conduct research in protected areas. It also illustrates the decision-making powers that Wayúu staff has in Makuira National Park.

Colombia is a country in which drug trafficking is a significant, ongoing phenomenon. Various paramilitary groups compete for control over the High Guajira in order to maintain drug-trafficking corridors. Therefore, there was always the possibility that events outside my control could cut short the time I spent in Makuira National Park.

At the end of November 2009, a paramilitary group established a base camp in a Wayúu territory in the *Serranía*—also a National Park area—close to the village of Nazareth in which I had earlier stayed. They had businesses with some of the nephews of the leaders of this Wayúu territory who allowed the group to stay there. From Bogotá or Medellín, I stayed in communication with different local people via cell phone. At the end of January 2010, the Director of the hospital in Nazareth had to flee due to death threats. The Director had rejected the demands made by the paramilitary group for a percentage of the hospital's annual budget. In April of 2010, one ton of cocaine was seized close to Nazareth by a squad of anti-drug police (El Tiempo, 2010). The situation continued to be extremely tense for the remainder of 2010. In June, the community of Nazareth wrote an open letter to the government asking for a military base camp to be established in Nazareth, so that the hospital could resume normal service (N. Uribe, personal communication, July 22, 2010). In 2011, the situation in Nazareth improved as the conflict moved to another area. However, the risks of conducting research remained. I could have been in mortal danger, as had happened to other university student-researchers who were killed in another coastal area known to be dominated by paramilitary groups. While I was prepared to go to Makuira National Park whenever I was given the green light, much of 2010 and 2011 was lost to this series of unforeseen setbacks, and there was a point at which I had to set a limit to my time in the field.

In summary, the obstacles I encountered had two main impacts on my data collection in Makuira. First, while the original plan was to visit Makuira on three different occasions and spend a total of ten months at the field-site, I could only make two separate visits and spend a total of five months in the area. Second, the data I have used to pursue my second objective was based on recorded observations and conversations, as well as the use of existing qualitative data. Because I was not allowed to work directly with the Wayúu chiefs of Makuira, I was unable to gain access to a comprehensive Wayúu perspective on their relationship with the Park.

The problems this study encountered have become, nonetheless, opportunities to understand two things about natural resource management and Indigenous Peoples in Colombia. First, natural resources management is immersed in socio-political complexities that reach far beyond the collaborations between Park and local Wayúu authorities, and require addressing the *de facto* sovereignties of illegal, armed actors. Second, legal norms and procedures for protecting indigenous rights, such as the prior informed consent, remain insufficiently developed in Colombia. On the one hand, powerful corporations follow the legal norms, but manage to co-opt the processes most of the times anyway (Rodríguez, 2008; 2008a). On the other hand, the same legal procedures can have a paralysing effect on collaboration between researchers and local indigenous communities. I remain confident that the thesis provides significant findings and conclusions with regards to the complexities involved in conservation, co-management and indigenous people's rights.

CHAPTER 4: WAYÚU PEOPLE AND GOVERNANCE OF TERRITORY



Photo 4.1: Wayuu mourners going to their cemetery in Makuira. *Photo: Julia Premauer*



Photo 4.2: Water hole known to have a *Pulowi*. *Photo: Julia Premauer*

4.1 Introduction

Chapter 4 addresses the thesis objective of identifying Wayúu institutions of territorial control and resource use, as well as the broader contexts in which such institutions are located.¹⁴ The chapter describes how the Wayúu organize their territory based on social relationships, including those with supernatural beings, and the broader contexts with which Wayúu governance institutions interact. This chapter begins with a brief description of the Wayúu culture and history, followed by a detailed presentation of Wayúu commons institutions for the governance of their territory, and finishing with the current regional context in which these institutions are embedded.

Providing a regional context (*e.g.* development projects and paramilitary groups) for Wayúu commons institutions is important for two reasons. First, the interaction between the territoriality of different interests has an impact on Wayúu autonomy, self-development, and institutions. Second, the ways in which the Wayúu actively and dynamically engage with such forces and processes range from resistance to alliance-formation. Thus, the regional context presents, at the same time, a threat to Wayúu autonomy and territorial rights, but also provides opportunities for Wayúu to assert their rights and interests.

More generally, to understand how particular observed institutions and human-environment relations are shaped, McCay stresses the importance of looking at context-related impacts on human-environmental relations; a situated perspective better accounts for historical, cultural and ecological particularities, as well as the wider structuring macro-forces, that influence local property rights and institutions (2002, p. 393).

¹⁴ Part of this chapter has been published as: Premauer, J. and Berkes F. 2012. Colombia: Makuira, the cosmological centre of origin for the Wayúu people. N. Dudley and S. Stolton (Eds.), *Protected Landscapes and Wild Biodiversity*, p. 53-60. Gland: IUCN-GTZ.

4.2 Broad Overview of Wayúu Culture and History

A frontier culture cannot be understood without taking into account conflict and exchange, occurring in many ways, in which at the same time there is adaptation, transculturation, assimilation, syncretism and resistance happening.
(Polo-Acuña, 2005, p. 3)

In order to understand the results from this research it is essential to understand certain key aspects of Wayúu culture and history. These elements inform the way Wayúu interact with the land, each other, with National Park authorities and with non-Wayúu social actors. I will provide a very brief description of certain Wayúu social and cultural characteristics as they directly influence the process of co-government implementation and day-to-day engagement between the Wayúu and Makuira National Park authorities. A fuller review of the ethnographic literature on Wayúu culture and history has been provided in Chapter 2, Section 2.5.

In terms of geographical location and history, it is important to appreciate that La Guajira peninsula is remote from the centers of political power and has been, since colonial times, a strategic location in the Greater Caribbean Region for the trade and smuggling of illicit goods. For the Wayúu this has led to a dynamic and continued interaction with non-Wayúu that has shaped Wayúu culture so deeply that, as a people, they cannot be understood without reference to this larger social, political, and economic contexts (Correa, 1993; Pérez, 2004). Their location on La Guajira peninsula has provided opportunities for trade (in both legal and illegal goods) (Mancuso, 2005; Gutiérrez, 2007), as well as a certain degree of insecurity, especially in more recent times (Correa, 1993; Pérez, 2004).

Historically, the Wayúu have a very strong reputation for being fiery resisters to any attempts to subjugate them (Vásquez and Correa, 1986; Correa, 1993; Polo-Acuña, 2005). They have had relatively high political and social autonomy, including effective control over most of their land until the twentieth century. This has positively impacted Wayúu perceptions of themselves in terms of owning and controlling the land, enhanced their self-pride, and led to some contempt for *alijuna* (non-Wayúu). It has also influenced the way others, including *Parques Nacionales* authorities, perceive and approach the

Wayúu; Park authorities recognise that the Wayúu are in charge of the land and as a result tend to deal with them in a cautious and respectful manner.

Another important historical occurrence that resulted from contact between Wayúu and non-Wayúu has been inter-racial marriages in which Wayúu culture has predominated (Vásquez and Correa, 1986). Such marriages have been almost exclusively between Wayúu women and non-Wayúu men. As the Wayúu are a matrilineal society, these offspring are considered Wayúu, they speak the language of their mothers, and are raised in Wayúu culture. Interestingly, these offspring have become a cultural bridge between Wayúu and non-Wayúu as they speak both languages (*i.e.* Spanish and *Wayúunaiki*) (Vásquez and Correa, 1986). With respect to park governance, the role of intermediary between the two cultures is played by young Wayúu who are bilingual and literate. Their acting as go-betweens in negotiations with outsiders has provided a buffer that has contributed to cultural survival within a context of dynamic and constant interaction with outsiders.

Another change brought by this constant interaction with non-Wayúu has been the adoption of livestock (Guerra, 2002). This change is important because it has strongly shaped Wayúu society. First and foremost, livestock ownership is a sign of wealth and prestige. This society is not an egalitarian society; wealth is established by how much livestock one possesses. Second, it has allowed for the development of a system of compensation for wrong-doings. For the Wayúu, personal wealth is measured by possession of livestock necessary to be able to function within their society; for example, Wayúu need livestock to: pay compensation if their extended family harms another family; provide sacrifice at funerals so the departed has his/her livestock pass with them to the other world; form strategic alliances with other families through a complex system of meat distribution at special occasions (*i.e.* weddings and funerals) through which the recipient of the gift of meat becomes indebted to the gift or; pay dowries for weddings; and, to use in barter and trade (Goulet, 1981; Guerra, 2002).

Livestock also has changed the way Wayúu interact with the land. As owning livestock is so essential, the Wayúu have adapted their livelihoods to be able to maintain their herds. This means that the Wayúu maintain several residences which they move between on a season basis in order to access food and water for their animals; some of these residences they own while others they need to have permission from other Wayúu to make use of the land. Anthropologists therefore consider the Wayúu to be multi-residential (Guerra 2002, Correa, 2005). Because of the importance of livestock for the Wayúu, Park authorities cannot ask the Wayúu to remove their livestock from the Park

Wayúu livelihoods are diversified; they are not limited to just one economic activity but a set of complementary activities that are pursued according to the time of the year (*i.e.* dry season or rainy season) and on what options are available (*e.g.*, factory work, salt extraction and trade).

Wayúu society is organized as a system of extended matrilineal families living within the Wayúu ancestral territory. There are approximately 27 clans within the Wayúu people. However, they do not organize or act as a group according to clan identity but instead according to the matrilineal extended family, which the Wayúu call *apüshii*. Each *apüshii* (or matrilineal extended family) owns a collective territory, including a cemetery; they assume collectively social responsibility for fellow *apüshii* members by, among other things, contributing to the cost of funerals and compensation payments, fighting in war. Therefore, if one member of an *apüshii* does something wrong then the entire collective pays the price of the offence; consequently, there is a strong attention to social control of individual behaviour within an *apüshii*.

Each *apüshii* has three kinds of leaders (see Section 2.5.4.4): *alaiüla* or chiefs, *palabrerros*, and community leaders. A chief is an elder male descendant within an *apüshii* and has many roles (Watson, 1970; Goulet, 1981; Guerra, 2002). As leaders they are the head of the *apüshii*, they normally have prestige, they know how to orate and resolve minor conflicts, and they act as a spokesperson for his *apüshii*. Strategically, they play a role in defending the territory of the *apüshii* and they act as military leader if there is a conflict with another *apüshii*. As holders of communal knowledge, they know the land, the history of their territory, the location of cemeteries and cultivation plots, and

they know family lineages of the *apüshii*. The *palabrero* is a kind of “lawyer” who understands Wayúu civil law and acts as a mediator in disputes between *apüshii* members (Guerra, 2002). Community leaders are usually younger people who speak both languages, are literate, and can therefore be spokespersons for *apüshii* interests with outsiders (*e.g.*, private or state agents of development). These community leaders act as negotiators with outsiders usually around economic and infrastructure benefits for the *apüshii* (W. Guerra, interview, February 15, 2010). Recently, women have taken the role as community leaders in making visible and struggling against the impact of armed actors in their lands.

The ancestral lands of the Wayúu span beyond the High and Middle Guajira peninsula and contain key landmarks of Wayúu identity as a people. However, the Wayúu do not have a name for their ancestral land as a whole in the way they do for their smaller *apüshii* territories (Rivera, 1995). An *apüshii* may own one or several geographic places/locations, the most important being their territory of (mythological) origin. This is where their *apüshii* cemetery is located. Other territories that may be controlled by an *apüshii* include those associated with historical occupation (Echavarría and Correa, 1999; Rivera, 1995).

The Wayúu have a strong mythology, including belief in an invisible/other world with its spirit beings, which also influences the way they interact with the land, and in particular their behaviour in and around sacred places (Perrin, 1987). Dreams act as the connection between the living and the invisible/other world; they are the form of communication with the supernatural and guide Wayúu behaviour in most aspects of their lives (Perrin, 1987). Now that I have provided a short summary of Wayúu culture, I will present my results on Wayúu customary institutions for land governance.

4.3 Wayúu Customary Institutions for Land Governance

4.3.1 Wayúu Homelands: Territories of Origin

In our culture, an *apüshii* has to have its *ekiwi* (place of origin) and this is traditional for us because our Father *Mareiwa* put it that way.

Alaiüla #1 and renowned *palabrero* ¹⁵

The High Guajira, more specifically, *Wuinpümüin*, is known as “the place where all Wayúu come from” (EPM, 2002, p. 53) in a mythical and historical sense (Correa, 2005). In the Makuira Mountains, 17 out of the 54 territories identified by the Makuira National Park (described in Section 3.2.5) are territories of origin of the *apüshii* currently living there. The territory of origin of an *apüshii*, “marks the whole life of a clan, identifies its true history, and it allows them to negotiate, make agreements or become enemies with other clans” (Asociación Wayúu Araurayu, 2001, p. 5). A territory of origin of an *apüshii* has their site of mythic origin (*ii* or *ekiwi*) and their cemetery, which demonstrate ancestral occupancy, thus ownership. The *ii* is a big stone representing a head, with three holes for two eyes and a mouth; an *ii* can be also a natural pool of spring water. In these places, the first man and woman, the ancestors of that *apüshii*, were born from the earth (*ma'a*) after the rain (*jujá*) had made her pregnant (Asociación Wayúu Araurayu, 2001). The *ii* and cemeteries are the key places of connection with the ancestors. Thus, they are respected as sacred places, as the following quote illustrates:

The [clan] Paüsayuu of this territory had their origins since the creation of our ancestors, our family, when they came out of the spring water pool called *Isijo'u*. Before the water came out of the pool, the first man and the first woman, our ancestors, came out. We are here today because of them. [...] The old burial ground was near that water pool, they were buried in earthenware pots. The pots were in very bad condition and you could see some of the remains in the sand. Seeing this painful situation that was hurting our feelings as a family, we decided to build a new cemetery with cement and brick that allows it lasting for a very long time. We have moved some remains from the old to the new cemetery, however, others have been there for so long that they are dust now and we could not transport them. This is the reason why we maintain our cemeteries as sacred sites in our territory.

Wayúu community leader # 1¹⁶

¹⁵ Makuira National Park minutes of meetings for conflict resolution, 2004.

¹⁶ Interview by J. Hernández, Wayúu field assistant for Makuira National Park, November 10, 2006.

Noticeable from this quote, and from the rest of the material collected by Park staff (see Section 3.2.5), is the consistency in the proximity between place of origin (*ii*) and the old burial grounds of the ancestors. The territory of origin of an *apüshii* is where the second burial takes place, where the dead complete the human cycle and return to the cosmos to come back as rain and water ponds (Perrin, 1987). The careful relocation of the remains of the dead in newly-built cemeteries reflects the high importance of proper burial and respect towards ancestors. When traveling across the High Guajira, I was struck by the sight of empty constructions that resembled small villages scattered across the arid landscape. The Wayúu driver explained to me that those were *apüshii* cemeteries in their territories of origin. The importance of proper burial in the proper place is something one encounters on a daily basis in La Guajira: in the landscape, in the fears and concerns of people, and even in the messages delivered by dreams involving long-dead *alijuna* (non-Wayúu). For instance, Mr. Suárez Uliana, a well-known *palabrero* and my Wayúu host in Nazareth, told me that some years ago he was travelling by bus in Nariño, southern Colombia, on what was a very curvy and narrow road along a precipice. His greatest fear was to have a bus accident on such a precipice and never be buried properly in his *apüshii* cemetery. Thus, as much as cemeteries act as markers of ownership, they are also important places where the Wayúu life cycle is completed, thereby maintaining Wayúu cultural and natural cycles.

4.3.2 Wayúu Homelands: Territories of Old Occupation

The land belongs to all of us. However, the Wayúu are organized in clans¹⁷ and territories, and this is something that we have to know. I mean, we have to know that each clan has its own territory, and each family knows where the limits of its territory are.

Alaiüla#1 and renowned *palabrero*¹⁸

The territory of previous, historic occupations by an *apüshii* is usually, but not always, a different territory from the territory of origin. An intense redefinition of territories, due to migration and wars between *apüshii* occurred during last decades of the nineteenth century and the first decades of the twentieth century (Vásquez and Correa, 1986). Most Wayúu migrated from the High Guajira to the Middle Guajira, due to severe droughts, intense conflicts among *apüshii* due to the loss of land to the haciendas and overgrazing in the Lower Guajira and other regional economic drivers (Vásquez and Correa, 1986; Correa, 1993). Thus, in the nineteenth century Wayúu arrived and occupied abandoned lands, or entered into war and displaced others, as indicated by the oral history accounts of the Wayúu owners of territories in the salt harvesting grounds of Manaure, in the Middle Guajira (Correa, 2005). Wayúu fishers in Los Flamencos Nature Sancuray in the Lower Guajira arrived there in the early twentieth century according to oral history (Field notes, 2010). In Makuira, ownership of an *apüshii* territory can be based on their origins at that place, cession following warfare, or occupation of a territory abandoned by people fleeing from war with another *apüshii* (PNN Makuira, 2008).

In Makuira, research carried out by the Park, showed that 14 out of 22 surveyed territories were ceded to the current owners. Considering the availability of water and fertile soil in Makuira, newcomers could have created a situation in which the existing owners were lured into violently attacking somebody whose *apüshii* would then be able

¹⁷ Clans and *apüshii* (matrilineal extended families) are used interchangeably in the Park's document

¹⁸ Quote from his intervention acting as mediator in the territorial conflict in Makuira. Source: Makuira National Park minutes of meetings for conflict resolution, August 19, 2003.

to claim compensation. Guerra (2002) affirms that in the past, one well-known strategy to become owners of a good territory was to start a dispute or war.

Examining the accounts of the Wayúu owners of territories in Makuira, it was frequently mentioned that such transfers of land ownership rights to another *apüshii* occurred during a time when livestock was scarce in Makuira¹⁹. As noted by *alaiüla* # 2 of the clan Aapüshana²⁰: “In past times there were not many animals [livestock] around. Thus, the deaths or offenses of blood split were paid with land”. In the Wayúu Law’s system, a serious fault such as the death of an *apüshii* member, demands payment of compensation. The *alaiülas*, or Wayúu authorities, in Makuira mentioned three types of situations that require compensation with livestock or with land: injury or death of a man, to bring an end to ongoing war, and the death of a woman from another *apüshii* when she is giving birth. However, in the last case (women giving birth), compensation is treated differently and involves ceding to her *apüshii* only the portion of the territory in which she and her husband used to live. Thus, the *alaiüla* explained that the extent of some territories increased over time, while others decreased (PNN Makuira, 2008). This is illustrated by the *Alaiüla* # 2²¹ in his account of the history of his territory:

A portion of the territory [...] was ceded because of the claim generated by the death of a woman who died with her son when giving birth. She also belonged to the Aapüshana clan, but was originally from another territory.

The previous Aapüshana fought, killed and burnt people and things, even the blind older men were burned. Thus, to solve the anomaly, this part [of the territory] was ceded to the family of the killed people to have peace and tranquility.

According to the accounts of the *alaiülas*, traditional authorities, given in the following quotes, ownership of a territory of historical occupation in Makuira is legitimised by being able to tell the history of it, by having established cemeteries, by

¹⁹Correa (1993) situates the expansion of goats and sheep livestock to the Middle and High Guajira at the beginning of the XX Century.

²⁰ Interview by José Hernández, Wayúu field assistant at Makuira National Park, November 2, 2006.

²¹ Interview by José Hernández, Wayúu field assistant at Makuira National Park, November 2, 2006.

being able to say the names of the ancestors buried in it, by having established cultivation areas (*huertas*), and by having planted fruit trees. Old *huertas* and planted trees of certain species are living fences used as markers of the limits of an *apiüshii* territory (PNN Makuira, 2008; PNN Makuira, 2003). Section 4.3.3 further exemplifies the use of arguments of ancestry in an internal Wayúu conflict over land ownership.

The territory of *Iruwap'a* is not our own, and I say this because it was ceded to us by the caste *Juusayuu*. [...] The *Juusayuu* and my family, the *Ipuana*, were at war. One day they abandoned their territory. In that moment we entered it and we have already our cemetery by the stream. We also have our *pesuwa* (ancestors abandoned *huerta*). It has *aceituno*, *mango* and *mamoncillo* trees. Its name is *Jachuwapü*.

Alaüla #3 Ipuana²²

This is now my territory because its former owners gave it to my uncles a long time ago [...]. I know its limits because my grand ma showed them to me.[...] It was the old *Churia Jinnuu* who received the territory as value for the life of a man called *Kijolu*, and that became the name of the territory. That first man, *Churia* built a *huerta* called *Chaawa*.

Alaüla # 4 Jinnuu²³

We arrived here because our great grandparents [...] had a problem in *Jalaala*, and we lost the war in our territory of origin, and we had to flee. [...] The *Ipuana* of this territory said “you can come here, you will be fine with us, and we will treat you as brothers”. The ancestors who arrived first were: *Anaparia*, she pioneered the construction of the cemeteries, *Alamairashi*, *Wachinka*, and *Patajapa'a* were born here, they all passed away, and are buried in our cemetery right here.

Alaüla #5 Ipuana²⁴

Researchers working with the Wayúu have called the set of ownership markers as demonstrating the principle of **precedence** (Rivera, 1990; Echavarría and Correa, 1999; EPM, 2002; Guerra, 2002) or ancestry (Echeverri, 2003). Precedence is understood as “the uninterrupted long term occupation of an area of land by a family group, which

²² Elder from territory of *Iruwapa*, interviewed by Miladis Iguarán, Park Wayúu staff, September 12, 2007.

²³ Wayúu chief interviewed in 2006.

²⁴ Interviews with Wayúu chief *alaüla*#5 and his brother, in their territory, 2006- 2007.

considerers that it is their *woumainpa'a*, or ‘Wayúu homeland’, and has a concrete manifestation in family cemeteries and other remains that prove their long term settlement in the area” (Guerra, 2002, p. 89). Thus, precedence is also demonstrated by old corrals or posts used to brake-in new horses, old sites of ancestors’ houses (EPM, 2002; Guerra, 2005). Guerra (2002) identifies **adjacency** as another principle for ownership that is based on the closeness of the *rancherías* and cemetery to a specific natural resource, grazing area, water source (*i.e.* well, spring, *jagüey*, or nearby stream), hunting and medicinal plant gathering area, or cultivation area (*huertas*). Among Wayúu fishermen, adjacency would mean closeness to salt harvesting grounds, coastal lagoons, or fishing areas. The **subsistence** principle of ownership is defined by Guerra (2002) as the social recognition that a Wayúu family group has been the long-standing user of natural resources in their traditional territory.

The three principles provide a justification for Wayúu *apüshii* customary ownership over a territory in which its members hold the full bundle of property rights, as shown in Table 4.1. This table is based on and expanded from the five types of rights presented in Chapter 2, Table 2.2.

The *apüshii* decides who can legitimately enter their territory (*i.e.* they hold **exclusion rights**). Those living in a specific Wayúu homeland don’t belong to one single *apüshii*. Matrimonial links and kinship make the permanent residents a great variety of people, as explained by one Wayúu chief²⁵

Residents of *Jiwonnee* territory belong to clans with different origins, and come from all over. Many people in this territory are *achounii* [children on the father’s side] and *alüinii* [grandchildren]. *Alaüla* #6

People related through marriage and kinship therefore hold a certain bundle of rights that includes **access rights, use and withdrawal rights** to natural resources and in some cases **management decision-making rights** as well. However, they do not hold exclusion or alienation rights. **Management and decision-making rights** regarding issues pertaining to the territory are generally held by the direct descendants within the *apüshii* associated with the area (*i.e.* the owning *apüshii*).

²⁵Interview by José Hernández, Wayúu field assistant at Makuira National Park, 2007.

Table 4.1 Fitting local criteria into bundles of rights (Source: Adapted from Schlager and Ostrom, 1992, p. 252; Ostrom and Schlager, 1996).

Property rights	Owners Proprietor <i>given by</i> precedence adjacency subsistence	Claimants	Authorised user	Authorised entrant
Extended family (<i>apüshii</i>) territory	members of <i>apüshii</i>	Marriage, Kinship	Temporary residents	Strangers (Wayúu or <i>alijuna</i>)
Access	X	X	X	X
Use and withdrawal	X	X	X	
Management decision-making	X	?		
Right to lease (lend)	X			
Exclusion	X			
Right to cede/give as present/exchange	X			
Right to build cemetery/brick houses/agricultural plots	X			
People who are in need			X	
Permission to drive/walk across				X

However, there is room for flexibility. The Park diagnostic research found one territory in Makuira where a man was in charge of his wife’s *apüshii* territory. He explained that he had been living there for a long time, he knew the history of the territory, and was seen as the most appropriate person to take care of it, and control access. However, it is not clear if he could cede the land or lend it to others outside of his wife’s *apüshii*.

At any time, but especially during the dry season, the members from the matrilineal extended family including kinship who live permanently in one territory can become temporary residents or “authorised users” of another territory. The reasons for asking for temporary residence are usually based on a need to access water and fodder for livestock, or to seek asylum from conflict with another *apüshii* (Guerra, 2005). Authorised users can be relatives, allies or people from the same clan but with different origins (Guerra, 2005). They can even be *alijuna*, non-Wayúu, who want to live in that territory. The *apüshii* owners of a Wayúu territory as a norm will “lend” a portion of the land to temporary residents. The owners will usually give permission to enter a territory if the claimants are in a livelihood or other crisis situation, since it is not well regarded

among Wayúu when people don't share with others who are in need (Guerra, 2005); in other words, the decision is based on Wayúu norms and values of reciprocity, hospitality and mutual help, and the importance of respecting these values in order to maintain prestige.

Authorised users are temporary users who hold **access, use and withdrawal rights** to a certain territory and its natural resources. However, they are not allowed to establish cemeteries or build permanent brick houses. In the case of *alijunas* wanting to stay, the Wayúu give them a renewable permission for the use of land. For instance, Nazareth has no police station, I asked and was told that many years ago the policemen were caught stealing from a local shop belonging to a Wayúu shopkeeper. Finding stealing unacceptable, the Wayúu owners of the ground where the police station was located asked for their portion of land back and expelled the police from Nazareth.

The owners hold also the **rights to cede** the territory or parts of it, including the **giving as a gift or use in barter**. However, alienation rights only apply to sale of gifting among the Wayúu, and not for sale to outsiders. A few territories in Makuira have smaller areas inside that have been given as gifts or have been bartered away to others. This is not uncommon apparently; my Wayúu host-family's territory, was a present to Mr. Suárez *Uliana*. His oldest son explained to me that his father's uncle "bought" it from the *Aapiüshana* with goats and cows, and then gave it to his father as a gift. I learnt that the *Uliana* used to have a number of scattered smaller pieces of land that were "sold" some time ago. Portions of Wayúu territories have been ceded to the *alijuna* as well. For instance, in the villages of Nazareth and Siapana in the vicinity of Makuira, the state institutions such as the boarding schools (secular and Catholic), the hospital and health center, and more recently, the land for a second office for Makuira National Park, have been built in borrowed or ceded Wayúu land.

The success of commons regimes depends, in large part on the success in addressing the excludability and subtractability problems discussed in Chapter 2; by keeping others out and enforcing compliance with rules on use. My observation in the field and the agreements with the Park (see Chapter 6) show that it is control of access to resources by strangers is what most concerns the Wayúu. A Wayúu chief always goes for

walks in his territory and is on the lookout for strangers. As a rule, Wayúu don't like seeing strangers in their lands; they could be enemies, or people trying to gain some inappropriate advantage. The Wayúu are always looking at the ground to analyse peoples' tracks; they also link the sound and tracks of every truck and every motorbike with its owner (Field notes, 2009). When they saw a stranger, like me for example, without exception, Wayúu men, women, and children would ask: where do you come from, where are you heading to, what is your business, and who are you staying with? With these questions, the Wayúu were able to locate me socially, and locate what family is ultimately responsible for my behaviour. At the same time, these questions elicit my intentions in being in their territory.

In sum, within the Wayúu system of property rights, there are multiple possibilities in bundles of rights held by different kinds of individuals. Nevertheless, the Wayúu commons arrangement relies strongly in dealing effectively with excludability. Monitoring of people's movements and activities is the primary institution or social process that every individual participates in, and is indicative of a effective normative system. The intentions of people entering a territory are critical since those people may have legitimate subsistence needs, or be allies of enemies; but they may also want to start up a conflict or seek to take advantage of some kind.

4.3.3 Wayúu Internal Conflicts over Territorial Ownership

Any conflict over land ownership is a conflict over rights of access and exclusion. Guerra (2002) identifies competition for territorial control between different extended family groups as the most frequent source of conflict in the Wayúu society. It occurs when two different *apiúshii* claim to have precedency in the occupation of the same territory. Precedency, as explained before, gives priority in use of resources, decision-making, and the authority to exclude others from the territory. The pattern followed in such disputes, as described by Guerra (2002), usually begins with a Wayúu family group allowing another group to stay in their territory temporarily because the people were in need. However, as Guerra (2002) points, out the "temporary" newcomers may stay for longer periods, and when years pass, they may prosper, have offspring, make matrimonial links with their supporters, and finally decide to build a cemetery; through

these actions, the “newcomers” effectively contest their host’s control of the land. The *alaiïla* will typically advise them to act appropriately within Wayúu custom, or the offended host may seek a mediation through a *palabrero* or the Colombian judicial system.

The following example illustrates in greater detail the Wayúu institutions associated with the assertion of precedency and resolution of conflicts over precedency between owners and other people living in a territory. This example also shows the role of Wayúu authorities as holders of the oral history of the territory, and the use of forms of authority promoted by the state and used by the Wayúu in conflict resolution.

The conflict started when somebody decided to mark off the limits of a small territory that included land belonging to three neighbouring territories. The Wayúu system for addressing such conflicts is first internal: the *alaiïlas* give advice to the offending person, discuss the issues and hope to make her understand the expected norms and come to an agreement. If this doesn’t work, and people become more threatening, they will then weigh the costs and benefits of various options and maybe then decide to find out the *apüshii* name of the offending person and send the word with a mediator: the *pütchipü* or *palabrero*. In conflicts where claiming ownership of a territory is the issue, they will go over the whole oral history of the territory and then decide who is right and who has to leave or behave accordingly to Wayúu law. In the course of the conflict presented here, the claimant took the case to the Regional Indigenous Affairs Office (*Asuntos Indígenas Departamental*), and the National Park also became involved. It became a process of conflict resolution mediated by a *palabrero* (PNN Makuira, 2003; 2004; 2005).

The dispute took place between one man and three extended family groups: *Uraliyuu*, *Jayaliyuu* and *Pausayuu* in the humid region of Makuira, inside the National Park. The conflict started when a *Uraliyuu* man from another territory marked on the ground the limits of what he considered to be his territory, including land from three other territories. The *alaiïlas* of the *apüshii* owning the three territories went and advised the man to correct his behaviour. The claimant then went to the city of Riohacha, to the Regional Indigenous Affairs Office, asking for help and saying that he was unfairly

going to be expelled from his own territory. Thus, when the real owners of the territory received a citation to attend a meeting of conciliation for the injustice, they were furious. The *alalülas* went once more to speak to the man but with no success. Being impetuous, the young men of the three affected territories were already talking of burning down the man's house. At that point, the National Park got involved. As Ms. Acosta, the park manager at the time, explained to me, the Park had just started the pre-implementation of co-government agreements and it was not in their interest to have the conflict among *apiüshii* escalate. Thus, the Park intervened in the conflict by following the Wayúu procedure for conflict resolution: they hired a Wayúu mediator, a *palabrero* from the Indigenous Affairs Office in Riohacha (M.F. Acosta, interview, May 4, 2009).

Four meetings took place, both in Nazareth and the site of the dispute, between 2003 and 2005; all proceedings were recorded in detail by the National Park and the Indigenous Affairs Office (PNN Makuira, 2003; 2004; 2005). The meetings were attended by the claimant, the *alaiülas* and spokespersons of the tree involved territories, the *palabrero* from the Indigenous Affairs Office, Makuira National Park staff and the Park manager, and members of the involved family groups. The conflict resolution began by listening to the account and oral history of the territory by the claimant, followed by the accounts and oral history of the three involved territories as told by the chiefs of the *apiüshii*s. The following quotes, one from each spokesperson for the affected *apiüshii*, demonstrate the signs of ancestry that signify ownership and decision-making power:

We have to tell the true history [of the territory in dispute], he [the man that says that the territory belongs to him and his family] has to name the elders buried in this territory so that we can have a precise history, so that we can have credibility in our argument, so that everybody can say that this territory belongs to the Uraliyu.

Palabrero# 1, meeting on January, 2005

Once I went there to recover that part of my land, I said to him: “nephew, you are in a place that is mistaken, and be sure that you are going to have problems with the owners of this territory. Because when people are not in their own territory, people are not respected as they should be.” This happens when somebody enters a territory that belongs to somebody else without permission.

Alaiüla #1, meeting on February, 2005

Everything you have said is a lie, if it is true that you are the owner of the territory, why did people not allow you to use the water? You never cultivated here and neither were you the owner of the water. You had a *huerta* but there, not here. And your *huerta* didn't have water. You want to take over this territory! The territory of my father buried in that cemetery where my grandmother and my other ancestors are also buried.

Alaïla #7, meeting on January, 2005

With the explanations of all those involved, the *palabrero* reconstructed the history of the facts and found the claimant to be wrong. The facts revealed that a long time ago a small piece of land was ceded to a woman (clan *Uraliyuu*), as compensation for death of a woman when giving birth. As time passed, the son of the woman who got the land, the claimant, built a cemetery off the limits of his land. He was advised by the owners to move the cemetery from that site, but he did not comply. Then, he built a brick house and again he was advised of his wrong-doing, but did not amend his actions. Finally, he marked the limits of a territory much bigger than the original one, claiming land from three different territories. He appealed to the fact that his clan is *Uraliyuu* but despite being from that clan, his *apūshii* was of another origin so he had to respect the owners' decisions. In the official record of the conciliation it was stated that he agreed to live in the territory that was ceded to his family and not use the other territories (PNN Makuira, 2005).

This example shows how the Wayúu system of governance of territory works, the importance of oral history in resolving disputes over territory, and the facilitation role assumed by the National Park. Regarding Wayúu institutional arrangements, the basis for making decisions about conflicts over territory are ownership rights, indicators of precedence, and oral history. Access, use and withdrawal rights for non-owners are flexible and long lasting, providing they do not trespass the line between use and ownership rights. This case shows the Wayúu have in place institutions that ensured the conflict was resolved according to custom; however, the case also shows weaknesses in the mechanisms for generating compliance with custom when relying on more informal processes such as advising people they are doing wrong. Non-compliance in the absence of formally regulated sanctions is a challenge in commons management. It is not uncommon in Makuira to find more and more people who do not follow the advice of the

alaiilas. In the case presented above, the National Park acted as a facilitator by employing the services of a proper Wayúu mediator.

In the current context, many questions remain. Under the new co-government institutional arrangement, what is the role of the National Park in cases of non-compliance or conflict resolution? Can the National Park accommodate Wayúu institutions for resource management? How is the Park currently ensuring compliance with rules and how is this accepted by the Wayúu? What are the dynamics of interaction between Park and Wayúu institutions? How does the traditional Wayúu system accommodate Parks institutions? These questions will be addressed in the discussion in Chapter 7. The next section will further describe the system of institutional arrangements for private and common pool resources inside each of these Wayúu homelands or *apüshii* territories.

4.4 Resource Management Institutions

The Wayúu inhabitants of an *apüshii* territory have both private and communal ownership (*i.e.* access and withdrawal rights to the resources). The communal withdrawal rights are for forest products such as firewood, wood for building fences and houses, medicinal plants and animals, water streams and *jagüeyes* (reservoirs), and areas for hunting or grazing. Nuclear families have private withdrawal rights for *huertas* (cultivation plots) and their produce, and for their planted fruit trees (mango, coconut, *iruwa*²⁶). The Wayúu system for common pool resource management varies according to: (1) the regime, whether privately or collectively owned; (2) the type of resource, whether livestock, wild animals, woodland, or water; and (3) the institutional arrangements to manage them, involving both human and supernatural agents. The institutional arrangements present in Makaira and explained below are based on information gathered by the Makaira National Park team, the Association Wayúu Araurayu and my own observations.

²⁶ Also known as *aceituno* is a tree from the genus *Simarouba* spp. that produces an olive-like edible fruit.

