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Neoliberal Restructuring, Democratic Transition, and Indigenous Peoples in Chile: The Mapuche Movement in the 1990s

by

Diane Haughney

A dissertation submitted to the Graduate Faculty in Political Science in partial fulfillment of the requirements for the degree of Doctor of Philosophy,

The City University of New York

2001

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Abstract

Neoliberal Restructuring, Democratic Transition, and Indigenous Peoples in Chile: The Mapuche Movement in the 1990s

by

Diane Haughney

Advisor: Professor Kenneth Paul Erickson

Sustained economic growth and a decade of stable, elected government make Chile a frequently cited example of effective neoliberal reform and successful transition from authoritarian rule. This dissertation analyzes the political consequences of neoliberal economic restructuring for processes of democratization by focusing on the conflict between Mapuche organizations and the Concertación government, which has supported industrial and infrastructure projects on indigenous lands.

The military dictatorship (1973-1990) carried out a profound structural transformation of economy and state, sharply reducing the state's entrepreneurial, redistributive, and regulatory functions and enlarging the role of the market in the provision of social services and the distribution of goods. This neoliberal restructuring broke with a forty-year pattern of import-substitution industrialization and a strong welfare state. In the name of free market principles and national security, the military regime also imposed individual private property on indigenous communities and denied the existence of indigenous peoples in Chile. In the early

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1980s, key opposition figures had criticized the social and economic consequences of neoliberal restructuring. By 1990, when the Concertación, the Center-Left party coalition that included many of those very critics, became the first democratically elected government in seventeen years, party leaders chose to keep the main principles and policies of the neoliberal economic model, accepting it as the only viable path to development and modernization.

The new democratic government pledged to reform indigenous policy by making a clear break with the military dictatorship's denial of ethnic diversity and its effort to open indigenous lands to non-indigenous owners. The 1993 indigenous law recognized indigenous cultures, established the protection of indigenous lands, and created a state agency for indigenous development. The law did not, however, provide for a comprehensive restitution of lands usurped from indigenous communities, nor did the Chilean Congress pass a constitutional amendment that would have granted official recognition to indigenous peoples. This dissertation's detailed case studies of the controversies involving the Bíobío River hydroelectric projects and logging companies show that the Concertación government supported national and transnational corporations rather than upholding the 1993 law's protection of indigenous lands and cultures. The Concertación government tried to channel indigenous demands into economic and social assistance programs, while remaining closed to demands for collective rights that conflicted with the interests of large corporate capital and notions of national security based upon national homogeneity.

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This dissertation shows how, in response, sectors of the Mapuche movement have raised demands, not only for the recognition and protection of their lands, but also for collective rights as indigenous peoples, challenging the liberal conception of participation, representation, and equality as political rights exercised by atomized individual citizens. These sectors assert that the collective rights of indigenous peoples should be part of the conception of a democratic society, and that democratic society should allow diverse approaches to development.

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Acknowledgements

I would like to acknowledge, and express my gratitude, for the financial support provided by the Fulbright Commission for my initial year of research in Chile. In addition, I deeply appreciate the encouragement and support throughout the eight years I spent in Chile given me by my advisor, Professor Kenneth Paul Erickson, and reader, Professor I. Leonard Markovitz. Many individuals in Chile, too numerous to list here, also aided me in gaining an appreciation and understanding of their country. Finally, and not least, I am grateful for the support of my family.

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ACRONYMS

CODEFF: National Committee for the Defense of Fauna and Flora, a nongovernmental not for profit organization (Comité Nacional de Defensa de la Fauna y Flora)

CONADI: National Corporation for Indigenous Development, state agency established under the 1993 law (Corporación Nacional de Desarrollo Indígena)

CONAF: National Forestry Corporation, a state agency, the equivalent of the U.S. Forest Service (Corporación Nacional Forestal)

CONAMA: National Environmental Commission (Comisión Nacional del Medio Ambiente)

CORE: Regional Council, part of the regional government; members are indirectly elected by the municipal councils (Consejo Regional)

COREMA: Regional Environmental Commission (Comisión Regional del Medio Ambiente)

CORMA: Corporation of Wood, i.e., Logging industrialists' association (Corporación de la Madera)

IDI: Institute of Indigenous Development established under the 1972 indigenous law (Instituto de Desarrollo Indígena)

INDAP: Institute for Agricultural and Livestock Development (Instituto de Desarrollo Agropecuario)

ENDESA: National Energy Corporation, privatized towards the end of the Pinochet regime, now under majority control of the Spanish energy company of the same name, also recently privatized (Empresa Nacional de Energía)

PDC: Christian Democratic Party (Partido Demócrata Cristiano)

PPD: Party for Democracy, created at the time of the transition, a non-marxist leftist party (Partido Por la Democracia)

PS: Socialist Party (Partido Socialista)

PR: Radical party (Partido Radical) now includes the small social democratic party, and is known as the Partido Radical SocioDemocrático, PRSD

RN: National Renovation, right wing party (Renovación Nacional)

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UDI: Independent Democratic Union, right-wing party most closely aligned with the Pinochet regime (Union Democrática Independiente)

PC: Communist Party (Partido Comunista)

PH: Partido Humanista (Humanist Party)

PTI: Party of Land and Identity, short-lived party created in1989; meant to represent all indigenous peoples in Chile (Partido de la Tierra y la Identidad)

MIR: Left Revolutionary Movement. In the time of Allende, the MIR was to the left of his Popular Unity government and an advocate of forcing revolutionary change. Since the transition, has renounced violence as a political strategy (Movimiento de Izquierda Revolucionario).

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Chapter 1. Introduction

Sustained economic growth and a decade of stable, elected government make Chile a frequently cited example of effective neoliberal reform and successful transition from authoritarian rule.[1] This dissertation analyzes the political consequences of neoliberal economic restructuring for regime transition by focusing on the conflict between the neoliberal conception of development and democracy and indigenous peoples' demands.

The military dictatorship (1973-1990) carried out a profound structural transformation of economy and state, sharply reducing the state's entrepreneurial, redistributive, and regulatory functions and enlarging the role of the market in the provision of social services and the distribution of goods. This neoliberal restructuring broke with a forty-year pattern of import substitution industrialization and a strong welfare state.[2] In the early 1980s, key opposition figures had criticized the social and

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[1] Guillermo O'Donnell praised the relative strength of the representative institutions in Chile in "Delegative Democracy" Journal of Democracy 5 (January 1994): 55-69. Gerardo Munck praised Chile's comparatively rapid pace toward democratic consolidation in "Democratic Stability and Its Limits: An Analysis of Chile's December 1993 Elections," Journal of Interamerican and World Affairs 36 (Summer 1994): 1-38. Arturo Valenzuela, in a speech given at a seminar on Chile at Columbia University in 1991, stated that the transition in Chile was privileged because of its dynamic economy and the political learning experienced by elites (author's notes); Juan J. Linz and Alfred Stepan, Problems of Democratic Transition and Consolidation. Southern Europe, South America and Post-Communist Europe (Baltimore, Md.: The Johns Hopkins University Press,1996) quote a report by the Solomon Brothers investment firm, "Chile: An Investment-Grade Credit," (May 1991): 1, giving reasons for considering Chile a good credit risk: strong consensus on economic policy goals, political stability, prudent macroeconmic arrangements, reduced vulnerability to economic shocks. p. 212-213, note 21.

[2] In 1924, the Chilean state establised the first social welfare provisions. By 1955, state social security programs covered sixty-five percent of the working population and their families, and by 1973, state spending on social programs amounted to twenty percent of the gross domestic product. See José Pablo Arellano, Políticas Sociales y Desarrollo en Chile, 1924-1984 (Santiago: CIEPLAN, 1985).

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economic consequences of neoliberal restructuring. By 1990, when the Concertación, the Center-Left party coalition that included many of those very critics, became the first democratically elected government in seventeen years, party leaders chose to keep the main principles and policies of the neoliberal economic model.[3] Concertación party elites turned "from critics to celebrants" of the neoliberal model, defending the reduction in the state's role in the economy and society as key aspects of late twentieth-century modernization, and advocating a gradual approach to political reforms.[4]

Recent studies of Chile have critiqued the measure of economic success and the scope of democracy in Chile.[5] They have documented that economic resources became

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[3] The *Concertación por el No* was a 14 party coalition of centrist and moderate leftist parties opposed to the military dictatorship, that was formed to mount a campaign to vote "no" in the October 1988 plebiscite that would have given General Augusto Pinochet another eight years as President. The victory of the "no" opened the way for presidential and parliamentary elections in December 1989. The coalition, which became the Concertación por la Democracia, won the presidential election, and in March 1990, Patricio Aylwin, leader of the Christian Democratic party, took office as the first democratically elected president since 1973. See Paul W. Drake and Ivan Jaksic, The Struggle for Democracy in Chile, 1982-1990 (Lincoln, N.B.: University of Nebraska Press, 1991).

[4] For past criticisms of neoliberal policies by members of the first Concertación government who switched, in the words of Petras and Leiva (1994), "from critics to celebrants," see Alejandro Foxley, Latin American Experiments in Neoconservative Economics (Berkeley: University of California Press, 1983) and José Pablo Arellano, Políticas Sociales y Desarrollo (Santiago: CIEPLAN, 1985). Oscar Muñoz, ed., Transición a la Democracia: Marco Político y Económico (Santiago: CIEPLAN,1990) and Joseph S. Tulchin and Augusto Varas, eds. From Dictatorship to Democracy: Rebuilding Political Consensus in Chile (Boulder, Co.: Woodrow Wilson Center and Lynne Reinner Publishers, 1991) also contains speeches by members of the first Concertación government, including Foxley, in which they defend the neoliberal model and gradualism in political reforms.