4.4.1 Huertas (cultivation plots)

Huertas are a sign of precedence and ownership of a territory. They are considered private property and inherited or accessed through marriage (see Table 4.2). Hammen and Cano (2005) found that *huertas* in Makuira have flexible inheritance patterns, either down maternal or paternal lines. They also found that *huertas* can be given as a gift, or loaned to outsiders; however, any such transfer included a restriction on planting perennial fruit trees (Hammen and Cano, 2005).

Having active *huertas* remains a common practice in Makuira, but the number of *huertas* and the volume of harvest from them has decreased substantially in the living memory of those people who are now 70 years old. Planting *huertas* is still considered by the Wayúu to be an important subsistence activity in Makuira (Hammen and Cano, 2005). Nevertheless, the fertility festival, *kaurayawa*,²⁷ for collectively preparing and planting *huertas* is not practised anymore; a form of non-ritualized collective work, *yanama*, is still practised in exchange for food and drink. Also, it has become common to “hire” workers to help with cultivation in exchange for money, accommodation and three meals, or other material goods (Field notes, 2009). My host family had three *huertas*: one by a permanent stream and two for wet season cultivation only. In the biggest *huerta*, the oldest son was building a house for his family. The *huerta* belongs to the *Uliana*, but it is in *Jayaliyuu* territory. It was a gift to Mr. Suárez Uliana when his oldest son was a boy. During the dry season we harvested papaya, mango, tamarind, cashew, and plantain for household consumption and to offer to visitors such as Wayúu fishers who came with gifts of dried fish.

An important part of the management of *huertas* is the planting of fruit trees. Planted fruit trees are a sign of ownership of a territory, and are themselves private property with withdrawal rights restricted to the nuclear family owning the trees (Field notes, 2009). Along permanent streams with plenty of water, it is common to find old

²⁷ The festivity called, the game of the goat, or *kaurayawa*, was a 3-month social activity with ceremonial and festive components. It served the double goal of getting the *huertas* ready for planting, while during the night a game was played involving young men and women that may end up resulting in romance and marriage. It disappeared after the establishment of the Capuchin boarding school in Nazareth in the 1910s (Hammen and Cano, 2005).

mango trees. I learnt that, not so long ago, during harvesting time for mango, *iruwa*, or *guanabana*, the families would make a day trip to their trees and harvest the fruits, with *iruwa* being the most precious one. I was told that in the past people would barter even a cow for a sack of *iruwa*. This practise of fruit harvesting has become unusual, as other options for livelihood have come up in the city of Maracaibo. There are fewer young people living on the land, and natural resource management practices have changed as a result. Most families have close relatives in Maracaibo and receive regularly from them, a delivery of packaged food.

Table 4.2 Institutional system for resources use under private regimes²⁸

Resource	Practises/ norms/ institutional arrangements	Examples/sources
<i>Huertas</i> (and Planted fruit trees)	Mark territorial ownership	
	Exclusive use rights	
	Flexible passing of rights inheritance/gifts/loan	“I used to eat from this <i>huerta</i> since I was a child [...] my grandma left it to my mother, and now it is going to be mine.” (Hammen and Correa, 2005, p. 15)
	Permanent or seasonal <i>huertas</i>	“The <i>huerta</i> up in the <i>sierra</i> is seasonal and each year changes places and those that have been abandoned grow again.” <i>Palabrero</i> #2
	<i>Yanama</i> work	“The Wayúu cooperate among ourselves [...] also to build a <i>huerta</i> : first we cut the wood among several people, we make a <i>yanama</i> and the work is much faster.” <i>Palabrero</i> #3
	<i>Sanctions:</i> Offences generate compensation claims (Wayúu law)	“When an animal [livestock] enters the <i>huerta</i> and eats the crop, people do claim compensation for it.” <i>Palabrero</i> #
Livestock	Maximise numbers	
	Used for payment of social obligations	“There are the wakes, thus they have to contribute with livestock [...] This reduces numbers. There are the payments as well, the collection to pay compensation, this reduces numbers as well, and one has not 100 but 95. It goes down.” (M. Iguarán interview, June 5, 2009)
	<i>Sanctions:</i> Theft generates compensation claims (Wayúu law)	“In the next days, <i>Petsa’i</i> asks the maternal uncle [of the thief] a material compensation for the insult [...]. He asks to give him back six sheep per each stolen sheep.” (Guerra, 2005, p. 106)

²⁸Quotes from Makuira National Park minutes of workshop with local *palabrer*os, November 11, 2008

4.4.2 Livestock

Together with *huertas*, livestock are the other resource managed as a form of private property (see Table 4.2). The strategy in Makuira and elsewhere is to increase the numbers of livestock, mostly sheep and goats, and to a lesser degree, cows. The Park census in 2006 showed an average of two corrals per household (PNN Makuira, 2008). Livestock is directly connected with wealth, prestige, and the ability to function in the society by paying compensations and other social obligations (see Chapter 2, Section 2.5). As said by one of the Wayúu authorities, livestock is their “walking savings account” (PNN Makuira, 2008, p. 22).

However, the numbers of livestock do not grow indefinitely, especially since there is a constant need to contribute livestock to collective *apüshii* obligations for wakes, funerals, marriages, or payments for offences. Also the severity of both the dry and rainy seasons affects the number of livestock people can effectively manage. In the rainy season sheep and goats get hoof disease and their offspring a worm in the navel that kills them (Field notes, 2009). In Nazareth, an especially long dry season in the 1990s was sadly remembered because people saw their animals die of starvation (Field notes, 2009). Thus, livestock herds fluctuate in number and also change location seasonally. A Park staff explained to me that the traditional management of cattle and other livestock is a seasonal movement between the Makuira Mountains and the coast.

Special care is given to the protection of offspring against small predators in the mountains. A rattle is hung from the mother’s neck and a stiff neck protector made of thick plastic is fastened to the young animals. Other people release adults and their offspring from their corrals at different times, so the young ones don’t walk as far as the adults (Field notes, 2009). People recognise the hoof prints in the sand belonging to their livestock and can track them when one goes missing or is stolen (Guerra, 2002). In this way they can later claim compensation for the theft.

4.4.3 Grazing Grounds

Grazing areas close to the seaside provide a grass that grows in the rainy season. In Makuira and at other places the main grazing areas are the *trupillo* woodlands (*Prosopis juliflora*). The livestock eats the *trupillo* pods which are rich in protein. Thus, *trupillo* woodlands are well used and taken care of, since they are the main source of food for livestock throughout La Guajira. When asked whether they used specific grazing areas, the Wayúu authorities in Makuira explained that livestock are free to graze the whole of the *apiüshii* territory (PNN Makuira, 2008). There are no rules for grazing apart from staying in the territory and out of private resources.

Different kinds of livestock use the land differently: sheep stay in the lower terrains, goats and cows have a greater range of grazing areas going up in the *serranía*, and the rockiest parts are only accessed by goats. As described by several Wayúu traditional authorities, very little active herding is done in Makuira (see quote Table 4.3). While I was there, I observed that the corral was opened every morning, the goats and sheep went off separately and followed their own paths, each completing two or three circuits a day. At around 5pm they would gather by their corral again, the owner and their children would check that all the animals had arrived, and lock them in the corral for the night. The owner, Mr. Suárez, told me many times that he cared for the livestock like his family. I also observed how people restricted the grazing range of “naughty” goats, cows and donkeys by fastening pieces of wood to the neck or by tying the front hoofs together.

To be able to move temporarily to another territory with one’s livestock, a person has to follow certain customary norms. Wayúu authorities explained²⁹ that it is known by all that the people wishing to enter a foreign territory have to go first to the oldest uncle, *alaüla*, the owner of the territory, and ask for permission. Temporary access and use rights, or “loan” of the territory, are almost always granted to relatives, friends, and allies who are looking for pasture and water for their livestock. The social expectations for helping others in need are high; as one authority said, “We don’t want people to say that

²⁹ Makuira National Park minutes of workshop with local *palabrerros*, November 11, 2008.

we are stingy.” As a corresponding norm, those who are granted the right of temporary access and use are expected to give something to the owners when they arrive and when they depart. It is not considered a payment, but a gift to the owners; it is not asked for, it is only given. In any case, such gifts can be in the form of a sheep or food (Table 4.3 below). This reciprocity is expected when making use of any resource in other people's territory.

4.4.4 Woodland Resources

When we cut a tree, is to rejuvenate the woodland.[...] We have always survived making fires to plant our crops. We cut the *trupillos* in the moment we are going to use them [...]. This is done when the night is dark with no moon, to avoid the wood from getting woodworm.

R. Gámez, Asociación Wayuu Araurayu, n.d., p. 3³⁰

The Wayúu of Makuira have one major “rule of thumb” for the management of common pool *apüshii* resources such as woodlands, water, wild plants and animals: “Take only what you need”. All inhabitants of an *apüshii* territory are expected to follow this rule.

It is perceived by several Wayúu authorities that *trupillos* woodlands have gradually increased in extent during their lifetime, which is consistent with the expansion of goats and sheep in the peninsula (Correa, 1993). *Trupillo* trees have numerous uses besides being the main source of food for their livestock. The bark is used as tiles and is medicinal; the trunk is used as pillars for construction of houses; trees are coppiced to grow smaller braches to make fences; it is preferred as firewood. Some poorer families use the tree to produce charcoal for the market.

The Wayúu authorities and *palabrer*os explain in interviews and workshops³¹ with Parques Nacionales authorities that to cut trees is a part of life. This is based on the

³⁰ Asociación Wayuu Araurayu, n.d. Etnoecología wayuu: pautas de asentamiento aprovechamiento del ecosistema en la Serranía de la Makuira. Wunu el mundo de las plantas. Unpublished document.

³¹ Quotes in this paragraph from *Palabreiro #4* taken from Makuira National Park minutes of workshop with local *palabrer*os, 11th of November 11, 2008.

idea that cutting trees is required for the purposes of opening and preparing cultivation plots, and for building or repairing houses and fences. However, there were two situations where cutting trees was considered inappropriate. First, cutting trees close to a spring is considered an offence that requires compensation payment, since “the owners and their livestock would go thirsty.” The second situation is selling wood/timber as a business. However, while selling forest products is perceived as a bad business in general, it was perceived as being more frequent now than it was some decades ago. The owners of a territory may decide to make exceptions, for example if a family is in real need, as indicated by one of the *alaiilas*: “only very poor people are allowed to sell wood charcoal from *trupillo*”.

As a norm, if somebody who is not from the territory needs wood, they should ask for permission, explaining their need. Most of the time, the owners will give permission and the stranger will be asked to leave something such as food in exchange. However, often there are free-riders or trespassers, people living inside the territory who do not follow the norms. Those found trespassing the territory for any reason are advised not to do so by the local authority. The main mechanism for resolving use and access conflicts, is to advise or bringing to his/her attention that they should not be tacking resources from somebody else’s territory without proper permission. This is done by the Wayúu *alaiilas*, and consists of talking to the person in persuasive but non-threatening terms. The *alaiila* will first enquire why the stranger is there and from whom did they seek permission, and let them know that what they are doing is mistaken. The Wayúu code of conduct does not allow them to threaten verbally or physically since this would itself constitute an offence and the *apiüshii* would have to pay compensation for it.

Table 4.3 Rules and norms for resources use under commons regimes³²

Resource	Practises/ institutions	Examples/sources
Grazing areas	Free to walk everywhere in the territory	“The animals are released from their corrals in the morning and they come back in the afternoon, they go everywhere and know how to come back. We don’t have to see that they have water because the streams flow and they [the animals] are happy in this way. What we have to care for is the attack from the fox because it likes to eat goats, mainly if they are small and defenceless.” <i>Alaiüla#9</i>
	Temporary access through land loan	“It is ok that they come seasonally looking for fertile soil, but they [the hosts of the land] cannot ask for a cow in exchange.[...] Once I went with my animals to the territory of Buenos Aires, looking for grass and I ordered the slaughter of a male sheep to distribute it among the owners of the territory, in exchange for the lending of the land. But if they had ask for a cow, they wanted to have problems.” <i>Palabrero#5</i>
	Gifts are expected as exchange	
Woodland	Take what you need	“This [<i>huerta</i> building] is the only case when you cut trees and burn; we clean it for our crops because we survive from them.” <i>Alaiüla#10</i> and <i>palabrero</i>
	Part of the preparation of a <i>huerta</i>	“I saw that he asked my granddad to allow him to cut trees for his house, and my grandpa said: come tomorrow, bring a sheep, <i>chirrinchi</i> , <i>chicha</i> , and we will help you to cut them.” <i>Alaiüla#11</i> and <i>palabrerros</i>
	Ask for permission sth. in exchange	“We don’t sell timber. I agree to use it for building houses. [...] if someone is selling timber, I go and find out why are they doing it, because there are so many better jobs that selling timber.” <i>Palabrero#6</i>
	Don’t cut for selling	
	<i>Sanctions:</i> Advice, reprimand	“One has to give advice to people selling timber. This would be the last time you cut this timber. Do you know why? We need <i>trupillos</i> to build our houses. The <i>alaiüla</i> has to say it.” <i>Palabrero#7</i>

³² Quotes: Interview by N. Garcia to traditional authority *alaiüla#9* in 2006, and Makuira National Park minutes of workshop with local *palabrerros*, November 11, 2008.

A number of examples were mentioned in which wood extraction was done either by people from the same extended family or by strangers. As explained by *alaiüla* # 8: “If a stranger comes to cut trees for selling them you first have to call it to their attention so that he doesn’t do it again.” However, it was also the case that the people selling wood in town were from the same extended family as the owners, as the *alaiüla* # 2 explains: “The *Apüshana* who are cutting trees now are children of the *Epieyuu*, and thus, they are our *aliünii* [grandchildren]. Those tree cutters don’t want to take us seriously; they are taking timber out to Maracaibo.” This statement points to the difficulties of enforcement when young people do not take seriously the legitimacy of territorial customary authority. This is seen as a problem in many territories and directly threatens the ability of the *alaiüla* to control resources use. In addition, many *alijuna* do not respect the authority of the Wayúu and therefore do not comply when they are reprimanded. Often, Wayúu authorities choose not to say anything to the *alijuna* to avoid violent confrontation, a problem related to the presence of illegal armed actors in their territories (see Section 4.6.2).

4.4.5 Water Sources

Water sources are a precious resource in an arid environment and the Wayúu owners of the *apüshii* territory control access to water. Depending on the location of a territory in the *serranía*, some have plenty of water sources, while others (esp. in the windward and arid side) have fewer sources of water. Permanent and semi-permanent streams found in the *serranía* take different names depending on the places and territories where they are flowing. Different water sources have different uses: drinking water is obtained from constructed wells, from natural spring pools, or *casimbas*.³³ Water for livestock, bathing or washing clothes is usually from a permanent stream, or from government constructed reservoirs called *jagüeyes*. The owners decide what are the main sources of drinking water for daily use, and what other sources of drinking water are kept as a reserve, in the event of a severe dry season. The owners of the territory share the

³³ A hole dug in the dry riverbed for drinking water.

water, but also monitor its use and take collective management decisions, as explained by *alaiïla* #12:³⁴

The water coming out of this pool is for us and our animals to drink. However, people and animals were making it dirty because it was completely open. Thus, we decided that we would do a *yanama* to enclose it, and this is how we built the well with an open tap 24 hours a day, all days of our life, to allow the water flow its normal way.

Many water spring pools and spots in streams are *pülasü* places (with *Pulowi*, and thus, dangerous, enchanted, and sacred) and require special behaviour. Such places are inhabited by supernatural beings and therefore require specific norms be followed to allow for a “smooth” coexistence. I will return to this topic in Section 4.5.2 on Sacred Places. Dreams inform people when they need to do a cleansing bath and where to avoid harm (sometimes this may be the closest water source to the house or a specific place elsewhere).

The following conflict that I witnessed between Wayúu institutions for water management and municipal water development projects, illustrates the weakening of Wayúu institutions through the introduction of a municipal micro-aqueduct project. This project conflicted with the norms of territorial ownership of water and will most probably create an open access situation in the future. The municipal authority of the town of Uribia built a micro aqueduct in Tawaira.³⁵ The problem began when the water pipes were extended beyond the limits of the Wayúu territory in which the water source was located. As a consequence the Wayúu owners of the water source felt they had no control of the use of water. They feared that the spring may dry out if too many users get connected to the aqueduct. The municipality did not understand the reluctance of the Wayúu authorities to extend the pipes. While the municipality saw the water project as a public service for the good of the communities, the *alaiïla* of the territory and customary owners of the water source did not want to allow the water access and use to get out of their control (Field notes, 2009).

³⁴ Interview by Park staff, in 2006.

³⁵ Tawaira is a small village on the south western side of Makuira.

The Wayúu authority of the territory asked the Park Manager to write a letter to the Indigenous Affairs Office to explain the situation. I witnessed the moment when the letter was being translated back into *Wayuunaiki* for approval by the *alaiila* before it was sent. I noticed that Wayúu Park staff was more involved in the process than the Manager, who really did not understand the Wayúu concerns. He considered the aqueduct to be a common good and therefore perceived the Wayúu owners as stingy for not wanting to share the water. In sum, this example shows how Wayúu institutions that address the excludability and subtractability of resources can be undermined by municipal small-scale “development projects” that disregard the territorial boundaries of the *apiishii*.

This section has looked into resource management regimes inside the customary collective property of *apiishii* territories. These management regimes and their constituent institutions are a mix of private (household) and commons (*apiishii* + kin) regimes. Following the *sukuaipta wayuu*, or the Wayúu way, resources under the private regime are protected by sanctions in the form of compensation payments, and the common property regimes are guided by moral understandings of what is appropriate behaviour. At the same time, other common property resources (*e.g.*, some wild animals and medicinal/magical plants, and dangerous or sacred places) have symbolic/supernatural institutions that regulate behaviour. The next section will look into such institutions.

4.5 Institutions Regulating Relations between the Wayúu and the other/invisible World

As much as the human use of Wayúu territory is structured in a complex and multi-levelled way, the Wayúu world is characterised by both visible and invisible dimensions that are interwoven in the territory as well. Along with Wayúu institutions for territorial organisation, ownership, and use of resources among humans, there are institutions for ordering the use of space and relations with the inhabitants of the other/invisible world (*i.e.* ancestors, *Pulowi* and *wanulu*, wild animals and plants). Table 4.4 provides a summary of rules and norms guiding these relations.

4.5.1 Wild Animals and Plants

Pulowi is the mistress of wildlife, both in the sea and on the land; they are her livestock and she protects them from harm (Asociación Wayúu Araurayu, 2004). In hunting, the principle “take only what you need” can be understood as “don’t hunt every day”, a point which was made by a number of *alaiilas*. Most oral interventions, from the material of the workshop and the stories I heard, showed no further specific social rules restricting practices related to hunting. However, the excess of hunting is always associated with warning dreams and spiritual sanctions by *Pulowi* or the spirit of the animal itself (*epeyuii*). Typically, when a hunter is warned in a dream or a vision of their hunting excesses, people say they will stop hunting that animal, as shown in a story by Mr. Suárez:

When I was a boy, my dad and I used to hunt many, many pigeons, maybe 50 or 100. Until one night I had this dream where a female voice clearly told me: “You have hunted a lot already. I don’t want you to hunt more or you will have to deal with the consequences.”

Proper hunting, as well as gathering of wild fruits, is regarded by the Wayúu *alaiila* as something more closely associated with the past. One Wayúu authority linked the introduction of firearms with the disappearance of deer. Although less common today, the actual extent of hunting is not very clear from people’s accounts; some said people don’t hunt anymore; others mentioned hunting the *cauquero* deer, rabbits, iguanas or dark grey peccary for household consumption; while other people said they see the animals but don’t hunt them. These answers may not be entirely reliable because Park employees were asking the questions, and Wayúu know there is a long standing prohibition on hunting in the Park.

In general, there is an absence of access rules for hunting, meaning that people may hunt everywhere, although there are some exceptions depending on the owner of the territory, as the following quotes show:

It is not fair that people hunt in our *huerta*.

Palabrero#6

I get angry if people hunt in my territory: a lost bullet can harm my livestock, and the detonation of the shot may disorient them.

Palabrero#9

If it is a person that nobody knows, then you would call to their attention that they should go and hunt in their own territories.

Palabrero#8

The quotes are referring to people hunting in private property such as a *huerta* or the impact of hunting on livestock, or the presence of a complete stranger, which also calls for precaution.

The use of wild animals and plants for medicinal or magical purposes is based on direct communication with spirits through dreams. Wild animals are occasionally used for medicinal purposes when small children suffer from an involuntary possession by the spirit of an animal (Field notes, 2009). Such an illness has specific characteristics known to correspond to a certain animal, or the animal may be revealed through dreams. I learnt how one night the father of a sick girl had a dream where he was told that his daughter had the spirit of a hawk inside her. Thus, he was instructed to take a hawk, cook it, and give her the broth to drink (Field notes, 2009). Likewise, the specific plant to cure an illness or to provide magical protection will speak to someone with good dreams (mostly healers); the plant will tell the person what the plant is good for and will give instructions on where to find it and how to prepare it (Guerra, 2011; Asociación Wayúu Araurayu, 2004) (see Table 4.4).

Table 4.4 Rules and norms for resources under spiritual commons regimes

Resource	Practises/ institutions	Examples/sources
Water sources (Wayúu Norms)	Don't waste it	<p>“The water we drink is taken from the shore of the stream. From a <i>casimba</i>. In addition, [...] we have 2 wells that we don't use. We have them as a reserve when the stream dries completely. It is protected by <i>trupillos</i>.” <i>Palabrero</i> #6</p> <p>“We have the right to tell kids off if they bathe in the water [for drinking] and start spilling it. [...] You have to give advice to the kids.” <i>Palabrero</i> #6</p>
	<p>Specific sources for different water uses</p> <p><i>Sanctions:</i> Advice, Reprimand Dreams</p>	
Wild animals and plants	Don't hunt every day	<p>“When the Wayúu hunt, they are at liberty; it does not matter the territory and is done in groups. See the text for diversity of approaches.</p> <p>A hunter of <i>cauqueros</i> [deer] got lost and he had a dream where a woman said to him: ‘Don't do this to my animals, if you don't stop something will happen to you.’ Yes, he hunted a lot, he was always hunting. That is what he dreamt and he stopped hunting.” <i>Alaiüla</i> #12</p> <p>“The <i>Itujulu</i> mountain has magical plants. There are plants that are good for certain things depending of what the dreams show to you. However, because this is shown through dreams, not everybody has them, only those who have good dreams.” <i>Alaiüla</i> #12</p>
Game Animals (Wayúu Norms and supernatural)	Loose access rules	
Plants and animals for medicinal /magical purpose (Supernatural norms)	<p><i>Sanction</i> By the animal spirit or by <i>Pulowi</i></p> <p>Plants tell you where to find them</p>	
Sacred Places (Supernatural norms)	Go with respect Follow taboo regulations	See Table 4.5.

4.5.2 Sacred Places

There are plenty of places here in Makuira that even now are kept very intact, that are kept very still, very sacred. Thus, they still have their mystery.

M. Iguarán, interview, June 5, 2009

The Makuira Mountains have a great number of dangerous, sacred or mysterious places where appropriate behaviour is expected to be followed (Table 4.5). First, Makuira is highly important in Wayúu myths. It was in the stream *Wotkasainru*, in Makuira, where the mythic twin brothers aimed with arrows at the toothed vagina of the first woman, *Wolunka*. When she lost her toothed vagina it enabled the Wayúu people to be created by *Juyá* and *Ma'a* (Asociación Wayúu Araurayu, 2004). The stone where *Wolunka* sat down has a red stain and can be visited; it is close to Nazareth. The Makuira Mountains are depicted in oral stories as a gift from *Juyá* to *Pulowi*. The mists of the cloud forest are called *youramá*, “white maize water”, or the semen that *Juyá* leaves to *Pulowi* (Asociación Wayúu Araurayu, 2004), reminding everybody that there is a love affair between the rain and the forests.

Second, there are dangerous places where *Pulowi* (the Siren, the hyper-feminine being) or *Wanetunai* (the man with one leg) dwell that are regarded as both sacred and dangerous. The most prominent ones are the cloud forests in all three mayor peaks. These forests have the strongest taboos, and access to them is restricted. The helicopter story is a widespread warning story, with many versions (Box 4.1). Even in the city of Riohacha, Wayúu people who have never been to Makuira, tell it as well. In some versions it is *Pulowi* who appears as a beautiful woman who gives the researchers enchanted food that kills them, in others it is *Wanetunai* who asks for food and after not receiving anything makes them deadly ill. Thus, it is part of the tales that warn people of the consequences of inappropriate behaviour in places inhabited by *Pulowi*.

Box 4.1 Story of the Helicopter

My father told me that a long time ago some anthropologists came to study the mountains; they went up to the *Paluou* peak. They arrived by helicopter. They built a shelter up there and one day *Wanetunai* appeared to them. He did not speak; he only opened his hand asking for food. The *alijuna* cut the air with the machete as they tried to cut him and *Wanetunai* disappeared. They had their food counted for breakfast, for lunch, it was complete. The *alijuna* did not want to give food to *Wanetunai*. The next day *Wanetunai* appeared to them again, and opened his hand. The *alijuna* were angry at him saying: “What is wrong with this wild animal?” After three days they got sick and started to die one by one. The ones who left alive, died later in their homes.

(H. Pinedo, Park staff, field notes, June 12, 2009)

The Wayúu do not go to the peaks unless a dream tells them to, and if they need medicinal plants or the plant for making the Wayúu traditional hat, a plant that only grows up there. Even when they go, the presence of *Pulowi* calls for a number of restrictions and rules to be followed, such as being quiet, avoiding going by oneself, after sunset, and if menstruating, or spending the night there. “It is always a good idea to take tobacco or *chirrinche*³⁶,” said one of the Wayúu Park staff, meaning that offerings and respectful behaviors are required.

Other *Pulowi* places are scattered across the landscape at certain spots such as streams, springs, waterfalls, or ponds. There are many accounts of spiritual illness, accidents and warning dreams associated with an encounter with *Pulowi*; there may even be death as a consequence if certain limits have been trespassed. One cloudy, hot and very humid day, I heard this conversation between a boy and the oldest woman of his family (Field notes, 2009):

Boy: I want to go and bathe in the small waterfall.

Young woman: You cannot go today, it is very cloudy.

Boy: How come? That is not a good reason for it.

Yong woman: Ask my mom why.

³⁶ Alcoholic drink locally distilled from sugar cane.

The older woman explained: Look, it is not a good idea to go on your own to the small waterfall, and even more if it is cloudy, and it is wanting to rain, because *Pulowi* likes rainy days. I am going to tell you something. Remember the crazy woman living on the side of the road? She used to be a normal person. One day she went mad, because she was bathing in the river in a day like this, with her period. *Pulowi* drove her to madness.

The third form of sacred place is those related to ancestors. Old burial grounds, as well as modern cemeteries, deserve the utmost respect. In the Wayúu worldview, dead relatives remain in *Jepira* (a place of abundance where the dead live as *yoluja*/souls until the second burial). The dead communicate with the living on a regular basis through dreams until the second burial is performed a number of years later (Perrin, 1987). Cemeteries require collective *apüshii* effort and resources for their maintenance and improvement. Wakes and funeral gatherings, and any other times in which the cemetery is visited, require respectful behavior be observed, which consists of taking *chirrinche*, coffee and food to share with the dead. Failing to behave respectfully may cause the *yoluja* (the soul of a dead person) to harm people, as the following example shows:

Monday evening while we were having our evening meal, the Suárez family received the news that a truck had had an accident after departing at 1am from the wake/funeral. There were two people dead and 20 injured. Ligia then said: “To leave the cemetery at night and in a hurry is sign that the living don’t care about their dead relatives. They [the dead] still have their souls and get angry, causing accidents”. The family then remembered three other accidents in previous years that had resulted from people leaving the cemetery in a hurry (Field notes, 2009).

Disrespect, disturbing the tranquility of supernatural beings, trespass during certain taboo times of the day, failing to have proper behaviour, or meeting spirits by chance, all can have consequences for the living. *Pulowi* places are feared because people may fall ill; people may have dreams telling them to leave or not to go near that place ever again. When somebody falls ill, the *outsu* or traditional healer is the only one who can determine the appropriate remedy. The healer will have dreams that tell her what specific goat should be sacrificed to restore harmony and health.

Table 4.5 Sacred, dangerous and mysterious places in Makuira

Kinds of places	Example	Restrictions and institutions	Sanctions
Places of mythological events	Stone of <i>Wolunka</i> “ <i>ii</i> ” places of <i>apiishii</i> origin	Go with care and respect Leave offerings	
<i>Pulasu</i> places (<i>Pulowi</i> water forests) (<i>Wanetunai</i> forests)	<i>Jiwonee, Walechi</i> and <i>Palua</i> peaks (Cloud forest) Water springs and water holes Spots in some streams	<i>General for all places:</i> Do not go alone, after dusk; if it is raining, if menstruating <i>Specific:</i> Taboo location: don’t go unless a dream tells you to. If you need to go, take gifts. If it needs maintenance, one should drink <i>chirrinche</i> while working. Avoid the spots	Warning dreams spiritual illnesses accident madness death
Places linked to ancestors and dead relatives	Old burial places and cemeteries A place where a violent death happened	Proper code of behaviour during wakes and funerals <i>General for all places:</i> Go with care and respect, don’t go alone, take gifts to the dead	People are reprimanded Social stigma, gossip Accidents
Enchanted places	Stone of Destiny Particular houses, stones, trees, hills	Do not go after dusk Leave offerings	Risk of getting lost Accidents

To sum up, Makuira Mountains hold many places that have codes of conduct for ensuring respect of the beings that dwell there and for avoiding personal harm. Respect, fear and reciprocity towards other-than-human beings and their abodes regulates behavior, as people want to avoid illnesses and death. Taboos are reinforced through oral stories, anecdotes about people who have been witness to others getting spiritual illnesses, the death of people they knew, as well as personal warnings made in dreams. Special symbolic institutions are associated with places that are linked to the inhabitants of the other/invisible world. Some of these taboo places sustain the ecosystem services of water availability in Makuira. From the Park’s point of view, *Pulowi* places are more

closely associated with conservation objectives, as they are directly related to protecting the dwarf cloud forest and the main locations that provide water to Makuira and its surroundings. Commons in the Wayúu system include managing relations with the beings of the other/invisible world; can co-government help the Wayúu in terms of the integrity of their spiritual system?

After looking in detail at, or “zooming in” to, Wayúu institutions (norms and values) for governance and management of relations with the other/invisible world in their territories, we will now “zoom out” to situate those practices in the broader present-day socio-economic contexts of the La Guajira peninsula.

4.6 Zooming Out: Broader Contemporary Contexts in the Wayúu Ancestral Territory

Wayúu practices have always been part of a complex system shaped by historical, economic and social contexts of the peninsula; these contexts have, in turn, been shaped in many aspects by Wayúu cultural practices. There are multiple contemporary challenges that the literature has recorded for Indigenous Peoples in many parts of the world that are also present in La Guajira. Wayúu common property institutions for access control and the autonomy to govern their territories are being affected by processes that include cultural change but also go beyond it. Two main recurrent concerns that come up in meetings with Makuira National Park, as well as for Wayúu *alaiilas* of another Protected Area in La Guajira (Los Flamencos), are the need to defend their territory from non-Wayúu and the diminished respect of younger Wayúu for the traditional authorities.

The foremost contemporary concern for Wayúu is the need to defend their territory from strangers, so that neither other Wayúu nor *alijuna* may take territory away from them. In their words, Wayúu do not want to “sell” their territory, or “sell” their people. A concern closely related with territorial control, is the difficulty of controlling *alijunas* who enter their territories without permission. The Wayúu find it frustrating to not be able to exercise control of non-Wayúu who do not respect Wayúu ownership of the land; some non-Wayúu (*e.g.*, paramilitary groups) impose themselves in Wayúu territory with violence. The concern for trespass is related to the concern for diminishing

respect towards the older people by the younger generations since this diminishing respect leads to a weakening of institutions. The *alaiilas* said that the younger generations don't follow their advice, and show little respect for the older uncles and chiefs. In addition, they have observed an increase in the degree of envy between Wayúu families that is further undermining institutions of mutual help.

Territorial control rationales for management exercised by state development projects, multinationals, as well as the paramilitary groups, affect the Wayúu capacity to govern (*i.e.* their exercise of autonomy in their territories). These concerns are linked to increasing territorial control by non-Wayúu actors in the peninsula of La Guajira through development projects (*e.g.*, mining, infrastructure, tourism and conservation) as well as cocaine trafficking and the activities of paramilitary groups. All of these external agents exercise different forms of territorial control and introduce new resource management rationales that affect Wayúu institutions for territorial governance and autonomy. At the same time, Wayúu respond to these challenges much in the same way as they have historically: through resistance, conflict, formation of alliances based on transactions, as well as by articulating their claims to rights.

4.6.1 Development and Extractive Mega-Projects

La Guajira is a department with great mining potential, rich in natural resources and with a geographic location that poses great possibilities to commercial exchange with Venezuela and the Great Caribbean Region. (DPN, 2007)

This quote from the national development plan for La Guajira, seeks to position the peninsula as a center of importance for economic development based on resource extraction (La Guajira Development Plan, 2008-2011). La Guajira has become, in the last decade, a focal point for mineral prospecting.

Existing extractive enterprises such as Salinas de Manaure (extracting salt), and the open-pit coal mine of El Cerrejón, have imposed their own forms of economic development and territorial organisation, ignoring Wayúu territorial organisation. This has substantially impacted on the lives of Wayúu communities and caused long-standing social and environmental conflict. The Wayúu ancestral salt harvesting pools close to the town of Manaure in the Middle Guajira, “Salinas de Manaure”, were given through

concession in the 1970s to a company that modernised and mechanised salt extraction. By doing this it changed the coastal landscape and over-ruled Wayúu ancestral salt harvesting pools, changed the water flow altering nearby coastal lagoons, and created a long lasting social and environmental conflict with the Wayúu. Wayúu articulation with the project was through a long-standing resistance to reclaim ownership rights and receive compensation for environmental damages. In 1991, after the months-long Wayúu occupation of the main square of the city of Riohacha, the Wayúu signed an agreement with the government. The agreement recognised Wayúu rights to territory and established that the Wayúu would own 25% of the company IFI-Concesión Salinas. The agreement was never put into practise by the government (Correa, 2003). Leadership by Wayúu women as mediators and the local Associations of Wayúu Chiefs have been key in the ongoing struggle for recognition of rights to the salt-harvesting grounds.

In the 1980s, the world's biggest open-pit coal mine, El Cerrejón, started production in the southern Guajira, which is part of Wayúu ancestral territory south of the *resguardo* limit. Although the mine is located in the south of La Guajira Department, its infrastructure has impacted the entire peninsula, with the construction of a 150km rail line and a coal harbour (Puerto Bolivar) in Upper Guajira. For the company, the land was considered empty, waiting to be economically developed. For the Wayúu, the impact was massive: loss of territory, sacred sites, and place names, creation of barriers to movement on the landscape, and numerous health problems. During the past 20 years of resistance to the project, the Wayúu have made claims for compensation for environmental damage and loss of rights as ancestral owners of the land. Moreover, despite the mine's enclave model of extraction that does not allow for local hiring of Wayúu, many Wayúu extended families have established direct alliances with the company based on transactions. The Wayúu use the local organisations that the company has established for development help, to further their own development ideas, and supporting their social continuity as people (Puerta, 2010).

4.6.2 Narcotraffic and Presence of Paramilitary Groups

Wayúu territory in La Guajira is also a setting for armed conflict. In the Middle and High Guajira, illegal armed actors, especially competing factions of paramilitary

groups, fight with one another for dominion and territorial control of narcotraffic routes. These illegal, armed actors have disproportionately affected the civil, political, economic, social and cultural rights of all Indigenous Peoples in Colombia (Anaya, 2010), which includes governance of their territories (Ulloa, 2010). The Wayúu are no exception.

The entrance to La Guajira of the “*Alguilas Negras*” paramilitary group can be dated to the early 1990s. Their entry was enabled by an alliance with a Wayúu family. It is common knowledge that the Wayúu nicknamed “Chema Bala” was the first to make deals with the paramilitary. “He let the paramilitaries enter into the peninsula”, I was told by the Wayúu driver when we drove past the territory and *rancherías* of Chema Bala’s family group, about half-way between Riohacha and Makuira. Later, different factions of paramilitary groups disputed the territorial control by *Alguilas Negras* for routes to get access to the sea. A result of these disputes for territorial control was the massacre at *Bahía Portete* in 2004, where Wayúu women and children were murdered, and the rest of the community, numbering some 600 people, were forcefully displaced to Maracaibo, Venezuela (CNRC, 2010).

After the official demobilisation in 2006 of the group operating in la Guajira, the illegal group fragmented and factions later became active again. They haven’t left La Guajira. Late in the year 2009, I was told over the phone by the Park Manager that one such group took up a base in one of the Wayúu territories in the Park to hide a drug shipment and wait for delivery to the sea. Their *modus operandi* involved forming alliances with people in specific Wayúu territories. Many times alliances are formed with a young nephew, while the rest of the family, including the chief, do not agree but cannot say anything. At one point, as I was told, the paramilitary wanted to extort government support payments for the local hospital in Nazareth, and the earnings of local shops. The Director of the hospital refused to pay and as a consequence had to flee to save his life (N. Uribe, personal communication, July 22, 2010). These processes affect the Wayúu ability to exercise territorial government control and autonomy in their lands. For instance, the Wayúu chief was planning to go and speak to the paramilitary and ask them to leave their territory; however, he might have chosen to not say anything out of fear, indicating an inability to assert autonomy and authority over territory.

Wayúu territory is, to illegal armed actors, a space for fulfilling the purposes of their business or their appointed tasks. They achieve their purposes by imposing *de facto* sovereignty and local territorial control through force. In La Guajira, the impacts of paramilitary activities on the Wayúu include violence, forced displacement, and threatening and killing of Wayúu leaders (men and women). Unlike other Indigenous Peoples who unanimously declare themselves neutral to these actors, the Wayúu, for the most part, are outspoken and reject their actions. However, there are also some younger and ambitious Wayúu men who see opportunities for the establishment of profitable businesses by making short-term alliances with the paramilitary. Ulloa (2010), in her analysis of the Indigenous Peoples of the Sierra Nevada of Santa Marta, sums up the effects such contexts have on indigenous peoples: they fragment and weaken local autonomies by interfering with indigenous governance and use of territory.

In various places throughout La Guajira, Wayúu have organized to end the violence and forced displacement, led by Wayúu women who wish to make their problems known and to act as mediators with the state. In 2009, fifty Wayúu *alaiiala* and *palabrerros* from Colombia and Venezuela met in the High Guajira to discuss their current situation as a people (Román-Fernández, 2009). They communicated that their territories had become overrun by development programs and projects that are not in the interests of the Wayúu people. They also rejected the threat of displacement from their own lands that has resulted from the rise of illegal armed groups. As one *palabrero* said,

We want respect for the autonomy of the Great Wayúu Nation, because we are a historic reality that precedes the so called “countries” of Colombia and Venezuela. We want to encourage respect and pacific coexistence between the Wayúu and the *alijuna* in our territory (Román-Fernández, 2009).

4.6.3 Conservation Projects

La Guajira is a setting for the implementation of international conservation mandates through national environmental policies, in this case to increase the extent of coastal protected areas. Corpoguajira in agreement with Conservation International, The Nature Conservancy, and *Parques Nacionales* Colombia, have set a goal of declaring 50,000 hectares of coastal protected areas in La Guajira (El Herald, 2010). One regional

protected area “Montes de Oca” was declared in the south of La Guajira in 2011. Conservation International, in alliance with El Cerrejón, has been conducting studies in support of a proposed marine protected area in the deserted Bahía Portete, High Guajira (Conservation International, 2008). Puerto Bolivar, the harbour through which coal is exported, is on one side of Bahía Portete. Conservation International completed detailed studies of Wayúu performed a prior consultation for the proposed establishment of a protected area (M.F. Acosta, personal communication, August 20, 2010). The Wayúu did not agree to discuss the matter until the owners of those territories had been guaranteed safe return to their lands, something they have not been able to do since the massacre in 2004 (CNRC, 2010). The Wayúu are using the interest in the Protected Area to reinforce their claims for reparation and justice, and to make it possible for them to be able to return to their lands. For the conservation NGOs, the priority is to set aside portions of the land that are free from development; for the Wayúu, their concern is first and foremost about their right to live in peace within their territories. In this case, the conservation project observed the laws on indigenous rights to prior consultation, something that the mining companies have tended to either ignore or co-opt.

4.7 Summary

In this chapter I have provided a brief history of the Wayúu people as a people, their constant interaction with other cultures, and a description of some relevant aspects of Wayúu culture. On the one hand, the Wayúu maintain a robust system for governance of their land addressing excludability and subtractability issues within the Wayúu society. The Wayúu system of tenure rights provides the full bundle of property rights to the members of the *apüshii* owning the land, and other bundles of rights to other people living there under various arrangements. The strongest and most visible institutions are those associated with the exclusion of others from entrance and use of the land. Subtractability of resource use inside any Wayúu *apüshii* is based on moral precepts such as the ethic of taking only what one needs. There are also cultural norms and direct instructions that are presented in dreams and serve to regulate people’s behaviour with respect to sacred places and supernatural beings.

On the other hand, the Wayúu system for governance in independent political units poses governance challenges when interacting with powerful external actors with interests in La Guajira peninsula. The broader context for cultural institutions for territorial and resource governance have significant impacts on Wayúu use and control of their lands. Such contexts pose a challenge to Wayúu governance and raise the question what is the role played by protected area collaborative governance.

Makaira National Park is an example of bringing together indigenous territorial governance with national protected area management through collaborative arrangements. To understand how Wayúu people and the National Park interact in collaborative protected area governance, including the opportunities and challenges faced in such collaboration, the next chapter looks at National Park policies and their rationales for protected areas collaborative management with indigenous peoples.

CHAPTER 5: “PARKS WITH PEOPLE” POLICY AND INDIGENOUS PEOPLES



Photo 5.1: Makuira Park staff replacing damaged Park sign. *Photo: Julia Premauer*



Photo 5.2: Permanent streams are one of the Park’s conservation objectives.

Photo: Julia Premauer

5.1 Introduction

Conflict between *Parques Nacionales* and Indigenous Peoples in protected areas in Colombia has always been related to different understandings of conservation and the recognition of indigenous rights, or lack thereof. The most significant *Parques Nacionales* policy event in relation to Indigenous Peoples and protected areas was the creation of the “Parks with People” policy between 1998 and 2002. Its development was contingent on a number of processes occurring in international, national and local arenas: changing ideas of economic development, state conservation policies, recognition of indigenous rights, the presence of armed conflict, and social-environmental conflicts in and around official protected areas. Significantly, one of the policy’s aims was to transform persistent conflicts between Indigenous Peoples and the state’s approach to conservation. The “Parks with People” policy had initially been created in part to reframe the meaning of participation and conservation, but this meaning was itself newly interpreted to fit with changing Colombian government priorities regarding economic development, and the war against the drug trade and guerrillas.

Chapter 5 addresses the objective of describing and analysing the normative framework and policies for management of National Parks that were established in the territories of indigenous peoples. First, I examine the historic development of relations between *Parques Nacionales* and Indigenous Peoples in Colombia. Second, I analyse how notions of “conservation” and “participation” in protected areas management have been re-conceptualised through the Parks with People policy. Third, I look briefly at the challenges the *Parques Nacionales* has faced implementing the Parks with People policy between 2002 and 2010. Fourth, I follow the conceptual development of protected area co-government during its institutionalization, and implementation. In Colombia, “co-government” (Spanish *cogobierno*) refers to the kind of collaboration between *Parques Nacionales* as environmental authority with jurisdiction over a protected area, and an indigenous “special public authority” with jurisdiction over their *resguardo* territory (see Chapter 1). Finally, I explore current critiques of co-government in Colombia’s protected areas.

5.2 National Parks and Indigenous Peoples: Historical Context

Environmental policies and indigenous rights in Colombia have undergone a parallel form of development since the 1970s (Ulloa, 2005). Both have responded to global trends, international policies, as well as alliances between indigenous and environmental movements (for the sake of clarity, I will deal with both indigenous rights and environmental policies separately, despite their being very much interrelated).

5.2.1 Resguardos and Indigenous Rights

5.2.1.1 Before 1991

The legacy of the *resguardo* institution is an example of the current recognition of indigenous peoples' rights being founded in a colonial legal framework (Colchester, 2002). Unlike in the British colonies, where land was legally held by the Sovereign (or the Crown), in the Spanish colonies the land belonged to the conquerors and, to some extent, Indigenous Peoples under a feudal form of vassalage. In the sixteenth century, the Spanish Law of the Indies granted to some indigenous communities, collective property rights over their lands, thereby creating the institution of *resguardo* (Roldán, 2001). *Resguardo* owners were granted with collective bundles of rights that included not only full use and control rights (see Schlager and Ostrom, 1992), but also the right of dominion, meaning absolute ownership with both title and possession rights (Roldán, 2001). However, the state still holds sub-surface rights.

According to Roldán (2001), the *resguardo*'s colonial characteristics, as stated in Law 89 of 1890, are: (1) legal recognition of collective property rights of an indigenous community over a clearly demarcated area of land; (2) *resguardos* are inalienable, non-seizable, and imprescriptible (*i.e.* a property outside of the market as it cannot be sold or bought, it can neither be expropriated, nor taken in legal possession to cover unpaid debts); (3) only members of the community or group owning the *resguardo* have free access and usufruct rights, according to their own norms; and (4) the property holders have self-government rights through councils, with some degree of autonomy.

Not surprisingly, these rights had been half acknowledged during the colonial period and, after independence, passed unamended in the Corpus of Laws of the Colombian Republic (Roldán, 2001). During the nineteenth century and first half of the twentieth century, colonial *resguardos* became drastically reduced in size and fragmented by large estate owners. It was part of a modernist state policy of assimilating Indigenous Peoples with the ideal of creating a single, unified nation (Roldán, 2001). Despite decades of efforts directed at assimilation, Indigenous Peoples resisted, produced important leaders that directed their struggles, and later used the *resguardo* institution as a legal anchor for reclaiming ancestral territories.

The indigenous movements in the 1970s and 1980s started with the Nasa people from the Central Andean Cordillera, where the struggle for land was more fierce; the Nasa were later joined by Indigenous Peoples from the lowlands (Gros, 1997). The establishment of the first Indigenous Organisation, *Consejo Regional de Indígenas del Cauca* (CRIC), in 1971 signified the first noticeable indigenous political presence in Colombia. Their claims were centered on acquiring equal opportunity as a political actor in national society while demanding recognition of cultural differences and their rights as indigenous people. Following the creation of CRIC, between the 1970s and 1980s, thirteen main regional and local Indigenous Organisations were created, all of them with different interests and demands that corresponded to their specific local contexts. Indigenous Organisations had the support of a range of actors and organisations from different religious, political or academic backgrounds (Ulloa, 2005).

In 1982, these indigenous movements were consolidated with the creation of the Colombian National Indigenous Organisation (Spanish acronym ONIC). The ONIC was a response to the need to build an effective opposition to the “Indigenist Statute”, a legal project that among other things intended to dissolve the collective property rights of *resguardos* (Andrade, 2007). The ONIC constitution holds territory, autonomy and culture as central tenets in the indigenous movement (Andrade, 2007). The indigenous movement seeks to defend the territories and commons regimes of indigenous peoples, their traditions, and their rights to self-government, control of territory, and use of natural resources according to their own cultural norms.

One political success of the ONIC was achieving legal status for *resguardos* in many indigenous territories (Gros, 1997; Ulloa, 2005). The establishment of hundreds of *resguardos*, covering one quarter of Colombia's territory (Roldán, 2001), in a country with an indigenous population of only two percent, is an exception in South America (Gros, 1997). Such recognition of indigenous territoriality, mostly in the Amazon lowlands, was a result of policies for multicultural recognition and international discourses about biodiversity conservation that validated the need to protect lands and Indigenous Peoples (Gros, 1997, Cairo, 2006).

5.2.1.2 Multi-ethnic Nation and Decade of Participation (1991-2002)

Colombia ratified in 1991 the 1989 Convention No. 169³⁷ of the International Labour Organisation (ILO 169), which together with the United Nations Declaration of Indigenous Rights in 2007, are the most important international instruments for indigenous rights. ILO 169 also had a great influence on constitutional reforms in Colombia. In addition, three indigenous delegates representing the country's major indigenous organisations were elected to participate in the National Constitutional Assembly, whose debates were key to the recognition in the 1991 Constitution of the multicultural and multiethnic nature of Colombia's population.

Thus, the 1991 Constitution marked a turning point in the recognition of indigenous peoples' rights (Roldán, 2001; Ulloa, 2005): the Colombian nation is acknowledged as multi-cultural and multi-ethnic (*Art.7*), Indigenous Peoples are referred to directly and indirectly in twenty-four articles, and indigenous social, economic and cultural rights are developed (see Box 5.1). Most importantly, it reinforced collective territorial rights, which are the foundation for the development of all other indigenous rights (Hammen, 2003).

³⁷ The ILO Convention No.169 on Indigenous and Tribal Peoples obliges signatory nation-states to recognise indigenous peoples' right to self-government, and the right to previous consultation and participation regarding any development in their territories. It acknowledges the right to decide about their own social, cultural and economic priorities; to take part in the formulation, application and evaluation of plans in which they are directly affected (ILO, 1989).

The Constitution sanctioned that *resguardo* collective property is inalienable, imprescriptible and non-seizable (*Arts.* 63 and 329). Indigenous authorities of *resguardos* obtained considerable autonomy. It granted both *de facto* indigenous territories and *de jure resguardos* the status of political-administrative units with rights, duties and self-government jurisdiction (see Box 5.1 *Arts.* 286, 287, 330). The nation devolved to indigenous authorities, the public functions of management of natural resources, education, and health services. As a result, *resguardos* and indigenous territories needed to establish their own development plans in concert with the National Government (*Art.* 339). The ONIC would later rename indigenous peoples' own development plans as 'life plans' (called 'life projects' in Blaser *et al.*, 2004, p. 26). The 1991 Constitution also demands that exploitation of non-renewable resources has to be done in agreement with indigenous communities (*Art.* 330), establishing the right to free, prior and informed consent.

Box 5.1 Constitution of Colombia 1991: Articles related to indigenous peoples' rights.

Sec. I Fundamental principles

Art. 7. The state recognises and protects the ethnic and cultural diversity of the Colombian Nation.

Art. 9. The external relations of the State are based on national sovereignty, on respect for the self-determination of peoples, and on the recognition of the principles of international law ratified by Colombia.

Sec. II Concerning Rights, Guarantees and Duties

Art. 58: (...) Property [*i.e.* land] has a social function that implies certain obligations. As such, it inherently has an ecological function. The State will protect and promote joint and common forms of property.

Art. 63: Property for public use, natural parks, communal lands of ethnic groups, **resguardo lands** [emphasis mine], the archaeological heritage of the nation, and other property as determined by law, are inalienable, imprescriptible and non-seizable.

Sect. XI: Territorial ordering

Art. 286: Territorial entities are departments, districts, municipalities and indigenous territories (...)

Art. 287: Territorial entities have autonomy in the management of their interests, within the limits of the Constitution and the law. They will have the following rights:

1. To be governed by their own authorities.
2. To exercise [legal] competencies that belong to those authorities.
3. To administer resources and levy taxes necessary to carry out those functions.
4. To receive funds from the National Treasury.

Art. 329(...) **Resguardos are collective property and are inalienable.** [emphasis mine]

Art. 330: In accordance with the Constitution and laws, indigenous territories will be governed by councils formed by, and regulated according to, the customs of their communities, and will carry out the following functions:

1. Ensure the application of legal norms for land use and population of their territories.
2. Design policies, plans and programmes for economic and social development within their territory, in harmony with the National Development Plan.
3. Promote public investment in their territories and ensure their rightful use.
4. Receive and distribute their resources.
5. Ensure the preservation of natural resources.
6. Coordinate programmes and projects promoted by the different communities in their territories.
7. Collaborate with maintaining public order within their territory, in accordance with the instructions and arrangements of the National Government.
8. Represent their territories before the National Government and other entities of which they form a part.
9. Those identified by the constitution and the law.

Paragraph: The exploitation of natural resources in indigenous territories will be done without affecting the cultural, social and economic integrity of the indigenous communities. In the case of arrangements that are adopted with regards to such exploitation, the Government will enable the participation of representatives of the respective communities.

5.2.2 Environmental and Conservation Policies

5.2.2.1 Before 1991: Preservation of Wilderness

Since the 1950s, the state strategy for *in situ* conservation of nature began slowly to take shape following the North American model. “National Parks” were adopted in Colombia with Law 2 of 1959, following the conceptual guidelines of the Washington Convention held 1941³⁸ (Rummenhoeller, 1995). Then, in 1968 the first environmental government institution, INDERENA, *Instituto de Recursos Naturales Renovables* (Institute for Natural Renewable Resources), was created as an agency of the Ministry of Agriculture with responsibility for the establishment, administration and management of protected areas. INDERENA’s main activity for the first 15 years was the creation of National Parks that preserved unique ecosystems. Between 1974 and 1989, 36 protected areas were created, 18 of them in 1977 (Rummenhoeller, 1995). Due to the lack of resources for their management, many protected areas remained for decades “paper parks”, or parks in name only.

The first environmental public policies, established in the 1970s (Rodríguez, 2009), were in line with contemporary international conceptions of conservation. The 1974 Code of Natural Renewable Resources and Environment Protection³⁹, still in force today, is the legal framework that provides the principles for management of natural resources (*i.e.* soil, water, woodlands, and fauna) and defines in (*Arts.* 327-336) the Colombian National Parks System (Decree-Law 2811, 1974) The Code concurs with the definition and precepts established for national parks in the IUCN 10th General Assembly in New Delhi in 1969 (IUCN, 1970). As such, it follows a strict rationale of wilderness preservation, which is evident from the activities allowed in protected areas: conservation, ecosystem recovery, research, education and recreation (*Art.* 332). Detailed regulations for protected areas in the Code were developed in Decree 622 of 1977, also

³⁸ The Convention on Nature Protection and Wild Life Preservation in the Western Hemisphere was signed by all South American countries, agreeing to develop clear policies and establish areas to protect and preserve their historic, scientific, or aesthetic and biological values. Retrieved September 9, 2011, from <http://eelink.net/~asilwildlife/cnpwh.html>

³⁹ Codes are high rank Laws such as Decree-Laws in the Napoleonic system, on which Latin American Law is based since early nineteenth century.

still in force, which prohibit resources use and harvesting activities (*i.e.* hunting and fishing, and industrial, ranching and agricultural activities) in protected areas. Yet, Decree 622 states briefly that indigenous reserves⁴⁰ are compatible with protected areas, and their livelihood sustaining activities should be allowed as exceptions. I will return to Decree 622 for closer analysis in section 5.5.1, since this is the legal framework within which protected areas currently operate. The current National Parks conservation model was conceived and put into practice under a preservationist, “people-free” paradigm. This legal framework assumed protected areas were empty land in which cultural values were to be regarded in a historical or archeological sense, not as a part of living societies (Rummenhoeller, 1995; Roldán, 2001; Andrade, 2007).

5.2.2.2 National Parks vs. Resguardos

The establishment of indigenous *resguardos* and national parks occurred over the same geographical areas with high bio-cultural diversity. On the one hand, policies furthering indigenous rights established *resguardos*, granting Indigenous Peoples a degree of self-government and collective rights to territory. On the other hand, state conservation policy, based on strict nature conservation principles, fostered an extremely restrictive approach to conservation that considered protected areas as wilderness without people.

Not surprisingly, 30% of National Parks ended up overlapping with *de jure resguardos*, and *de facto* indigenous territories, conflict sparked between Indigenous Peoples and parks. The resulting conflicts were diverse in form and degree, depending on the particular protected area context. Examples ranged from INDERENA tolerance of indigenous presence, to the expulsion of indigenous peoples. In cases where an indigenous presence was tolerated, park managers disregarded indigenous rights by prohibiting and controlling hunting, fishing and agricultural activities by Indigenous Peoples within protected areas (Correa, 2002). INDERENA also forced the expulsion of Indigenous Peoples from two geopolitically strategic protected areas using the state army. That was the case with the Embera-Katio people in Katios National Park at the

⁴⁰ In 1995, Decree 2164 transformed all indigenous reserves into *resguardos*.

border with Panamá, and the Sikuani, Cuiva, Kurripako, and Piaroa peoples in Tuparro National Park at the border with Venezuela (Houghton, 2008).

However, in other cases, the degree of conflict varied with the actual local presence of *Parques Nacionales* authorities and extent to which park and *resguardo* areas overlap (Rummenhoeller, 1995; Roldán, 2001; Correa, 2002). There were parks created both before and after the *resguardos*. In some positive cases, the Park came first, and then the *resguardo* was created with the support of park authorities⁴¹. The extent of the overlapping area is another factor in determining the nature of conflict: there are cases of complete overlap of both territories, such as when the protected area is inside an indigenous *resguardo*⁴² or the *resguardo* is inside the protected area; there are also cases of partial overlap (Correa, 2002).

Conservation expectations of protecting an untouched nature did not match the social and political reality of most National Parks as inhabited places even by *guerrilla* groups. Indeed, every Park in Colombia had indigenous, peasant and Afro-descendant inhabitants directly dependent on natural resources within the protected areas. Despite Indigenous Peoples being the legal owners of their *resguardos*, they generally lost their autonomy over the use of natural resources (Rummenhoeller, 1995). INDERENA relations with Indigenous Peoples were based on enforcing prohibitions and controls on resource use, which presented a threat to the survival of indigenous peoples.

5.2.2.3 Reforming Environmental Public Policies

In the 1990s, Colombian environmental public policies responded to global concerns for environmental degradation and followed international guidelines for sustainable development. The most significant international environment-related agreements signed by Colombia were the United Nations Conference on Environment and Development Rio Conference (1992), the Convention on Biological Diversity CBD (1994), and the Cartagena Agreement (1996) on access to genetic resources (Ulloa,

⁴¹ E.g., PNN Sierra Nevada de Santa Marta, SFF Flamencos.

⁴² E.g., PNN Makuira within the Wayúu *resguardo* of Middle and High Guajira.

2005). Nationally, the most important political event was the proclamation of the 1991 Constitution.

The period between 1990 and 1993 represented a second key moment, since the 1970s, for the reform of environmental public policy (Rodríguez, 2009). The 1991 Constitution incorporated the outcomes of Rio discussions and, thus, gave great importance to the environment and sustainable development in state affairs. For instance, Colombians now have “the right to enjoy a healthy environment” (*Art. 78*) and the state has the duty of “protection of biodiversity and integrity of the environment” (*Art. 79*). The Constitution prepared the ground for Law 99 of 1993⁴³ that created the state environmental institutions that would be part of the National Environmental System under the supervision of the new Ministry of Environment (Rodríguez, 1998; 2009). The Unidad Administrativa Especial de Parques Nacionales Naturales, UAESPNN, (here referred to as *Parques Nacionales*) was created within the Ministry of Environment to replace INDERENA. *Parques Nacionales* became the environmental authority in charge of administration and establishment of protected areas. In relation to protected areas, the Constitution states that National Parks are, like *resguardos*, “inalienable, imprescriptible and non-seizable” (*Art. 63*). However, while in national parks the subsurface rights are protected from development projects, in *resguardos* the subsurface rights belong to the nation-state and are not protected. An improvement in operating capacity of the state and their presence in protected areas was made possible through the 1991 National Development Plan, which included a strategy to strengthen the management of the National Parks system by providing mechanisms to finance protected area infrastructure, management and ecotourism (Rummenhoeller, 1995).

Law 99 not only created government institutions, it also adjusted the conservation model to align with the goals of sustainable development. Thus, as Durán (2009) has pointed out, with Law 99 the concept of “pristine nature” fell out of the environmental policy discourse and “conservation of natural renewable resources” stepped in. Thus, the environment acquired economic value. Following the Constitution, Law 99 also introduced the notion of participatory democracy and collaboration between state

⁴³ Law 99 of 1993. Retrieved May 15, 2011, from <http://www.humboldt.org.co/download/ley99.pdf>

institutions and other corporate and social actors in the governance of the environment and protected areas.

Despite the Law 99 goal of decentralization of environmental management, *Parques Nacionales* continued to manage protected areas in a highly centralized way that excluded the possibility of participation by other actors such as NGOs, Regional Environmental Agencies and grassroots groups (Rodríguez, 1998). Neither did *Parques Nacionales* intend to give away decision-making control to Indigenous Peoples (Rummenhoeller, 1995). Therefore, the half-hearted strategies for participation that were developed by *Parques Nacionales* at the time, sought only to “integrate” Indigenous Peoples within the concept of a protected area. *Parques Nacionales* pursued commonly-known strategies such as providing Indigenous Peoples with economic opportunities in the overlapping areas by developing ecotourism, offering job opportunities as park rangers, and making agreements on the use of Park space (Rummehoeller, 1995). *Parques Nacionales* understood participation to be an economic and technical issue that could support improved conservation while also helping indigenous peoples. However, for indigenous peoples, it was, and still is, a political struggle for recognition of their territorial and self-government rights.

Indigenous Peoples were demanding serious, official acknowledgment as the ancestral and legal owners of their territories, with the right to self-government. In 1993, the Colombian National Indigenous Organisation (ONIC) called for a change in how protected areas were establishment so that the territorial rights of Indigenous Peoples would be respected and strengthened (Rummenhoeller, 1995). A national “*resguardos* vs. protected areas” political debate soon became the bottle-neck for progress in the improvement of relations between Indigenous Peoples and national society (H.D. Correa interview, August 10, 2010). The conflict between Parks and Indigenous Peoples was one of the core issues that the new *Parques Nacionales* “Parks with People” policy intended to solve.

5.3 Evolution of the “Parks with People” Policy

A suitable political juncture to establish an innovative *Parques Nacionales* conservation policy occurred in 1998. Key priorities for the incoming government (President Pastrana, 1998-2002) were the national peace process, the environment, and sustainable development. Accordingly, national environmental policy developed by the Ministry of Environment, called *Proyecto Colectivo Ambiental* (PCA), envisioned *ordenamiento ambiental* (land and resource use planning) as the core of sustainable development with a substantial social dimension that would also contribute to peace-building (MMA, 2002). Based on shared responsibilities between the state and other institutional and social actors, the PCA called for planning and management of the environment to be done collaboratively. The PCA acknowledged the biological and cultural diversity of the nation, as well as indigenous rights in the Constitution. The PCA proposed for the management of protected areas an approach called “Parks with People” (MMA, 2002), which would promote the valuing of diverse knowledge systems in environmental management (Ulloa, 2005).

5.3.1 The Policy

Leadership by significant people was also important for the development of the “Parks with People” policy. Juan Carlos Riascos was appointed director at *Parques Nacionales* for the period 1998-2003. He had previously been the director of an NGO⁴⁴ with over a decade of experience working in environmental issues with peasants, Afro-descendant communities and indigenous peoples. Riascos was well aware of the worsening environmental situation due to a rise in plantations of illicit crops, escalating conflict due to drug trafficking and guerrilla activity, lack of state governability, and the exacerbated *resguardos*-Paternal Parks conflict.

Mr. Correa⁴⁵ (interview, August 10, 2010) maintains that the policy was a historic turn in *Parques Nacionales* conservation approach. However, it was a turn that did not

⁴⁴ Herencia Verde, environmental NGO created in the 1970s and worked with projects of community-based conservation.

⁴⁵ Hernán Darío Correa, sociologist and practitioner in conflict resolution, Indigenous Peoples and rights issues, was advisor to the Director of *Parques Nacionales* from 1999-2002.

last long enough as will be later explained. Correa described what the policy intended to achieve:

Solve the *Parques Nacionales*-Indigenous Peoples polarization, to solve the issue of peasants in and around parks (as the state has always neglected the agrarian problem), and to solve the conservation mission, because it was only rhetoric that was not put into practise (H.D. Correa, interview, August 10, 2010).

The development of the policy was a collective process funded with international money⁴⁶ and took over three years to complete; it involved participation by the whole of *Parques Nacionales* staff, other diverse social and institutional actors (UAESPNN, 2001), seven regional indigenous organisations, and the ONIC (Correa, 2002). Correa described Riascos' approach as one based on "effective processes", meaning that his strategy relied on ongoing, tangible, local processes within parks so as to build the policy from the bottom-up. Thus, implementation, learning, discussion, and adjustment were ongoing in the development of a policy document.

An assessment of the state of affairs of conservation in Colombia revealed that conservation had been practised in an authoritarian yet passive way, based on "controlling" (H.D. Correa, interview, August 10, 2010). It was a form of "command and control" management without the level of scientific or financial support that is more commonly found in the north. National Parks were managed as estates, in a colonial-feudal style, where the park manager was the authority that policed, or at least tried to police, the area. The parks had neither management plans nor a clear idea of their conservation objectives.

In this sense, the new policy introduced a new rationale for management, including: management plans, conservation values and objectives, strategic planning, indicators, and greater use of scientific knowledge. It also was an intervention strategy for increasing the state presence and governability within parks. The policy slogan, "Parks with People", addressed a two-fold social objective. First, it created a "conservationist culture" by changing public attitudes to relations between society and nature (UAESPNN, 2001). Second, it acknowledged the human rights of peasants,

⁴⁶ International cooperation with the Embassy of the Netherlands

indigenous peoples, and Afro-descendant communities. The policy reframed the concepts “conservation” and “participation”, as is discussed in the following sections.

5.3.2 Re-thinking Conservation

Box 5.2 “Parks with People” definition of conservation and protected areas conservation objectives (UAESPNN, 2001)

“Conservation understood as management that includes preservation, sustainable use of natural resources and environmental services” (UAESPNN, 2001, p. 48).

Parks conservation objectives in the policy (p. 50)

1. Assure the continuity of evolutionary processes and the genetic flux necessary to preserve terrestrial and aquatic species.
2. Guarantee the supply of environmental goods and services essential to human development.
3. Guarantee the permanence of natural environment, as foundation of the integrity and survival of the country’s traditional cultures.

The core assumption of the new conservation policy was that protected areas were going to become an avenue for sustainable development (H.C. Correa, interview, August 10, 2010). This idea had been introduced in the reforms to environmental policies in the early 1990s, in which sustainable development was to be achieved through environmental management (MMA, 2002). The environment was given an economic value that if left unattended would negatively affect the national economy. Thus, the concepts of “renewable resources” and “environmental services” gained a strategic value. The CBD introduced the notion of “sustainable use” to achieve both sustainable development and as an aspect of conservation practice.

Accordingly, the conservation approach in the new *Parques Nacionales* policy was expanded to include “sustainable use of natural resources” and conservation of environmental services (see Box 5.2). A key tenet of the policy was that conservation should reach out beyond the limits of protected areas to the surrounding landscapes. Thus, protected areas should not be understood as an area of land enclosed and safe from economic development, but as a node for sustainable development. Mr. Riascos

explained that the idea was to work in cooperation with municipalities, and with impoverished peasant communities in and around the protected areas, to create sustainable development initiatives (J.C. Riascos, interview, April 30, 2009). In sum, the conservation concept was expanded to make it a broader social endeavour.

The conservation concept was also expanded in two ways in relation to culture (Ulloa, 2005). First, protection of culture was included as an indirect conservation objective (see Box 5.2), following the logic that traditional cultures will survive if the land and its biodiversity is conserved. Second, it was acknowledged that Indigenous Peoples have their own traditional territorial management and conservation rationales, and thus, there are diverse cultural approaches to jointly working towards conservation. However, the tendency to think in essentialisms is a problematic aspect of drawing parallels between indigenous peoples' territorial management and western conservation; Indigenous Peoples continue to be considered as unable to decide their own futures. That is, Indigenous Peoples are considered “conservationists” as long as they continue to be “traditional”, thereby denying culture is a constant process of creation, a process that is “dynamic, open, relational, fragmented, heterogeneous, [and] contradictory” (Serje, 2002, p. 129).

5.3.3 Re-thinking Participation and Co-Management

Participation was introduced with the 1991 Constitution. It had been present in *Parques Nacionales* discourse since the early 1990s, and was vaguely understood as the integration of Indigenous Peoples in conservation. With the new “Parks with People” policy, participation was expected to become “the core of protected area management” (UAESPNN, 2001, p. 39) by developing a broad notion of participation to include collaboration among different actors and *Parques Nacionales*:

The policy [...] ‘Participation in conservation’ presupposes, as a central aspect, the joint cooperation among different social groups, public and private organisations (UAESPNN, 2001, p. 39).

The policy was conceived of as a way to achieve social objectives, “merging nature conservation ethics with principles of social equity, finding agreed solutions to

problems”, and to generate a general change of attitude throughout society towards conservation (UAESPNN, 2001, p. 24).

With these objectives, one of the challenges was to open *Parques Nacionales* to the possibility of shared management and authority. For those working within the institution, such participation was perceived as leading to weakened conservation regulations, since *Parques Nacionales* had a history of centralized management. Mr. Riascos, well-aware of the lack of effective *Parques Nacionales* governability in most protected areas, had a completely different idea from that of centralised *Parques Nacionales* authority; as he explained:

My hypothesis was that, I [environmental authority] grow stronger, when the social actor grows stronger. Your strength as authority grows inasmuch as you recognise the authority of a third party, and even more, if both stand united defending a common goal. (J.C. Riascos, interview, April 30, 2009)

The policy had to define who was going to participate and how. Participation strategies had to be tailored to different social or institutional actors, and also vary according to where it took place (inside or outside the protected areas). The policy defined the following actors: Indigenous Peoples and Afro-descendant communities, peasant communities, NGOs, regional environmental agencies, academia, international cooperation bodies and private corporate sector (UAESPNN, 2001). The classification clarified the competencies of actors, their rights and duties, and whether their public responsibilities derived from territoriality or jurisdiction (UAESPNN, 2001). Riascos explained that actors such as landless peasants, indigenous peoples, and Afro-descendant communities, present inside of protected areas were differentiated by legitimacy according to territorial rights, settlement history, their expectations in the area, and whether they were recognised by the Colombian nation-state as public authorities (J.C. Riascos, interview, April 30, 2009).

Outside National Park areas, participation was understood as establishing partnerships with municipalities, including mayors’ offices, to stop the advancement of the agricultural colonization frontier, stop the planting of illicit crops, and provide economically viable and environmentally sound alternatives for peasants. Inside each

National Park, participation would involve providing different roles to various legitimate/relevant actors in the process of making the park management plan. Co-management is established with those actors who don't have title to land, only resource use rights (e.g., Afro-descendant communities). Co-government (coordination and co-administration) is established with those who are legal owners of territory and have jurisdictional public functions. An undefined form of participation is carried out with *campesinos*, living in the protected areas with neither land title nor resource use rights (UAESPNN, 2001).

Policies define who the main actors are and their identification creates the basis for certain kinds of relations (Shore, 2010). The relations created by the policy differentiation of actors in protected areas did give clear preference to actors with territorial rights. Indigenous peoples, despite later changes in the interpretation of the policy's legal framework, are in a much better position to interact with *Parques Nacionales* than, for instance, Afro-descendant communities or landless peasants. The situation of peasants within protected areas is the worst: they continue to be seen as invaders, and participation is only limited to ecological restoration projects. *De facto* indigenous territories have the same problem.

5.3.4 Reframing the Relationship of Parks with Indigenous Peoples

One of the main objectives to the "Parks with People" policy was to find a solution to the conflict between *Parques Nacionales* and indigenous peoples. An assessment of the conflict by Mr. Correa showed that at the national level the antagonism between National Parks and *resguardos* was high, yet at the local level, alongside conflict he found cases of alliance, mutual strength, and credibility (H.D. Correa, interview, August 10, 2010). Mr. Correa found *Parques Nacionales* to suffer from a "profound schizophrenia" that consisted of the head office in Bogotá perceiving Indigenous Peoples as "the enemies", while in most protected areas, park managers completely relied on Indigenous Peoples for management, transportation, accommodation, fuel and food (H.D. Correa, interview, August 10, 2010). Thus, while the national discourse on Indigenous Peoples and protected areas was highly

confrontational, at the local level a number of positive experiences provided a basis for re-framing the conflict within *Parques Nacionales*.