[5] See Carlos Ruiz, Concepciones de la Democracia en la Transición Chilena (Santiago: PAS,1991); Alvaro Diaz, El Capitalismo Chileno en los 90. Crecimiento Económico y Desigualdad Social (Santiago: PAS, 1991); James Petras and Fernando Ignacio Leiva with Henry Veltmeyer, Democracy and Poverty in Chile. The Limits to Electoral Politics (Boulder, Co.: Westview, 1994); Juan J. Linz and Alfred Stepan, Problems of Democratic Transition and Consolidation. Southern Europe, South America and Post-Communist Europe (Baltimore, Md.: The Johns Hopkins University Press,1996); Tomás Moulián, Chile Actual: Anatomía de un Mito (Santiago: LOM Ediciones, 1997); Kenneth Roberts, Deepening Democracy? The Modern Left and Social Movements in Chile and Peru (Stanford: Stanford University Press, 1998): 147-149. Roberts gives data on real wages between 1972 and 1995, using 1970 as the index of 100, which show that real wages did not reach the level of 1970 wages until 1992. He also states that a 1996 World Bank report characterized the income distribution in Chile as one of the worst in the world, ranking 59th out of 65 countries. Chile's Gini index of income inequality ranked better only than Panama, Kenya, Zimbabwe,

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more concentrated as a result of neoliberal restructuring than they had been in the 1960s, and have remained so through the two administrations of the Center-Left Concertación (1990-1994; 1994-2000).[6] Government socio-economic surveys confirm that income inequality remained high in the 1990s, despite gains in reducing levels of poverty, from 45 percent of the population in 1987 to 23 percent in 1996.[7] A 1997 government report stated that, "at the end of 1996, the distribution of income remained highly concentrated. While the richest twenty percent of Chilean households captured 57.1 percent of the autonomous income [salaries, wages, pensions, rents, profits, interests, and the like], the poorest twenty percent perceived only 3.9 percent."[8] Authoritarian prerogatives continue to curtail popular sovereignty and the accountability of elected officials, and the military is an institutionalized political actor.

The Mapuche People in Chilean History and Politics

An issue often overlooked in studies of Chilean politics is the question of indigenous demands, as scholars generally characterize Chile as a nearly homogenous

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Guatemala, South Africa, and Brazil.

[6] In addition to the above studies, resource concentration as a result of the neoliberal restructuring has been documented by the following authors: Fernando Dahse, El Mapa de la Extrema Riqueza (Santiago: Editorial Aconcagua, 1979); Patricio Rozas and Gustavo Marín, 1988: El 'Mapa de la Extrema Riqueza' 10 Años Después (Santiago: Cesoc-Pries-Cono Sur, 1989); Hugo Fazio, Mapa Actual de la Extrema Riqueza en Chile (Santiago: LOM Ediciones, 1997).

[7] Gacitúa, Estanislau and Gonzalo de la Maza, La Pobreza en Chile. Informe del Consejo Nacional para la Superación de la Pobreza (Santiago: Ministerio de Planificación y Cooperación, 1996), 55; Ministerio de Planificación y Cooperación, División Social, "Pobreza y Distribución del Ingreso en Chile, 1996. Resultados de la Encuesta de Caraterización Socioeconómica Nacional" (Santiago: Mideplan, 1997). See also the article by the economist Jacobo Schatan W., "Factores Ocultos de la inequidad" published in La Epoca (6 October 1994): 10.

[8] Ministerio de Planificación y Cooperación (1997), 8-9.

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nation-state.[9] There are several indigenous peoples in Chile, however, and the most numerous of them, the Mapuche, constitute approximately ten percent of the country's population.[10] They are the only indigenous people of Chile who were granted "reservations" (*reducciones*) by the state after being defeated militarily in 1883, and the only indigenous people in Chile who created a political movement. Today, most Mapuche live in urban areas—indeed, now many were born and have grown up in cities, and may not know more than a few phrases of the Mapuche language—but most also often have some contact with relatives who live in rural areas.

The historic territory of the Mapuche centered from the present day Eighth Region of the Bíobío to the Gulf of Reloncavi in the Tenth Region, and at its height extended over the Andes to the Pampas region of Argentina.[11] Unlike most other indigenous peoples in Latin America, the Mapuche managed to expel the Spanish forces

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[9] Linz and Stepan (1996): 25, note 23, cite Chile, as well as Poland, Portugal, Greece, Uruguay as the only states in their study which "began their transitions from authoritarian rule anywhere near to the position of ideal-typical 'nation-state' homogeneity."

[10] The 1992 census recorded 928,060 persons of those age 14 or older who recognized themselves as Mapuche in a total population aged 14 or older of 9,660,367; the census also recorded 48,477 Aymara and 21,848 Rapa Nui; no other indigenous identification was asked, although the 1993 indigenous law also recognized the existence of Quechua, Atacameño, Colla, Kawashkar and Yámana. The Aymara and the Quechua had their historic territory in the north of Chile, including areas of present day Bolivia and Peru. South of the Aymara, is the historic territory of the Atacameño and the Colla peoples; Easter Island, in the Pacific Ocean is the home of the Rapa Nui; and the southern end of South America, including the Straits of Magellan and Tierra del Fuego are the home territory of the Kawashkar (also called Alacalufe) and the Yámana (or Yagán). Instituto Nacional de Estadísticas, Resultados Oficiales: Censo de Población 1992 (Santiago: INE, 1993).

[11] See José Bengoa, Historia del Pueblo Mapuche (Santiago: Ediciones Sur, 1985). The Mapuche historic territory was located in the current Eighth, Ninth, and Tenth Regions of Chile. The Eighth Region is approximately 400 kilometers south of Santiago. The Ninth Region is directly south of the Eighth, approximately 500 kilometers south of Santiago, and the Tenth Region is located approximately 800 kilometers south of Santiago. The Gulf of Reloncavi, part of the Tenth Region, is located approximately 1,000 kilometers south of Santiago. Chile is administratively divided into thirteen regions, numbered along a north – south axis, with the First Region bordering Peru and Bolivia and the Twelfth at the southern tip of Chile. The Metropolitan Region of Santiago is the thirteenth. See maps on pages 23-25.

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from the heart of their historic territory in south central Chile. In 1641 the Spanish crown formally recognized the political and territorial autonomy of the Mapuche between the Bíobío and Toltén Rivers. Spanish rulers periodically reaffirmed the political and territorial autonomy of the Mapuche during the colonial period in meetings between crown representatives and Mapuche leaders. In 1883, the army of the Republic of Chile defeated the Mapuche, and the Chilean state gradually assigned most of the Mapuche to small "*reducciones*" held in common title, legally protected from sale unless authorized by a judge, and auctioned the rest of their territory to settlers and colonization companies. All legislation governing indigenous lands, from that time until the 1972 law, passed during the government of Salvador Allende, aimed to subdivide the *reducciones* into individual plots, under the assumption that individual private property would stimulate productive use of the land and promote the cultural assimilation of the Mapuche.

The Mapuche countered efforts to assimilate them, however, by a political movement that began in 1910, less than thirty years after their military defeat and the annexation of their territory. Throughout the twentieth century, Mapuche organizations, linked to different Chilean political parties, defended the legally protected status of Mapuche lands and sought economic assistance for Mapuche peasants.[12] During the late

[12] For studies of the Mapuche political movment, see Rolf Foerster and Sonia Montecino, Organizaciones, Líderes y Contiendas Mapuches: 1910-1970 (Santiago: CEM and Centro Ecuménico Diego de Medellín, 1988); José Marimán, Movimiento Mapuche: Transición Democrática en Chile (1989-1993): nuevo ciclo reivindicativo mapuche,? (Temuco, Chile: Universidad de la Frontera, 1993); Pablo Marimán, Demanda por Educación en el Movimiento Mapuche en Chile: 1910-1990. Una Aproximación a la Historia Oral (Temuco, Chile: Universidad de la Frontera,1993); Wilson Cantoni, "Relaciones del mapuche con la sociedad nacional chilena" in UNESCO, Raza y Clase en la Sociedad Nacional Postcolonial (Paris: UNESCO, 1978), 227-332; José Bengoa, Historia de un Conflicto: El Estado y los Mapuches en el Siglo XX (Santiago, Editorial Planeta, 1999); Almino Affonso et al., Movimiento Campesino Chileno, 2 vols. (Santiago, ICIRA, 1970).

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1960s, Mapuche organizations formulated a proposal for a new indigenous law, one that would address the issues of land and economic assistance rather than aim to facilitate the subdivision of Mapuche communities. Between 1969 and 1972, in a context of political mobilization throughout the country, many Mapuche communities took over estates, recovering lands usurped from the *reducciones* that they had claimed for decades. The Chilean Congress finally passed a new indigenous law in 1972, which reflected many of the demands of Mapuche organizations, but the military coup of 1973 prevented its implementation.

The military dictatorship returned to their former owners the estates that had been expropriated by the state Agrarian Reform Corporation (CORA) or taken over by Mapuche communities, and carried out a violent repression of anyone linked to leftist organizations. In addition, neoliberal economic policies promoted the expansion of capitalist enterprises on lands historically claimed by Mapuche communities, and instituted legal changes in the exploitation of natural resources that facilitated the transfer of use rights of water and subsoil minerals on those lands to large national and transnational corporations. In 1978, as part of a series of neoliberal reforms, the military regime decreed that indigenous communities could be subdivided into individual plots at the request of a single occupant of an indigenous reservation (*reducción*). As will be shown in Chapter Five, the military regime was explicit in declaring that individually held private property was the key to productive use of the land, and, moreover, that there were no indigenous peoples in Chile, and thus no legal exceptions should be made to

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liberal property laws on the basis of ethnic status. The military regime equated national security with a nationally homogenous society and a capitalist free market economy.

Although the individual properties were still legally protected from sale for another twenty years, the subdivision facilitated the transfer of individual indigenous properties to non-indigenous owners, through a legal loophole allowing ninety-nine year leases. Mapuche property owners in areas of tourist interest, such as lakes, suffered particularly. In addition, subdivision and the subsequent individual property titles constituted a legal recognition of the status quo of titles that brushed aside long-held land claims of indigenous communities. Non-indigenous occupants of indigenous lands could assert legal ownership, while indigenous communities, legally eliminated, could only press claims in courts as separate, individual property owners.

In response, Mapuche activists organized a protest movement, well before the mass protests against the dictatorship between 1983 and 1986, but they failed to reverse the law subdividing the Mapuche communities. The movement succeeded, however, in placing the issue of the protection of indigenous lands and of indigenous rights on the agenda of the Center-Left party coalition, the Concertación, which, in 1990, finally became the first democratically elected government since 1973. Leaders of the Concertación agreed to work for the passage of a new indigenous law that would incorporate movement demands, while the organizations agreed to press their demands through institutional channels. In October 1993, the new indigenous law was promulgated.