Table 5.1 Jointly re-framed concepts between *Parques Nacionales* and Indigenous Peoples (Modified from Correa, 2002).

Concept	Before 1998	‘Parks with People’ policy (1998-2002)	Implementation (2002-2010)
Territory	Not recognised	1 st territory, 2 nd park Environmental zoning based on indigenous territorial ordering	1 st territory, 2 nd park Does not quite work: social vs. natural territories
Conservation	Indigenous Peoples (IP) don’t conserve Preservation of pristine nature	IP have practices that are akin to conservation. Age old management that has encouraged biodiversity Conservation as management	IP conserve if they are traditional Gradient
Cross-cultural dialogue	No	Yes Two ways: <i>Parques Nacionales</i> and IP Local knowledge/science Respect differences Different epistemologies	Yes Two ways: <i>Parques Nacionales</i> and indigenous peoples Respect differences
Indigenous authority as governing authority	Not recognised <i>Parques Nacionales</i> only environmental authority	IP in both <i>de facto</i> territories and <i>de jure</i> <i>resguardos</i> are recognised as governing authority including environmental matters	Only IP in <i>resguardos</i> are recognised as governing authority. Environmental authority is not always recognised. <i>Parques Nacionales</i> is the only environmental authority
Participation in overlapping areas	Weak mostly as recipients of environmental education, few cases were different	Coordination between equals (both authorities) with different objectives work together for a common goal Co-governemnt	Cooperation between equals with nuances Only in <i>resguardos</i> Only if IP authority is recognised in the park Nuanced co-government Co-management in <i>de facto</i> territories.

Readjustment of *Parques Nacionales* approach to conservation was the result of a year of collective discussions and social agreements with several indigenous organisations. The foundation for working on cases where protected areas overlapped with indigenous territories was laid by the reframing of five key concepts⁴⁷ as shown in Table 5.1: territory, conservation, cross-cultural dialogue, indigenous authority, and participation.

5.3.4.1 Indigenous Territory

Before, indigenous territories were invisible within protected areas management; under the ‘Parks with People’ policy, *Parques Nacionales* acknowledged the Colombian ratification of ILO 169, and agreed that overlapped areas will be regarded in the first place as indigenous territories. Territory (Box 5.3) is the central theme in the indigenous movement’s claims.⁴⁸ For Indigenous Peoples in Colombia, territory connotes identity, autonomy, self-government, self-determination. Where protected areas overlap with indigenous territories, they are now seen as habitats and spaces constructed by a culture according to their worldview and their ancestral systems for ordering human-environment relations (Correa, 2002). Hence, the management zoning that is a standard tool in the management of protected areas, was to be established on the basis of customary indigenous territorial management (Correa, 2002). The importance of territory to Indigenous Peoples was thereby recognised and included as a protected area conservation objective (see Box 5.3).

⁴⁷ The 1991 Constitution (*Art.330*) recognises as part of the state both *de facto* indigenous territories and *de jure resguardos*. Later, only *resguardos* were recognised as such. Further legal development for granting authority to indigenous territories has not taken place.

⁴⁸ The most complete definitions of territory with all dimensions and the integral spiritual relations are in the ILO 169 Convention and the UN Declaration on the Rights of Indigenous Peoples (ILO, 1989; UNDRIP, 2007).

Box 5.3 Definitions of territory used in Colombia

Territory (general definition): Is a defined geographical area that is under the jurisdiction of a political power.

Territory (definition by Senator Piñacué from the Nasa people, 1997):

“The territory is not just a geographical space delimited by convenience or imposition of external intentions as property of a people. A territory is alive and allows life. Our memory unfolds in it giving us cohesion as a unity.

Territory, is the spatial *ambitus* of our lives, our people need to protect it from disequilibrium, because we need it to survive with identity. Reciprocity exists between territory and ourselves that is manifested in the social equilibrium that allows the sustainable management of the resources that it provides us with.”

5.3.4.2 Conservation

Once the existence of indigenous territory is admitted, there is no room for conservation as only the preservation of nature. Nature conservation may be an element of indigenous resource management, especially in sacred places, but it is mostly about respectfully using resources according to local knowledge (Berkes, 2008; Verschuuren *et al.*, 2010). Seeing Indigenous Peoples as allies in conservation was in part the outcome of the indigenous movement in Colombia, which constructed an “indigenous ecological identity” as a political strategy for their cultural-territorial claims (Ulloa, 2005). Acknowledgment of indigenous sustainable management practices was also the result of incorporating IUCN discussions that would become more visible after the IUCN World Park Congress, Durban 2003 (H.D. Correa, interview, August 10, 2010). *Parques Nacionales* recognised the age-old indigenous ways of managing the land and their connection with the high biodiversity found in those areas today (Correa, 2002), a connection that at the time was also being discussed internationally (Posey *et al.*, 1999). Riascos explained that because indigenous management is often immaterial (or spiritual) in nature, national society doubts if there can be any guarantee that conservation will actually result (J.C. Riascos, interview, April 30, 2009). Thus, Riascos explained the

rationale used by *Parques Nacionales* to reform conservation practices: “Indigenous Peoples ‘conserve’ with their traditions known as Laws of Origin that are immersed in a traditional knowledge system that is practised in rites and ceremonies.” He concluded that if traditions are strong, indigenous management will result in positive conservation outcomes; this would be true even for contemporary Indigenous Peoples such as the Nasa people (J.C. Riascos, interview, April 30, 2009). Thus, one of *Parques Nacionales* new tasks was to help Indigenous Peoples to safeguard their traditions to guarantee nature conservation.

The underlying danger in this reasoning showed up in interviews and observations in Makuira. The understanding of relations between indigenous culture and conservation has been oversimplified by *Parques Nacionales* staff: they have assumed that if Indigenous Peoples are not traditional they will not conserve, and therefore *Parques Nacionales* staff wants them to stay as traditional as possible. *Parques Nacionales* has a tendency to see culture and tradition as something static, from the past, even if change has happened and is happening. *Parques Nacionales* finds it problematic that Indigenous Peoples do not maintain their traditional practices. The underlying assumption is that, traditionally, Indigenous Peoples live in complete harmony with nature, which is the result of the myth of the noble savage found in the collective subconscious of national society (Serje, 2005), and is reinforced by the indigenous ecological identity constructed by the indigenous movement in Colombia (Ulloa, 2005).

5.3.4.3 Cross-Cultural Dialogue

By recognising other rationales for natural resources management “based on entirely different epistemologies to those of conservation science”, and by lending a “profound respect to the autonomy that Indigenous Peoples have”, the “Parks with People” policy document sets the stage for cross-cultural dialogue to build management agreements in overlapping territories. Such dialogue was seen as “an opportunity to adequate parks’ planning to mythical conceptions for management of territory” (UAESPNN, 2001, p. 48).

As a result, a two-way dialogue was proposed as the mechanism by which different knowledge systems, two visions of management of territory, would be able to converge, instead of an integration of traditional knowledge into scientific knowledge. “Respect for the differences” is the recurring theme that came up in all interviews on cross-cultural dialogue. In the search for appropriate instances that would allow equity and respect to autonomy, the cross-cultural dialogue should be a

Confluence of cognitive structures without cancelling each other out, or assimilating one another, based on a construction of cross-cultural spaces and proposals. In those spaces the role of the indigenous and the non-indigenous is arranged and their relations are structured upon agreements. (UAESPNN, 2001, p. 114)

Territory is regarded as the feature common to both epistemologies. Territorial ordering is the planning and management of the use of space and resources in the territory to ensure ecological sustainability and social justice (Masiris Cabeza, 2010). Such land use planning is the meeting point of the cross-cultural joint construction of the shared territory and its governance. Under this new policy, planning for protected areas establishes management areas according to indigenous criteria. Riascos, as many others, believes that cross-cultural dialogue and understanding is possible, it is just very difficult to find the appropriate language (J.C. Riascos, interview, April 30, 2009).

5.3.4.4 Indigenous Governing Authority

Before the “Parks with People” policy, *Parques Nacionales* was reluctant to accept the status of Indigenous Peoples as governing authority (in Spanish, *autoridad pública especial*) including environmental responsibilities in their territories, or *resguardos*, as granted by the 1991 Constitution. Governing authority holds the rights and duties of a government in its territory which includes the decisions over natural resources found in it (decision-making authority over the environment). Until then, *Parques Nacionales* had been the only environmental authority in protected areas (Decree 622 of 1977, Law 99 of 1993). The “Parks with People” policy recognises Indigenous Peoples as governing authorities including authority over environmental matters, in those cases where protected area overlap both *de facto* indigenous territories and *de jure resguardos*. The interviews with Mr. Riascos and Mr. Correa revealed that

recognition of Indigenous Peoples as environmental authorities was the result of a heated debate inside *Parques Nacionales*. The problem was, and still is, that laws and jurisprudence are not clear enough about specifying the nature of indigenous governing authority over natural resources (Roldán, 2001). Besides, *Parques Nacionales* is not willing to share their environmental authority within its jurisdiction. Hence, as soon as the Director of *Parques Nacionales* changed, this long-standing reluctance to share power once again ruled, and laws were re-interpreted once more in favour of *Parques Nacionales*. Today, *Parques Nacionales* officially recognises as governing authorities, not as environmental authorities, *only* those Indigenous Peoples with *resguardos*. Interviews with *Parques Nacionales* administrative staff confirmed this; as one interviewee said: “It is problematic that some Indigenous Peoples aspire to be recognised as environmental authorities” (L.E. Angarita, interview, July 1, 2009). Other staff referred to Indigenous Peoples as governing authorities, while pointing to the importance of continued debate on indigenous environmental authority (C. Arroyo, interview, May 5, 2009).

5.3.4.5 Participation

Participation with Indigenous Peoples has included co-government in overlapping areas and the formation of alliances to support indigenous conservation initiatives. The main idea behind participation in overlapping protected areas is summarized as “Let’s recognise one another as public authorities”, a sentence frequently used by *Parques Nacionales* staff. This recognition as a public authority has a direct effect on the type of participation or partnership that is pursued: participation by public authorities involves collaboration (or co-ordination) between equals, with different interests, towards the common goal of conservation. Participation as co-government goes further in that it has a political end in the recognition of rights:

It is necessary to collaborate between the national and the traditional systems of rules *for the benefit of indigenous autonomy and territorial integrity* that coexist in Colombia’s pluralistic legal framework. (UAESPNN, 2001, p. 43)

Partnership and joint work was understood as a process of working together that eventually would end up in co-government agreements. An initial agreement of shared understanding for working together cross-culturally was signed between *Parques Nacionales* and the indigenous authority to agree on: ethical relations, decision-making by consensus, trust principles for management of information, and methods for conflict resolution (J.C. Riascos, interview, April 30, 2009). Then, based on the initial “agreement of understanding”, the process of developing a co-government agreement begins. The Amazonian Cahuinarí National Park and the Caribbean Sierra Nevada National Park are examples of protected areas overlapping with *resguardos* that followed this process. Cahuinarí signed formal agreements after ten years and Sierra Nevada is preparing its own version of a co-government process. Examples of partnerships in conservation and territorial protection resulting from indigenous initiatives include the creation of Alto Fragua Indiwasi National Park in 2002, and Matavén multi-ethnic *Resguardo*, among others (Correa, 2002). Co-government agreements understood as Special Management Regime (Spanish acronym REM) was a later development during the implementation of the “Parks with People” policy.

5.4 Conceptualization of “Co-government” as REM

With the “Parks with People” policy in place, and with some protected areas having initiated co-government processes, *Parques Nacionales* set out to ensure participation as co-government was operative in all protected areas that overlapped with indigenous peoples’ *resguardos*. However, this process had to be conducted within the legal framework of the 1970s that was still in force. As a result, implementation of co-government resulted in subtle but important transformations that reduced the extent of recognition of indigenous peoples’ rights and their participation as equals in the drafting of co-government agreements. With implementation, co-government⁴⁹ as an on-going participatory process was abandoned, at least by *Parques Nacionales* at the central level,

⁴⁹ By using the term co-government, *Parques Nacionales* acknowledged the public and environmental authority of indigenous peoples, and thus, their political autonomy. *Parques Nacionales* still calls it co-government. However, in some areas such as education and health, indigenous jurisdiction is clear, but in the area of environment it is not, and is therefore subject to interpretation.

in favour of co-government as an end; that is, the signing of agreements. Despite implementation being conducted on a case-by-case basis, the shift from process to target posed difficulties for ensuring participation by Indigenous Peoples as equals. To understand the *Parques Nacionales* rationale for co-government implementation with indigenous peoples, the concept is discussed with reference to several key documents that are summarized in Table 5.2.

5.4.1 The Special Management Regime in Decree 622

Decree 622 of 1977 first mentions the need to establish a Special Management Regime for protected areas that overlap indigenous peoples' territories. Article 7 states that there is compatibility between the interests of Indigenous Peoples and protected areas. In the same article it recommends that,

[...] studies will be performed by the Incora and the Colombian Institute of Anthropology to *establish a Special Regime for the benefit of the indigenous population*, according to which, their *permanence* inside the park area will be respected as well as their *right to economic usufruct* of natural resources, using technologies that are *compatible with the objectives* of the protected areas system (Decree 622, 1977, Art. 7, emphasis mine).

The Special Management Regime (REM) in this article is an abstract notion that allows for coexistence, but strictly limited by conservation objectives. It is part of a conservation approach that seeks to establish, ideally, people-free parks. The Decree did not mention how REM should work, or be implemented. However, two aspects of Article 7 deserve highlighting: (1) the rights of Indigenous Peoples in resources management are restricted to the use of resources for survival, using methods (“technologies”) determined by the conservation objectives of the National Park system.

Table 5.2 Development of co-government concept as REM

Government Documents	Co-government concept (REM)
Decree 622 (1977), regulates the 1974 National Code of Natural Renewable Resources and Environment Protection	REM concept: REM is an abstract, static concept, not defined: Implies tolerance for coexistence, not action.
“Parks with People” policy (2001)	Co-government concept: As co-ordination of cross-cultural regulatory systems. Co-government as articulation or co-administration Contracts (legally binding agreements) for co-ordination and then REM
Technical and Legal Bases for the policy of social participation in conservation (2007) ⁵⁰	Provides the legal analysis an interpretation of the law that parks and <i>resguardos</i> are compatible and that REM implementation is legally viable.
<i>Parques Nacionales</i> internal workshop on REM (UAESPNN, 2005)	REM is a series of agreements that allow for coordinated action
Elements of management planning in overlapping areas. (UAESPNN, 2005)	REM concept: Only as the legal-administrative meaning of “co-ordination” A collaborative process for making management plans by public authorities (p. 24).Co-ordination means equal decision-making power. Exploration of mechanisms for management between two authorities (public and environmental) with overlapping jurisdictions.
CONPES document No.91 ⁵¹ (PNAL, 2005)	REM becomes mandatory
Reform Proposal for Decree 622 (UAESPNN, 2006)	REM is the collaboratively developed management plan for the overlapping area

This is because it uses the concept of *reserves*, which grant only usufruct rights and not the full bundle of collective property rights. In 1995 Decree 2164 converted all indigenous reserves into *resguardos*. (2) The Decree 622 preserves the paternalistic role of the state, as there are two state institutions in charge of making a special management

⁵⁰ The 2005 documents are in fact based on an earlier version of the Technical and Legal Bases document which I cite here as 2007.

⁵¹ CONPES documents (*Consejo Nacional de Política Económica y Social*) are the National Planning Authority by which the national government assigns budget to the pursuit of government policies on social and economic development.

regime *for* indigenous peoples; for their benefit, but not *with* them. Serje (2005) argues that this attitude, linked to the colonial idea of Indigenous Peoples as natural beings, is still present in the Colombian subconscious and reflects a contemporary form of internal colonialism. Despite the more recent recognition of indigenous rights, these two aspects of Article 7 will be still present in the conceptualization of co-government as REM.

Decree 622 also defines how protected areas management plans are to be completed. The Decree outlines the mandatory prescription of sub-division of any protected area into zones for the purpose of defining different management activities (Decree 622, 1977). The zones are based on physiographic and biological characteristics and defined as: primitive, intangible, natural recovery, historic area (archaeology), recreation (tourist), high use density (tourists). Protected areas that are not overlapping with indigenous *resguardos* have such zoning in their management plans, and those protected areas that do overlap are in a contradictory situation given the bias to people-free parks in Decree 622.

5.4.2 Co-government in 'Parks with People' Policy

The “Parks with People” policy does not make reference to the REM concept in Decree 622. It introduced the notion of “co-ordination” as the most appropriate approach to structuring participation with Indigenous Peoples as public and environmental authorities in protected area management. This approach reflects a desire to achieve equality between authorities and a respect for working with differences:

Coordination implies the effective participation in decision-making as the only legitimate way in a democratic state to reach a set of agreements and rules among different interests, as well as, the best way to ponder those interests that are contradictory (Constitutional Court Sentence, C-547/92 cited in PNN Cahuinari, 2001, p. 23).

Participation as co-government is here defined as coordination of interaction between *Parques Nacionales* and indigenous organisations in the joint territorial government and management of overlapping areas (UAESPNN, 2001). It is meant to deal with the multiple objectives and priorities that are found in cross-cultural decision-making.

Co-government is expressed and materialized in joint management plans for overlapping areas. Management plans for protected areas follow the strict prescriptions of Decree 622, and are primarily based on zoning of the park area to guide activities according to different management objectives. Accordingly, the policy states that it is in the “zoning of the territory” where indigenous and *Parques Nacionales* rationales for territorial management meet and get negotiated. In overlapping areas, indigenous peoples’ criteria for zoning (according to their own norms and practises) are to come first and those of *Parques Nacionales*’ second. The collective construction of the management plan is how conservation objectives become legitimised and political and management continuity is assured (UAESPNN, 2001).

The “Parks with People” policy understood co-government as a long process of ongoing joint actions for conservation purposes (UAESPNN, 2001) which would lead eventually to the development of a joint management plan. Co-government “as process” is central to this approach. Co-government is regarded as a jointly constructed plan that reflects indigenous priorities and the recognition of rights. In sum, *Parques Nacionales* recognised indigenous authority and self-government as a basis for working together as equals.

5.4.3 Co-Government becomes REM

Despite the new policy, *Parques Nacionales* still had to follow the out-dated Decree 622 for the planning and management of protected areas. Hence, *Parques Nacionales* needed to reconcile collaborative management planning and cross-cultural zoning with Decree 622. A legal consultancy made by Ponce de León in 2005, published in 2007, resulted in an adjustment and reinterpretation of the concept of REM in Decree 622, according to legal advancements in the recognition of indigenous rights made in the Constitution and in the case history of the Constitutional Court. The framing of co-government as REM in the implementation process of the “Parks with People” policy was based on the report by Ponce de León.

The report by Ponce de León uses terms such as “indigenous territories”, not only *resguardos*, and refers to indigenous authority as being both public and environmental.

Nevertheless, the adjustment of what was meant by co-government in Decree 622 continued to limit the autonomy of indigenous peoples, as can be seen from the way Article 7 was re-interpreted:

the regime in the benefit of *indigenous communities* [...] is not just limited to subsistence activities but it gives the possibility of economic activities to a certain extent [...] it is possible to agree to an activity with the community when it *is demonstrated* that such activities will be done sustainably, with appropriate technologies and in a controlled way compatible with conservation (Ponce de León, 2007, p. 179, emphasis mine).

It is interesting that the term “indigenous communities” is used because it gives the impression that Indigenous Peoples are not recognised as peoples. It appears to recognise indigenous rights in one line, then it sets limits to those rights in the next line. The scope of permitted economic activities is clearly controlled by *Parques Nacionales*’ criteria; they still retain the authority to decide if the technologies used by Indigenous Peoples are appropriate. Thus, Ponce de León’s interpretation does not differ substantively from the original Article 7.

A way of solving the problem of the restrictive legal framework that determines management zoning was to include a new management zone in addition to the ones stipulated in Decree 622⁵². The new management zone – the overlapping area – should be ruled by a special management regime (Ponce de León, 2007). Yet, this seemingly straightforward legal solution continued to pose problems for implementation in a legal context that continued to be restrictive. Having a partial overlap with a *resguardo* is common for most parks, but indigenous ancestral territories are always larger than the *resguardo* itself. Thus, instead of managing collaboratively the whole park within a REM framework, the zoning requirements introduced abstract boundaries within which co-government was limited. *Parques Nacionales* expects Indigenous Peoples to participate in co-government agreements only for these limited areas, while in reality such

⁵² The reform project of the Decree 622 is still underway. It includes a new management zone for the overlapping area (Art.26), and defines REM as a management plan “that seeks optimum life conditions, and respects norms and practices of each culture and the conservation objectives” (Art 25). Although the reform project has not yet been approved, *Parques Nacionales* necessarily must use the proposed new management zone to be able to work with indigenous peoples. The working document with the proposed changes was created through consultation with a number of indigenous organisations and faces multiple critiques.

boundaries are not perceived by Indigenous Peoples (P. Ungar, personal communication, 2010).

The approach to implementation of REM has not followed a blueprint. The multicultural and multiethnic diversity of Colombia, recognised in the Constitution, requires *Parques Nacionales* to carry out policy implementation on a case-by-case basis (Ponce de León, 2007). Thus, the REM implementation system has to,

give general guidelines that clarify the REM implications and contents, what is understood by economic use of natural resources, *basic procedures to develop the agreements*, how is it going to be approved [...]. However, the concrete development of each regime in overlapping areas, has to be done on a *case-by-case* basis with the effective participation of the *community* according the Constitution and Law 21, that gives ethnic groups the right to decision about their in their own priorities (Ponce de León, 2007, p. 187)

The positive side is that general guidelines to develop agreements are used in combination with a case-by-case approach that accounts for the specific characteristics of indigenous peoples, their culture and social and political organisation. The down side is that while guidelines make the process more rational and organized, thereby better suiting the needs of *Parques Nacionales*, the process of institutionalisation of co-government/REM agreements has tended to become a script followed by *Parques Nacionales*, instead of being a jointly constructed process, meaning a process in which social consensus of what ought to be done takes into account both views (conservation and self-determination through life plans).

5.4.4 REM Guidelines and Funding

Two workshop's minutes held internally within *Parques Nacionales* in 2005, provide a more complete working definition of REM (Table 5.2).The minutes also provide guidelines to be followed in the pre-implementation phase and the themes to be addressed in developing collaborative management plans. REM is defined as:

Special Management Regime is an articulated and harmonized set of rules and procedures, which allow for the planning, implementation and evaluation of coordinated actions between the two authorities present in the area where their jurisdictions overlap/coincide (UAESPNN, 2005).

The system of rules for coordinated action apply only to overlapping areas, based on the delimitation of a management area that takes into account customary land uses as well as protected area conservation objectives. Indigenous Peoples are referred to as governing but not environmental authorities (See 5.3.4.4). The proceedings contain principles, criteria for the REM, and themes to be addressed in the process of construction of a joint management plan in a protected area: conservation objectives, delimitation of management areas (articulation between ecological and traditional zones), social and economic assessment, historical context, governability assessment, and scenario planning (UAESPNN, 2005).

Box 5.4 Guidelines for REM pre-implementation followed by the Participation Office (C. Vergara, interview, August 17, 2010)

1. Establish cordial relations
2. Get authorisation of local or regional indigenous organisation
3. Make the REM strategy public
4. Evaluate cultural and biological elements present in the area
5. Identify environmental and cultural zoning of territory (social cartography, past and present traditional institutions for territorial management)
6. Establish management zones based on item 5 with management activities
7. Write agreements document for the cultural zone (determine different use areas and activities to tackle current problems)
8. Negotiate agreements and projects; establish rules for allowed uses in the different zones.
9. Agreements: elaborate a strategic plan to develop the agreements

Even though the guidelines for pre-implementation of REM are comprehensive and address local cultural differences, they still tend to become a script that *Parques Nacionales* implements. The perception of REM as a signed agreement rather than as a process of collaboration was reinforced by the funding for its implementation, which originated in the national budget to implement government policies and was approved in the CONPES document No. 91 of 2005 (see Table 5.2). Implementation of REM agreements thus became a government mandate for *Parques Nacionales* that was incorporated in their 2007-2019 Strategic Plan UAESPNN (Strategic Plan 2007-2019) ,

with a management indicator of having 10 REM agreements signed by 2010. This target has shifted *Parques Nacionales* priorities at the central level to the signing of REM agreements; co-government is thereby perceived as an end-product, not a long process of collaborative construction. Government funding for establishment of REM agreements is perceived by the Participation Office in Bogotá as having extremely positive outcomes (C. Arroyo, interview, May 5, 2009). However, the next chapter will show how REM guidelines and funding arrangements have, paradoxically, made local participation weaker in the processes of REM pre-implementation.

5.5 Challenges for Implementing the “Parks with People” Policy (2002-2010)

5.5.1 Change in Economic Development Priorities

National government priorities under President Uribe (2002-2010) shifted to war against cocaine and insurgents (euphemistically called “democratic security”) and economic development, which introduced fundamental changes to the implementation of conservation policy. His government redirected resources away from environmental and social public policies, and exacerbated armed conflict in protected areas, collective territories and *resguardos*. Alongside these security concerns, national economic policies – as in most developing and developed countries – were reformulated within an economic globalization model towards export-based, primary resource “development” of minerals and oil. Needless to say, this model departed from the previous tenets of sustainable development and led to significant social and environmental impacts (Correa, 2004; Rodríguez, 2009). Under this new economic development paradigm, environmental regulations and indigenous rights became obstacles (Houghton, 2008; Rodríguez, 2009). The other key factor challenging implementation of the “Parks with People” policy was the dynamic reconfiguration of internal armed conflict in which armed actors articulated with development projects, at the local level, by providing protection for companies, and sponsoring the dispossession of lands, violation of human rights and forced displacement of local populations (Correa, 2004; Houghton, 2008).

Under this new regime, the first “obstacle” to making the country’s resources attractive for foreign investment was existing environmental public policies and

institutions. Therefore, these were weakened in favor of an influx of external capital for mining, oil exploitation and oil palm plantations (Rodríguez, 2009). The Ministry of Environment was merged in 2003 with the Ministry of Development⁵³. This has signified a diminished capacity to effectively develop and enforce environmental policies, including the ability to secure adequate financial resources (Rodríguez, 2009). The new approach to parks management included a belief that National Parks should sell environmental services, and should seek big tourism concessions to maintain themselves financially. Most National Parks have been, in the last few decades, sites of internal armed conflict and expansion of plantations of illicit crops (Álvarez, 2007). Conflict in parks intensified with the defoliation, using glyphosphate, of corridors used for drug trafficking, and increasing disputes between illegal armed actors seeking control of territory (Correa, 2004). The exponential increase in mining projects became another threat: mining titles have been granted over 36,400 hectares within National Parks⁵⁴ (Pulido and Osorio, 2011). In 2006, responding to pressures from the environmental sector, the Government Development Plan⁵⁵ included more explicit environmental goals alongside with allocation of resources to strengthen the National Protected Areas system, including through the establishment of new protected areas, and to continue with *Parques Nacionales* policies for management in overlapping areas.

The second “obstacle” for extractive development projects was the claim by Indigenous Peoples of their fundamental rights to territory and autonomy. The government policy was one of disregarding indigenous fundamental rights granted by the Constitution. Accordingly, several Laws were passed by the National Congress – the Forestry Law in 2006, Water Law in 2007, and Rural Development Statute in 2007⁵⁶ – which eluded the constitutional mandate to recognise indigenous rights to territory, in

⁵³ Now called Ministry for the Environment, Housing, and Territorial Development (MAVDT)

⁵⁴ As an example, Yaigojé-Apaporis National Park was created in 2009. That same year one mining title was granted for gold extraction. Currently this PA has 23 requests for mining titles. UAESPNN 2011, *Reseña de título minero en Yaigojé Apaporis – PNN*
http://www.gaiamazonas.org/index.php/en/component/docman/doc_details/27-resena-de-titulo-minero-en-yaigoje-apaporis-pnn

⁵⁵ Government Development Plan, Uribe 2006-2010, <http://www.dnp.gov.co/PND/PND20062010.aspx>

⁵⁶ Forestry Law was revoked by the Constitutional Court in 2007. Rural Development Statute of 2007 was reversed by the Constitutional Court in 2009.

order to facilitate foreign capital investment (Bastidas, 2006; Libreros, 2008; Houghton, 2008a). During this period, mining, oil, and infrastructure projects were established in indigenous territories, at first without prior consultation, and later with co-opted consultation processes (Rodríguez, 2008b). A comprehensive review and conflict analyses of development projects in indigenous territories in Colombia is found in the document, *La Tierra Contra La Muerte* (Houghton, 2008). Antagonism between indigenous organisations and the state escalated to the point that indigenous organisations suspended dialogue with government representatives. In addition, aggravation of internal armed conflict led to increased militarization of rural areas and forced displacement, as part of a state-sponsored strategy of de-territorialization expected to make national natural resources more easily available to foreign capital (Houghton, 2008a). The situation worsened so much that the ONIC established an assistance plan for indigenous communities experiencing humanitarian crises such as forced displacement (ONIC, 2008).

In 2003, the *Parques Nacionales* slogan became “*Somos la gente de la conservación*” (We are the people of conservation), indicating that *Parques Nacionales* had once more become the sole institution in charge of conservation. *Parques Nacionales* works now in conservation *only* inside protected areas, and *only* with those actors with whom they are legally obliged to negotiate. The comprehensive vision of the ‘Parks with People’ policy that connected protected areas to the landscapes through sustainable development and alliances with a range of social and institutional actors is no longer being pursued. Ongoing environmentally sustainable development projects in and around protected areas with peasant communities were suspended, restricting participation to overlapping areas with *resguardos* and Afro-descendant collective territories. Gone is the previous policy of encouraging participation based on the integrity and permanence of people in their territories being allied to conservation (Correa, 2004).

5.5.2 Critiques: Return to a Narrower Notion of Participation

The implementation of conservation policy has led to many positive advances in the recognition of indigenous and Afro-descendant rights through their participation in

the management of protected areas. However, both the range and quality of participation has been below the extent that was aspired to during the development phase of the “Parks with People” policy. The main critiques⁵⁷ of conservation policies related to Indigenous Peoples and co-government in protected areas are summarized below.

- The diversity and complexity of social-ecological systems identified by the “Parks with People” policy has been ignored in favour of a simplified and polarized view of the land as natural and transformed, or conserved and developed (Correa, 2004; Andrade, 2009; Baptiste, 2009). Conservation strategies resulting from this polarized perspective are primarily directed at nature conservation in protected areas, failing to acknowledge that protected areas and broader conservation strategies are primarily the result of social decisions, agreements and negotiations (Correa, 2004; Andrade, 2009; Baptiste, 2009). The conservation endeavour has become once more primarily a technical and scientific process in which broader social constructions of processes and agreements with social and corporate actors are marginal or exceptional. This tendency has negative implications for the kind of participation in conservation that was the core issue of the “Parks with People” policy.
- For *Parques Nacionales* Participation office, participation with Indigenous Peoples in the management of protected areas has had important achievements, including 7 REM agreements, other agreements with Afro-descendant, and participation of *campesino* communities in ecosystem restoration projects (G. Andrade, personal communication, December, 2009). However, *Parques Nacionales* has for other communities returned to a more centralized approach to protected areas management (Rodríguez, 2009; Andrade, 2009; H.D. Correa, interview, August 10, 2010).
- The range of actors recognised as needing to be engaged in conservation practice has become very restricted; thus, there are many missed opportunities for collaboration (Andrade, 2009; Hammen, 2009; Correa, 2004, Symposium conclusions, 2009). On

⁵⁷This is based on critiques made by indigenous advocates and leaders, grassroots organisations, NGOs, academics and practitioners both from social and scientific backgrounds. I draw from published papers, working documents, presentations and discussions about current participation and conservation in the Symposium “Participation and capacity building for actors managing protected areas”, during the First National Conference on Protected Areas, Bogotá, October 27-29, 2009.

the one hand, those actors who lack a strong legal basis for their rights and live in parks are no longer considered eligible for equal participation in protected areas management. Examples of these actors are: peasants living for decades inside protected areas⁵⁸, and Indigenous Peoples or Afro-descendant communities with *de facto* collective territories overlapping with protected areas. On the other hand, while indigenous authorities of *de jure resguardos* are indeed considered valid actors by *Parques Nacionales*, they are only recognised as public authorities and no longer as environmental authorities⁵⁹. The type of authority that is recognised determines the kind of participation/co-management *Parques Nacionales* will establish with indigenous peoples: either as equals at the negotiation table (co-government), or as interested parties who are invited to participate, mostly on *Parques Nacionales*' terms (H.D. Correa, interview, August 10, 2010). Solving this legal dilemma will be central to successful co-government and the full recognition of rights (Laborde, 2008; Symposium conclusions, 2009).

- Other critiques focus on the fundamental inconsistencies of a “Parks with People” policy regulated by a higher-order legal framework based on a vision of “people-free parks” (Laborde, 2008; Andrade, 2007). Without making a comprehensive law reform to the 1974 Code of Natural Renewable Resources and Environment Protection and the Decree 622 from 1976 (see Section 5.2.2.1), legal contradictions will continue to hinder the thorough implementation of participation. However, given the current government’s economic development goals, and weakened national environmental policies and institutions, to pass a reform of the Code of Natural Renewable Resources and Environment Protection through the Colombian Congress would be very risky.
- In addition, the aggravation of armed conflict – a given for the great majority of parks – hinders the development of negotiated conservation processes. Moreover, when *Parques Nacionales* disregards the reality of an armed conflict under the assumption

⁵⁸ A chronic lack of political will in the relevant state institutions hinders solving land tenure problems with peasant communities (Andrade, 2009).

⁵⁹ The Constitution grants Indigenous Peoples also environmental competencies. However, it is not clear enough and the law is interpreted in opposing ways.

that it is “outside their scope”, it cannot develop a conservation policy that contributes to peace-building, as was originally conceived (Correa, 2004).

5.5.3 Critiques: REM and Partial Recognition of Indigenous Peoples’ Rights

Parques Nacionales policy allows Indigenous Peoples to do only “subsistence” activities inside protected areas; thus, indigenous fundamental rights to self-determination and autonomy are restricted in practice (Laborde, 2008; Ponce de León, 2007). Stronger positions claim that indigenous peoples’ fundamental rights to territory and autonomy are legally prior to the Constitutional duty of preserving the environment. Thus, the needs of a *resguardo* should take precedence over a national park.

At a national level, CECOIN, an NGO working as an indigenous observer of public policies for development and rights, has put together a document containing a Colombian Indigenous Peoples’ analysis of challenges, their positions, and proposals, with regards to the negotiation of REM agreements with *Parques Nacionales* (CECOIN, 2008). In short, they found two main positions towards REM held by different indigenous organisations and leaders. The first one is based on opportunities and interests; this position accepts that national parks and indigenous territories can co-exist, that it is possible to reach agreements between authorities and define joint actions to problems that are of shared interest. The second position considers that national parks and indigenous territories are incompatible; thus, there should be no overlapping protected areas with indigenous territories. They also consider that capacity for conservation governance is so weak on the ground that it is almost non-existent. REM agreements, in this view, should not be signed because they would result in a reduction of rights. Besides, Indigenous Peoples prefer to be left alone with their own ways of territorial governance. A serious evaluation of REM is therefore recommended, before it continues to be implemented in protected areas, as Houghton (2008, p. 28) maintains: “[REM] should not be signed because it is based on obsolete laws and because it means loss of rights in all cases”.

5.6 Summary

Analysis of the “Parks with People” policy is central to this research as one of the aims of the policy was to transform conflicts between *Parques Nacionales* and protected area inhabitants by reframing conservation objectives and acknowledging rights. The “Parks with People” policy incorporated the Constitutional recognition of indigenous rights into state conservation practice in protected areas. The changes it proposed sought to enable National Parks to be recognised as inhabited territories. Thus, conservation would require agreements with different actors, acknowledging their rights. With regards to indigenous peoples, the policy acknowledges their authority in the management of their traditional territories that overlap with a protected area. The “Parks with People” policy also enabled, for those overlapping areas, the development of co-government agreements between *Parques Nacionales* and indigenous peoples. The co-government process provided political space for the co-management of land and resources. Later, during the development and implementation of co-government arrangements as “special management regimes” (REMs), *Parques Nacionales*’ interest in and rationale for a collaborative conservation approach became contradictory. While pursuing a “parks with people” approach, *Parques Nacionales* nevertheless continued to operate within the old paradigm of “people-free parks” for the management of protected areas overlapping with the lands of indigenous peoples, Afro-descendant communities, and peasants.

Among other objectives, the “Parks with People” policy intended to resolve entrenched conflicts with Indigenous Peoples by acknowledging them as rights holders and ensuring appropriate participation in protected areas management. By improving participation, *Parques Nacionales* intended also to solve the weak governability of protected areas and thus improve conservation outcomes. Conceived of as a collective effort with indigenous peoples, the “Parks with People” policy reframed the concepts of territory, conservation, cross-cultural dialogue, indigenous public authority, and participation. Co-government is the outcome of collaborative partnership constructed over the long-term through on-going projects and agreements. In the implementation of the policy, the re-conceptualization of participation with Indigenous Peoples suffered from modifications for two main reasons: (1) The policy was implemented in the context

of new government priorities that differed from those in place at the time the policy was created; and, (2) Implementation of the “Parks with People” policy took place within an obsolete legal framework that promoted “people-free parks”. As a result, co-government was developed as REM.

The intention of *Parques Nacionales* in fostering collaborative governance with Indigenous Peoples was to promote protected area conservation objectives (both biological and cultural), improve governability, and reduce conflict by acknowledging the rights of indigenous peoples. *Parques Nacionales* wanted to see collaborative government implemented following general guidelines that were tailored to the cultural context of each National Park. The guidelines for establishing protected areas co-government (REM) with those Indigenous Peoples having *resguardos* that overlapped protected areas, shifted during implementation from a jointly constructed, process-oriented approach to a mostly Parks-driven, goal-oriented one. Regarding rights recognition, *Parques Nacionales* acknowledged the public authority of indigenous governments in *resguardos*, but not their authority over environmental matters, including resources management. Therefore, indigenous peoples' rights to autonomy and self-determination regarding their own development were not fully recognised.

This chapter has looked at *Parques Nacionales* policies, the reasons for development of collaborative management with Indigenous Peoples in protected areas, and the way collaborative management was implemented. The next chapter focuses on how the general approach to REM implementation desired by park authorities is being put into practice in Makuira National Park through collaboration between the Wayúu people and *Parques Nacionales*.

CHAPTER 6: CO-GOVERNMENT IN MAKUIRA NATIONAL PARK



Photo 6.1: Meeting between Park and Wayúu authorities. *Photo: Julia Premauer*



Photo 6.2: Row of trees marking Wayúu territorial limits. *Photo: Julia Premauer*

6.1 Introduction

In the late 1990s there was a profound disjunction between the policies and perceptions of *Parques Nacionales* office in Bogotá and the perceptions and realities in remote protected areas (H.D. Correa, interview, August 10, 2010). Chapter 6 seeks to understand whether there is such a disjunction regarding the way the co-government⁶⁰ (Special Management Regime) discourse of *Parques Nacionales* is being put into practice in Makuira National Park. I argue that although centrally-generated guidelines are followed by the Park, many are locally transformed by the Park Manager and/or the Wayúu Park staff in the course of their engagements with the Wayúu chiefs and local contexts.

In Chapter 4 I argued that the Wayúu people of Makuira have in place local institutions for territorial ownership that address the issues of excludability and subtractability within the Wayúu society. Inside their extended family territories there are both private and common property regimes. Certain places are managed through institutions which involve supernatural beings that are considered dangerous and/or sacred. In addition, Chapter 4 describes that Wayúu governance in independent political groups pose governance challenges when interacting with different private/state/illegal actors or stakeholders in their ancestral territory. These are the social institutions, potentialities, challenges, interests, and frames that the Wayúu of Makuira bring to the co-government and management of the protected area with *Parques Nacionales*.

Chapter 5 then shows how the concept of co-government (REM) shifted during its implementation from a jointly constructed, process-oriented approach to a mostly Parks-driven, goal-oriented one. Regarding rights recognition, *Parques Nacionales* acknowledges the political authority of indigenous governments in *resguardos*, but not their authority over environmental matters, including land management. As a result, indigenous peoples' rights to autonomy and self-determination regarding their own development are not fully recognised.

⁶⁰ The term co-government is used here, consistent with the argument made in Chapter 5, Section 5.

Against this background, Chapter 6 addresses my research objective of investigating and analysing key aspects of the cross-cultural process for setting up agreements towards co-government, with the intention of reconciling the environmental management visions of *Parques Nacionales* and the Wayúu. I examine the process for establishing formal co-government agreements as well as the day-to-day, informal agreed-upon governance practice in Makuira National Park.

The results show that REM in Makuira National Park cannot be understood as *just* top-down or *always* undermining indigenous rights. I argue that while this does happen sometimes, under certain circumstances, in other situations and at other times this does not happen. Despite the day-to-day relationships not being entirely without conflict, these relations are based on an alliance between Park and Wayúu authorities.

The chapter is written in layers, each of which discusses a different aspect of co-government in the national park. First, I examine the capacity of Makuira National Park for effective governance of the Park area and how participation has been implemented. Then, I provide examples of everyday co-government processes in Makuira and the kinds of conflict they engender. Next, I look at the bridging role that Wayúu Park staff plays as cross-cultural mediators. Then, the chapter looks at how co-government as REM is perceived by *Parques Nacionales*, and indigenous peoples. Finally, I look at some of the cross-cultural challenges that co-government in Makuira faces.

6.2 Governance and Participation

6.2.1 Governance

Governance in the Makuira Mountains has been and still is mostly under the direction of Wayúu. Thus, Park governance and management in Makuira has always been linked to Wayúu governance (*i.e.* their institutions for social control and relative autonomy). The Park has slowly increased its governance capacity and legitimacy over the past decades, but without having fully achieved either. Accounts by the first two Managers in Makuira are illustrative of this incomplete governance.

Mr. Mayorga was appointed to Makuira between 1996 and 2004. As Park Manager, he arrived in a Wayúu controlled territory with virtually no institutional backup. He had reference letters from Wayúu people in Riohacha and for the first years, he was taken in by a Wayúu family. Some years later, he started to live in what today is the back of the Makuira Park office in Nazareth. Then, the Wayúu owners lent to *Parques Nacionales*, for a 10-year period, the area in which the current Park office was established. While the Park Manager considered himself an authority, he was not seen as such by the Wayúu. Early on, Mr. Mayorga had to deal with the Wayúu system of authority and social regulation, as well as the contradictions between mainstream conservation practices and the Wayúu management of relations among humans and supernatural beings on the land.

Murarata, the chief of the house in which Mr. Mayorga was staying, admonished him following a visit from two men whom Mayorga had prohibited from burning a tree on the previous day: “I screwed it up there. Murarata said: ‘They are upset because you made them put the fire out. They know there are not many trees, but it is more important to be at peace with the spirit of the snake.’” Mr. Mayorga finished the story by saying, “I am a technician. For me the trees are part of ecological processes [...] How do you reconcile cultural and technical thinking anyway?” (J. Mayorga, interview, February 26, 2010).

During Mr. Mayorga’s third year, after having hired two Wayúu Park staff, the Park’s authority gradually became more perceptible in Makuira. The staff started explaining to people that Makuira was a National Park, as well as telling them the prohibitions that went along with Park status: no hunting, making fires, cutting trees, or clearing *huertas*. There was a latent conflict in those days that could have worsened had the Park had the resources and governance capacity to make their planned evictions a reality. As explained by a Wayúu Park staff member,

The first years were tough because Wayúu people believed that Parks wanted to take their land away from them. [...] People from Bogotá would come and say: We have to take all the [domestic] animals out of the park; we have to take out all the people living inside the park. [...] The people [Wayúu] would say: “If one day they come to take us away from our land, we are going to fight back; we are not going to allow it. We are going to use our ancient weapon, the poisoned arrow, against the *alijuna* (O. Añes, interview, June 16, 2009).

The possibility of losing their lands is what continues to drive most Wayúu people to be overly cautious in their relations with the Park as a state institution.

In 2004, Park management was handed over to Ms. Acosta. Between 2004 and 2008, she built upon all the previous work that had been carried out locally, this time with a clear understanding of the new *Parques Nacionales* approach to conservation that acknowledged indigenous rights. While this shift in thinking had already taken place at the *Parques Nacionales* head office in Bogotá with the “Parks with People” policy (1998-2002), it only became fully tangible at the local level with the arrival of Ms. Acosta in 2004. Ms. Acosta was familiar with the Wayúu culture and system of governance. She knew that the Wayúu had significantly more governing capacity and control over land than the Park authority. In her words:

Before we had been told to establish a REM, it was nonsense for me to go anywhere [in Makuira] and give orders. Who on earth was I? [Pause] I mean, in the midst of the Wayúu territory? No. Doing that would have meant a lessening of [Parks] credibility and governability capacity (M.F. Acosta, interview, May 4, 2009).

Aware of the Park’s lack of governance capacity in the area, she used it to her advantage by working with the Wayúu customary system in place. As she explained:

My strength as manager was to be clear about my weakness. For example, somebody would come and tell me: There are people cutting down trees in such and such place. I asked: Who is the traditional authority in that territory? I looked it up in our REM files. Ok, let’s go and speak to him. I would say to him: There are people cutting trees in your territory; did you allow them to do so? [...] [if not] I asked him how he wanted us to solve this, if he wanted to go and speak to his nephew, or if he wanted me to go, or if we should go together (M.F. Acosta, interview, May 4, 2009).

Thus, her strategy was to build upon the Wayúu authorities and institutions for governance of their territory, and when needed, she backed them up with the authority of the state institution she represented. In short, she started from the outset by acknowledging the authority that the Wayúu chiefs, the *alaiila*, have over their territories. In this way, Park and indigenous authorities with jurisdiction over the same area were able to relate to one another as equals, while acknowledging their differences. The Park Manager’s strategy for informal collaborative government and management was consistent with the “Parks with People” policy of strengthening both authorities by

working together towards a common goal through the acknowledgment of indigenous authorities (see Ch. 5, Section 5.3.4).

6.2.2 Participation

Participation has been part of *Parques Nacionales* discourse since the early 1990s and was more recently re-interpreted in the “Parks with People” policy. However, Mr. Mayorga did not implement participation beyond the hiring of two Wayúu staff. The divergence between *Parques Nacionales* policies in Bogotá and the local Park’s implementation of those policies became evident when I asked Mr. Mayorga about his understanding of participation. When *Parques Nacionales* developed the ‘Parks with People’ policy, Mayorga adopted the new words, the discourse, but not the understanding of indigenous rights. His conceptions were drawn from a management paradigm based on the “tragedy of the commons” and his understanding of participation was limited to consultation. The following statements express Mr. Mayorga’s view of participation and co-government:

In lands where everything belongs to everybody, and nothing belongs to anybody, biodiversity management must be coordinated by a state institution. But the idea is not to get there and say: “We do things my way”. Instead, we coordinate the management; coordinate it in a participatory way. Government imposes and makes mistakes. We have to ask the people, even knowing that they are not right. They arrived here 2,000 years ago. So, how am I going to impose things on them, if they do not fully understand?

We had to make it [management] with them; from the beginning I was doing management coordination. [...] It is like arriving to somebody’s house and starting to organize it, saying: “Put the lamp here, move this table over here and the TV there”. No, no, you cannot do that. You have to help people to arrange the thing in their house and say to them: No, look, the TV goes better here because you do not get the light reflection from the door, and the table here, for this and this reason (J. Mayorga, interview, February 26, 2010).

As these statements show, there is no real recognition of the Wayúu as legitimate authorities over their ancestral territories, as a people with a system of effective territorial management that is different from science-based conservation. A patronising vision of Indigenous Peoples who “do not know” legitimates the authority of *Parques Nacionales* “to put the house in order”. In contrast, Ms. Acosta, who had participated in the

formulation of the “Parks with People” policy, was committed to make equal participation a reality in Makuira. During the time that Ms. Acosta was Park Manager, she was very careful to respect Wayúu ownership of the land, their authority, and their institutions for governing their territory. In other words, her relation with the Wayúu was based on acknowledgement of Wayúu territory, autonomy, and self-government.

However, Makuira National Park lacked a participation strategy to acknowledge the changes in recognition of rights. Ms. Acosta’s first management efforts were directed towards developing an effective participation strategy that would enable the Park to make joint decisions about the Park with Wayúu authorities. Since Makuira National Park is completely within the Wayúu *resguardo*, the entire Park management plan was to be collaborative from the beginning. The Park team, with the help of a local Wayúu association of family chiefs, “Asociación Wayúu Araurayu”, developed a participation strategy that consisted of four meetings conducted on consecutive days, each covering one of the four “corners” of the Park. Each meeting would gather the Wayúu authorities closest to the meeting point while ensuring enemy *apiishii* did not see one another. This participation scheme started two years before the beginning of the REM pre-implementation phase. Ms. Acosta explained:

At that time the thing was not so mature that one could say that we were establishing agreements involving everybody, but at the end of the day, anyone who lives there, realises soon, that no leaf falls from a tree without the Wayúu approving or disapproving everything. So, for me it *was* a complete consensus (M.F. Acosta, interview, May 4, 2009).

The first meetings took place between July and September of 2004. Some aspects of the preliminary Park management plan were discussed with the Wayúu authorities. The issues addressed included the Park’s conservation objectives and a proposal for a preliminary zoning plan.

In 2006, the Park received its mandate and funding to begin the pre-implementation process for establishing formal co-government (REM) agreements in Makuira. To recapitulate from Chapter 5, co-government is the coordination of *Parques Nacionales* and Wayúu authorities for collective governance and management of those

areas where a *resguardo* and a national park overlap. The basic instrument of park planning is the division of the overlapping territory into zones with different management objectives. Ms. Acosta explained how its implementation worked:

The central level gives uniform guidelines for all parks that are overlapped with *resguardos*, and then, at the local level, each park manager according to her community, decide how to go about creating the REM, with the specificities of the community [...] the dynamics of their relationships, and social characterization (M.F. Acosta, interview, May 4, 2009).

This case-by-case approach recognises the cultural and ecological diversity of protected areas, and includes the adoption of different forms of zoning, rules, and participation in each park. However, there are other things that remain fixed, such as: (a) the requirement to develop a management plan based on the division of Park territory into different use/management zones (see section 5.4.3); (b) the need to produce one set of agreements in a single REM document signed by *Parques Nacionales* and indigenous representatives; and, (c) the need to align management planning with government funding requirements, including the use of achievement indicators.

The pre-implementation phase of the REM in Makuira roughly followed the steps shown in Chapter 5, Box 5.1. Makuira National Park worked closely with the Participation Office at the level of *Parques Nacionales* central management in Bogotá⁶¹. The Participation Office is in charge of providing the conceptual direction for REM processes in most national parks; it makes follow-up visits and coordinates activities related to participation with the individual parks.⁶²

⁶¹ Other *Parques Nacionales* divisions at the central office involved in the REM pre-implementation are: the Technical Section, which provides assistance with environmental zoning and GIS; the Legal Affairs Section, which revises the final Park management plan to fit the current legal framework and gives the go-ahead for signature by the public authorities; the Regional Caribbean Office, which is based in Santa Marta and manages the operating budget of Makuira National Park, personnel hiring, and maintenance of vehicles.

⁶² Not every National Park adheres closely to the directions of the Participation Office. There are different points of view within *Parques Nacionales* and a number of protected areas developed their co-government processes independently.

The participation strategy that had been previously developed in Makuira (*i.e.* holding meetings in the four “corners”) continued to be used for REM pre-implementation and was called *consejo de sabios*, or “council of wise men”. In the first four *consejos de sabios* (two in June and two in September, 2006) the REM strategy was introduced to the Wayúu chiefs who agreed to work jointly with the Park. One current Wayúu park staff suggested that the REM proposal was accepted by the Wayúu chiefs because Ms. Acosta had a good previous relationship with them. Thus, most of them saw a benefit in working collaboratively. A number of other Wayúu authorities were reluctant to deal with the National Park’s presence in their territories (M. Iguarán, interview, June 5, 2009).

Between 2006 and 2009, following the REM pre-implementation phases, biological and cultural assessments were carried out. The biological assessment focused on plant inventories, mapping vegetation types, a survey of fauna, and a catalogue of local names and uses for flora and fauna (Rey-Cáceres, 2007). The social characterization of Wayúu territoriality, political organisation, and culture in the Park area was a three-year process. Local Wayúu research assistants conducted surveys, open-ended interviews, and mapping of the Wayúu territories. The work involved traveling on foot over the entire Makuira Mountains to determine how many Wayúu extended family territories were actually overlapping with the Park area, and who was the Wayúu traditional chief or *alaiüla* in charge of each one of those overlapping territories. Ms. Acosta’s previous experience in the area had warned her that the monolingual *alaiülas*, were not the same as the more cosmopolitan community “leaders” or spokespersons who represent Wayúu communities in their dealings with state institutions (see Chapter 4, Section 4.2).

The assessment reported 54 extended family or *apüshii* territories inside the *serranía*; they identified each chief or *alaiüla*, considered by the Park to be the Wayúu authorities; and they mapped the Wayúu territories, getting an idea of different uses of space and the culturally important places. With the information that was collected locally, maps were produced in Bogotá showing the proposed management zones for the Park. In 2010 and 2011, *consejos de sabios* convened Wayúu authorities to obtain their

input on the proposed management zoning, as well as the proposed co-government agreements. The resulting, agreed-upon management zones were the following: sacred areas (*i.e.* cloud forest on the mountain peaks), areas for sustainable resource use, areas of permanent social use, and areas for eco-tourism-related activities. The formal REM, or co-government, agreements were signed in July of 2011 (see Appendix B). At the same time that a formal REM process was being implemented, informal, everyday collaborative governance was also present.

Table 6.1 provides an overview of the social actors directly involved in collaboration with *Parques Nacionales* in Makuira National Park. Wayúu chiefs (54) whose extended families are collective owners of territories in Makuira. Most extended families also have a community leader, often attending the meetings with the Wayúu chiefs. Local *palabrer*os are mediators in Wayúu disputes and know the Wayúu law. Many are also chiefs. Five households in Nazareth provide accommodation to tourists. The Wayúu organisation “Asociación Wayúu Araurayu”⁶³ represents various extended families in the northern part of the High Guajira. Wayúu actors in the *serranía* and nearby hamlets have diverse interests and relationships with Makuira National Park.

Officially involved in co-government decision-making are the 54 Wayúu chiefs within the Park area and their community leaders. *Palabrer*os and the Asociación Wayúu Araurayu have an advisory role. For instance, the Park consulted with *palabrer*os the Wayúu norms and rules for natural resource use in Makuira; and Wayúu Araurayu recommended creating the “councils of wise men”. These councils became the participation platform for Parks-Wayúu formal interaction and decision-making.

⁶³ The Wayúu association “Asociación de Jefes Familiares Wayúu de la Zona Norte de la Alta Media Guajira Wayúu Araurayu” was established in 1994.

Table 6.1 Social actors involved in co-government process in Makuira National Park

Social actors	Degree of involvement with Park	Role in Makuira and surroundings
54 Wayúu chiefs Oldest uncles on the mother side	Full Sign agreements Decision-making	Wayúu extended family chief for their territory. Monolingual. They know the clan territorial limits, history, give permission of access and use of resources in the territory, and solve intra-family problems.
Wayúu leaders in the protected area	Advisory/full Participate in discussions, sometimes have decision-making authority	They are new leaders: young bilingual men or women. “Represent” and mediate between government and Wayúu chiefs are often monolingual, Leaders can act as interpreters, they can stand in for the chief in his absence.
<i>Palabreros</i> “people who carry spoken words”	Advisory/full Discussions, advise, Wayúu conflict resolution, great powerto exert influence	Knowledgeable men, mediators in Wayúu disputes according to Wayúu Law, and they also may be the chief. They are asked to ‘take the spoken words’ between families in dispute to reach an agreement and avoid war. They solve cases of murder, spilling of blood, territorial limits, invasion, verbal or physical aggression, accidents and theft.
Five households in Nazareth	Are informed about agreements regarding tourism Exercise influence over Park decisions	Work together with Park and tourists guides. 4 Wayúu and one non-Wayúu, Provide accommodation for tourists in Nazareth are located outside the park area.
Association “Wayúu Araurayu”	Advisory Participate in discussions, operative support, joint projects	The Wayúu associations are the official channels by which the State transfers funds to <i>resguardos</i> . They provide building materials to their associates to improve their houses, to fence, to get water. They run a local radio broadcasting station: <i>Jujunula Makuira</i> (Makuira’s Echoes)

6.3 Co-Government Practice on a Day-to-Day Basis

I do believe that the REM process has been beneficial for both parties, and yes, there have been key moments, such as: [...] Ingeominas' free, prior informed consultation, the agreements reached by the three clans in conflict, and ecotourism agreements. I would say that these are results of joint governance of territory leading to conservation (M.F. Acosta, interview, May 4, 2009).

Along with the formal REM pre-implementation process, the Makuira Park Manager and staff must deal with, on a day-to-day basis, problems that require “informal” ongoing collaborative governance with the Wayúu of Makuira. The examples presented below illustrate a number of situations in which co-government in part acknowledges Wayúu autonomy, while also undermining that autonomy. The examples look at: how Park staff “accompany” Wayúu in addressing management issues with non-Wayúu state actors; tourism and research in sacred sites; and Wayúu territorial ownership in relation to tourism activities in the Park.

6.3.1 Mineral Prospecting and the Right to Prior Consultation

The term “accompanying” was often used by Park interviewees in Makuira and Bogotá to describe how the Park does not act as a decision-maker but as a bridge between local Wayúu authorities and state institutions. Park staff play a supportive role by providing translation services and by writing letters to government officials on behalf of local communities. To accompany, in this sense, is to perform functions similar to those described by Alcorn *et al.* (2010, p. 41) in relation to a conservation NGO working in Paraguay: they “accompany local communities as they make decisions, not acting as executors of projects *per se*”. In 2007, Makuira National Park staff accompanied Wayúu authorities in a process of prior consultation performed by Ingeominas⁶⁴ regarding a geological survey in Makuira.

Following a Presidential directive to conduct a geological and geochemical assessment of the High Guajira, Ingeominas contacted the Makuira Park Manager in 2007, asking for permission to carry out the research in the *serranía*. Ms. Acosta

⁶⁴ Colombian Institute for Geology and Mining

explained that permission is given by *Parques Nacionales* but Ingeominas would need to conduct a prior consultation with Wayúu authorities in the area. The Park instructed Ingeominas on how to proceed, including the need to hold meetings, the logistics for such meetings, and that the mineral prospecting proposal should be sent beforehand to the Wayúu authorities. The Park would distribute the mineral prospecting proposal and invite Wayúu authorities fifteen days in advance of the meeting; in this way, the Park was acting as a bridge. Working in a policy context that promotes mining at all costs and ignores indigenous rights by encouraging co-optation of prior consultation, the Park Manager took the stance that Wayúu ownership and autonomy would be respected as a part of their right to be properly consulted.

The meetings that took place on July 10-12, 2007, were documented in detail by Park staff in meetings minutes. The attendants included: Makuira Park Manager and staff, Asociación Wayúu Araurayu, Ingeominas, the National University, and Wayúu authorities and leaders. The position of the Park Manager and staff was respectful and neutral in all three meetings. Park staff translated at the meetings and wrote up the minutes, which clearly stated the purpose of the meeting and that Makuira National Park was subject to the dispositions for mineral exploration given by the government regarding research. However, at the same time, the Park Manager said it was up to the Wayúu authorities to decide for themselves what they considered to be the best course of action.

The local Wayúu association of family chiefs, “Asociación Wayúu Araurayu”, expressed their strong opposition to the proposed geological survey. Their argument was based on the disadvantageous position of Indigenous Peoples with respect to mining and oil development in the country. They distrusted the government and reminded meeting attendees that Indigenous Peoples had historically been ill-treated and therefore they needed to act with caution.

Ingeominas’ presentation of the proposed geological survey was initially framed by the importance of developing geological knowledge for the sake of science and to aid in high-level decision making for the country. The Wayúu unanimously disapproved the project in the first meeting. In the second meeting, Ingeominas emphasised that the

Presidential mandate to execute the project was in answer to a request made by one of the Wayúu communities. The attendees of the second meeting found it strange that such a request would be made of the President and wanted to see the actual letter that was purportedly written by the community. In response, Ingeominas changed the framing of their presentation to focus more on the potential benefits of knowing the geology of an area in the search for underground water. They hoped to catch the interest of the Wayúu chiefs in this way, since fresh water is a most valuable resource. However, if water was found, wells would not be drilled as part of the project. Most Wayúu authorities expressed their contentment in having been treated with respect by being asked for their permission to carry out the research project in their territories. Twenty-three out of twenty-seven Wayúu attendees did not agree with the proposal, with the reasons given ranging from lack of interest to mistrust of the government (see Box 6.1 for quotes⁶⁵).

Box 6.1 Wayúu views on mineral prospecting consultation

“We are worried that Makuira will follow the fate of gas exploitation [in the peninsula]. Venezuela takes the gas, and we who have so much wealth in our territory, we are getting no benefits from this wealth. [...] We are afraid of multinationals coming in, just as what happened with El Cerrejón: people’s houses were demolished and they were left with no land.” Founding member, Asociación Wayúu Araurayu

“What I want is to ensure my family’s wellbeing... In our territory we have a good life. ...We don’t need research in our territory. We don’t know what could happen if we allow it.” *Alaiüla* #13

“I don’t want to see cars driving around in my territory, I don’t agree with people coming to do research. Livestock hit by *alijuna* cars are not paid by them...I am very glad with your visit and the consultation process but that is my decision.” *Alaiüla* #11

“My decision would be no, my relatives do not agree and they would blame me for having authorized this study. This would bring many problems to my family.” *Alaiüla* #14

“Well, if this study will not cause peril to our territory, and the engineers assure that they will respect our culture; with all respect my answer is yes.” *Palabrero* #4 and *Alaiüla*

⁶⁵ Quotes: Makuira National Park minutes of prior consultation for mineral prospecting with the Wayúu chiefs, July 10-12, 2007.

The Wayúu argued that: they were not interested in knowing about “the stones”; they had enough water; and, the project seemed harmless but might bring later problems if they did find something of value. In addition, they did not want *alijunas* wandering around in their territories. Several authorities said they could not reach full consensus with their families beforehand and it would be therefore out of question for them to make a decision by themselves. The three Wayúu authorities who agreed to the research being conducted in their territories were confident about the Park’s legal protection of the subsoil within its jurisdiction. For the Park Manager and staff, the prior consultation process was a positive example of how to demonstrate respect for Wayúu autonomy, while in the *Parques Nacionales* central office in Bogotá the process was perceived as having been manipulated by the Wayúu staff who pitted the Wayúu authorities against the geological survey. This is an example of convergence of Wayúu and Park interests in protection of the Park area, and of the Park’s interest in empowering Wayúu self-government and rights. Both Wayúu and Park authorities had similar interests in restricting access to some areas by outsiders, despite them having different reasons.

6.3.2 Access to the Mountain Peaks

The *serranía* of Makuira contains culturally protected places that require respect and caution (*i.e.* cloud forest and other places respected by the Wayúu, as explained in Chapter 4). Makuira National Park aims to conserve biodiversity and other values that are not always congruent with indigenous values. However, in the case of the dwarf-cloud forests, located above 500 metres above sea level, some Wayúu and Park values converge. The dwarf-cloud forests and water pools on the three highest peaks (*Palua*, *Walechi* and *Jiwonnei*) are for the Wayúu dangerous taboo places (see Chapter 4); for the Park, the same forests are a rare and unique ecosystem. Agreements between Makuira National Park and the Wayúu chiefs over access to those peaks did not require extensive discussion for the first draft of the joint park management plan. It was agreed to prohibit access to the mountain peaks, except for cultural and research purposes. Prospective researchers would need to get permission from the owners of the territories, as well as cultural recommendations for respectful behaviour (PNN Makuira, 2004a). Such places are dangerous/sacred places; no Wayúu live there, and access is restricted by taboos,

dreams, and by the owners of the relevant territories. Thus, Wayúu institutions fit very well with conservation objectives for managing cloud forests as “intangible” values.

In 2006, the Park biologist needed to perform a vegetation study of the dwarf-cloud forests in the three peaks. One staff member told me that they instructed the biologist to follow all the Wayúu cultural recommendations in order to avoid accident or death while collecting plants in the sacred areas. The recommendations included that for every collected twig a red ribbon had to be left as a gift attached to the plant, and that biologists should always ask the spiritual owner of the place for permission to remove samples. The three peaks were successfully sampled with not one warning dream occurring as a consequence (M. Iguarán, interview, June 5, 2009).

6.3.3 Tourism and Conflict

Unlike the previous two examples, in which Wayúu and Park authorities were shown to have been able to focus and collaborate on common interests, tourism has proven to be a much more complicated matter. In a number of Colombian national parks with easy and safe access, tourism is being managed through concessions held by large companies (León and Cortez, 2007; Durán, 2009). In contrast, Makuira has small scale ecotourism, involving several local households and small tourist operators in Riohacha and Bogotá. Tourism in the Park became more organized with Ms. Acosta, who saw it as a way of teaching people from the cities to respect other cultures and as a way for the Wayúu to gain economic benefits. Thus, the idea was to set up small-scale tourism with local Wayúu households offering accommodation and young people acting as guides (M.F. Acosta, interview, May 4, 2009). Makuira National Park’s brochure promotes five places inside the Park as tourist attractions found in five different Wayúu *apüshii* territories. All of them are located on the north-eastern and permanently humid side of the mountain range (Table 6.2).

Table 6.2 Makuira National Park tourist attractions and Wayúu territories

Tourist attractions (all on the humid side of the <i>serranía</i>)	Territory and its owners	Distance form Nazareth	Purpose of visit Outsiders/ Wayúu
Mount <i>Itujolu</i>: steep mountain on the western side of Nazareth with 415 m has view towards the sea, and the inner valleys of Makuira. This mountain is the second brother in the myth of the formation of Makuira (Ch.5)	Wotkasainru'u Clan Aapüshana, origin in Wotkasainru'u Iruwaain Clan Aapüshana, origin in Iruwaain	2 ½ hrs. to the top	Tourism/ Dream- fulfillment, plant gathering (medicinal/ma gical)
Stone of <i>Wolunka</i>: On one side of the Wotkasainru'u stream on the same path that leads to Médano is the stone of <i>Wolunka</i> , the Wayúu well-known mythical place of the myth of <i>Wolunka</i> .	Wotkasainru'u Clan Aapüshana, origin in Wotkasainru'u	½ hr. on foot	Tourism/ Wash clothes, bathe, recreation
<i>El Médano</i>: Dune system inside the <i>serranía</i> formed on a deep sand bank, surrounded by dry evergreen forest. For the Wayúu it is a mysterious place as it has remnants of old burials grounds belonging to the <i>Aruhaco</i> people.	Isijo'u clan Paüsayuu, origin in Isijou	4 hrs. on foot	Tourism/ Dreams fulfillment
Waterfall of Princes Makuira (<i>Uluipanairuku</i>): It is a huge stone wall that has water falling all year long, with small pools in the bottom.	Walapunü clan Paüsayuu, origin in Patsuarui	2 hrs. on foot	Tourism (most visited) Get drinking water Dream fulfillment, recreation
<i>Bateas</i>: A permanent stream forms on its granite river bed a system of natural shallow pools.	Kajashiwo'u clan Paüsayuu, origin in Paaluwa	1 hr. by car, and 2 hr. on foot	Tourism/ recreation mostly Wayúu visiting from Maracaibo

Currently there are five households in the village of Nazareth that provide accommodation for tourists. The Park coordinated with SENA (National Apprenticeship Service) to provide training in basic tourist services for interested families. Over the

years, each of these families has developed relationships and loyalties to certain tourist operators who bring tourists to their respective places. The “Guajira Tour Package”, is normally a one-week round-tour, travelling through the whole Guajira peninsula. In Nazareth, people stay one or two nights if they choose to visit Makuira National Park. The tours are organized by an adventure tourism business located in the big cities and in Riohacha. Other common visitors are Wayúu who live more permanently in the Venezuelan city of Maracaibo and visit their relatives in and around Makuira.

In 2004, the national government promoted La Guajira as a tourist destination, which increased the number of people visiting Makuira National Park from 272 tourists in 2004 to 911 in 2007 (PNN Makuira, 2006; PNN Makuira, 2008). The Park responded by creating a programme for visitor management⁶⁶, in 2004, tourism in the Park was addressed for the first time in meetings with the Wayúu chiefs. Box 6.2 contains the concerns and expectations expressed by the Wayúu chiefs. Control by the Park of *alijuna* visitors was a main concern, influenced by recent events in the area⁶⁷ (PNN Makuira, 2004a).

In addition, the Wayúu authorities raised concerns regarding the economic benefits of tourism for local communities. The Wayúu expect the Park to help them, while the Park expects the Wayúu to self-organize. On the Park side, there have been short-termed projects involving Wayúu women making bags and other crafts out of used plastic bags and selling them at the Park’s office. On the Wayúu side, resolving issues that require communal self-organisation beyond the family is extremely difficult. Even within their immediate families, the Wayúu say envy is common and people do not tend to help each other in the way they used to (PNN Makuira, 2008).

⁶⁶ It follows guidelines on ecotourism formulated by *Parques Nacionales* central office.

⁶⁷ In April 2004, the Wayúu ancestral territory was shaken by the massacre of Wayúu women and children in Bahía Portete, perpetrated by a paramilitary group (see Chapter 4, Section 4.6.2). The Portete massacre has deeply affected the Wayúu in the whole peninsula, and is reflected in the concerns the chiefs have regarding *alijunas* in their territories.

Box.6.2 Wayúu concerns/expectations about tourism in their territories (Source: PNN Makuira, 2004a)

Visitor control:

“*Alijuna* must not come by themselves. [...] *Alijuna* are bad people, you cannot trust them, they are very violent.”

“They can visit the *sierra* with a local Wayúu guide.”

“The land is divided by families, nobody enters without permission.”

“We don’t want them to visit the higher parts of the mountains, nobody can go there.”

“We need to teach them how to behave in the Wayúu culture.”

Expected reciprocity:

“Visitors should stay overnight inside the *serranía*, not in Nazareth.[...] We want their visit to be of benefit to our people.”

“They are welcome [...] to help us with a solution for the plants that are killing our animals... They know about that because they have studied.”

“We have so much to share with them: about our crops, and how our ancestors used to live here. They have a lot to tell us as well... We need tools for working; we need them to bring peace, not weapons or violence.”

“We have to show the work of our women: *mochila*, *chinchorro*. The *alijuna* could help us either commercialising our products or just by buying our crafts.”

The Park programme and management plan incorporated many of the Wayúu concerns about visitors such as, for example: maintaining visitor numbers according to the carrying capacity of tourist attractions; ensuring visitors are at all times accompanied and guided by local, authorized Wayúu guides (PNN Makuira, 2008). The Park started a training program for local Wayúu eco-guides. Local Wayúu eco-guides know the language, the land, the Wayúu owners, are responsible for teaching the visitors about the cultural and biological importance of the Park area, as well as, the appropriate behaviour to follow in Wayúu territory (PNN Makuira, 2008).

Despite the Park’s best efforts, keeping track of visitors turned out to be a most difficult task: the mountain range has several entrance track roads; many tourist operators do not first go to the Park’s office; and local Wayúu “pirate guides” who are not authorized or trained by the Park take as many people they can to tourist attractions,

particularly the waterfall. Locals were also having problems with Wayúu visitors because of unsafe use of firearms.

6.3.3.1 Two Wayúu Territories and Tourism Conflicts

Walapunü territory contains the most visited attraction of Makuira Park, the “Waterfall of Princes Makuira” (see Table 6.1). The waterfall is also the place where the people living in the territory go to get their drinking water (PNN Makuira, 2008). In order to get to the waterfall, tourists have to go through the territory of *Mekijano’u* where the dirt road enters the *serranía*. With a recent increase in tourist numbers, conflicts have started in *Walapunü* and *Mekijano’u*. From the perspective of the Wayúu owners, many vehicle drivers, tourists and even Wayúu guides have shown abusive and disrespectful behaviour towards the owners. Behaviour identified by Wayúu owners as disrespectful includes foreign vehicles speeding on the roads and the risk of accidents that this represents for their children and livestock. Also, Wayúu guides were considered disrespectful with the owners of the territory, and tourists were perceived as making the drinking water dirty. Instead of bringing benefits, tourists were perceived as “just leaving footsteps and garbage behind”. In addition, although the number of tourists visiting Makuira Park has increased, the Wayúu owners of the territories have not realised economic benefits; only the five households that provide accommodation in Nazareth have benefitted economically (PNN Makuira, 2008).