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Within the neoliberal institutional framework maintained by the new democratic regime, the 1993 indigenous law seemed to represent a key exception, and a clear break from the military dictatorship's denial of ethnic diversity and its effort to eliminate the legal protection of indigenous lands from sale to non-indigenous persons. The 1993 indigenous law recognized cultural diversity within the Chilean nation, along with a state and societal duty to "protect, promote and develop" indigenous people in Chile.[13] Recalling some of the features of the 1972 indigenous law, the 1993 law provided for the protection of indigenous lands from sale to non-indigenous, created a state agency for the development of indigenous peoples, and set up funds for the subsidized purchase of additional indigenous lands and for social and economic programs. The 1993 law, however, unlike the 1972 law, did not seek to restore lands usurped from the *reducciones* in a comprehensive manner, but only by a case-by-case review of title disputes. Nor did the Concertación achieve a proposed amendment for the recognition of indigenous peoples, one of the principal demands of the indigenous movement.

In economic development policy, moreover, the Concertación government attempted to satisfy indigenous demands within a neoliberal conception of modernization, in which it defended the interests of large transnational corporations against the indigenous peoples rather than implement the protective provisions written into its indigenous policy reform. As will be shown in the case studies on the Bíobío hydroelectric projects and the logging sector, this indigenous policy reform foundered upon the Concertación's adherence to neoliberal policies. The Concertación government,

[13] Ley 19.253 Para la Protección, Fomento y Desarrollo de los Indígenas (Law...for the Protection, Promotion and Development of the Indigenous [persons]), Article 1.

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by prioritizing neoliberal growth, followed patterns of political and economic centralization that denied the collective rights of indigenous peoples in spite of provisions of the government's new (1993) indigenous law.

Spokespersons for large corporations and the political right criticized the 1993 law's protection of indigenous lands from free market forces as detrimental both to national development and to the material welfare of indigenous peoples. Sectors of the Mapuche movement, in turn, have raised broad political demands, challenging the property claims and profits of those large corporations and the ideology of a unitary, homogenous nation-state. Their demands for collective rights and some degree of territorial political autonomy do not find support among the principal Center and Left party elites, but in the context of the Concertación government's disregard of the provisions of the 1993 law, support for such demands among the Mapuche has been growing.

Analytical Paradigms of Regime Transition, Processes of Democratization, and Indigenous Movements

The conflict between the Center-Left Concertación government and a part of the Mapuche movement highlights a lacuna in the dominant paradigm of processes of democratization and in theories of development with respect to demands of indigenous peoples for collective rights. Much early social science literature considered indigenous cultures and peoples as anachronistic, and destined to disappear as they assimilated into

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industrialized ones.[14] Similarly, early modernization theories presumed that "First World" countries were appropriate models of development for "less-developed" countries.[15] Scholars and politicians often assumed that the "national question" for most Latin American countries had been largely settled by the beginning of the twentieth century.[16] Yet indigenous movements in Latin America have challenged states, protesting against the encroachment of large industrial and resource-extraction projects on indigenous lands and, more recently, demanding territorial political autonomy, control over natural resources within lands traditionally occupied by them, as well as collective

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[14] See Robin M. Wright, "Anthropological Presuppositions of Indigenous Advocacy," Annual Review of Anthropology 17 (1988): 365-390, for a history of the change in anthropologists' perspectives toward indigenous peoples.

[15] W.W. Rostow, The Stages of Economic Growth: A Non-Communist Manifesto (New York: Cambridge University Press, 1960); Gabriel Almond A. and James S. Coleman (eds.), The Politics of the Developing Areas (Princeton, N.J.: Princeton University Press, 1960); John J. Johnson, Political Change in Latin America: The Emergence of the Middle Sectors (Stanford, Ca.: Stanford University Press, 1958); Daniel Lerner, The Passing of Traditional Society (Glencoe, Il.: The Free Press, 1958). For a critique from the perspective of the question of indigenous peoples in Latin America, see Rodolfo Stavenhagen, "Entodesenvolvimento: Uma Dimensão Ignorada no Pensamento Desevolvimentista," Anuário Antropológico 84 (1985): 11-44, and, by the same author, The Ethnic Question: Conflicts, Development and Human Rights (Tokyo, Japan: United Nations University Press, 1990).

[16] Indigenous movments in Mexico, however, have long been recognized by scholars and have preocupied political and economic elites. The recent Zapatista movement in Chiapas, and other indigenous movements in Juchitán tap long traditions of resistance. See John Womack, Zapata and the Mexican Revolution (New York: Alfred A. Knopf, 1969) ; Joe Foweraker and Ann L. Craig, Popular Movements and Political Change in Mexico (Boulder, Co.: Lynne Reinner Publishers, 1990); June Nash, "The Reassertion of Indigenous Identity: The Mayan Responses to State Intervention in Chiapas," Latin American Research Review 30, no. 3 (1995): 7-42; Stefano Varese, "The Ethnopolitics of Indian Resistance in Latin America," Latin American Perspectives 23, Issue 89, no. 2 (Spring 1996): 58-71; Jeffrey Rubin, "Ambiguity and Contradiction in a Radical Popular Movement" in Culture of Politics, Politics of Culture: Revisioning Latin American Social Movements, eds. Sonia E. Alvarez, Evelina Dagnino and Arturo Escobar (Boulder, Co.: Westview Press, a Division of Harper Collins, Inc., 1998), 141-164; Luis Hernández Navarro, "Reaffirming Ethnic Identity and Reconstituting Politics in Oaxaca," in Subnational Politcs and Democratization in Mexico, eds. Wayne E. Cornelius, Todd A. Eisendstadt, and Jane Hindley (La Jolla, Ca.: Center for U.S. – Mexican Studies, University of California, San Diego, 1999), 153-173; Joel S. Migdal, "Capitalist Penetration in the Nineteenth Century: Creating Conditions for New Patterns of Social Control," in Power and Protest in the Countryside: Rural Unrest in Asia, Europe, and Latin America, eds. Robert P. Weller and Scott F. Guggenheim (Durham, N.C.: Duke University Press, 1989), 57-74. For global perspectives on indigenous demands in recent decades, see Alison Brysk, From Tribal Village to Global Village: Indian Rights and International Relations in Latin America (Stanford: Stanford University Press, 2000) and Maivan Clech Lam, At the Edge of the State: Indigenous Peoples and Self-Determination (Ardsley, N.Y.: Transnational Publishers, 2000).

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rights concerning language and education.[17] International networks of non-governmental organizations and indigenous political organizations have pressured for international recognition of indigenous peoples' collective rights and have coordinated campaigns in support of indigenous peoples.[18]

Studies of transitions from authoritarian rule have focused on political dynamics and elite pacts as crucial factors in beginning regime transitions.[19] These studies

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[17] See José Contreras,ed., Identidad Etnica y Movimientos Indios (Madrid: Editorial Revolución, 1988) for an anthology of commentaries, analyses, and documents of indigenous movments in Latin America. Other sources include Edgardo Boege, Los Mazatecos ante la Nación. Contradicciones de la Identidad Etnica en el México Actual (Mexico: Siglo XXI Editores, 1988); Rodolfo Stavenhagen, Derecho Indígena y Derechos Humanos en América Latina (Mexico: Instituto Interamericanco de Derechos Humanos and El Colegio de Mexico, 1988);Eduardo Castillo and Jorge Sanderson, Pueblos Indígenas: Normas Constitucionales y Derecho Internacional, Dto. de Trabajo no. 2, (Santiago: Comsión Chilena de Derechos Humanos, July 1990); Charles R. Hale, Resistance and Contradiction. Miskitu Indians and the Nicaraguan State 1894- 1987 (Stanford: Stanford University Press, 1994); Arturo Escobar and Sonia Alvarez, eds., The Making of Social Movements in Latin America: Identity, Strategy and Democracy (Boulder, Co.: Westview Press, 1992); Sonia Alvarez, Evelina Dagnino, and Arturo Escobar,eds., Culture of Politics, Politics of Culture: Revisioning Latin American Social Movements (Boulder, Co.: Westview, 1998); Deborah Yasher, "Contesting Citizenship. Indigenous Movements and Democracy in Latin America," Comparative Politics, 31, no. 1 (October 1998): 23-42.

[18] See Marc Edelman, "Transnational Peasant Politics in Central America," Latin American Research Review 33, no. 3 (1998): 49-86; Jonathan Fox and L. David Brown, The Struggle for Accountablility: The World Bank, NGOs, and Grassroots Movements (Cambridge, Mass.: MIT Press, 1998); Lam 2000; Brysk 2000. For reference to Fray Bartolomé de las Casas' defense of Latin American indigenous peoples in the early colonial period, see Rodolfo Stavenhagen, Derecho Indígena y Derechos Humanos en América Latina (México, D.F.: Instituto Interamericano de Derechos Humanos and El Colegio de México, 1988).

[19] See John Peeler, Latin American Democracies: Columbia, Costa Rica, and Venezuela (Chapel Hill, N.C.: University of North Carolina Press, 1985); Guillermo O'Donnell et al., Transitions from Authoritarian Rule, 4 vols. (Baltimore, Md.: The Johns Hopkins University Press, 1986); Terry Lynn Karl, "Petroleum and Political Pacts: The transition to democracy in Venezuela" in Transitions from Authoritarian Rule: Latin America, eds. O'Donnell et al. (Baltimore, Md.: The Johns Hopkins University Press, 1986); idem, "Dilemmas of Democratization in Latin America" Comparative Politics 23, no. 1 (October 1990): 1-21; Frances Hagopian, "Democracy by Undemocratic Means ? Elites, Political Pacts and Regime Transition in Brazil," Comparative Political Studies 23, no. 2 (July 1990): 147-170; Terry Lynn Karl and Philippe C. Schmitter, "Modes of Transition in Latin America, Southern and Eastern Europe" International Social Science Journal, 128 (May 1991): 269-284; Adam Przeworski, "Some problems in the Study of the Transition to Democracy" in Transitions....: Comparative Perspectives, eds. O'Donnell, et al. (Baltimore, Md.: The Johns Hopkins Univesity Press, 1986), 46-63; Linz and Stepan, eds., The Breakdown of Democratic Regimes (Baltimore Md.: The Johns Hopkins University Press, 1978); and Arturo Valenzuela, The Breakdown of Democratic Regimes: Chile (Baltimore, Md.: The Johns Hopkins University Press, 1978).

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distinguish between procedural definitions of democracy and substantive ones concerned with social and economic relations. Their authors stress the role of political parties and especially elites in engineering compromises that led authoritarian regimes to accept a return to civilian rule. Many of these compromises involved guarantees to the economic and political elites regarding property rights and amnesty for human rights violators. The theoretical emphasis on elite choice, leadership, and contingent circumstances represented a departure from earlier explanations of the collapse of democratic rule that stressed socioeconomic constraints.[20]

Key political figures of the Concertación chose to be guided by the formal, procedural conceptions of democracy. They advocated consensus among elites, limiting the scope of democracy to a set of institutional mechanisms of conflict regulation, and by accepting *de jure* limits on popular sovereignty in order to consolidate the transition from military rule.[21] Those limits were set by the outgoing authoritarian regime. These elites believed that the political institutions established by the military regime under the 1980 constitution were a prerequisite for both a successful transition to democratic rule and for further political and social reforms.[22]

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[20] Guillermo O'Donnell, Modernization and Bureaucratic Authoritarianism (Berkeley,Ca.: University of California Press, 1973); idem, "Tensions in the Bureaucratic-Authoritarian State and the Question of Democracy," in The New Authoritarianism in Latin America, ed. David Collier (Princeton, NJ.: Princeton University Press, 1979), 285-319.

[21] Ruiz 1991; Petras and Leiva 1994; Linz and Stepan 1996; Moulián 1997; Roberts 1998; Muñoz 1990; and Joseph S. Tulchin and Augusto Varas, eds., From Dictatorship to Democracy. Rebuilding Political Consensus in Chile (Boulder, Co.: Woodrow Wilson Center and Lynne Reiner Publishers, 1991).

[22] The evolution in the Chilean opposition parties is analyzed by Petras and Leiva 1994; Ruiz 1991; Moulián 1997; and Roberts 1998.

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More recently, some scholars have criticized definitions of democracy that emphasize formal, procedural mechanisms and that equate democratic consolidation with the attainment of liberal representative institutions, while relegating issues of social and economic justice and equality to mere policy outcomes.[23] These scholars argue that compromises on social and economic questions with outgoing authoritarian elites, as a means of generating a transition to a democratic regime, may "freeze" the political agenda and stifle further attempts at reform.[24]

The Concertación's commitment to gradualism on political and economic reforms reflects political pragmatism in the face of a very cohesive military regime and an ideological conversion to neoliberalism.[25] Political elites' analyses of the causes of the military coup, as well as of the fall of the socialist regimes in Eastern Europe and the USSR, led to an acceptance of neoliberalism as the only path to development and modernization. This commitment to neoliberalism, however, eclipsed basic democratic questions of equality and accountability, and had impeded the political elites from grasping new conceptions of liberty, participation, and equality that the indigenous movement raised.

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[23] Petras and Leiva 1994; Roberts 1998; Moulián 1997.

[24] Terry Lynn Karl, "Dilemmas of Democratization in Latin America," Comparative Politics 23, no. 1 (October 1990): 1-21; J.S. Valenzuela, "Democratic Consolidation in Post-Transitional Settings: Notions, Processes, and Facilitating Conditions," Working Paper no. 150, (Kellogg Institute, University of Notre Dame, December 1990); Petras and Leiva 1994; Roberts 1998. Both Karl and J.S. Valenzuela use a procedural definition of democracy but emphasize that the very pacts which facilitate transitions may pose obstacles to the consolidation of democratic regimes. "Reserve domains" (in the words of J.S. Valenzuela) give authoritarians *de jure* political power that limits popular sovereignty and may block further processes of democratization. Similarly, Linz and Stepan (1996) characterize Chile as an "incomplete transition/near consolidation" because the *de jure* military prerogatives restrict popular sovereignty.

[25] Ruiz 1991; Baño and Canales 1992; Petras and Leiva 1994; Moulián 1997; Roberts 1998.

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Key ideals of political liberalism, such as liberty, equality, and the right of political participation are contravened by the policies of economic liberalism, which serve to reinforce historically created systems of inequality and domination.[26] The liberal conceptions of representation, participation, and equality are based upon a notion of society consisting of individual citizens equal under the law. Collective rights demanded by indigenous peoples challenge the notion of equality as a political right exercised by atomized individual citizens. Just as liberal philosophy conceptually separates the realm of economics from that of politics, reducing the role of the state and expanding the scope of the market, so, too, do neoliberal policies separate and disaggregate culture from politics, viewing culture as tangible, discrete traits (e.g., language; religious beliefs and practices; ceremonies, typical dress or artistic expressions), not as a question of collective rights.

The generalized acceptance of neoliberal premises and discourse has a profound impact on the agenda—and therefore on the findings—of social science research on this matter, for it removes important topics from the realm of legitimate subjects for investigation and research.[27] For example, when language, religion, and traditional ceremonies are considered "customs," rather than rights, and in no way linked to territory or material resources that are considered part of the nation-state, the loss of these cultural

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[26] See John Peeler's discussion of how the protection of the vital interests of losing elites led to the controlled expansion of suffrage in his book, Latin American Democracies: Colombia, Costa Rica, and Venezuela (Chapel Hill, N.C.: University of North Carolina, 1985).

[27] Thomas S. Kuhn, The Structure of Scientific Revolutions (Chicago: University of Chicago Press, 1970) analyzed the role of paradigms in social science.

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elements becomes the "inevitable" consequence of modernization, rather than the result of political domination.

The State, Development, and Social Reform

Historically, the Chilean state has been a centralist, unitary set of institutions, imbued with an ideology of representing an ethnically homogenous nation. The early development of political parties and popular male suffrage made the state itself the focus of struggle for social reform as the parties, expressing a broad range of political ideologies and representing the interests of most social classes and sectors, acted to articulate and channel social conflicts. Early in the twentieth century, a social and political crisis led to the creation of the democratic compromise state, which over time developed the bureaucratic apparatus of a welfare state, thus including urban middle and lower classes in some of the benefits generated by the import substitution model of capitalist growth. Conservative elites maintained sufficient leverage in Congress to prevent the extension of these reforms to rural society until the 1960s when rural society in Chile became the focus of efforts at structural reform, political mobilization, and partisan recruitment.[28] In a sense, the state became the focus of solutions--the promoter of

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[28] For an analysis of the role of the political parties and social struggle in the development of the welfare state in Chile, see Arturo Valenzuela, "Chile: Origins, Consolidation and Breakdown of a Democratic Regime," in Democracy in Developing Countries. Latin America, eds. Larry Diamond, Juan Linz, and Seymour Martin Lipset, Vol. 4 (Denver, Co.: Lynne Reiner Publishers, 1988), 159-206; Timothy Scully, Rethinking the Center. Party Politics in Nineteenth and Twentieth Century Chile (Stanford, Ca.: Stanford University Press, 1992); Arellano 1985; Rodrigo Baño and Manuel Canales, "De la dictadura a la democracia" in Chile: Evolución Macroeconómica, financiación externa y cambio político, Patricio Meller, Pilar Romaguerra, Andrea Butelaman, Rodrigo Baño and Manuel Canales (Madrid: Cedeal, 1992), 95-185; Tomás Moulián, "Desarrollo Polititico en Chile" Colección Estudios CIEPLAN no. 8 (Santiago: CIEPLAN, 1982): 105-185; idem, La Forja de Ilusiones. El Sistema de Partidos 1932-1973 (Santiago: Universidad ARCIS and FLACSO, 1993); Brian Loveman, Struggle in the Countryside. Politics and Rural

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economic growth and the guarantor of a more equitable redistribution of economic benefits and social services. No change occurred, however, in the ideology of a homogenous nation or in the centralism of the state.

The recognition of social and economic rights, such as access to health care and pensions, and the right of workers to form trade unions and strike, was not complemented by the recognition of indigenous rights. Indeed, state laws concerning indigenous peoples since the 1800s have generally aimed at the elimination of the protection of indigenous lands, the assimilation of indigenous individuals into Chilean society and the ultimate disappearance of the indigenous as distinctive peoples. Assigned reservations in southern Chile and reduced to poverty at the turn of the century, nevertheless, by 1910 the Mapuche had created a political movement to defend these lands and to win economic and technical assistance from the state. While not challenging their political and economic subordination, the Mapuche movement managed to block legislative efforts to eliminate the special status of their lands, and advanced specific, ethnic demands within state institutions and the political parties.

Economic growth stagnated in the 1950s, leading governments of the right, center, and left to attempt structural change during the 1960s and 1970s. Within this context of ideological debate and political mobilization, the Mapuche organizations pushed for a new indigenous law that would allow the state to restore usurped lands by

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Labor in Chile 1919-1973 (Bloomington, Indiana: Indiana University Press, 1976); Robert Kaufman The Politics of Land Reform in Chile. 1950-1970 (Cambridge, Ma.: Harvard University Press, 1972); Affonso et al. 1970.

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the expropriation of estates, to provide technical and financial assistance to rural indigenous peasants, and to promote the organization and education of indigenous persons. Congress passed the new indigenous law in September 1972, but it was never implemented because of the military coup in 1973. Mobilized peasants and workers who seized farms and factories throughout the country, and Mapuche communities who took over many estates, posed a more direct, *de facto* challenge to the status quo. As political and social conflict reached all parts of society, the coup brought an end to the democratic regime and began seventeen years of military dictatorship under General Augusto Pinochet.

With the aim of shielding policymakers from public accountability in a future civilian government, the Pinochet regime imposed profound changes in the state and its relations to society, establishing neoliberal institutions through a new constitution, new laws, and the application of neoliberal economic policies. The market, not the state, was seen as offering the solution to problems of development and modernization. Supply and demand in the global economy, rather than domestic policy mandates, were to determine production and consumption in Chile. This neoliberal regime of state-society relations has been maintained by the democratic regime. The market now structures the offering of and access to quality social services.[29]

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[29]See Felipe Larraín B., "The Economic Challenges of Democratic Development" in The Struggle for Democracy in Chile: 1982-1990, eds. Paul W. Drake and Ivan Jaksic (Lincoln, Neb.: University of Nebraska Press, 1991), 276-302. Larraín explains that when the health care system was privatized in 1981, eight percent of the former affiliates to the state health care program removed forty percent of the revenues from the public health system when they joined private health care progams. The lower income groups who could not make payments for private health programs received much inferior care in the underfinanced public healthcare facilities. Economic adjustment policies and debt payments in the 1980s further reduced government social spending. Although local governments administer public health facilities and public schools, the central government ministries make the overall adminstrative and budgetary decisions

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The previous welfare state (prior to 1973) had extended public decision-making to the workplace and other social arenas. Universal health care, social security, public education, safe working conditions, and the right of trade unions to strike became questions of social justice and rights, rather than of charity and privileges.[30] Under the neoliberal regime, the jurisdiction of public oversight and democratic decision-making retreated from most of these social and economic spheres.[31] Neoliberal laws concerning subsoil minerals and water, in fact, go farther, by establishing provisions so that state agencies and the courts may grant concessions for the private, commercial exploitation of resources traditionally considered to belong to the state—and the nation—as a whole. The military regime thus returned to liberal legal traditions regarding natural resources that had been set aside in favor of state-led development.[32] The benefits of such exploitation are private, not social. No provision is made under the neoliberal laws to

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concerning public health care and education.