In 2007, the Wayúu *alaiüla* asked the Park Manager to set up a meeting to discuss these problems. Attendees of the meeting, held in April 2007 at the *Mekijano’u* primary school, were: communities of *Walapunü* and *Mekijano’u*, the territorial Wayúu authorities, community leaders, Makuira National Park Manager and staff. The agreements reached are shown in Box 6.3

Box 6.3 Tourism management agreements between the Wayúu authorities of *Walapunü* and *Mekijano'u* and Makuira National Park. (Source: PNN Makuira, 2004a)

Ms. Acosta, Park Manager agrees to:

- 1) Inform tourist operators about the agreements signed and make them comply
- 2) Provide training and capacity building to the communities for correct disposal of solid waste: make bins and composting in the *rancherías*.
- 3) Tell tourists that their vehicles are prohibited in the roads inside the Park that will be only for Wayúu use.
- 4) A sign saying “no vehicles allowed from here on” will be placed in the road.
- 5) Eco-guides from *Walapunü* territory will be trained before high season.

The community agrees to:

- 6) Organise a cooperative to start a community managed accommodation and restaurant for tourists in their territory.
- 7) To build an *enramada* for tourists and proper washrooms with Chinese latrines or septic tanks.
- 8) Make sure that drivers leave tourist where the sign is and tourist continue on foot.
- 9) To take care of the sign.
- 10) To send people to get trained as guides, and then actually do the guided tours.

A year later, Makuira National Park reported on the accomplishment of their part in the agreements, in relation to each of the required actions shown in Box 6.2 (PNN Makuira, 2008). The Park provided training for appropriate disposal of garbage to the communities and a project to reuse plastic bags to make crafts. For the Wayúu, achievements included a newly built traditional construction that was to serve as communal infrastructure for accommodating groups of visitors. In 2009, I found a different scene during my stay in Makuira. Tourism signs had been vandalized and destroyed. Most tour vehicles continued to enter uncontrolled. The Park's projects on garbage disposal had stopped. The Wayúu had not yet organised a community-based tourism accommodation project, and the infrastructure they had built looked abandoned.

A staff member explained that nobody had taken responsibility for the implementation of the agreements in the community. One *ranchería* in *Walapunü* solved

the problem of the dirty water by installing a long hose to get water from the upper part of the waterfall and take it directly to the houses.

When the Park was officially closed to visitors for most of 2009 (see next subsection), it was often brought up in conversations and meetings with the Park staff that the chief of *Walapunü* territory was pleased with the closure of the Park. Some said tourists were worse than goats as they make lots of paths everywhere they walk. Wayúu staff also explained to me that Wayúu people do not like *alijunas* getting drunk, smoking marihuana, or seeing *alijuna* women in “underwear” (*i.e.* bikini) (Field notes, 2009).

In addition, in 2010 the paramilitary group used their territory as a provisional base camp for a shipment of cocaine. The coercive presence of the narco-paramilitary group persisted throughout 2010 which disrupted the tranquility of inhabitants, their daily activities and the capacity of Wayúu chiefs to control their lands. Most families in *Walapunü* did not agree the presence of the paramilitary group in their lands, and were extremely vigilant as a result. As for the tourists, the waterfall remained closed to visitors for another year, and the other tourism projects were also delayed.

In sum, problems arising in the implementation of tourism initiatives and their related agreements demonstrate the kind of challenges both the Park and Wayúu face. The Park responded to a number of Wayúu concerns however the possibility of not allowing tourism all together was not considered an option. The Wayúu are keen to receive economic benefits from tourism; however, the way the Park suggested to proceed posed organisational challenges for the Wayúu. Many Wayúu were reluctant to have tourists in their lands. It is logical to expect that elsewhere local people will also experience mixed feelings towards tourism in their communities since people are aware of the economic, social and cultural changes (both positive and negative) that tourism may bring (Dyer *et al.* 2003; Stronza and Gordillo, 2008).

The agreements reached between the Park and Wayúu *alaiila* had inherent weaknesses in not assigning persons responsible for implementation in Wayúu territory, in having no long-term plan for follow-up meetings, and in having no strategy for achieving what was agreed to. The success of tourism initiatives and any agreements was

disrupted by: change of Managers, reduced financial resources, changes of management priorities, and the imposition of *de facto* local sovereignty by coercive, illegal armed actors. The closure of Makuira National Park, addressed next, evidences further the complexities of decision-making regarding tourism.

6.3.3.2 Park's Closure and Conflicts

The Makuira Park's closure to visitors in 2009 put in evidence the underlying tensions and conflicting interests with regards to tourism among Park staff, the Wayúu accommodation providers in Nazareth, and the owners of the territories with tourist attractions. It also shows the fragility of a process of informal joint decision-making in the face of changes in Park management. It also shows the predominance of *Parques Nacionales* in decision-making regarding ecotourism.

In early January 2009, three Wayúu men working in the bush were stung by Africanised bees and one died, with the other two left very ill. When Mr. Orjuela, the recently arrived Park Manager, learnt of this tragedy, he called the *Parques Nacionales* central office in Bogotá to request an immediate official closure of the Park to visitors. Makuira National Park was closed to visitors in January 2009 and was reopened in August 2009. With this hasty decision, the Park Manager failed to properly evaluate the situation in consultation with the relevant actors to make a joint and better-informed decision. As a result, the decision caused a variety of strong reactions among the people with a stake in decision-making about tourism in the Park. Reactions from Wayúu staff and local Wayúu accommodation providers are summarised separately below.

Wayúu Staff of Makuira National Park

The staff was upset that Mr. Orjuela had made the decision by himself. As one staff member explained: “He rang me to my cell phone and called me to a meeting the next day to discuss the possible closure of the Park. The next day he notified us that the Park was already closed” (Field notes, 2009). For the Park staff the situation should have been discussed within the Park's team first, and — in the context of REM — the correct procedure for the Wayúu staff was to consult with the Wayúu authorities regarding the decision. The Wayúu staff was very vocal about this to the Manager and the staff in

Bogotá. Even so, that an apology to the *alaiilas* was offered from Bogotá for the decision having been made without consultation. This issue was raised by one staff member during a meeting with the Wayúu chiefs from territories with tourist attractions:

He [Park Manager] did not discuss with us the closure of the Park, as if we did not exist, this is why I felt obliged to demand our rights, that we are the owners of the territory and we found it disrespectful with us, that we were not being taken in to account about a decision concerning the Park. I have said this to the Manager and in Bogotá....and they want to apologize (Field notes, 2009).

This position, however, reflected the Wayúu staff duty to safeguard the right of their people to be consulted in decision-making, more than representing the general interest of the Wayúu *alaiilas*. I heard on several occasions that among the 54 Wayúu territories inside the Park, only 14 knew the Park had been closed to tourists, and out of these 14, four preferred it to stay closed.

Local Wayúu Accommodation Providers

The head of my host family, Mr. Suárez Uliana, was very upset with the Park Manager. His family was not getting the income they would have expected to get in the high season. As a well-known and respected *putchipu* in his seventies, his prestige makes him a local Wayúu authority in Nazareth. His territory is outside the Park, but he was expecting to be taken into account in making a decision that would affect him. As he explained:

He [Manager] should have come to me and say: Eduardo, this is what happened [the bee attack], what are your thoughts about it. Instead, what he did was to call Bogotá and close the Park (Field notes, 2009).

Although this closure affected all accommodation providers, Mr. Suárez was the only one with enough authority to admonish and even reprimand the Park Manager; and so he did since it was a matter of authority and respect that demanded he be consulted on decisions that affect his family income. Neither he nor the other accommodation providers are the Wayúu authorities with whom the Park is legally required to consult, but they nevertheless have a stake in decision-making regarding the Park.

In sum, closure of the Park to visitors revealed the fragility of previous ongoing efforts at joint decision-making. The new Park Manager overlooked the ongoing process of informal joint decision-making. Wayúu staff protected the rights of Wayúu territorial owners to be consulted. Likewise, Wayúu accommodation providers were expecting to be consulted as stakeholders in the matter. Some Wayúu owners of territories with tourist attractions felt relieved from the burden of managing tourists; others did not care either way. This conflict shows also how Wayúu staff strived to maintain a balance of power and mutual respect in Makuira National Park. They played a mediating role between their obligations as a part of the Park team and as members of *apüshii* with territories in the Park.

6.4 The Wayúu Park Staff: Cross-Cultural Mediators

Makuira National Park had seven Wayúu staff members during the time I was there:⁶⁸ two permanent male employees, working with the Park for more than 10 years now; a female employee with a degree in social work who was in charge of the REM process since 2006; and four other men working in environmental education, as assistants, and office housekeeping. The first three employees were the ones who took a more active role in decision-making and acted as mediators. Wayúu staff engaged in cross-cultural bridging not only between the Park and local Wayúu authorities, but also between Makuira National Park and *Parques Nacionales* central office in Bogotá. Their roles included: respectful relations, cross-cultural translation, and resistance to the disregard of indigenous rights. These are the ways by which Wayúu staff members strived to ensure relations between *Parques Nacionales* and Wayúu authorities were more equal; each is discussed in turn.

⁶⁸ Not including the Park Manager who has never been Wayúu.

6.4.1 Keeping Respectful Relations

We are trying to adjust the relationship more to the indigenous perspective. So that in the future, nobody can tell us that we sold their land. (M. Iguarán, interview, June 5, 2009).

The quote summarizes what Wayúu staff see as their role as mediators. For them, mediation means taking into account what is right and wrong for Wayúu people and engaging in a continuous respectful relationship with Wayúu authorities. Wayúu staff are aware of the differences between requests from *Parques Nacionales* central office, which represent the way things are done in Bogotá and Santa Marta, and the way things should be done in the Wayúu cultural context of Makuira National Park. During the time I was there, I witnessed many examples of how Wayúu Park staff decided whether or not something was done the way the Participation Office wanted it to be done. During cultural translation they made decisions according to both what was culturally correct and respectful for Wayúu authorities, as well as what was important for maintaining the Park's local credibility and avoiding possible requests for compensation payments. Additionally, they resisted or counter-balanced the tendency of the Participation Office to make shortcuts in participation when there was pressure to meet deadlines.

Demonstrating respect for wakes and first and second funerals was another key role fulfilled by Wayúu staff when setting up meetings. The yearly seasons for second funerals needed to be taken into account, otherwise nobody would likely have attended meetings. In addition, if a family was in mourning, the Park needed to let at least a month pass before inviting the family to meetings.

6.4.1.1 Keeping Your Word

Respect for Wayúu traditional authorities means, among other things: keeping your word, keeping appointments, inviting them to meetings well in advance (usually two weeks), not making them waste their time and resources unnecessarily, and reacting promptly when somebody reports *alijunas* wandering without permission in their territories. People in the city are used to cancelling appointments from one day to another; in Makuira this is not possible because of the time required to let someone know about an appointment (one or two weeks in advance) and the time (usually days) it takes

people to get to the meeting point. *Parques Nacionales* staff either at the Participation Office in Bogotá or Regional Office in Santa Marta often forgot these local details. Thus, Wayúu staff was very careful when somebody from the city requested to set up a meeting with Wayúu authorities, as shown by the following quote

The Parks regional office's director and her staff wanted to come and meet up with some of the Wayúu family heads. Here in Makuira among us the staff decided it was better for them not to meet like that. We knew that the director would most probably cancel at the last-minute; they would then get bad reputation in the eyes of Wayúu authorities for being not reliable. (Makuira Park staff, June, 2009)

There was always considerable tension between the Participation Office and Makuira when organizing meetings for REM negotiations.

I heard complaints that the new Park Manager, Mr. Orjuela, did not understand the importance of acting as he said he would. For instance, he often did not keep previous arrangements to go to somebody's territory, or his reaction was not immediate when someone let him know about a group of *alijuna* university students who wanted to enter territories in the *serranía*. I was told, "He did not send anybody to check it out, as if it had no importance." Wayúu staff considered these small things paramount for maintaining the Park's credibility and respect among Wayúu.

6.4.1.2 Avoid Compensation Payments

Among Wayúu staff there was great care and concern to weigh every decision on Park management in terms of what the consequences might be for other Wayúu, or if there was a risk that someone might get directly or indirectly injured. If one action of the Park resulted indirectly in injury, the Wayúu family of the injured would go and ask the Park for compensation payment. And since practically every action might have unwanted consequences, decisions often required hours of discussion. I was present for a number of discussions among Park staff trying to figure out how to best take action to avoid the risk of initiating requests for compensation payments. I have selected two examples, both related to the Africanised bees present in the *serranía*. The first example is a discussion I witnessed between two staff members about a potential community beekeeping project.

This example also illustrates the challenges of leading any community project in Wayúu territory.

The reluctance of one staff member to go to the beekeeping training was based on his reasoning that if they started with beekeeping, the bees may sting somebody and then the Park would be requested to provide compensation payments. Hearing this, another Park staff member explained his strategy for avoiding this problem. His plan was to learn how beekeeping works and then speak in his territory with his *alaüla*, telling him all about the beekeeping project. Then, if the *alaüla* agreed, they could implement the beekeeping project in partnership with the *alaüla*. In this way, any potential negative outcomes of the project would not be the responsibility of the Park but of the *alaülas* in each of their territories. (Field notes, 2009)

The second example concerns a discussion about the implications of an instruction received from the head of the *Parques Nacionales* Regional Office to make signs both in Wayúunaiki and Spanish warning people about the bees in the Park area, and put those signs where the hives were located. Despite coming as an instruction from a higher office, this request was not implemented. It was discussed for two hours among Park staff who questioned the relevance of writing signs in Wayúunaiki when “most Wayúu do not read anyway, so there is no point to make them in both languages, it should better have a drawing”; also raised were the possible consequences for other Wayúu of putting the signs near the hives, since “it could happen that the signs attract people to the bees. [...] Children are curious and look” (Field notes, 2009). They finally decided that: the sign should be only in Spanish with the drawing of a bee; the signs should go only in the entrance paths to the Park, never near the hives; and the signs should be placed with the agreement of the owner of the closest houses. The signs would say “Warning: bees in the mountains”.

These examples show the respect for Wayúu cultural norms in La Guajira and how even Parks have to be cautious in their actions because they will be asked to comply with these norms.

6.4.2 Translation/Interpretation

Translation is the basis of the REM process (M. Iguarán, Field notes, 2009).

The meetings to discuss REM issues are prepared by the Participation Office personnel in Bogotá. In Makuira, the themes and questions are translated by the Park's Wayúu staff to the *alaiilas* during the meetings. Before a meeting, Park staff discuss among themselves the meeting themes and decide what is the best way to explain things in Wayúunaiki. However, this is possible only when they have enough time. Often, they get the themes to be discussed one day before a meeting, or even on the day of a meeting. In such cases, no time for preparation is left when logistic activities have also to be accomplished. One staff member told me that Wayúu authorities do not understand fully the content of meetings when translation is done without careful preparation.

Wayúu staff is aware of their responsibility in their role as translators/interpreters. One staff member told me, "We cannot make things up, because we are state employees, with the National Park. [...] We look for the best way to explain things to them [*alaiilas*]." (O. Añes, interview, June 16, 2009). At the same time, the Wayúu *alaiilas* have let the Wayúu staff know the role they expect them to have as translators/interpreters:

They [authorities] tell us that we cannot take part in the story because we are young. Only the *alaiilas*, they are the ones who decide, they are the ones that hold power, we are just a means to be able to communicate, but at the end they are the ones who decide. The same with my clan and my territory I cannot decide anything. There is an authority and I have to respect him. So, they see us with this responsibility [mediators] and they look at us with respect because of that (M. Iguarán, interview, June 5, 2009).

Cross-cultural communication in meetings needs interpreting, and this has become another challenge. No clear rules have been established from the beginning for how translation/interpreting should proceed during meetings. When meetings that I attended began, the Park Manager at the time told me they were discussing everything in Wayúunaiki and that there was no problem on her side. From the transcripts of meetings

held between 2002 and 2006, one can see that there was a secretary taking minutes and interpreting was done by any Wayúu Park staff present in the meeting who wanted to speak. Transcripts from 2008 and recent meetings with Bogota and Makuira Park staff and Wayúu are all in Wayúunaiki and nobody interprets. These monolingual meetings have created tensions on both sides. Staff from Bogotá did not fully trust what the Wayúu were saying at the meetings and felt they did not have control over those meetings anymore; they also became bored, left the meeting, took naps, and did other things that distracted people from the meeting. Wayúu staff perceived this behaviour as disrespectful, as if the staff from Bogotá were not interested in the meetings and only wanted to benefit from claiming travel expenses.

In sum, Wayúu staff is aware of the importance of and their responsibility in translation/interpretation as it guarantees that Wayúu authorities get a clear idea of the issues discussed. However, translation has not been given the importance it requires by the Participation Office, and the resulting tensions have not been properly addressed. Given constraints on monetary resources required to hold meetings, every meeting is in effect a one-off opportunity to discuss things. Therefore, Wayúu staff are careful to make sure that all efforts were made to translate issues in the best possible way. In terms of participation, inadequate attention to translation/interpretation diminishes the ability of Wayúu chiefs to participate in discussions and make informed decisions.

6.4.3 Resistance/Rights Watchers

Wayúu staff members opposed recent attempts by Mr. Orjuela and the Participation Office in Bogotá, to change the format of the REM participation meetings and reduce them from four to two meetings to save time and money. The staff in Makuira did not accept this because, as one staff member put it, “*Parques Nacionales* Central Office is now trying to establish a participation strategy that only takes into account what is best for the *alijuna*.” The Participation Office also said that the numbers of people involved would become unmanageable. In discussions of how to reactivate REM negotiations after the closure of the Park, Makuira Park staff opposed a proposal from the Participation Office’s to hold meetings with just *some* of the Wayúu authorities (Field

notes, 2009). Wayúu staff were ensuring in this way that the Wayúu owners' rights to participate were properly fulfilled by *Parques Nacionales*.

Wayúu Park staff provided resistance to the erosion of indigenous rights by taking every opportunity they had to remind the *alaiilas* about their rights. I was present at three meetings in which this was demonstrated. On one occasion, although the entire meeting was conducted in Wayúunaiki, I found the staff were using words like “*resguardo*”, “Constitution”, “ILO 169”, which were not the subject of the meeting. I asked the person sitting next to me to translate that part for me, and I found that the National Parks staff was indeed talking about the themes of the meetings, but also about indigenous rights. They were reminding the *alaiilas* about their rights as owners of their land, and reminding them of staying alert because “*alijunas* do not keep their word”. This could be seen as a contextualised translation that was also in itself an act of resistance. Wayúu recall the history of their territory in relation to national society, and they constantly remind the authorities that although the Park is there, they are the owners and have the right to exercise their autonomy, as this quote shows:

We will always have it clear that the land is ours. The fact that we have agreed to let the Park people work here in collaboration with us, does not mean that they are now the owners of the land (Makaira Park staff, July 31, 2009).

In the end, the Wayúu staff did not just provide interpretation, they were putting discussion into the context of their rights as indigenous people, and giving them tools to make more informed decisions.

6.4.4 Perceptions of Mediation Roles

Wayúu staff members perceive themselves as being sandwiched between two different sets of interests and objectives. They must balance their responsibilities as members of Wayúu society and culture and as employees of National Parks. From the point of view of *Parques Nacionales* Regional and Central Offices, the role of Wayúu staff is perceived as both essential and problematic. Perspectives of both Wayúu and non-Wayúu staff will be discussed, in turn.

6.4.4.1 Wayúu Staff Perceptions

For Wayúu staff it is sometimes difficult to work for Makuira National Park. Some of the tasks they are required to do, such as gathering information, confiscating wood or animals, and enforcing prohibitions, create tensions between them and other Wayúu. It is commonplace for Wayúu to view with suspicion those people who act as intermediaries between Wayúu and non-Wayúu. This suspicion is often verbalised in comments such as, “They are selling our territory, they are selling us”. As one Park staff member put it:

People would tell us: if there comes a day that *alijuna* take our land away from us, you are going to pay, because you are working with the government (O. Añes, interview, June 16, 2009).

Thus, Wayúu staff have an ongoing concern that if something goes wrong with Park negotiations, or if policies change for the worse, they will be held personally accountable. In the words of a Park staff member, “we do not know what might come later; it could affect the territory or us as individuals” (M. Iguarán, interview, June 5, 2009). A similar concern for competing responsibilities applies to their role as translators/interpreters, as explained by a Wayúu staff member:

Thus, everything was centred in me because the Wayúu do not want to speak in Spanish. So, they were talking to me, because I was speaking. To their eyes the person that is more directly involved with them, when a negotiation is taking place, is me. It is not the park manager, it is me. So, how can I negotiate something that in the long run could affect my future? This is one of the worries I have. Why to be bothered by this? Well, I belong to one of the clans in the serranía, therefore I am not alone, I have a big family. Then, it could happen that in 10 years’ time, the Wayúu could blame me and say: “You were working for them, you were negotiating the agreements. You sold us. You gave them our territory.” This could happen. Thus, let me tell you, it has consequences from the Wayúu and the *alijuna* sides (M. Iguarán, interview, June 5, 2009).

Thus, their perception of their role as mediators is of being forced into a risky situation, in which their actions may have negative consequences for themselves and their extended families.

6.4.4.2 Non-Wayúu *Parques Nacionales* staff Perceptions

Interviewees at the *Parques Nacionales* Central and Regional Offices found it both necessary and difficult to work with Wayúu staff in the Makuira REM process. They agreed that the Wayúu staff provide continuity between different Park Managers and help in building an understanding of and relationship with the various Wayúu communities. However, mistrust was also present in the form of doubts about the accuracy of oral translation provided by Wayúu staff. *Parques Nacionales* employees depend completely on Wayúu staff for communication with local Wayúu communities. Participation Office staff also perceive the role of Wayúu staff as problematic:

Sure, one understands also that they are Indigenous Peoples before Park's employees. [...] there is this fear always that in Makuira everybody is indigenous, and we have no idea where are they heading to, what is going on, whether the people believe in this [REM] or not, or if they are manipulation everything. It is complicated (C. Vergara, interview, August 17, 2010).

The uneasiness comes from the realization that Wayúu staff are an instance of how local power influences decision-making by resisting, and many times modifying, the top-down REM pre-implementation process that staff in Bogotá expect to see implemented. The social responsibility of Wayúu staff towards the *apiúshii*, as well as their fellow Wayúu people, are a powerful social constraint that makes Wayúu staff very cautious in their actions, thereby slowing down decision-making and the whole REM process more generally. The caution displayed by Wayúu staff side is also related to the way non-Wayúu laws are always changing to serve new interests, making it personally risky for them to mediate according to rules that might change in the future.

Although placed in a position of conflicting interests, Wayúu staff succeeds in making relations between *Parques Nacionales* and Wayúu authorities more equitable in local, day-to-day management practices and in the REM process. They achieve this by encouraging respectful relations, by providing carefully contextualized translations, and by acting as advocates for Wayúu indigenous rights.

6.5 Divergent Understandings of REM

Parques Nacionales is not a monolithic institution; it has internal fractures that are manifest in divergent understandings of how co-government, or REM, entails and how it should be implemented. The co-government process means different things to *Parques Nacionales* staff in Bogotá, staff in Makuira National Park, and for the Wayúu people. Shore (2010) holds that an ethnographic perspective can help to explain the factors that are responsible for the existence of different perceptions of state interventions in local affairs. I argue that within *Parques Nacionales*, the perception of what REM entails depends on what interests an individual represents and in which location that individual is situated; these aspects of social context shape how individuals interpret, are constrained by and respond to pressures within REM implementation.

6.5.1 Parques Nacionales in Bogotá: REM as Signature of Agreements

The interviewees at *Parques Nacionales* Central Office in Bogotá, and the Regional Office in Santa Marta, agree that co-government with Indigenous Peoples is an arrangement that recognises rights and allow for joint decision-making regarding territorial ordering and conservation. They also agree that it seeks to achieve greater equity of power and respect for cross-cultural differences. Yet, in practice, their actions reveal that co-government as REM is seen as a requirement, a legal obligation, wherever there is an overlap of Park area with an indigenous territory; and this requirement comes with defined deadlines. An anthropologist working at the Participation Office explained the situation:

REM is our priority because it is a government goal. It is in the strategic plan of the government that by 2010 a total of 13 REMs have to be signed [...] so far, we have only 4 REMs signed [...] However, this does not only depend on *Parques Nacionales*, it depends on the Indigenous Peoples [...] and every national or political issue related to Indigenous Peoples and their organisations will have a direct effect in the development of the agreements. The process is too long and does not depend on *Parques Nacionales* alone, the people who formulated the government goals clearly did not take this into consideration...so this is the reason why there is so much effort put into signing the agreements (C. Vergara, interview, August 17, 2010).

Thus, the Participation Office in Bogotá was under pressure to have REM documents signed as an indicator of achievement. The target, the signature, is what counts, and the means to that end, the process, should be carried out as quickly as possible. Thus, the vision of co-government as process is lost or is given less importance. The co-government (REM) management plan itself thereby becomes de-contextualized as a document; it becomes only a signature, a part of some fixed, detached target, an abstract number. For the Participation Office then, co-government becomes simply the “signature of agreements”.

6.5.2 Makuira National Park: REM as Process

For Makuira National Park previous and most recent Managers, as well as for the Wayúu staff, co-government is something that happens on a day-to-day basis in an informal way, side by side with the pre-implementation phase of formal REM agreements. Informal co-government involves a constant process of maintaining respectful relations and problem-solving requiring joint decisions. In practice, the degree of power sharing and mutual respect depends significantly on the personal experience, values and perceptions of the Park Manager.

Makuira National Park previous and most recent Managers were very vocal in expressing their disagreement with the *Parques Nacionales* central-level approach of speeding up REM pre-implementation. They understood a target-oriented process would overshadow the informal social processes that had allowed for positive working relations with the Wayúu. Ms. Acosta was very critical of the use of signatures as an indicator of success in REM:

I wish we did not have to give definite results. At the central level the question is: when do we sign, when do we sign, when do we sign? They do not see the process: how is the process working out, what is needed to have an ongoing effective process. I believe the indicators are mistaken. One is working side by side with the Wayúu authorities and maintaining a good forest cover [...]. That is better indicator of conservation, not the signature of a document, but the process itself (M.F. Acosta, interview, May 4, 2009).

As Ms. Acosta explained, another consequence of the drive to achieve signed agreements is that there is little possibility of developing positive feedback, or a learning loop, during REM pre-implementation:

The Participation Office pushes too hard and maybe there are things that could be designed better, discussed better, negotiated better, which requires its own times.[...]National priorities are above local priorities this is how it works, one understands. [...] But there are things that are completely ignored by the central level despite many letters explaining the local situation that were hardly taken into account, and thus, the team work in Makuira is more torturous (M.F. Acosta, interview, May 4, 2009).

6.5.3 Identified Operative Constraints within Parques Nacionales

Parques Nacionales interviewees identified the two most pressing operative constraints for co-government: the burden of observing strict government procedures for allocating financial resources, and the risks associated with continuity of co-government beyond the signing of agreements. Other challenges were mentioned as well, such as, the requirement of prolonged trust building with the park manager due to the prevailing mistrust among Indigenous Peoples regarding state institutions.

6.5.3.1 Burdensome State Procedures for Allocating Financial Resources

Interviewees identified the extremely strict fiscal and procedural regulations that a state organisation has to follow in Colombia as a hindrance to the flow of cash to protected areas management activities in frontier areas. This negatively affects REM processes and projects. Official government procedures work well in the cities, where people have access to cash and offices in which to complete the required paperwork. In Makuira, procedural requirements prevented the Park team from buying horses to increase their mobility in the *serranía*. The need to follow procedure also caused month-long delays for three REM meetings, as well as the re-opening of the Park. Furthermore, Park managers are continually faced with trouble buying gasoline in their remote location. In general, it affects the capacity to respond effectively to issues requiring the hiring of services or the purchasing of anything.

6.5.3.2 Risks to Continuity of Signed Agreements

The “Parks with People” policy proposed “effective ongoing projects”, yet co-government agreements are currently planned to be signed and implemented in a series of linear steps with the projects at the very end. The Regional Office director in Santa Marta, Ms. Angarita, regretted the lack of ongoing pilot projects and clear funding sources. She said the agreements do not provide strategies for financial sustainability of the agreements and their associated projects during the implementation phase (Angarita, interview 9th July 2009). The lack of planning for co-government beyond the signature of agreements puts at risk the future implementation of REM agreements. As one interviewee from the Participation Office explained, using as example the REM signed with the Wayúu people at Los Flamencos Nature Sancturay:

You sign a paper [REM] and the process stops there, no projects, nothing... this is where it [REM] could become unworkable; personally I think that if there is no vision that it is in the implementation where we need resources, I do not think REM will be something effective (C. Vergara, interview, August 17, 2010).

Securing funding for projects seems also to be a problem. *Parques Nacionales* co-government relies today on government funding and international funding from USAID and other NGOs. However, pursuing an environmental and participation agenda is currently at the bottom of the Colombian government’s list of priorities, and international funding has very specific regional/biodiversity interests. These situations compound to make funding of co-government uncertain.

6.5.4 Wayúu: REM as Alliance

Current local Wayúu relations with *Parques Nacionales* are focused on helping each other and REM is seen as another process within this ongoing important relationship. For the Wayúu of Makuira, reciprocity is culturally important and in the context of the Park is understood as demanding that both Wayúu and *Parques Nacionales* help one another when they are in need. In general, as often stated by Wayúu in meetings, any strange person in their territories without permission is strongly disapproved of, and joint action is required if strangers ignore Wayúu authority. While a number of Wayúu in Makuira are indifferent to the *Parques Nacionales* presence, many

other Wayúu see it as a good thing to work together with *Parques Nacionales*. They expect to jointly find solutions for problems, such as disposal of solid waste (e.g., plastic bags), that affect their livestock. They also expect the Park to teach their children to use resources properly (see Chapter 4).

The perception of REM as an alliance is consistent with the perception of Wayúu in Los Flamencos Protected Area. In this case, Los Flamencos Park staff “accompanied” Wayúu authorities in the establishment of their *resguardo*, a process that took over seven years to complete (B. Apushana⁶⁹, interview, March 3, 2010). Currently, an effective working relationship with Park staff has helped Wayúu in their project to establish a government health facility in the *resguardo*. As in Makuira, the most important element of a robust relationship is the fact that the Park staff accompanies Wayúu authorities in preventing intruders from using natural resources and other actions that do not respect the Wayúu authorities. Their general experience is expressed in the following conversation with the traditional authorities of *Tocoromana* territory⁷⁰:

Today, the relation between *Parques Nacionales* and Indigenous Peoples has improved, to the point that there are today our allies, our friends in the problems that we as indigenous people are confronted to [...] in relation to conservation we have made a commitment to jointly make control and monitoring activities. [...] Yes, the [REM] agreements last year were like something added to the internal strengthening of our relation.

In Los Flamencos, interviewees also mentioned problems that affect their autonomy, like the prohibition on building brick houses. However, these problems are seen as manageable within the working relationship they have with Park staff.

In sum, different understandings of what REM is and what it involves, as well as *Parques Nacionales*' institutional constraints, are a challenge to successful cross-cultural

⁶⁹ Traditional Wayúu authority of *Loma Fresca*, Los Flamencos Nature Sanctuary

⁷⁰ Conversation with the traditional Wayúu authorities of *Tocoromana* territory in Los Flamencos Sanctuary: (José Urariyu, Carlos Epieyu, and the young leader, José Luis Pushaina, interview, March 3, 2010).

interactions among *Parques Nacionales* Central Office, the protected areas (Makaira or Los Flamencos), and the Wayúu. In the next section further challenges to cross-cultural collaborative governance in Makaira National Park are explored.

6.6 Co-Government: Cross-Cultural Challenges

The functioning of *Parques Nacionales* as a state institution and the legal framework that governs protected areas management pose several challenges that this thesis has identified for realising successful cross-cultural REM in Makaira with Wayuu authorities (see Table 6.3). Challenges regarding expectations, participation, and cross-cultural dialogue are summarized in table Table 6.2 and briefly discussed below.

6.6.1 Approach to and Expectations of Co-Government Interaction

Directly related to the divergent perceptions of REM are the different approaches to and expectations of the co-government process. *Parques Nacionales* Central Office is focused on their task of achieving their targets for negotiating REM agreements with indigenous peoples. However, because there are inadequate funds available to initiate practical projects, Park Managers must seek other sources of funding. In the past, *Parques Nacionales* only provided local communities with rhetoric and discourse on conservation. This was something the “Parks with People” policy sought to change. Today, focussing on co-government negotiations without a vision of implementing practical collaborative projects is part of the same trend of not engaging with local communities. The Wayúu on the contrary, are pragmatic people and expect practical outcomes from entering into a relation with any *alijuna*, including Makaira Park.

Table 6.3 Challenges for successful cross-cultural REM in Makuira

Areas that provide challenges	Wayúu Approach	National Parks Approach (with differences between central local level)
Divergent expectations of co-government	Pragmatic Expect practical solutions The interactions tend to take the form of “transactions” Emphasis on social relations and natural cycles: “you cannot rush”	Rethoric based, bureaucratic, with less practical solutions or projects Interactions tend to be more conceptual, legalistic, discursive Emphasis on efficiency for meeting targets: “you must hurry” (central level).
<u>Participation:</u>		
Political organisation systems	<i>apiushii</i> system, each territory is politically autonomous	Highly centralized, and top-down.
Rationales and practices of the negotiation (decision-making)	Non-representative, chiefs are spokespersons Rationales for resolution of social disputes: deliberative and broadly consensual	In participation: representative democracy, chiefs are representants Representation based, decision-making is consensual
<u>Cross-cultural dialogue:</u>		
Language	Wayúunaiki	Spanish
Contents of discussions	Territorial ownership, control, respect, emphasis on social aspects (Political and social continuity)	Environment and conservation (Technical, scientific)
<u>Agreements:</u>		
Origin of rules and norms	Wayúu Law (natural law, inherent rights) Mythic origin therefore unchanging In Wayúu Law ‘the word’ given at the final agreement in disputes, is always respected	Positive law (statutory and man-made) Secular state. Thus, flexibility according to consensus and societal needs and interests Law can change according to needs and times (and vested interests)

The expectation of reciprocity is a part of their cultural norms⁷¹, as well as of their historically established way of interacting with non-Wayúu. Wayúu approach most of their interactions with *alijuna* as transactions⁷² (C. Puerta, personal communication, August, 2011).

Ms. Acosta was very aware of this. One of her concerns was to materialise, through concrete action, what *Parques Nacionales* could give to the Wayúu. During her term as Park Manager, concrete actions taken by the Park included, for example, actively dealing with the problem of solid waste through staff visits to *rancherías* to show ways for proper disposal of plastic bags. The Park also intervened in a Wayúu conflict over territorial ownership, illustrated in Section 4.3.3, using Wayúu approaches for conflict resolution. However, such interest in initiating practical projects or taking concrete action relies on the Park Manager as an individual. With the next Manager in Makuira National Park, achieving concrete outcomes was no longer a priority.

6.6.2 Participation

6.6.2.1 Political Representation Systems

The REM process for reaching agreements is based on the assumption that Indigenous Peoples are organized in councils (*cabildos*), and thus, have a representative body for the whole *resguardo*. However, Wayúu society is not organised under a set of centralized representative bodies. In Makuira alone, there are 54 politically autonomous Wayúu territories, each with their own chief. Following the “case by case” REM principle, Makuira Park staff acknowledged this particular organisation and included all 54 authorities in meetings and negotiations. However, tensions were present between the Makuira Park Manager and staff, and the Participation Office at the central level, regarding the signature of REM agreements. Park Manager Ms. Acosta proposed to sign

⁷¹ For instance, the Wayúu do not have a word for ‘thank you’; they expect to be reciprocated in the same way at another time.