[30] See Arrellano 1985.

[31] See discussion of the dimensions of democracy in Roberts 1998.

[32] Although the Chilean state retained titular ownership of subsoil resources in the nineteenth and early twentieth century, state economic policies encouraged national and foreign exploitation of such resources. During the 1960s, in response to growing critiques of foreign, oligopolistic control of the mining sector (in particular, copper), the Congress, under the Christian Democratic government of Eduardo Frei Montalva, passed legislation giving the state more direct control, while still providing many incentives to foreign investors. During the Socialist government of Salvador Allende, the Congress unanimously passed a law nationalizing the copper industry. In the context of rightist and centrist party opposition to most of the Allende government policy agenda concerning state ownership, the nationalization of the copper sector stands out as a case when the entire political spectrum agreed that foreign mining corporations had profited at the expense of Chile, and therefore, that the state, in the name of the nation, should assume ownership. Although the military dictatorship privatized most of the state-owned enterprises, the dictatorship decreed that ten percent of the earnings from the copper industry would automatically go to the military. See Theodore Moran, Multinational Corporations and the Politics of Dependence: Copper in Chile (Princeton: Princeton University Press, 1974); Loveman 1988; Julio Riethmüller Vaccaro and Carlos Valenzuela Montenegro, A Statement of the Laws of Chile in Matters Affecting Business, 3rd ed. (Washington, D.C.: Organization of American States, 1962); Alejandro Vergara Blanco, "Sobre los Derechos Mineros en Chile," Revista Chilena de Derecho 16 (1989): 43-66; Roberto Mayorga and Luis Montt, Foreign Investment in Chile (Boston: Martinus Nijhoff Publishers, 1995).

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ensure the redistribution or sharing of the profits from private commercial exploitation of natural resources to communities directly affected.

Indigenous demands directly challenge the prerogatives enjoyed by large capitalists under the neoliberal regime, just as they challenge the notion of a homogenous nation of equal, ethnically and culturally uniform, citizens. In the case of the conflict over the Bíobío hydroelectric projects described in chapters eight and nine, the Mapuche families who refuse to relocate do so, first, on the grounds of the provisions of the 1993 law that protect indigenous lands, and second, on the grounds of their claim to being a distinctive people, equal in dignity and status to the Chilean people and all other peoples. By virtue of belonging to a distinctive people, they make a claim to a specific territory and its resources on the grounds that their lands and the resources therein are integral elements of their culture, and theirs by their collective rights as a people. The conflict between transnational logging companies and Mapuche communities described in chapters ten and eleven is, at one level, a conflict of property titles and a question of the companies' responsibility for environmental contamination and loss of biodiversity resources. The political mobilization of the Mapuche communities, however, frames the conflict at a deeper level, as one between the state upholding a particular development policy and the Mapuche as a distinctive people with collective rights. This mobilization broadens the demands from that of one particular community seeking its usurped hectares to a people's right to territory and self-management. The Concertación, in response, seeks to limit the conflict to a dispute between specific property owners amenable to a judicial review of property titles while it represses organizations that advance broader claims.

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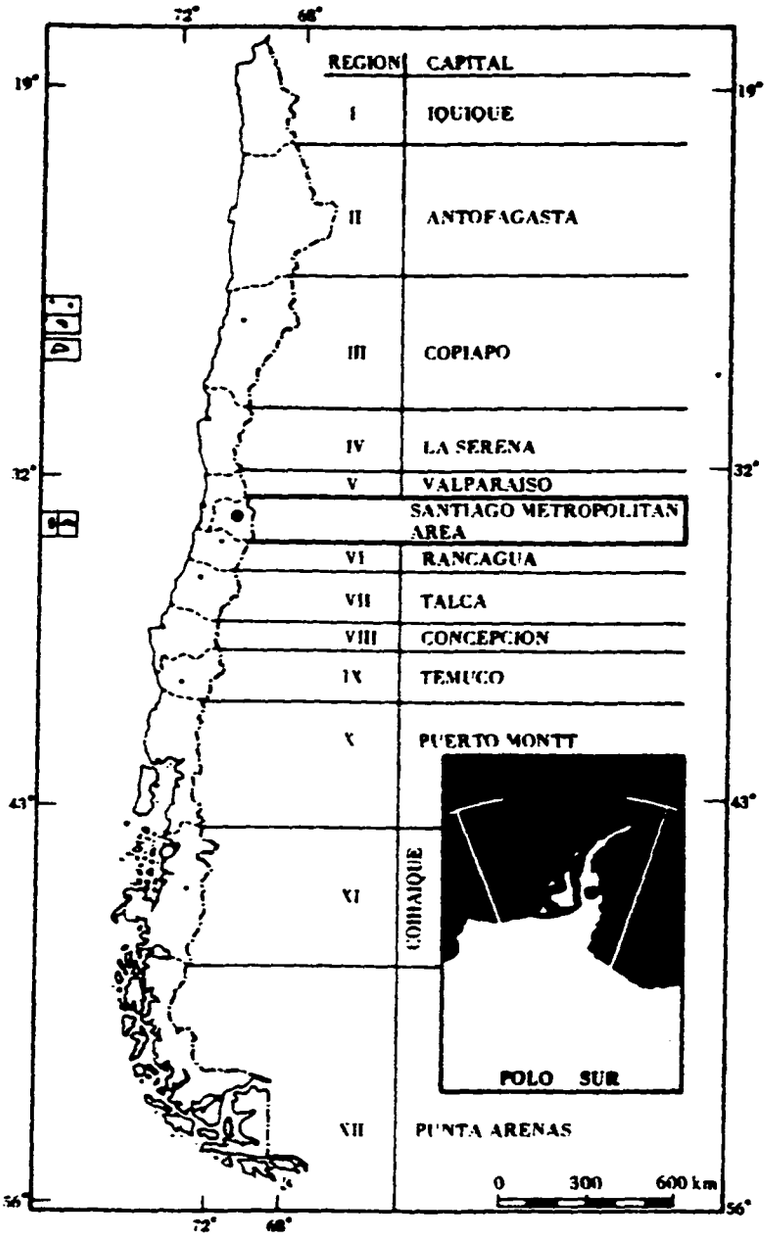
The paradox is that the profound forces tending to entrench the neoliberal mode of economic development and individualistic political values have provoked the Mapuche movement to reaffirm cultural and national difference. Sectors of the Mapuche movement seek a new relationship, not only with the state, but also with political parties and Chilean society. Can the parties, at present tied to the neoliberal economic model which reinforces centralization and the alienation of local, sectorial power, open up ideologically and programmatically to movement demands to recognize the multinational character of Chilean society and collective political rights for the indigenous peoples? A further question involves the possibilities of reform of the state itself, and of its commitment to the neoliberal growth path and the national-transnational actors espousing that path. Efforts to change neoliberal state-society relations, and the economic model underlying them, must confront the structures of power that backed the military regime and set the terms of the transition. The dictatorship institutionalized legal, constitutional, and political barriers to substantive reform of the state, and the Concertación has accepted those institutions and the neoliberal economic model. It is in this context that the grassroots demands from poor rural Mapuche communities and the explicitly political demands of the Mapuche movement attempt to transform relations between the Mapuche and the Chilean state.

The analysis proceeds as follows. Chapter Two provides an overview of state policies toward the Mapuche. Chapter Three describes the economic and social consequences for the Mapuche of the state policies of colonization and development.

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Chapter Four describes the efforts of the Mapuche movement between 1910 and 1973 to defend Mapuche lands against the encroachment by large landholders. Chapter Five introduces the neoliberal ideology and institutions established by the military dictatorship, describing the links made by the military regime among national security, national homogeneity, and the unfettered free market. Chapter Six analyzes the resurgence of the Mapuche movement under the military dictatorship and the emergence of new demands for political autonomy. Chapter Seven discusses the debates over the proposed new indigenous law. Chapters Eight and Nine analyze efforts by the Concertación government and an energy holding company to go forward the Bíobío hydroelectric projects in defiance of the provisions of the 1993 indigenous law, while Chapters Ten and Eleven describe the consequences of the expansion of industrial tree plantations for Mapuche communities, and the growing demands for collective political and territorial rights by Mapuche organizations. Chapter Twelve offers some final reflections on the conflicts between the commitment of the Concertación to neoliberal economic policies and the Mapuche movement's demands for collective rights.

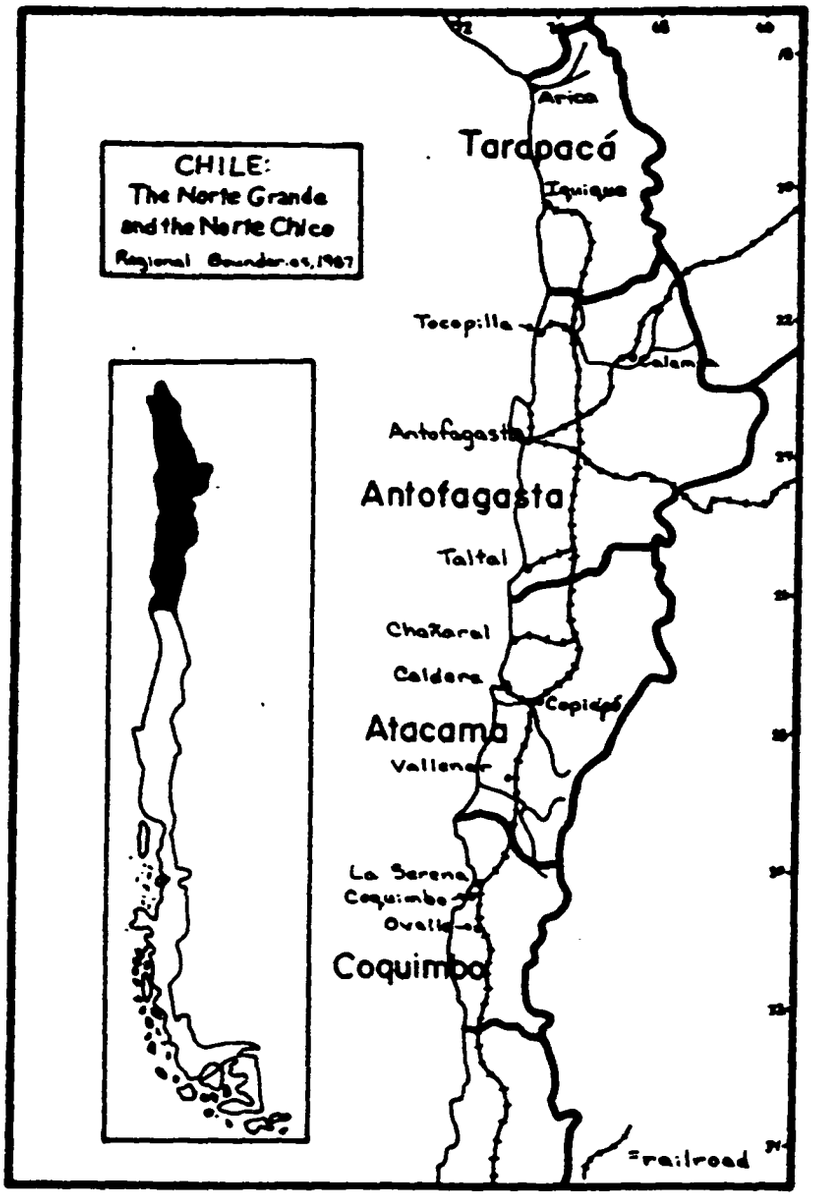
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Map 1. Regional Divisions of Chile and Names of Capital Cities.

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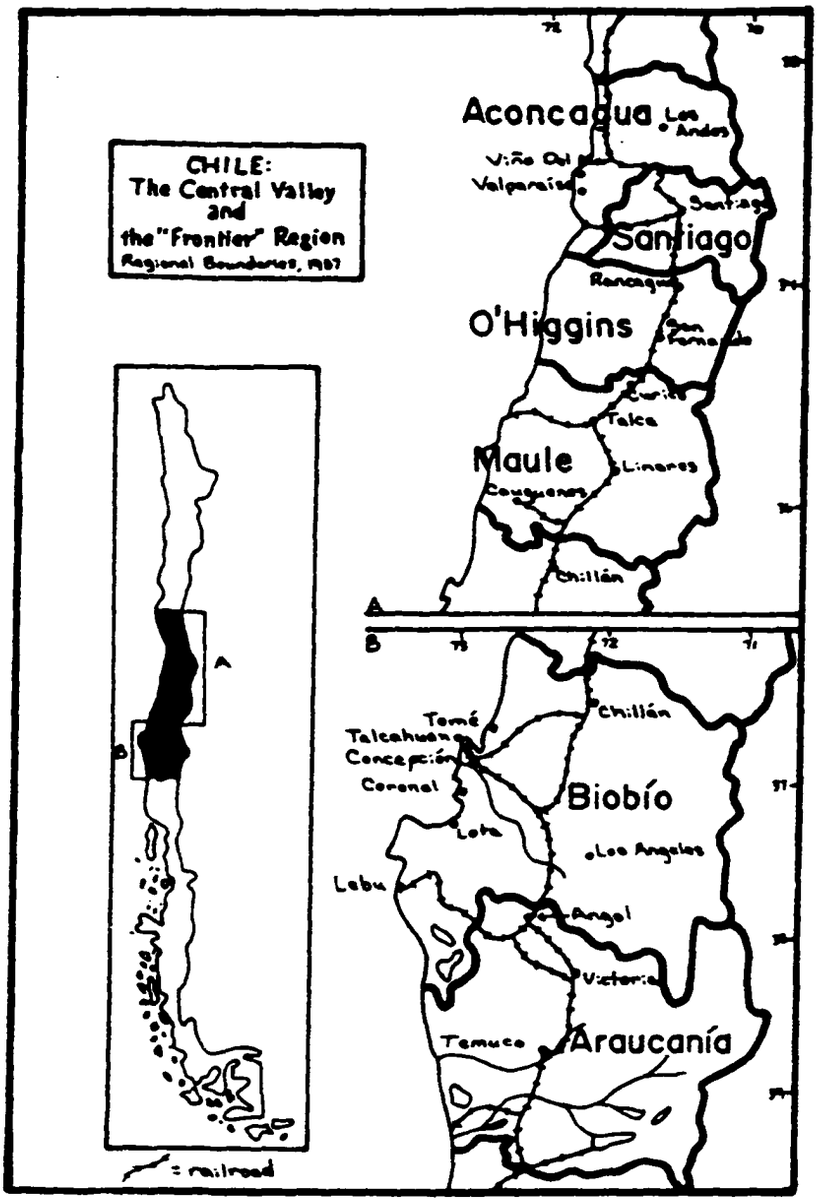
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Map 2. Northern Chile, showing First through Fourth Regions, Traditional Regional Names, and Major Cities.

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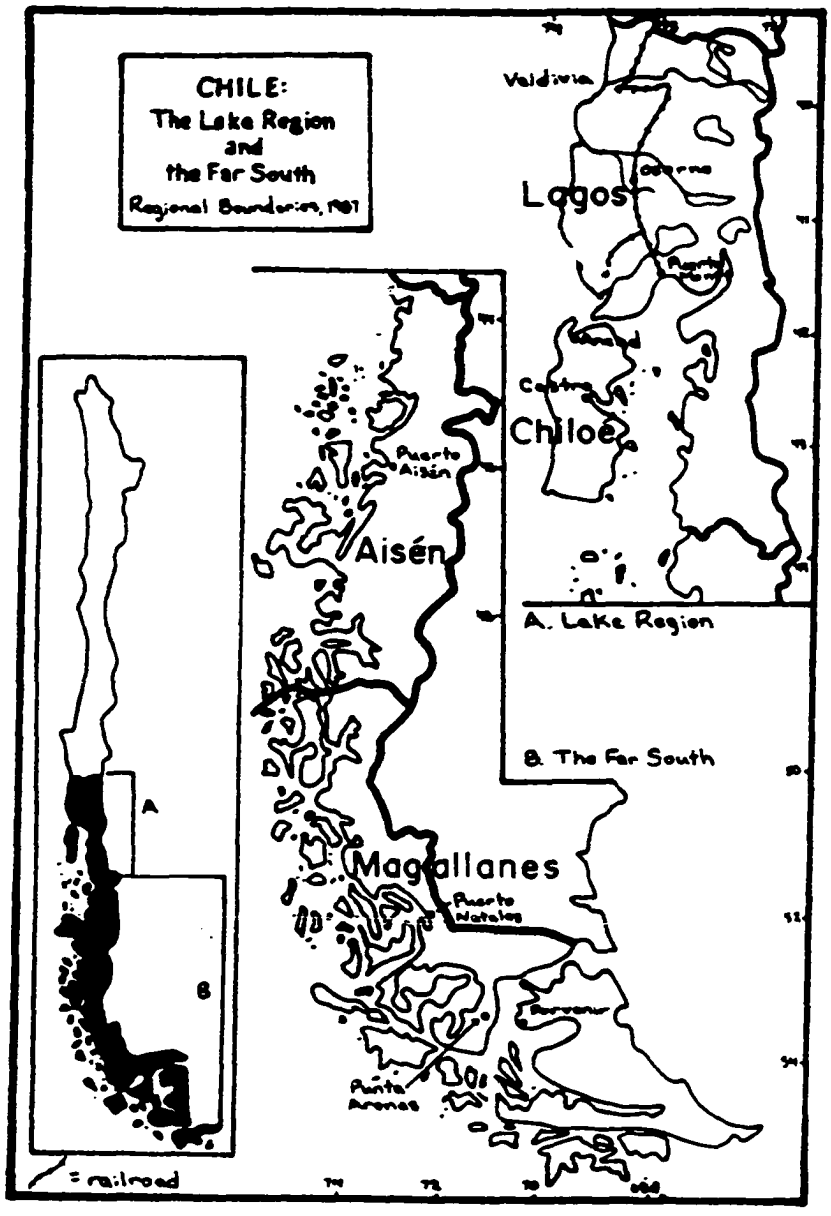
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Map 3. Central Chile, showing Fifth through Ninth Regions, The Metropolitan Region, Traditional Regional Names, And Major Cities.

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Map 4. Southern Chile, showing Tenth through Twelfth Regions, Traditional Regional Names and Major Cities.

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Chapter 2. Chilean State Policies toward the Mapuche people

The policies of the Chilean state towards the Mapuche generally have had two basic objectives: to open up land occupied by Mapuche communities to colonial settlement and economic exploitation by non-indigenous private property owners, and to assimilate the Mapuche people into the Chilean culture, eliminating their sense of distinctive identity. This chapter will trace these continuities in policy objectives, while the following chapters will discuss the failure of the state to achieve the assimilation of the Mapuche and the efforts by Mapuche organizations to modify state policies so that Mapuche lands, economic interests, and culture would be protected and preserved.

In central Chile, the indigenous peoples did not retain control of any territory, unlike the Mapuche farther south. At the beginning of the colonial era, the Spanish crown granted colonial leaders the tribute of labor from the indigenous peoples through the *encomienda*.[1] In practice, the grants of indigenous labor generally became grants of vast landholdings. These large estates that relied upon the forced labor of the indigenous peoples created the basis for the subjugation of the indigenous peoples and for rural social relations between large landholder and workers who lived on the estate.[2] The indigenous population suffered a precipitous decline in numbers as a consequence of

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[1] See Stanley J. Stein and Barbara H. Stein, The Colonial Heritage of Latin America: Essays on Economic Dependence in Perspective (New York: Oxford University Press, 1970); Brian Loveman, Chile: The Legacy of Hispanic Capitalism (New York: Oxford University Press, 1988); and Kyle Steenland, Agrarian Reform under Allende: Peasant Revolt in the South (Albuquerque, N.M.: University of New Mexico Press, 1977), 44-51, for a discussion of the *encomienda*.

[2] José Bengoa, Haciendas y Campesinos (Santiago: Ediciones Sur, 1990); Brian Loveman, Struggle in the Countryside (Bloomington, Indiana: Indiana University Press, 1976).