⁷² Transaction defined in the online Merriam Webster dictionary as “an exchange or transfer of goods, services, or funds.” Transaction defined in Wikipedia as: “an agreement, communication, or movement carried out between separate entities or objects, often involving the exchange of items of value, such as information, goods, services, and money.”

various sets of agreements by theme bringing together territories with similar problems, interests, or similar environmental conditions. Her successor, Mr. Orjuela, was more in favour of individual agreements for each territory. While the Participation Office insisted on developing a single document containing very basic agreements that would be suitable for all territories, signed by all chiefs; both Managers thought that separate agreements with each of the chiefs, would better suite the autonomous organisation of Wayúu territories. The concern of the Park Managers was that overly general agreements may be too shallow in substance to make any difference. REM is to be a “case by case” process, but the constraints of operating within the rules of a centralised bureaucracy often led to conflict on the ground.

6.6.2 Rationales and Practices for Negotiation (decision-making)

It has been acknowledged several times by the Park (M. Acosta, interview, May 4, 2009) that the Park’s approach to consensus-building can conflict with Wayúu cultural norms since making decisions in meetings does not allow for consulting with extended families and through dreams. The Wayúu rationale for negotiations with the Park follows their customary system of conflict resolution and decision-making (see Chapter 4). The Wayúu authority is the spokesperson for his extended family group’s interests. However, he is not representing them with the authority to make decisions on his own. He normally discusses the decisions with the older uncles and aunts in his family to reach a consensus; as well, he seeks advice in his dreams. The approach of the National Park is based on a system of representation and delegation. Their approach is based on performing consultation through meetings and reaching a consensus in those meetings.

6.6.3 Cross-Cultural Dialogue

6.6.3.1 Language

The presence of different languages provides a challenge when translation, the lynch-pin of communication in a multi-lingual context, is not given the importance and time that it requires. Translation in a cross-cultural context is always linked to explaining concepts from another worldview, and the Wayúu staff well-understand the difficulties of such a task. Park meetings occur mainly in Wayúunaiki, which means that Wayúu

authorities are empowered to speak freely. However, themes are prepared in Spanish and there is little time for the staff to discuss the meaning of themes and prepare appropriate translations prior to meetings. This may lead to misunderstanding by Wayúu authorities. Mistrust by the Parks staffs from Bogotá who do not speak the language is another challenge of meetings being held in Wayúunaiki.

6.6.3.2 Contents of Discussions

The Wayúu have on various occasions expressed their own concerns, which were broader than just environmental, and were related to the control of their territory, their social relationships, and to the loss of respect and knowledge by the younger generations (see sections 4.6, 6.3.1 and 6.3.2). Their concerns were related to the exercise of Wayúu governance in their territories and to Wayúu cultural continuity. On the other hand, the Park's main concerns in meetings focussed on environmental issues, ecotourism and in supporting Wayúu cultural continuity by recovering lost traditions. This divergence of interests can be seen from two perspectives. The first is to see only the challenge of having different objectives in a meeting that is set within a National Parks-dominated top-down approach that establishes in advance meeting themes and procedures. The second is to see that the Wayúu are active agents pursuing their own interests in the context of daily relations with the Park, including in meetings where the discussion is expected to be centered on the environment.

In addition, the mechanism for a collaborative territorial ordering using zoning of management areas, in this case, allow for accommodation of different priorities and objectives. Moreover, the day-to-day situated collaboration relies in the strengthening Wayúu authority and their system of social and territorial regulations.

6.6.4 Origin of Rules and Norms

Cross-cultural differences in procedures and background for rules and norms held by Wayúu and *Parques Nacionales* lead to challenges and distrust when agreements are being made. For the Wayúu, agreeing to something requires they stick to their word and do as was agreed. Rules within the Wayúu a system of law are rooted in mythical times

so they do not change. On the contrary, *Parques Nacionales* legal framework and policies are part of a positive law (statutory and man-made) system that is made by people and may be altered to suit the changing needs and interests of society. For example, the regulatory system for issuing mining permits in Protected Areas is subject to intense pressure from mining interests and as a result, laws have been reformed to allowed for greater access to mining licences inside protected areas⁷³. This issue is a primary concern for Wayúu Park staff, who worry that signed co-government agreements will not, ultimately, be upheld by *Parques Nacionales*. This expectation poses difficulties for the Wayúu staff in supporting agreements with *Parques Nacionales*. Because their laws change with relative frequency, the state and its institutions are fundamentally not trustworthy for the Wayúu.

6.7 Summary

In this chapter I have shown how the *Parques Nacionales* approach to co-government is being put into practise in Makuira National Park, and how formal and informal interactions are dynamic and provide opportunities for building cross-cultural relations. Compared to the limited governance capacity of *Parques Nacionales* in the Makuira area, the Wayúu have been, and still are, in most respects the day-to-day governing authority within their territories in the Makuira Mountains. Thus, Wayúu authorities provide local support for territorial control of the Park area and shape the nature of relationships formed between Wayúu and the National Park. Collaboration between the Park and the Wayúu is motivated by common interest (*i.e.* protection of territory and restricted access to the cloud forests) and common threats (*i.e.* external development interests). Co-government acknowledges and supports indigenous rights when dealing with external development or research interests through prior consultation. However, with regards to tourism, Wayúu rights have been both acknowledged and not acknowledged, depending on the compatibility of their concerns with those of the National Park. When the Wayúu desired stronger controls on tourism in their lands, the

⁷³ For instance, National Park Yaigojé-Apaporis has one mining title inside the park area and 23 other title requests in course (*Parques Nacionales*. 2011. Reseña título minero Yaigojé-Apaporis. Internal document. <http://www.gaiamazonas.org/en/docman/test-en/resena-de-titulo-minero-en-yaigoje-apaporis-pnn/details>).

Park made an effort to respect their ownership and concerns by taking appropriate management action in consultation with Wayúu *alaiilas*. However, if the Wayúu owners of the land did not want tourists at all, that was not an option considered negotiable by the National Park. When the Wayúu required support in establishing a co-operative business for providing accommodation, the Park was not reliable in facilitating the needed linkages. Lastly, the capacity of both Wayúu and *Parques Nacionales* to govern the area collaboratively was limited, given the *de facto* control of territory by paramilitary groups.

Wayúu staff assumed a key role as cultural mediators by maintaining respectful cross-cultural relations between the Wayúu chiefs and *Parques Nacionales* (*i.e.* to keep the word, and avoid compensation payments). The Wayúu staff represents a form of local-level power that strives to achieve equality and acknowledgment of Wayúu rights in their relationships with the Park. However, Wayúu staff is in a difficult position since they are accountable to both the Park and Wayúu society. Thus, if Makuira National Park was to not uphold their agreements, the Wayúu staff would be subject to incrimination under Wayúu law. At the *Parques Nacionales* main office, Wayúu staff are perceived as necessary but not entirely trustworthy.

In the formal process to reach agreements, *Parques Nacionales* themes predominate. However, centrally-constructed plans are modified and partially transformed by Wayúu in the course of their implementation. The resulting day-to-day relationship, even though not entirely without conflict, is one based on an alliance between the National Park and Wayúu authorities. Thus, perceptions about REM vary: in Bogotá REM is “a signature of agreements”, in Makuira National Park REM is “a process”, and for the Wayúu, REM is “an alliance”. REM faces also a number of challenges due to the different worldviews and expectations of the parties involved the shortcomings of bureaucratic processes, and the *de facto* sovereignties of illegal armed actors.

CHAPTER 7: DISCUSSION



Photo 7.1: Wayúu Park staff visiting a Wayúu family in Makuira. *Photo: Julia Premauer*



Photo 6.2: Wayúu livestock. *Photo: Julia Premauer*

7.1 Introduction

Collaborative management of natural resources including indigenous co-management of national parks has increasingly been incorporated in legislations as an arrangement for conflict resolution, to promote and improve social relations among diverse stakeholders and enhance natural resources management. This study concerns how indigenous Wayúu owners and *Parques Nacionales* engage in collaborative governance in Makuira National Park, in northeast Colombia. Specifically, I investigated the issues and realities of collaborative governance during a moment in time (2006-2010) having in mind the challenges and opportunities that characterise the process. Co-government in Makuira between *Parques Nacionales* and the Wayúu is about recognising Wayúu government over their territory. Likewise, it is about building a strategic alliance to deal with common threats. Lastly, it is about how to build, maintain, and enhance respectful (but not necessarily conflict-free) cross-cultural relations over time.

These are relations that, in Makuira National Park, are shaped by global and national policies and discourses, local contexts, and the relations that Parks staff and the Wayúu have established *in situ* and continue to forge. This chapter seeks to make sense of the complex understanding of the Parks-Wayúu encounters in Makuira during 2006-2010. It discusses the elements at play that pose challenges and obstacles but also opportunities for building relations in co-government. Section 7.2 begins by discussing Wayúu governance and Parks co-government that seeks to enhance governability in the park area by recognising rights and common interests. Section 7.3 discusses Parks-Wayúu relations, as influenced by Wayúu institutions for respect and the bridging roles (or “go-between”) that Wayúu staff assumes. Section 7.4 looks at the complex multi-level system in which the Wayúu commons and the Park are operating. Then, Section 7.5 discusses how enabling policies for participation both enable or hinder collaboration efforts and relations. Finally, Section 7.6 looks at main lessons that can contribute to the international ICCAs discussions.

7.2 Protected Area Collaborative Governance

Critiques of co-management with Indigenous Peoples have pointed to the subtle power relations by which the state's procedures and bureaucracies for participation in decision-making end up disempowering Indigenous Peoples (Nadasdy, 1999). Thus, according to critics, co-management is still, in effect, a form of top-down management. Participation for indigenous territorial planning in Colombia has had similar critiques (Serje, 2003). In Makuira, the results show that it is true that co-government establishment and formal procedures of interaction are primarily set up by *Parques Nacionales* in terms of themes, procedures, bureaucratic process, timing, and recognition, or not recognition, of rights. Thus, formal collaborative relations and formal decision-making develop within a structure determined by the state. However, I would argue that it is too simplistic to describe co-government in Makuira as only top-down; rather, it depends on context and the given situation.

The results from Makuira National Park show that differences in power at the local level are not uniform or permanent and because of this as a whole it is working with an overall positive balance under the current circumstances. This happens for two reasons. First, the Wayúu have in place a system for commons governance and cultural taboo areas that allow for conservation. Second, co-government focuses on acknowledgement of rights, meaning respect for indigenous government and territory, as well as on common interests to protect the territory.

7.2.1 Wayúu Self-Governance

Two general findings about Wayúu governance of their territory are about commons and about cultural places with similar outcomes to conservation. Ownership, access and use institutions are based on keeping respectful relationships among the Wayúu on the one hand, and between Wayúu and supernatural beings on the other. These will be discussed and linked to commons, taboo and the conservation literature.

Wayúu property rights for ownership, access and use are organised in a system of extended family territories that allow for an active control of access of potential Wayúu

users. Such territories set the physical and social boundaries for the exclusion of other Wayúu, and allow for an omnipresent practice of social monitoring of who is passing by and what their intentions are. The Wayúu constantly monitor users and user boundaries, rather than monitoring the actual resources, results that support the findings of Cox *et al.* (2010). The Wayúu governance system has land boundaries; congruence of norms with local conditions; conflict resolution mechanisms, and the *resguardo* grants them rights to autonomy. These correspond to principles (1a) and (2), (6) and (7) in design/diagnostic principles for successful commons management (Ostrom, 1990).

Access and use to resources in the Wayúu territories follow the owners' decision to let Wayúu outsiders stay on their land. It requires clarity as to whether there are real subsistence difficulties (*i.e.* fleeing from enemies, hunger, animals in bad health due to lack of fodder). For the Wayúu, solidarity is obligatory; it is a guarantee for survival and increases respect and prestige for others. Acts of solidarity are remembered and talked about, and therefore increases respect and prestige. In Wayúunaiki there is no word for “thank you”; when the time comes, one is expected and obliged to reciprocate in the same way. This type of decision-making follows a subsistence ethic and prestige incentives that resonate with the moral economy of people who live at the margin of subsistence (*sensu* Scott, 1977). On the contrary, the subtractability problem, or “each user is capable of subtracting from the welfare of all others” (Berkes, 2007a, p. 15191), inside any Wayúu extended family territory depends on the private or common rights regime of each resource, and follows moral norms and values of taking only what is needed (Chapter 4). The success of commons regimes depends, in large part, on the ability to deal with issues of local resource excludability and subtractability (Ostrom *et al.*, 1999). Within their society, the Wayúu have norms and rules in place to deal with excludability issues, while subtractability obeys more subtle moral understandings.

At the community level, the main challenges seem to be a gradual undermining of the moral base and respect, a lack of explicit graduated sanctions. Weakening of respect for older authority by younger generations, in turn weakens mechanisms for compliance. There seem to be no graduated sanctions; the Wayúu code of conduct is very polite and subtle. They will give advice to encourage a disrespectful individual to stop doing what

they are doing. Yet, the culture discourages stronger ways for seeking compliance, as they become offences subject to compensation payments. Such rules for the control of social behaviour pose difficulties as regards to Wayúu free riders who do not respect the owners of the land. Such absence of graduated sanctions becomes a challenge to the commons itself. Changes in culture and the broader context of development projects and illegal armed groups are making excludability and subtractability control mechanisms less effective. Challenges to autonomy and the commons are caused by Wayúu governance weaknesses in controlling *alijuna* access to their territory (see Section 7.4).

Regarding cultural places with similar functions to conservation, the study shows that Makuira still holds many places that require the Wayúu to follow codes of conduct for showing respect to supernatural beings found there and avoiding personal harm from them. The Wayúu integral system of territorial and relationships management in Makuira also includes the invisible world and its beings. The Makuira Mountains are sacred as a whole. It is both at the heart of the Wayúu mythological origin as a people, and it is *Pulowi*'s abode, especially the higher parts of the three massifs. The results in Chapter 4 show that it holds a great number of dangerous, sacred and enchanted places (*i.e.* mythical, ancestors, and abodes of dangerous supernatural beings or 'places with *Pulowi*'). Taboos, reinforced by stories, are in place to regulate access and use of the sacred sites. Consequences for those do not show respect follow spiritual sanctions through dreams and illnesses.

The thesis results are similar to other findings that suggest that taboos on species, habitats and sacred sites have the potential to contribute to biodiversity conservation, and show commonalities with formal institutions of conventional conservation (Colding and Folke, 2001; Colding and Folke, 1997). In the study area, such places have been under local protection long before the area came under state conservation, and are still protected. Thus, contrary to the tendency to disappear with social and cultural changes, policy interventions, migrations, or education (Tengö *et al.*, 2007; Silvius, 2004; Ulloa *et al.*, 2004; Gadgil *et al.*, 1993), habitat taboos in Makuira are still in place. From the Park's point of view, *Pulowi* places are those which best align with Makuira National

Park conservation objectives. Such taboo areas are directly related to the protection of cloud forests and main locations that provide water to Makuira and its surroundings.

The results in Chapter 4 indicate that the Wayúu territory is a social territory, a territory defined by Wayúu homelands, codes of conduct, social control, and relationships among Wayúu extended families, as well as among the Wayúu and the supernatural beings living in places on the land. Thus, the Wayúu governing system for their Wayúu homelands is based on a mix of social rules and norms, *sukuaipta wayúu*, or Wayúu Law, which brings together mythic principles, social control and compensations, and a moral economy of strict reciprocity and redistribution. Taboo places, and their supernatural institutions for compliance through dreams, are also present and respected. The park has built upon these structures of local governance to work together and achieve common objectives of conservation and protection of the land.

7.2.2 Makuira National Park Collaborative Governance

To understand how co-government in Makuira works it is important to recall that the main idea behind participation and, in particular, co-government in Colombian National Parks was to resolve conflicts and enhance governance outcomes, while acknowledging rights (Chapter 5). These reasons seem to be similar to those found in the co-management literature. For instance, to solve conflicts over property rights regimes where indigenous rights have been acknowledged and jurisdictions overlap (Pomeroy, 2007), or to increase management efficiency, equitability and legitimacy by recognition of participation rights in decision-making (Pinkerton, 1989; Singleton, 2000; Houde, 2007; Mabee and Hoberg, 2006; Borrini-Feyerabend *et al.*, 2004a). However, this study shows important differences with respect to: (a) the approach to conflict management (*i.e.* respect for rights and shared interests), (b) improving (joint) governance not just management, and (c) the extent of acknowledgement of indigenous peoples' rights.

In much of the co-management literature conflict is resolved by giving Indigenous Peoples a seat at the co-management board table for advice in decision-making, combining indigenous and scientific knowledge for management (Reid *et al.*, 2006; Berkes, 2009), and providing economic benefits (Borrini-Feyerabend *et al.* 2004a).

In contrast, results in Chapters 5 and 6 show that conflict transformation was achieved by addressing its causes. First, a recognition and respect for territorial, political, and cultural rights and for indigenous local institutions of territorial management. Second, after having recognised self-government and indigenous authority, the agreements are negotiated between political authorities or “nation-to-nation” as found in the English language literature. Third, by following approaches found in conflict resolution literature (Augsburger, 1992), the Park looked for shared interests beyond irreconcilable ones to work from there. In this sense, this case is similar to the Gwaii Haanas nation-to-nation co-management (Parks Canada, 2011; Tomlinson and Crouch, 2012) or the “two-row wampum” idea for rethinking co-management within difference (Stevenson, 2006). It shows that such an approach is possible.

While co-management seeks to enhance resource management by improving monitoring and integrating indigenous and scientific knowledge (Reid *et al.*, 2006; Berkes, 2009), *Parques Nacionales* followed a broader approach for improving park’s governance capacity by recognising indigenous self-government authorities by building upon indigenous existing structures for territorial governance (Chapter 5). There are indigenous political authorities, in this case 54 Wayúu chiefs, and the environmental authority making agreements. Development of political agreements between territorial and environmental authorities to achieve collaborative governance of the park area of necessity involves benefits and compromises on the interests of *both* sides.

The inhabited and sacred places of Makuira as a territory have been incorporated in the Parks planning process building upon Wayúu, appropriation of the landscape, conceptions and worldview. Parks and the Wayúu have agreed, for entirely different reasons, that the peaks of the mountains are “no go” areas for tourists, and are only customarily used on special occasions when directed so by dreams. Park’s interest is to conserve the unique cloud forest that is also key for environmental services such as fresh water in the High Guajira. In contrast, the Wayúu interest is to avoid people from getting harmed, as those forests are dangerous places known to have *Pulowi* or *Wanentunai* (Chapter 4).

Working together against external threats is of interest to both the Park and the Wayúu. The Park is interested in an increased governance capacity to control the Park area from outsiders for conservation reasons. This requires collaboration with Wayúu authorities in order to monitor the activities of outsiders, and requires the legitimisation of Wayúu authority and customary territorial arrangements. The Wayúu are interested in controlling *alijuna* outsiders with the help of the Park, and be respected as owners of their Wayúu homelands. It also responds to the fear that they could lose their lands to development projects not under their control. In this sense, to have Park people in line with their territorial interests provides them with an important ally, with the state, which is otherwise intermittent or absent. In external challenges and non-compliance cases, the Park has supported Wayúu authorities. It has also facilitated the creation of vertical linkages between local and national government institutions.

The Park collaboration with the Wayúu chiefs or *alaiilas*, has allowed the Wayúu to strengthen their commons institutions by promoting and legitimising their chiefs, self-governance, and protecting territorial rights. In cases of dealing with non-compliance with regards to environmental issues, the Wayúu let the Park staff know if they need backup. On the other hand, if the Park manager learns that outsiders are cutting trees, for instance, she would take a joint decision with the chief of that Wayúu territory on how to proceed. In sum, the Wayúu benefit from a co-government arrangement as it helps to reinforce their customary arrangements, taboos, and authorities.

With regards to compromises, on the Wayúu side they include insufficient recognition for economic rights, and self-government rights. On the Parks side compromises are regarding the ideals of conservation that are compromised by addressing local territorial management including *huertas* and cattle grazing in the Park area. Unfortunately, the loss of autonomy due to illegal armed actors controlling drug trade corridors is something the Park cannot influence. However, *Parques Nacionales* has taken measures to ensure the co-government meetings are not attended by illegal armed actors. The external threats imposed by illegal armed actors remain beyond co-government in Makaira. In this sense it is difficult to carry out long term projects. Are we looking at an imaginary governance? Rather than imaginary, I would argue that in

Makaira National Park there is a partial capacity to govern the protected area collaboratively. However, it is contingent on paramilitary bands dynamics of territorial control for drug trafficking. Table 7.1 provides a summary of some of the major common interests and compromises in the Wayúu-Parks collaboration.

Table 7.1 Summary table of benefits and compromises between Parks and the Wayúu in Makaira National Park

Common interests (benefits)	Conflict/compromise	Beyond management
Territorial protection against external threats	Ecotourism economic benefits and constraints on autonomy	Drug trade - <i>de facto</i> sovereignties
Cloud forests (no public access) Protect water sources	University and researchers	
Cultural rights	Economic rights	
Indigenous authority and commons institutions	Livestock numbers stocking rates	

This study shows that protected area-indigenous partnerships can work. It is a worthwhile governance approach in protected areas that is not commonly found in the literature on conservation. Far from being conflict free, it provides lessons to conservation governance experiments. Establishing a relationship that focuses on commonalities of interests has another component: a search for respect and equity in decision-making. It is in such issues that the Wayúu staff assumes a key bridging role of mediation between cultures and between the local and central levels of *Parques Nacionales*.

7.3 Bridging for Respect and Power Balance

The co-management literature has pointed out the importance of bridging roles, and individual leadership in the success of co-management (Han *et al.*, 2006; Olsson *et*

al., 2007; Berkes, 2009). However, there seems to be little understanding of the power dynamics involved in such bridging roles and the benefit for local communities. Outsider organisations may end up imposing frameworks alien to the local interests (Chernela, 2005), or interests may be locally reframed to foster local goals (Berman-Arévalo and Ros-Tonen, 2009). The results of this study show that Wayúu staff not only positively influenced the relationship between *Parques Nacionales* and the Wayúu authorities by creating conditions for trust, credibility, and respect, but they also actively looked to alter power imbalances, striving for a more horizontal relationship. Chapter 6 shows how in day-to-day decision-making and activities the Wayúu staff assumed a role of cross-cultural mediation between Parks and Wayúu authorities, as well as between local and central levels of Park's management. While the whole staff assumed a bridging role, with different degrees of bilingual skills, there are two individuals who hold the most prominent roles as mediators and translators.

To understand Wayúu staff mediation, I draw from Wells' analysis on insider/outsider mediation for funding in the context of the development of farmers' cooperatives (Wells, 1983). Wells (1983) distinguishes outsider/broker from insider/advocate type of mediators who link different social strata. She demonstrates that, given their historical contexts, outsider/brokers share and promote values held by providers of economic resources, are not accountable to their "clients", and tend to maintain the center-periphery power asymmetry. On the contrary, insider/advocates are accountable to the community, share values, and seek to empower their "clients" to enable them to meet their objectives of improvement of social status. Wells (1983, p. 783) concludes that such "mediators not only communicate between societal levels but may actively intervene to alter their interconnection". Similarly, authors on conflict resolution have stressed the importance of departing from the universal and detached "third party", to recognise also insider mediation for its knowledge of culturally specific mediation approaches, and the continuity they provide from within the relation (Wehr and Lederach, 1991). This kind of power analysis is lacking in the literature of co-management, since it focuses on the bridging roles in terms of 'an arena' that provides links for success of the co-management arrangement (Berkes, 2009) denoting neutrality.

To understand indigenous insider mediation, it is necessary to point out that indigenous governability of customary territories in Colombia has two components. One concerns the “inside” of the indigenous society (*i.e.* chiefs), while the other concerns the “outside” and dominant society (*i.e.* leaders) (See Chapter 2). The indigenous leaders are young, bilingual people who act in the interests of their people in negotiation with dominant society (Jimeno, 2006). Puerta (2004) identifies that the Wayúu leaders in mediation roles, who interact/negotiate with state institutions, are normally part of Wayúu families that have prestige and can produce a leader to navigate both cultural systems, in term of interactions, by being able to articulate well the arguments in different situations (Puerta, 2004). These features give them the “capacity to be creative and skilful in the use of their strategies to manoeuvre, while making the most of the given spaces” (Puerta 2004, p. 114). The roles of Wayúu Park staff could be compared to such leadership in that they speak for the interest of their people. However, they differ in that they are not negotiating economic benefits, but rather they are ensuring respect and greater power balance or equity.

Looking closer at the Park staff assuming leadership and mediation roles, who are these individuals? One of them belongs to an *apüshii* territory on the northeastern side of Makuira, he is the son of a renowned *palabrero*, and speaks Wayúunaiki and Spanish. He is also well informed about the Constitution and indigenous rights in Colombia, as well as, discourses and positions of the Colombian National Indigenous Organisation regarding the relationship between Indigenous Peoples and the state. The other Wayúu staff leader also belongs to an *apüshii* territory inside the protected area and the territory where part of the hamlet of Nazareth is located. Her extended family is one of the largest and most prestigious in the High Guajira. Several of her close family members are politically active in indigenous rights and founded the indigenous organisation *Asociacion Wayuu Araurayu*. She was brought up in Nazareth, and has a degree in Social Work from the University of La Guajira.

These specific cultural and social characteristics position the two staff members as insiders to the culture and to the Wayúu territories in the protected area, but with experience of the Colombian majority culture. However, they are also outsiders in the

sense that they are part of Makuira National Park team; they have a boss, the park manager, and were hired to work with the Park and its mandate to conserve the environment in Makuira and to establish collaborative government agreements with the Wayúu authorities. Thus, as Park employees they are bridging those cultures, but also striving for a more horizontal relationship between two governance parties which hold different degrees of power (Figure 7.1).

The presence of mediation and bridging leadership in Wayúu staff has positively influenced the relationship between Parks and Wayúu authorities. Trust building, translation of what is culturally correct, maintaining mutual credibility, and respect in the relationship are examples of their roles. They are maintaining respect and managing conflict because they know that the Wayúu social system of compensation for offences will affect the Park as well. It also serves the Park and the reputation it has to the Wayúu, which in turn affect the Wayúu willingness to negotiate.

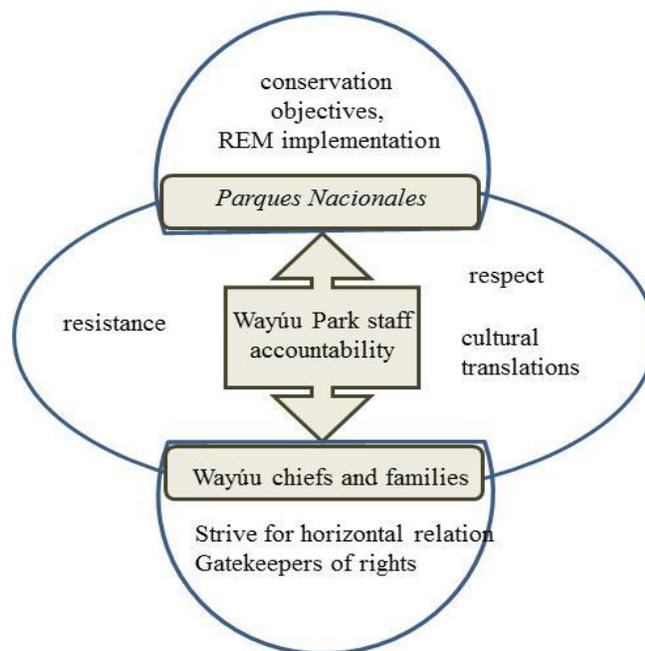


Figure 7.1 Bridging roles of the Wayúu park staff

Wayúu staff take the role of gatekeepers of rights for the Wayúu owners of the land (Chapter 6). The staff resistance to changing the format of participation, the reminding of their rights as owners of the land, the meetings entirely in Wayúunaiki, are

examples of an active intervention to ensure a more equitable relationship. The Wayúu staff insider position makes them mediators/advocates (Wells, 1983). I use two important characteristics Wells identified in development insider/advocates to describe Wayúu staff mediators: (1) downward accountability (they and their families are accountable to their Wayúu chiefs in Makuira); and, (2) promote the values of their culture (seek to build a respectful and more equitable relation within the power disparity between authorities). The findings discussed here are consistent with Wells (1983) insider mediators/advocates, who not only bridge the gap, but challenge the existing system, and seek to improve the ability of their clients to enhance their status in the wider society. Thus, the results provide new understandings of the bridging roles discussed in co-management literature.

7.4 Global-Local Challenges: Indigenous Relational Autonomy

Wayúu governance of their territory (commons) in La Guajira is a complex multilevel commons system (*sensu* Berkes, 2006) that interact with overlapping and conflicting combinations of state, private, open access property rights regimes, but also with violent, coercive regimes. The results show that the Wayúu system for governance in independent political units poses governance challenges when confronting powerful external actors with interests in the peninsula. State property regimes over subsoil, coasts and national parks pose limits and conflicts to Wayúu control and autonomy; even more so, when the state grants titles to private companies for extracting subsoil resources. In addition, illegal regimes impose control of territory by force. Thus, Wayuu are embedded politically and economically in larger complex systems that pose challenges to commons governance when external autonomy is weakened. However, the Wayúu are not passive; they deal with this complexity by adjusting self-government processes and decisions in relation to the actors and contexts (see Figure 7.2.)

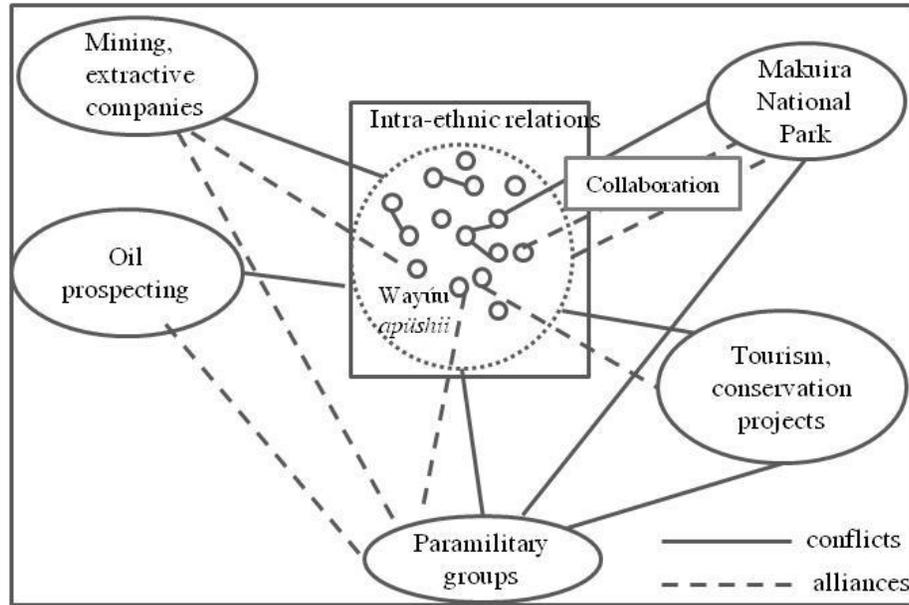


Figure 7.2 Conflicts and alliances among the Wayú and the different social actors in their territory

The Wayú customary institutions for land governance are nested (in a large part of their ancestral territory) in a *de jure* collective property regime of the *resguardo*⁷⁴ that provides an important backup for the Wayú system of territorial governance. *Resguardo* as seen in Chapter 4 has unique characteristics of a collective property outside of the market that cannot be commercialised, expropriated, nor taken in legal possession to cover for unpaid debts (*i.e.* inalienable, imprescriptible, and non-seizable). In addition, Indigenous Peoples in Colombia have been granted constitutionally the fundamental right to self-determination in both ancestral *de facto* territories and *resguardos*.

Having such collective tenure and rights in place, does not offer a “fool proof” guarantee for their protection in the present world. The government, despite its constitutional obligation to protect indigenous rights, or the signature in 2009 of the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in the UN General Assembly 2007, does not recognise them when powerful economic interests are at play, such as development projects seeking to exploit mineral resources. Thus, Wayú rights

⁷⁴ *Resguardo* grants juridical, social, and political autonomy.

are constantly overrun by new resource development projects, where consultations for free prior informed consent with them are often co-opted.

Consequently, the autonomy and relative high territorial control that the Wayúu have enjoyed for a long time have become under intense pressure from external global capital in search of mineral resources, as well as by drug trafficking, both attracting illegal paramilitary groups to La Guajira. These global forces impact at the local level undermining Wayúu autonomy, self-determination, and their governance institutions (Chapter 4). Indigenous Peoples throughout Colombia are being affected by loss of autonomy in social and environmental matters, as well as by violations of human rights. In spite of this context, Indigenous Peoples across Colombia have developed ways of dealing with this. “Indigenous relational autonomy” (Ulloa, 2011) is a useful concept to understand how Indigenous Peoples deal with partial recognition of indigenous rights to self-government and self-determination. Such autonomy depends upon the diverse interactions Indigenous Peoples need to establish with other social actors in their territories, including illegal armed actors and National Parks. Ulloa (2011, p. 90) defines this concept as:

[A] permanent strategy of building alliances, rethinking external processes, reconfiguring internal processes, and establishing relations and spaces to negotiate with other social actors. ... [It] incorporates a diverse range of partial and situated processes; ... [is] understood within specific circumstances and ... [has] particular political implications.

The Wayúu exercise their indigenous relational autonomy in relation to the other social actors present in their territory. Being politically decentralized, the Wayúu do not have a unified strategy as a people. From one point of view, that is a weakness. However, they are not merely passive spectators. Each extended family or groups of families establish relations of conflict or alliance with the external social actors they have to deal with. This is represented in Figure 7.3. The Wayúu have also devised ways to use conflicts, limited governance, political violence or humanitarian crisis situations caused by armed conflict to claim and re-gain their self-determination rights on the basis of their identity (Puerta, 2010; Correa, 2003) or to claim respect for their lives according to the International Humanitarian Law. The Wayúu have developed, as part of their historical

engagement with outsiders, capacity and institutions for intermediation addressed in Sections 2.4 and 7.3. Puerta (2010) refers to such institutions for intermediation as key to understand the Wayúu successful social continuity.

Parques Nacionales management of Makuira National Park has been a relatively less conflictive state presence in La Guajira. The Park's interest in excluding others for conservation purposes coincides with Wayúu concerns for protecting their territory, thus, allowing a strategic alliance with a specific objective.

In this complex commons case in La Guajira, the *resguardo* collective land title is more important than ever, since it allows the Wayúu to claim their rights to autonomy, to self-determination, to be properly consulted, and to return safely to their land if they have been forcefully displaced by illegal armed actors. These results agree with the rights at the community level as being an important starting point for commons regimes (Ostrom, 1999; Ostrom *et al.*, 2002). The results also highlight that as a commons, it has of necessity to deal with cross-scale linkages (Berkes, 2006) that *both* allow for recognition of *de jure* property rights, *and* threaten the Wayúu autonomy of the commons system. The response of the Wayúu and other Indigenous Peoples in Colombia to such complexity may be the exercise of an indigenous relational autonomy that is reflected in the compromises they assume with alliances or conflict relationships they establish.

7.5 Enabling Policies: How Policies Enable and Constrain

For co-government involving Parks and the Wayúu, the most important policies that enable and, at the same time, hinder the process are those recognising cultural diversity and the rights that come along with them, as well as conservation and participation policies. Chapter 5 illustrates the vulnerability of enabling policies to change over time with new global and national economic priorities. Their intrinsic contradictions both enable and constrain what they stand for. The lesson of “Parks with People” policy is how to implement a policy embracing diversity (beyond blueprints) and equality. These findings broaden the discussion on the complexities of enabling policies and legislation – recognition of rights, jurisdiction and authority; *de jure* property rights, and for participation in decision-making – regarded as one of the requirements for

longstanding commons institutions (Ostrom, 1990) and co-management success (Pomeroy, 2007).