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forced labor on estates and in mines, as well as from introduced diseases, and its distinctive cultural identity disappeared.[3]

In south central Chile, however, the Mapuche maintained control of a relatively large area, expelling the Spanish forces in 1598 and destroying all Spanish forts and settlements south of the Bíobío River. Unable to defeat the Mapuche, the Spanish crown agreed to end its attempts to conquer Mapuche territory militarily, and officially recognized Mapuche autonomy in "*parlamentos,*" meetings between the official representatives of the Spanish crown and Mapuche leaders,[4] (the first in 1641, the last in

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[3] José Bengoa, Historia del Pueblo Mapuche (Santiago: Ediciones Sur, 1985); idem, Haciendas y Campesinos (Santiago: Ediciones Sur, 1990) and Brian Loveman, Chile: The Legacy of Hispanic Capitalism (New York: Oxford University Press, 1988). For other historical sources covering the colonial and republican eras, see Arturo Leiva, "La Araucanización del Caballo en los siglos xvi-xvii," Anales de la Universidad de la Frontera (Temuco, 1981-2): 181-203; Tomás Guevara, Historia de la Civilización Araucana, (Santiago: Imprenta Barcelona, 1898); Las Ultimas Familias: Costumbres Araucanas, vol vii, (Santiago: Imprenta Barcelona, 1913); Tom Dillehay, Araucanía: Presente y Pasado (Santiago: Editorial Andrés Bello, 1991); Horacio Zapater, Los aborígenes chilenos a través de cronistas y viajeros (Santiago: Editorial Andrés Bello, 1973); Leonardo León Solís, Maloqueros y Conchavadores en la Araucanía y las Pampas (Temuco: Ediciones Universidad de la Frontera, 1990); Alejandro Lipschutz, La Comunidad Indígena en América y en Chile. Su Pasado Histórico y Sus Perspectivas (Santiago: Editorial Universitaria, 1956); F. Nuñez de Pineda y Bascuñan, El Cautiverio Feliz, ed. Alejandro Lipschutz (Santiago: Editorial Universitaria, 1973 [1673]; Ignacio Domeyko, Araucanía y sus habitantes (Warszawa-Krakow: Sociedad Polaca de Estudios Latinoamericanos, 1992 [1845]); Sergio Villalobos, et al., Relaciones Fronterizas en la Araucanía (Santiago: Ediciones Universdidad Católica de Chile, 1982); Pascual Coña, Testimonio de un Cacique Mapuche: Pascual Coña. Texto dictado al padre Ernesto Wilhelm de Moesbach, (Santiago, Pehuen Editores, 1984 [1930]; Gonzalo Bulnes, Los Mapuches y la Tierra (Santiago: PAS, 1985); Alejandro Saavedra, La Cuestión Mapuche (Santiago: ICIRA, 1971);Wilson Cantoni, "Relaciones del Mapuche con la Sociedad Nacional Chilena" in Raza y Clase en la Sociedad Nacional Postcolonial (Paris: UNESCO, 1978), 227-332; Stuchlik, Rasgos de la Sociedad Mapuche (Santiago: Editora Nueva Universidad, 1974); Rolf Foerster and Sonia Montecino, Organizaciones, Líderes y Contiendas Mapuches: 1910-1970 (Santiago: Centro de Estudios de la Mujer and Centro Ecuménico Diego de Medellín, 1988); José Marimán, Movimiento Mapuche: Transición Democrática en Chile (1989-1993): ¿Nuevo Ciclo Reivindicativo? (Temuco: Universidad de la Frontera,1993); Pablo Marimán, Demanda por Educación en el Movimiento Mapuche en Chile: 1910-1990. Una Aproximación desde la Historia Oral (Temuco: Universidad de la Frontera,1993).

[4] The Mapuche did not have a centralized state, nor did they recognize a particular leader as above the rest of the chiefs (called *lonko* in the Mapuche language). The chiefs were leaders of extended family groups; these family groups often also recognized a social, and ritual or religious, community encompassing several extended families. In times of war, a particular person would be chosen as leader by the various chiefs to coordinate actions in wartime, but when peace returned, the Mapuche would revert to the pattern of autonomous social communities. One example of a leader chosen to lead in times of war is the case of

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1803). Mapuche leaders agreed to allow merchants and missionaries to enter Mapuche territory. Although raids and battles broke out on occasion, the Mapuche maintained political control between the Bíobío and Toltén Rivers, and even prospered economically during the eighteenth century as a result of increased trade with settlers in central Chile.

With independence from Spain in 1818, however, the Republic of Chile signaled a new policy towards indigenous peoples. The 1819 decree of Chilean independence hero, Bernardo O'Higgins, declared that, "all indigenous persons were free Chilean citizens, and as such, would have equal voice and representation, just as any other citizen, and be free to enter into contracts, defend their interests, and select their profession according to their wishes and abilities."[5]

Since the Chilean republic had not yet conquered the Mapuche, this decree did not have any immediate effect. Indeed, its liberalism would be tempered in later indigenous legislation, which granted a protected status for indigenous lands recognized by the state. Conflicts between Chilean settlers and the Mapuche, as Chileans began to settle lands south of the Bíobío River, led to debates in Congress and in the press over how to conquer the Mapuche territory.

Pelantaro, who led the campaign against the Spanish conquistadors in 1598, when all the Spanish settlements and forts south of the Bíobío river were destroyed. This victory effectively established the area which was to become recognized by the Spanish crown as autonomous, that is, the territory between the Bíobío and Toltén Rivers. See Louis Faron, Mapuche Social Structure (Illinois, 1961) and Bengoa 1985.

[5] Bengoa 1985, p. 146.

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In 1883, well after the independence of Chile, the Mapuche were militarily defeated by the Chilean army (simultaneously with the Argentine forces' defeat of the Mapuche of the Pampas), and their territory annexed.[6] Chilean and Argentine Republican forces were in communication, and sought to coordinate efforts to conquer the indigenous peoples, although the two states also competed with each other to assert political and military control. Argentine military forces crossed Andean mountain passes into present day Chile in pursuit of Mapuche, but Chileans eventually established their own control along the western crest of the Andes mountains. The Chilean state made no attempt to construct a "*mestizo*" national identity; during the nineteenth century, the conquest of new territory and the imposition of Chilean sovereignty involved the submission of indigenous peoples and the proclaimed policy aim of "civilizing" those indigenous peoples who remained after the wars, that is, assimilating them and eliminating them as a distinct culture.

In the late 1800s, in addition to defeating the Mapuche, Chilean armed forces conquered the Aymara and the Likan Antay or Atacameños in the north as a result of the War of the Pacific (1879-1881) among Chile, Peru and Bolivia. Chile annexed Easter Island in 1888, subduing the Rapa Nui; and the indigenous peoples of the far south of Chile were persecuted. Bounties were offered for the heads of indigenous persons,

[6] See Bengoa 1985, pp. 185-326, for a history of the war against the Mapuche. As noted earlier, the Mapuche did not have a centralized authority, but rather lived in extended families groups. At certain times of war, a leader would be chosen for the duration of the period of crisis. Although by the nineteenth century, some chiefs had gained relatively great prestige and wealth, and could gather support from many other chiefs and their groups, through the system of alliances both with Mapuche chiefs in present day Chile and those on the eastern side of the Andes in the Argentine Pampas. There had already been a custom of exchange and frequent contact between Mapuche on both sides of the Andes. During the war against the Chileans in the late nineteenth century, however, the Mapuche were divided. Some groups sought to remain neutral, but most fought against the Chilean troops.

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leading to the extermination of the Selknam of the far south and the near extermination of those peoples (Aónikenk, Kaweskar and Yámana peoples) that survived.[7]

The eventual state policy regarding the Mapuche "incorporated" them into Chilean society on two contradictory levels--as "equal," Chilean citizens (thus not as indigenous), and as members of indigenous communities on reservations *(reducciones)*, i.e., indigenous lands which were legally not to be sold to non-indigenous, except with the approval of state authorities.[8] On the one hand, the *reducciones* granted the Mapuche gave them space in which they could maintain a degree of social coherence as a distinct culture. Despite the fact that these lands were insufficient (approximately 6 hectares per capita, originally) and very far from an approximation of the original Mapuche territory, and that being confined to them meant the disarticulation of political and social organization, the defense of these lands served as the basis for political mobilization and the creation of new political organizations.[9] On the other hand, the small size and generally poor quality of the land for agricultural activity meant their abrupt impoverishment, and led later generations to emigrate to urban areas where cultural practices were irrelevant in public life, and where they were restricted to private family

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[7] See José Aylwin, Comunidades indígenas de los canales australes: antecedentes históricos y situación actual, (Santiago: CONADI, 1995); Susana Rochna, La propiedad de la tierra en Isla de Pascua (Santiago: CONADI, 1996); Comisión Chilena de Derechos Humanos, "Los Pueblos Indígenas en la Legislación Nacional e Internacional y en el Derecho Comparado"(Santiago: Comisión Chilena de Derechos Humanos, 1988).

[8] Concise historical accounts of the consequences of the subjugation to the Chilean state for Mapuche society can be found in Stuchlik 1974; José Bengoa and Eduardo Valenzuela, Economía Mapuche: Pobreza y Subsistencia en la Sociedad Mapuche Contemporánea, (Santiago: PAS, 1984); Cantoni 1978; and idem, "Fundamentos para una Política Cultural Mapuche" Cuadernos de la Realidad Nacional (October, 1972): 74-95.

[9] Stuchlik 1974.

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interactions.[10] In addition, the legal protection of indigenous lands was frequently violated by the continual usurpation of the lands in the reservations and the fraudulent changes in property titles.

Policy Debates with Respect to the Mapuche

In the mid-nineteenth century, politicians, military authorities, and clergymen engaged in heated debates in the Chilean Congress and editorial pages of the principal newspapers over how to carry out the conquest of the *"Frontera"* (Mapuche territory) and what type of property system to establish in the southern territory, but there was no argument over the aim of cultural assimilation.[11] The superiority of the "Christian, European" civilization, and of the capitalist system of property ownership and production, were taken for granted. The period of hostilities stretched over twenty years, from 1860-1883, during which Chileans settled as colonists, particularly in the northern half of the Ninth Region, provoking disputes with the Mapuche.[12]

The decision taken by the state after the defeat of the Mapuche, to grant them small, scattered *reducciones*, did not end the conflicts over land, nor did it lead to the cultural assimilation of the Mapuche. The debate over the state's indigenous policies continued to rage in the media and in Congress throughout the period of granting of titles

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[10] Bengoa and Valenzuela 1984; Ivo Babarovic, et al., Campesinado Mapuche y Procesos Socio-Económicos Regionales (Santiago: Grupo de Investigaciones Agrarias, 1987).