7.5.1 Recognition of Rights and Participation at Different Levels

Policies for recognition of rights and participation occur at different levels of the legal frameworks, which influence their susceptibility to change over time. The constitutional level is the first and most important level for an enabling policy that recognises multicultural and multiethnic rights to collective land ownership and differentiated cultural and political rights. The results in Chapter 5 show the importance of enabling policies at the proper legislation level for two reasons: (1) recognition of rights and participation in decision-making were not instantly applied in the policies and practices of conservation; and, (2) the recognition of rights is always a project in progress, because there are always powerful forces that seek to reduce the scope of the acquired rights. Recognition of rights at the constitutional level gives Indigenous Peoples in Colombia the possibility to use judicial instruments for continual reclamation of recognition and respect for their fundamental rights⁷⁵.

The government level policies are part of the “Government Development Plan” of each presidential period. Chapter 5 shows how such enabling policies for collaborative protected area governance were present and strongest at a very particular moment in time. Specific interests were in place for resolving social and political conflicts through dialogue, and implementing global discourses of sustainability and participation. However, each new president developed a different “Government Development Plan” led by prevailing global trends regarding economic development⁷⁶. Consequently, there was a direct impact on participation and indigenous rights recognition of territory and natural resources. Such policies have an impact on the already complex dynamic of internal armed conflicts; they impact whether or not the state will recognise indigenous collective

⁷⁵ *Acción de tutela*: Judicial procedure established by the Constitution (Art. 86) by which every individual can demand in courts the immediate protection for their fundamental constitutional rights in the case that a public authority has failed to do so.

⁷⁶ For instance, the renewed position of Latin American countries as providers of raw materials (minerals) for the global capital.

property rights and autonomy. The results in Chapter 5 followed the changes in biodiversity conservation approaches and participation through co-government (REM) conceptualization and implementation.

Lastly, there are enabling policies at the level of the state's conservation institution. Between 1998 and 2002, *Parques Nacionales* developed the "Parks with People" policy for rights recognition and participation in the context of protected areas. In order to be enacted, this policy required that the nation-state recognised multicultural and multiethnic rights, participatory democracy and sustainable development in the Constitution. It further required other factors to come together, such as enabling government policies, leadership, and political will to address and transform historical antagonisms between Indigenous Peoples and national parks. However, a policy at this level is dependent upon less supportive higher rank legislation, such as the Code of Natural Renewable Resources and Environmental Protection or the Government Development Plans. In sum, 'enabling policies' are susceptible to change. Consecutive governments' policies for multicultural recognition and different priorities for economic development may encourage or discourage, depending on those priorities, participation and rights recognition in protected areas.

7.5.2 "Parks with People" Policy: Rights Recognition

Hale and Millaman coined the term *indio permitido* or "authorized Indian" when looking at rights recognition in the multicultural reforms of neo-liberalism (Hale, 2004). While the *indio permitido* holds recognised rights, "there are accompanying, unspoken parameters: reforms have predetermined limits [...] certain rights are to be enjoyed on the implicit condition that others will not be raised" (Hale, 2004, p.17, 18). Similarly, the "Parks with People" policy and co-government recognises the rights of Indigenous Peoples in *resguardos* to collective land title, autonomy, and authority over their jurisdiction. Especially, in the context of conservation and parks co-management, the recognition of self-determination rights implies only cultural rights, while economic aspects of self-determination rights are generally not considered (Bauman and Smyth, 2007). Thus, as only certain rights are recognised, this is not enough to achieve self-

determination. This is shown in Chapter 5 with the re-conceptualisation of co-government as REM; accordingly, *only* subsistence economic activities are allowed where *resguardos* are overlapping with protected areas. Likewise, Indigenous Peoples owning *resguardos* are officially recognised as “special public authorities” with a high degree of autonomy. However, despite their autonomy and the fact that their livelihoods and governance is linked to their territory and its resources, Indigenous Peoples are considered to hold no authority over environmental matters where *resguardos* are overlapping with protected areas (Chapter 5). In addition, as Chapter 6 shows Indigenous Peoples cannot decide if they want tourism in their territories. Thus, what is most important for Indigenous Peoples – their autonomy and self-determination – is restricted because it cannot be exercised to its fullest extent.

The *indio permitido* in the context of conservation is tied to the pervasive universalist perception of Indigenous Peoples undergoing an evolution from traditional (“ecological Indian”) to fully economic developed (the “fallen Indian”) (Igoe, 2005; West *et al.*, 2006). Conservation policy for co-government agreements still fail to see Indigenous Peoples as contemporary “modern Indians” (Gros, 2000) with whom to make political agreements. The “Parks with People” policy for co-government with Indigenous Peoples is enabling, but has also placed constraints on the development of the relationship.

7.5.3 Implementation of Co-Government and Rights Recognition

To analyse the positive and challenging sides of co-government (REM) implementation in Makuira National Park, I use the relationship between policies of difference and policies for equality. Boaventura de Sousa Santos⁷⁷ thesis for social emancipation proposes a “meta-right” as “the right to be equal when difference breeds inferiority, and the right to be different when claims of equality threaten our right to identity based on shared experiences and knowledge” (Santos *et al.*, 2007, p. xvii).

⁷⁷ Boaventura de Sousa Santos is a sociologist of law, human rights, and democracy, very influential in Latin American critical theory thinking, and an activist in struggles for emancipation and rethinking of the state.

When the constitution of a nation state decides that a given country is multicultural, multiethnic, and multinational, a “variable geometry of the state” should be in place. This means an obligation for the state in applying any concept or criteria differentially. The “variable geometry of the state” includes tense and dynamic equilibrium between the policies of difference, and the policies of equality (Santos, 2001; 2009). Policies of difference refer to the acknowledgment of multiple cultures, ethnicities, and nations. Policies of equality, according to Santos, refer to the acknowledgment of the need for addressing the internal colonialist relations of Latin American countries.

The implementation of REM, co-government, in protected areas acknowledges the multicultural policies of recognition of difference and policies of equality as it seeks to work equally between public authorities. On the one hand, the “Parks with People” policy recognises the diversity of social actors living in protected areas in accordance with their rights to collective territories, or whether they are public authorities. Co-government implementation involving Indigenous Peoples is carried out on a case-by-case basis following guidelines that are adapted to each particular case. This approach requires a previous analysis of the culture and political organisation in question and an understanding of the cultural specificities of each people. By acknowledging the policies of difference, the “variable geometry the state” of co-government recognises difference as an enabling possibility for the resolution of conflict and the adoption of different territorial management rationales.

On the other hand, despite REM implementation seeking equal participation, the policies of equality are poorly addressed. That is, all Indigenous Peoples are expected by *Parques Nacionales* to have a life plan (Section 5.2.1.2) ready to discuss during the negotiation of co-government agreements, as if they were “on the same page”. The unique situation of different groups of indigenous peoples due to internal colonial relations is not acknowledged, because they are considered equals. The local community authorities are not given the time and resources necessary to allow for a period of transition until the differences are less pronounced. This policy implementation is an important example, however imperfect, of dealing with conservation governance in a

way that tries to move beyond blueprint approaches or panaceas (Ostrom, 2007) to embrace diversity and equality rights.

7.6 Indigenous and Community Conserved Areas (ICCAs)

The ICCA movement and international recognition that some local and indigenous communities do govern, manage, enrich, and conserve biodiversity in collective lands (Borrini-Feyerabend *et al.*, 2004a) are important steps in legitimising the diversity of ways by which conservation can be achieved. This study, involving the overlapping jurisdictions of the Wayúu *de jure resguardo* (Makaira with its taboo habitats) and a national park, has two findings relevant to ICCAs. First, it is possible to combine indigenous rights and conservation objectives, but to do so may jeopardise self-determination rights. This contrasts with claims that ICCAs are an instrument for achieving recognition of indigenous rights *as per* UNDRIP 2007 (Stevens, 2010). Second, recognition of ICCAs may not provide enough security against current global extractivist interests for accessing resources, results diverging from affirmations that ICCAs ensures protection from external threats (Borrini-Feyerabend *et al.*, 2004a).

Some Indigenous Peoples have stated that recognition of collective territorial rights and self-determination must come first. Only then, if they so wish, in exercising their rights, they can self-declare an indigenous protected area inside their customary territory (Nahuel, 2008). The benefits and impacts of official recognition of ICCAs to rights are context-specific. In places where no recognition of rights is in place, ICCAs may act as one of the stepping stones towards strengthening these rights. For example, in Nepal, the Sherpa people are fighting against the establishment of a national park in their land by informally declaring it as an ICCA (Stevens, 2010). Similarly, nomadic peoples in Iran are in the process of mapping their routes and pasture lands (CENESTA, 2012). In contrast, Colombia has, as have many other Latin American countries, already signed the ILO Convention No. 169 on rights of Indigenous Peoples (Chapter 5) and recognised indigenous rights to territory (collective ownership), culture, autonomy, and self-determination in their Constitutions and laws. Chapter 5 showed such constitutional recognition are among the factors that forced *Parques Nacionales* to find alternative

governance models for protected areas. Nevertheless, this study shows that despite government recognition of land ownership, customary laws, and acknowledgment of local sacred sites, when it comes to co-government of the protected area, economic and self-determination rights are not being fully recognised. These experiments of collaborative governance in protected areas, rather than being completely successful, represent a pioneering step in conflict transformation and alliances for conservation in the country. It is a form of nation-to-nation protected area management that resembles the Canadian case of Gwaii Haanas marine conservation area, reserve, and heritage site from the Haida people (Parks Canada, 2011).

Mexico provides a leading example of the potential benefits that ICCAs may bring to such communities in a country that has devolved a close to full bundle of property rights and relatively high degree of political autonomy to indigenous and *mestizo* territories. In addition, recent legislation explicitly recognises ICCAs as a form of protected area that can contribute to national conservation goals (Martin *et al.*, 2010). In the State of Oaxaca, in Mexico's south, a growing number of communities are choosing to establish ICCAs on their communal lands, with a significant number also deciding to have those areas recognised by national legislation. Since these communities hold title to their communal lands, the ICCAs remain under their control. Motivations for the establishment of Oaxacan ICCAs are diverse and include acting as reservoirs for agrobiodiversity, ecological restoration, sustainable productive activities, more visibility, and for leveraging resources for the certification of forest products (Martin *et al.*, 2011). Such motivations are similar to those reported for other parts of the world, namely "access to livelihood resources, security of land and resource tenure, rehabilitation of degraded resources, participation in management, empowerment, capacity building, and cultural identity and cohesiveness" (Berkes, 2009, p. 20).

As well as the many positive aspects associated with ICCAs, there are a number of "intangible factors" (Martin *et al.*, 2010), as threats to ICCAs that are not easy to overcome. This study points to the increasing vulnerability of *resguardos* in the face of aggressive extractivist policies in Colombia. As national-level policies were modified to attract foreign investment to Colombia, collective rights to indigenous territories and

autonomy in *resguardos* appear to offer no guarantee for defense against external threats, such as mining and other large-scale development projects. Similarly, the Mexican case above mentioned also draws attention to the broader policy context in the country, which has seen legislative changes that opened the door to potential sale or expropriation of communal lands, or to converting self-governed ICCAs into co-managed ICCAs. There is also a risk of expropriation if the ICCAs attract too much tourism (Martin *et al.*, 2010).

To conclude, ICCAs are not *the* solution for achieving recognition of indigenous people's rights. ICCAs' designation provides alternative governance from state protected areas management. This constitutes a means to achieve certain objectives towards the goal of recognition of the UNDRIP and the future that indigenous communities aspire to. When Indigenous Peoples choose to establish an ICCA, as they are doing in some areas (Martin, 2011; Kotari, 2006b), it becomes a strategy of using available options to achieve their interests. This is a decision they make strategically, knowing the trade-offs involved and using policy mechanisms available to further their interests and have their rights acknowledged. ICCAs are another way by which Indigenous Peoples use global discourses around community conservation to foster their interests.

Alliances between Indigenous Peoples and conservationists at national and international levels, as seen with ICCAs, are not new and represent a double-edge sword (Ulloa, 2005). Looking back to historical alliances between Indigenous Peoples and environmental movements in Colombia, the results from uniting efforts built momentum and brought positive changes into the Constitution. However, alignment with conservation has also led to unintended outcomes, such as to perpetuation of the conceptualisation of Indigenous Peoples as "ecological natives" (Ulloa, 2005). Beyond the rights discussion, Bastidas (2008) is correct in affirming that Indigenous Peoples must remain in charge of the ICCAs, and should continue to analyse proposals to set up such protected areas, their implications, and the best way to put them into practice.

CHAPTER 8 CONCLUSIONS



Photo 8.1: View of Makuira's southeastern dry slopes. *Photo: Julia Premauer*



Photo 8.2: Wayúu woman cooling off a corn beverage. *Photo: Julia Premauer*

This chapter reviews the initial purpose and objectives of the thesis, and provides an overview of the main findings. I highlight the limitations of the study and implications for future research, followed by a discussion of its scholarly contributions, and concluding thoughts on the future of indigenous co-government in protected areas in Colombia.

8.1 Summary of Findings

The purpose of the current study was to investigate contexts, rationales and the practice of collaborative governance between the Wayúu indigenous owners and *Parques Nacionales* in Makaira National Park. In order to address this purpose, I (1) analysed Colombian policy frameworks and *Parques Nacionales* policies for conservation and participation with a focus on Indigenous Peoples owning *resguardos*; (2) identified and documented Wayúu institutions for territorial governance; and (3) investigated and analysed key aspects of the cross-cultural process for setting up formal co-government agreements to reconcile *Parques Nacionales* and Wayúu governance. The major thesis findings are summarised below. The first two research findings are consistent with the first objective and examined in Chapter 5. The next three main findings are based on the study of the second objective developed in Chapter 4. The last three findings are taken from the third objective as covered in Chapter 6.

8.1.1 Research Findings for Objective 1:

- The main tenet of the “Parks with People” policy is making *Parques Nacionales* governability in protected areas more effective through the recognition of indigenous territory, authority, and mutual collaboration. “Parks with People” policy was a turning point in the conflictive relationship between *Parques Nacionales* and indigenous peoples. It recognised the authority of Indigenous Peoples to govern their lands, their land use practices as conservation, and their knowledge. The policy also recognised the need of a government-to-government collaboration in the management of those park areas that overlap with indigenous territories. The policy’s essential enabling legal framework was the 1991 Constitution. It provides the main source of

recognition of rights of diversity and equality, and introduction of neoliberal ideas of decentralisation, devolution, and participation.

- The co-government concept shifted with time from ‘co-government’ to ‘REM’ (Spanish acronym for Special Management Regime) in the implementation of the “Parks with People” policy. Initially co-government recognised indigenous authority as both public and environmental, and indigenous territories (both *de jure* and *de facto*). The REM has a narrower take on the extent of recognition of indigenous rights. While indigenous authority over public matters is acknowledged, their environmental authority is not. Moreover, only *de jure* indigenous territories (*i.e. resguardos*) qualify for REM. With this shift in the policy, participation moved from a fully jointly constructed process-oriented approach for establishing agreements to a goal-oriented mostly *Parques Nacionales*-driven approach. This was so for two main reasons:
 - Changes in neoliberal economic policies had a negative impact on environmental policies, indigenous rights recognition and participation.
 - Higher rank laws for people-free-parks coexist with the “Parks with People” policy that recognised indigenous rights in protected areas. Thus, ambiguities in the broader legal framework for environmental conservation allow for ongoing revisions of how it gets interpreted, causing conflicts.

8.1.2 Research Findings for Objective 2:

- The Wayúu have a system of customary territorial governance that comprises institutions regarding ownership, access, use, and control of territory and its resources. Institutions give order to the relationships among humans and between humans and beings of the other/invisible world. The Wayúu mythology organises their ancestral territory in extended family territories, dealing in this way with land excludability issues. Each extended family territory grants bundles of property rights and political autonomy to the owners. Wayúu owners have institutions to monitor, exclude or allow other Wayúu to enter, use, and live in their territory. In each territory, resource subtractability is dealt with on the basis of moral norms and respectful use. The Wayúu give high priority to territorial control and monitoring of people.

- Wayúu sacred and “dangerous” places in Makuira Mountains follow spiritual institutions (directed by dreams) for proper behaviour and respectful relations with dangerous beings of the world-other/invisible. Habitat taboos on cloud forests in Makuira, although fundamentally different in nature from a biological perspective, achieve similar conservation outcomes.
- The broader contexts of social-political and economic processes occurring in La Guajira Peninsula affect Wayúu territorial autonomy, institutions and practices. Thus, a major concern for the Wayúu is to defend their territory and way of life from outsiders (*i.e.* state development projects, mining, and illegal armed groups). As much as these processes negatively affect the Wayúu autonomy, the Wayúu respond to and articulate with them through resistance, conflict, alliances, always claiming their rights. The Wayúu exercise their autonomy in relation to these processes occurring on their territory.

8.1.3 Research Findings for Objective 3:

- Co-government (REM) is approached differently by *Parques Nacionales* in Bogotá by the Makuira National Park staff and by Indigenous Peoples. While in Bogotá, REM is simply the “signature of agreements”, for the Park staff and managers co-government is an “ongoing process”, and for the Indigenous Peoples it is an “alliance”. The different meanings given to the same process indicate tensions between central and local levels of parks management, and between *Parques Nacionales* and indigenous peoples. *Parques Nacionales* at the central level in Bogotá is interested in signing the REM agreements as soon as possible because they have to fulfill REM implementation achievement indicators. The local Park staff, including the Park Manager, understands REM as a process that cannot be imposed; it takes time to build trust, work together in daily issues, take decisions and develop agreements. Indigenous Peoples in general seem to see the interaction with the park as an alliance that brings them practical benefits such as backup for protection of their land against development and mining projects.
- The Wayúu park staff insider bridging and mediating roles not only facilitate cross-cultural respect, but also help achieve more equitable relations by challenging the

existing system. The Wayúu staff represent a form of local-level power that strives to achieve equality and acknowledgment of Wayúu rights in their relationships with the Park. Their accountability to both the Park and Wayúu society put them in a position that requires caution, responsibility, and involves risk. If Makuira National Park fails to uphold their agreements, the Wayúu staff could be seen by their people as betrayers and suffer negative social consequences. At the *Parques Nacionales* main office, Wayúu staff is perceived as both necessary but not entirely trustworthy. The Wayúu staff is in a position of power that also partially modifies the requirements from Bogotá. Thus, the results of this research provide new understandings of the bridging roles discussed in the co-management literature.

- Formal process of co-government differs from its day-to-day practice. In the formal co-government (REM) pre-implementation *Parques Nacionales* themes predominate. However, at the local level in Makuira National Park what comes from Bogotá is constantly reinterpreted and contested. In the day-to-day local practice the Wayúu agency, customary social ways, and their governance in the Makuira area become a conspicuous component of the collaborative governance process.
 - At the local level, the relationship between *Parques Nacionales* and Wayúu authorities works as a strategic alliance where recognition of Wayúu rights is the starting point.
 - Common interests where Makuira National Park and the Wayúu work together are: protection of territory, water and cloud forests. The Wayúu provide local support for controlling outsiders in their territories, which are part of the Park area. The Park offers a face to the state, and many times acts as a bridge between Wayúu and national society's interests.
 - Collaboration in governance also has conflicts and challenges. Ecotourism is an issue that shows that the Park both affects – and at the same time – respects Wayúu institutions and autonomy. In addition, the collaborative governance process is at times jeopardised by the illegal actors exercising local *de facto* coercive power of territories that profoundly disrupt any ongoing and future processes.

8.2 Research Limitations and Future Research

It is important to note some of the shortcomings of this research. As previously discussed, an important limitation in this thesis is the lack of first-hand interviews with the Wayúu chiefs who were directly involved with the REM process in Makuira National Park. The requirement to do the research “from a distance” as explained in Chapter 3 resulted in the use of secondary data and my field observations. This made it possible to examine Wayúu commons institutions and property rights for territorial management system and how they deal with commons excludability and subtractability issues and their concerns. However, the conclusions are limited as there are questions regarding more subtle forms of resources management and the views of Makuira Wayúu chiefs in relation to the Park. Future research would benefit from obtaining their voice in order to obtain a more representative and direct picture of Wayúu views of collaboration in Makuira.

Another important limitation linked to the aforementioned issue is the use of observational data and informal conversations as a data gathering method for objectives 2 and 3. Participant observations are invariably influenced by the researcher’s background and biases, which can lead to a focus on certain issues and not on others. The use of more interviews would have helped to develop a nuanced understanding of Wayúu views and a stronger set of conclusions. Facility in the Wayúu language would also have been very useful.

Finally, although this case study allowed for a broadening of understanding as to the relationships between parks and Indigenous Peoples in specific contexts, these are limited by the case study. Future research may consider examining other cases with differences in similar variables at play such as: political process for conservation, broad acknowledgment of rights, and threats. Such design would point to the variability of issues at hand and begin the understanding of parks-indigenous engagements in Colombia and elsewhere in Latin America. Although it is not possible to predict outcomes in such diversity of contexts, as Brockington *et al.* (2008, p. 129) point out, case studies “have patterns that are recognizable and are attributed to certain variables that are present in some circumstances and absent in others.” In addition, more research

is needed to understand the effects of neoliberal policies on the parks-indigenous relationships and collaborative governance. Furthermore, collaboration/conflict happens on the ground in different ways than stated in the formal procedures and agreements. Thus, an ethnographic component in research is needed, rather than relying on just Parks documents and interviews.

8.3 Contributions of the Thesis

This National Park governance case study from Latin America is a real-life example of what an approach for respecting indigenous rights in the context of conservation looks like, with all its nuances and limitations. This is not an answer but a contribution to the discussion on pluralistic and rights-based conservation practices. Borrini-Feyerabend (2004) highlighted the contribution of the Alto Fragua-Indiwasi National Park Colombian case as a model of a national park established at the request of indigenous people. This thesis shows that in Colombia there are many other worthwhile experiments for the collaborative governance of protected areas. The findings show how rights are being respected through active engagement in a political process of governance with a common aim of conservation, or in broader terms, protection of a territory. The thesis contributes to the scholarly literature and international policy discussions in the following two areas: (1) protected area co-management and conservation, and (2) ICCAs and indigenous conservation ethics.

8.3.1 Protected Area Co-Management and Conservation

The main scholarly contributions of the findings broaden the range of governance experiments found in the literature linking parks, co-management and Indigenous Peoples (Brockington *et al.* 2008). The particular characteristics of co-government in Makuira enhance our understanding of a kind of joint governance that is not a typical parks co-management regime involving indigenous peoples. Table 8.1 summarises the differences between co-government and co-management regarding: indigenous rights, working within differences, and focusing on common interests and balance of diversity and equality rights. I explain each point below.

Table 8.1 Summary of co-government main contributions to co-management literature

Aspects	Co-Government	Co-Management
Indigenous rights	<i>Rights holders</i> Collective title to territory, self-determination, self-government, participation in decision-making	<i>Stakeholders</i> Resource use, participation in decision-making, benefit sharing (economic)
Focus	Broad focus Governing a territory	Narrow focus Manage a resource, an area
Addresses conflicts and effective governance by	Acknowledging Territory Indigenous management (institutions) Indigenous governing authority (autonomy) Knowledges' dialogue Participation as collaboration within difference Monitoring of territory reliance on local institutions for land governance	Participation by equal representation in number for decision-making Monitoring using both local and scientific knowledge
Balance between addressing both diversity and equity rights	Diversity (+) Equity (- +)	Diversity (-) Equality (- +)

First, co-government moves beyond Indigenous Peoples as stakeholders to regard them as rights holders. The keystone of collaboration in co-government is the recognition of indigenous people's right to territory and self-government as nations within the Colombian state. The Wayúu are regarded as legitimate owners and chiefs in their land, with a particular decentralised political organisation and a particular way of territorial organisation and management. In contrast, co-management recognises stakeholders with resource use rights (access, use and withdrawal), including the rights to decision-making in matters that affect them.

Second, co-government focuses on collaboration agreements on environmental governance of the territory where both political authorities have jurisdiction (rather than

only around specific management issues). Conventionally, conservation is a bounded technical activity focusing on a specific species, or ecosystem, or area. This case study shows that a political process for reaching agreements where governance builds upon local indigenous political and institutional structures can work with all parties moving in a common direction.

Third, co-government implementation follows a case-by-case approach. It seeks to move away from blueprint approaches; it is an example of how implementation of a policy can address both diversity and equity. It provides a baseline to build inclusive diversity and more equitable governance systems. Co-government implementation has general guidelines but is tailored to each social, cultural, and biological context. Indigenous authorities are regarded equally as public authorities.

Co-management literature on parks-indigenous peoples' engagements is mostly focused on Canada, Australia and Africa (Brockington *et al.*, 2008). This case study is an important contribution to fill a gap in the literature for Latin America, as few case studies exist that explore the nexus between indigenous peoples, extensive recognition of rights, conservation and parks. The thesis also expands on the idea of a pluralistic conservation approach (Berkes, 2009). It shows the importance of using multiple objectives (cultural continuity, rights, and biodiversity), the importance of combining both state and customary (commons) governance of the land, and the importance of respecting cross-cultural differences. Most critically, the results show that a pluralistic conservation approach must also acknowledge that agreements are political in nature, whereby not only shared objectives need to be identified and pursued, but tradeoffs for both parties become an understood part of this process.

The findings of this study highlight the importance of collaborative approaches that address historically informed national and local contexts and conflicts; it also recognises territorial and self-government rights, and supports and builds upon local institutions for territorial governance and conservation. Local institutions and traditional management practices (lessons from commons and existing habitat taboos) are important in order to design a more inclusive and broader practice of conservation.

One last contribution concerns the roles the Wayúu staff assumed for cross-cultural bridging and mediating. These roles are important for striving to make collaboration more horizontal. The findings provide more understanding of the power dynamics involved in bridging, something that has not been addressed in the literature of co-management (Folke *et al.*, 2005; Hahn *et al.*, 2006). These results suggest the need to further examine the power in those roles because they are not neutral links in the co-management arrangements. Wayúu staff mediators show that by having accountability to their people, they promote the values of their culture and seek to build a respectful and more equitable relation within the power disparity between Parks and Wayúu authorities. Wayúu staff bridging roles not only attempt to create respect in the relationship and help to disseminate Parks ideas about environmental protection, but also stand – within the limits of their possibilities – for empowerment, rights, and more equitable relationships.

8.3.2 ICCAs and Indigenous Conservation Ethics

The second contribution of the thesis is that the results enhance our understanding of indigenous ethics related to conservation, a theme directly linked to international discussions on ICCAs. Part of the argument by ICCA advocates is that by making ICCAs visible and officially recognised, two things are achieved: (1) protection against external threats, and (2) recognition of indigenous rights according to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007). The thesis provides a nuanced understanding of ICCAs as it highlights that indigenous territories do have protected features together with other territorial practices that can be regarded as “incompatible” with conservation. ICCAs are not sufficient for recognition of indigenous rights to the full extent. The thesis also shows that the nature of a number of external threats might not guarantee protection against them with the sole recognition of ICCAs (for discussion, see Section 7.2). This study demonstrates that the level of recognition of rights should ideally be at the constitutional level and not attached to conservation objectives. Aligning indigenous rights and conservation objectives always brings trade-offs in the acknowledgement of rights (Leader-Williams *et al.*, 2010).

8.4 Epilogue

There is no such thing as a typical national park in Colombia. Makuira National Park is particularly distinct because it is located entirely within an indigenous *resguardo*. The collaborative management process involving the Wayúu and Parks authorities is also situated in a specific historical and regional context in La Guajira peninsula. Thus, it represents a unique scenario among national parks in Colombia. Nevertheless, the many conclusions and lessons from this case do hold relevance to other national parks in the country, as well as being relevant to broader discussions on conservation and the engagement between protected areas and indigenous peoples. The co-government processes evident at Makuira showed relatively low conflict during my period of study. The current arrangements may be considered as a strategic alliance where both parties see such collaboration as useful for furthering their respective interests.

This dynamic relationship represents a balance between maintaining strategic interests, trade-offs, and understanding how these may change over time. The alliance and jurisdictional overlap in Makuira has proved to be effective for protecting the land against external threats from large scale development projects and mining, but powerless in protecting it against illegal armed actors. While the Wayúu receive some state presence (which would otherwise be absent) to support their rights, the Park acquires enhanced governability for conservation. Yet, both the Wayúu and the Park must deal with trade-offs as part of this collaboration: the Wayúu have their right to self-determination and economic development partially restricted, whereas the Park has to accept, for example, that raising and grazing livestock is part of the Wayúu way of life, and therefore they need to be tolerant of such practices.

The Wayúu-Park alliance raises the question about the future of co-government in Colombia: what would happen if legislation was changed to allow mining in protected areas, and *Parques Nacionales* agreed with them, or could not fight them? Ultimately, the future will depend on how neoliberal policies continue to play out in Colombia at the resulting intersection between resistance to those policies (exerted by indigenous peoples, civil society organisations, but also *Parques Nacionales*), political violence, internal conflict, and the demands of economic interests and capital.

Global neoliberalism is about restructuring the world to facilitate the spread of free-markets, private property rights, and free trade (Harvey, 2005) in which the environment is being unprecedentedly transformed and commodified (Castree, 2010). The neoliberal policies that facilitate this process manifest themselves in local contexts (Castree, 2010). Such tools of deregulation/reregulation, territorialisation, and commodification (Castree, 2008) are being used in Latin American states to make environmental resources available to global capital (Rodríguez, 2009; Houghton, 2008). These processes result in profound changes to surface and subsurface rights, role and management of protected areas, conservation projects, and indigenous rights to collective territories.

Latin America has a new form of extractivism where “transnational extractive capital investment in the region has been facilitated through new legal–political and social governance models. These include new legislation and investment treaties, and creating or revising ‘Mining Laws’, subsoil rights, tax and water codes, to facilitate mining, timber, and hydrocarbon exploitation” (Renfrew, 2011, p. 584). One of the recent threats that indigenous territories and protected areas face in Colombia is the continuous assignment of mining titles within indigenous territories and protected areas. While it may appear ironic that, in Makuira, Indigenous Peoples need the national park for protection, the fact remains that there is no other guarantee by which the government can provide them with territorial protection. However, it is also possible that if the Wayúu were in control of territory and negotiations, they might want to allow mining if there were clear economic benefits and employment.

As discussed in Chapter 5, environmental policies and collective rights to land are obstacles to extractivism, and thus, policies have been weakened and rights ignored. While in *resguardos* subsurface rights still belong to the state, national parks include the protection of the subsurface. In 2012, a total of 38 assigned mining titles inside protected areas and 400 titles in process were cancelled by the government mining agency after *Parques Nacionales* filed a complaint about the allocation of such titles and associated corruption (Semana, 2009). Colombia endorsed the United Nations Declaration on the Rights of Indigenous Peoples in 2009. It is suggested that Indigenous Peoples should not

use protected areas to secure their rights (UNDRIP, 2007). Nevertheless, unlike the national parks legislation, UNDRIP is not enforceable.

The Colombian government, as perhaps is the case for many other governments, does not want to give away the subsurface rights by assigning them to indigenous or other collective territories in perpetuity. Indigenous Peoples consistently choose to secure territorial rights before any other rights. Under current circumstances, alliances in some cases are working, but not because parks are necessarily good for indigenous peoples. Rather, at present, those are the trade-offs that may compromise certain rights in order to maintain control of traditional territories.

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APPENDICES

Appendix A: Sample Interview Guide (Park staff)

Interview guide for superintendents of Makuira National Park
(Mayorga 1996-2001 (?), Acosta 2001-2008, Orjuela 2008-2009)

About participation

- How would you define the history of relationships between *Parques Nacionales* Indigenous Peoples?
- Protected areas in Colombia always have to deal two visions of management: the local or customary and *Parques Nacionales*'. What do you think about this overlap?
- What is important to take into account when making decisions for management?
- How important it is for you that communities participate in the decision-making process for management?

Oral history of Makuira National Park

- For how long did you work as Makuira park superintendent?
- Explain me how were the first years when you arrived to Makuira?
- In your view, how different is the conservation mission of *Parques Nacionales* from the customary management of the area.
- Do you think there have been substantial changes in the state of natural resources in the protected area while you were superintendent?
- Do you think the protected area helps to promote conservation state in the area?
- Which social actors and government institutions are present or have an influence in Makuira?
- In your opinion, which have been key moments for the relationship between Parks and the wayúu?
- How have you managed conflict situations around park management rules?
- Please describe how decisions are/were made?
- How would you describe the working relationship and coordination between *Parques Nacionales* headquarters in Bogota, and the local Park level?
- Are there other governmental, non-governmental organisations with whom you work with?
- Where did the funding come from? Any special requirements from the funding bodies?
- Was there any form of community organisation?

REM (cogobierno) in Makuira National Park

- How did Parques Nacionales approach the establishment of a relationship with the Wayúu?
- How did participation look like for the negotiation of co-government agreements in the park?
- How would you describe the working relationship and coordination between Parques Nacionales headquarters in Bogota, and the local Park level during the pre-implementation of REM agreements?
- Could you please explain to me within Parques Nacionales, who is in charge of what at which management level? What decisions are taken at what level?
- What is the difference between the following concepts found in the policy document: coordination, co-management, co-administration and co-government between Parques Nacionales and Indigenous Peoples in protected areas? Which one will take place in Makuira?
- How would you define the current relationship between the Wayúu and Parques Nacionales in the joint management of the protected area? (horizontal, vertical) Is there a need for the communities to be accompanied? In what ways?
- If you could change some things that were done during the pre-implementation of co-government agreements, what would that be?

Appendix B: Makuira National Park REM agreements signed in July 2011

Con base en las anteriores consideraciones y referentes,
La Unidad Administrativa de Parques Nacionales Naturales – Parque Nacional Natural La Makuira y Las Autoridades Tradicionales de los territorios claniles - Resguardo de la Alta y Media Guajira - trasladados con el área protegida

ACUERDAN

ARTICULO PRIMERO. Adoptar el Régimen Especial de Manejo en el Parque Nacional Natural La Makuira y las Autoridades Tradicionales del Resguardo de la Alta y Media Guajira de los territorios claniles trasladados con el área protegida, con el fin de reglamentar el ordenamiento territorial, uso, manejo, acceso a las zonas y aprovechamiento de los recursos naturales existentes y promover acciones que garanticen la conservación del área protegida, la biodiversidad, el territorio ancestral y la cultura Wayuu.

ARTICULO SEGUNDO. Las Autoridades Tradicionales de los diferentes territorios claniles, las comunidades indígenas, líderes comunitarios y la Unidad Administrativa Especial del Sistema de Parques Nacionales Naturales, aceptan cumplir y respetar la zonificación para el manejo y la reglamentación asociada a cada zona, para garantizar la conservación del área protegida y el territorio del pueblo Wayuu.

ARTICULO TERCERO. Adoptar la siguiente zonificación y reglamentos específicos para cada zona, que corresponden a los mapas que figuran en el documento técnico:

Zona Sagrada: Zona cuyo propósito es la conservación y protección de los valores naturales y culturales excepcionales que se ubican en ella, como quiera que son de gran importancia ambiental, cultural y espiritual; además donde la intervención humana ha sido de bajo impacto por las restricciones culturales impuestas a través del sistema regulatorio Wayuu. Esta zona debe mantenerse ajena a alteraciones humanas y animales que atenten contra las condiciones naturales únicas presentes en el área y con su función simbólica dentro del sistema de creencias.

Los elementos representativos y que demarcan ésta zona son: Bosque Nublado Enano, ojos de agua y cementerios.

Los reglamentos para esta zona son:

- Se permite la realización de actividades de carácter cultural y espiritual por parte de la comunidad Wayuu, entre ellas el cumplimiento de sueños.
- Se permite a las comunidades Wayuu, cuyos territorios claniles son adyacentes al Bosque Nublado Enano la extracción sostenible de plantas medicinales y fibras para elaboración de los sombreros tradicionales (*Ischnosiphon sp.*, llamada localmente Mulu' ó woma, Maküi o el maguey).
- El parque conjuntamente con la autoridad tradicional, adelantará monitoreo y entre ambas autoridades, regularán la cantidad de plantas o fibras extraídas de acuerdo al uso masivo que se les de.
- Las actividades de monitoreo e investigación son permitidas únicamente previa autorización de la autoridad tradicional y la autoridad ambiental.
- Todas las investigaciones que se realicen deberán estar en el marco del plan de investigaciones construido conjuntamente entre ambas autoridades, de acuerdo a la reglamentación vigente.
- No se permite la realización de actividades eco-turísticas.