[11] See Bengoa (1985): 176-183, for a description of the debate in Congress and as reported in the press.

[12] See Bengoa 1985.

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(1883-1930), known as the *Radicación*, and indeed, similar arguments were repeated throughout the twentieth century and to this day. In the excerpts that follow, one can appreciate the coincidence of opinion that the state had a duty to impose both "civilization" and "progress;" only the degree of freedom allotted to the market marked the difference among the opinions.

One of the military leaders, Cornelio Saavedra, argued that the Chilean state should take an active role both in the conquest, and in subsequent organization of land titles in order to achieve the goal of civilization and development. "[Religious] missions, [military] force and commerce, guaranteed by a vigorous [state] authority would be able to assimilate heterogeneous populations and found a nation in an extensive territory, populated with enemies, and [to do it] with a small number of resolute and civilized men."[13] Saavedra advocated the intervention of the state because the spontaneous settlement in the still unconquered territory and the speculation by investors aggravated conflicts with the Mapuche, without successfully incorporating the territory, or stimulating economic growth. In addition to the violence between the Mapuche and the Chilean settlers, Saavedra complained that the unscrupulous maneuvers of land speculators created a maze of property titles, inhibiting productive investment. The state, he argued, should act in the general interest to promote "civilization" and "economic progress" against the narrow interests of individual settlers and financial speculators. At

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[13] Cornelio Saavedra, "Documentos Relativos a la Ocupación de Arauco que Contiene los Trabajos Practicados desde 1861 hasta la fecha por el Coronel de Ejército don Cornelio Saavedra" (Santiago: Imprenta La Libertad, 1870): 7. "Las misiones, la fuerza, y el comercio garantido (sic) por una autoridad vigorosa, pudieran asimilar poblaciones eterjéneas (sic) y fundar una nación en territorio estenso (sic), poblado de enemigos, y con un corto número de hombres civilizados y resueltos."

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the same time, this state intervention would guarantee that the Mapuche could henceforth enjoy their rights just as any other Chilean citizen, instead of being victims of fraud at the hands of unscrupulous notaries and land speculators. Saavedra argued that the state should declare all "unoccupied lands" to be state lands, assign plots to the Mapuche, and auction the remaining state lands.[14] Saavedra, like many others, believed that the assimilation of the Mapuche was merely a question of time.

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[14] C. Saavedra, ibid. "the indigenous [persons]can not exercise their rights as can the rest of the citizens, without the tutelage of [state]authorities. Without that tutelage, frauds and pillage would be once again promoted, which the authorities have wished to avoid and of which the indigenous and civilized inhabitants are victims. The agents of the lawsuits, petty lawyers by profession, speculators of ill repute, abound, and all ardently conspire to provoke disputes among one another and to maintain uncertainty and alarm, killing all thought of improvement [investment] and any idea of work. The dispossessed Indians, the defrauded Spaniards, the province deprived of the benefits of commerce and agriculture, and the confusion of properties, is the picture which generally can be seen in the frontier....[By] mythical contracts...various indigenous are made debtors of different people....in those contracts usually there appears an Indian charged an interest rate of 4.6 up to 10,000 pesos for a term of two, three months and even 15 days, with mortgages on vast extents of land....anyone dressed in a shawl who spoke Indian would be sought....the state is defrauded of its legitimate rights....As a means of appeasing the Indians...I propose selling to the state all their rights, leaving the Indians sufficient land for their needs, on the condition that they not sell their land...with the aim of assigning them on those plots of land and that private interests not isolate them from contact with civilized populations in the entire territory...respecting only those possessions or lands which the Indigenous have, in order to settle them [on those plots of land] so that little by little they would blend in with the civlized population." "...los indíjenas no pueden entrar en el ejercicio de los derechos propios a todos los demás ciudadanos sin la tutela de la autoridad. Sin ella se fomentarían de nuevo los fraudes y espoliaciones (sic) que han deseado evitarse y de que son víctimas los indios y los habitantes civilizados. Ajentes de pleitos, tinterillos de profesión, especuladores de mala fama, hai en gran número, y todos conspiran ardientemente a provocar litijios entre unos y otros y a mantener la inseguridad y alarma que mata todo pensamiento de mejora y toda idea de trabajo. Los indios despojados, los españoles defraudados, la provincia privada de los bienes del comercio y de la agricultura y la confusion de las propiedades, es el cuadro que ha presentado ordinariamente la frontera (20-1)... [por]contratos de mítico...diversos indíjenas se constituían deudores para con distintas personas...en dichos contratos se ve de ordinario aparecer un indio recibiendo a interés 4,6 hasta 10,000 pesos a plazo de dos, tres meses y hasta 15 días con hipotecas de vastas estenciones de terrenos...se buscaba a cualquier persona que viste chamal y hablase el indio...se defraudaba...al fisco de sus lejítmos derechos...Como un medio de tranquilizar a los indios...les propuso la venta al Fisco de todos sus derechos dejándoles el terreno suficiente para sus necesidades con la condición de no poderlo enajenar...a fin de radicarlo en sus posesiones y que el interés particular no los aleje del contacto con las poblaciones civilizadas para que entren poco a poco en nuestros hábitos y costumbres...(recomiendo) declarar de utilidad pública todo el territorio...respetando únicamente las posesiones o goces que tengan los indíjenas a fin de radicarles para que poco a poco se confundan con la población civilizada." (77-79)

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The premise that the state should oversee the rights of indigenous citizens (actually, "rights" refers to the prohibition of sale of indigenous lands) was criticized by those who advocated the operation of the unfettered free market. Rather than granting the Mapuche land to be held in common and protected from sale, some economic interests and parliamentarians preferred to give them individual titles to land that could be freely sold. The preface to a proposed law in 1908, for example, argued that individual title would "harmonize" indigenous property with that of the "system prevailing in all civilized countries, and would constitute a great step forward with respect to their culture, given that private property would stimulate individual needs and competition among them."[15]

In many parts of Latin America, large landowners and land speculators took over indigenous lands during the nineteenth century and consolidated their property titles under liberal laws that proclaimed the end of common lands of indigenous communities. In the case of Mexico, the political power of large landowners involved in commercial export agriculture led to the end of many indigenous communities. Large landowners annexed the common lands of indigenous villages and forced the villagers to work on the estates.[16] A similar process occurred in El Salvador and Guatemala, under liberal dictators, who believed that they could bring progress to their countries by forcing a shift

[15] Comisión Parlamentaria de Colonización, Informe, Proyectos de Ley, Actas de Sesiones y otros antecedentes (Santiago: Sociedad "Imprenta y Litografía Universo," 1912), 70. "El sistema imperante en todos los paises civilizados, e importa un gran paso en el sentido de la cultura de los indígenas, puesto que...los deja entregados á los estímulos de las necesidades individuales y de la competencia con sus semejantes."

[16] John Womack, Jr., Zapata and the Mexican Revolution (New York: Alfred A. Knopf, 1969) and Migdal 1989.

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into coffee production for the export market. In both El Salvador and Guatemala, indigenous and mestizo peasant were forced off their lands in order to establish coffee plantations. Decrees banned collective ownership in El Salvador, legalizing the usurpation of peasant lands and the consolidation of enormous estates in the hands of a few families.[17]

Similar arguments framed in the belief of cultural superiority and economic liberalism were employed by Doctor Serrano Montaner in the congressional debate. He stated that "the military campaigns had been more useful and beneficial for the Mapuche, in spite of the great massacres which occurred, as the army advanced and new cities were founded," than legislation which protected individual lands. "The moment has arrived," he argued, "to bring them into the common civilization." He predicted that "once the Mapuche were assigned (individual, alienable) plots of land in the midst of Chilean and foreign colonists, in ten years their race would be extinguished, and most of their land would have passed into the hands of Chileans who would cultivate them and work them according to modern agricultural techniques. The individual clans and families of the Mapuche would have dispersed. The innumerable industrial establishments and agricultural exploitations would have many of the indigenous families as workers, who would be industrious and would earn as much as four times the miserable income that today [1912] they earn on their small plots by cultivating them poorly and lazily..."[18]

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[17] Thomas E. Skidmore and Peter H. Smith, Modern Latin America (New York: Oxford University Press, 1984).

[18] Comisión Parlamentaria 1912, 195-200. "las expediciones militares...dio desde luego un resultado más útil y provechoso para esa misma raza; a pesar de que, a cada avance del Ejército, la fundación de cada nueva ciudad, llevaba envuelto...grandes matanzas de indíjenas...ha llegado el momento de terminar (con la legislación protectora) que en nada favorece al indígena y que tanto perjudica al progreso y adelantos de los

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Another warned that "until the State solved the problem of indigenous property, private property could not be constituted peacefully" and added that "if some means of assimilating the Mapuche into the culture of the fatherland were not found, it would be better to remove the protection of their lands which prohibit their sale, in order not to let such property stagnate in the hands of a lazy and degenerate race, which would be fatal for the agriculture of the frontier."[19]

As a result of the simultaneous wars of conquest conducted by the Chilean and Argentine armed forces against the Mapuche in the late nineteenth century, the Mapuche lost control of the autonomous territory which Spain had recognized, extending from the Bíobío River to the Gulf of Reloncavi on the western (Chilean) side of the Andes, and the area directly to the east, on the Argentine side of the Andes, up to the outskirts of Buenos Aires. The Chilean state resolved the property issue by the process known as the *Radicación*, by which the state granted the Mapuche small plots of lands, known as "*reducciones,*" to be held in common under the name of chiefs. These titles were called

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pueblos de la frontera...es llegado al momento...(de) atraerlos a la civilización común...(p.195-7)." "Radicado el indígena, recibiría su título definitivo, se puede fácilmente pronosticar que antes de diez años...la raza indígena habría aparentemente desaparecido...Gran parte de sus tierras habrían pasado a manos de los chilenos; esos campos serían cultivados y entregados a las labores de la agricultura moderna. Las pequeñas tribus o aglomeraciones de familias se habrían deseminado. Los innumerables establecimientos industriales de la frontera y las numerosas faenas agrícolas, contarían con muchas familias de indígenas entre sus operarios, quienes tendrían buenos jornales y ganarían así cuatro veces más que la renta miseria que hoy le da el pedazo de terreno que mal y fiojamente cultivan...(p.199-200)"

[19] Ramón L. Briones, Glosario de la Colonización y Exposición de las leyes, decretos y demás antecedentes relativos al despacho de colonización hasta el 1 de julio de 1904 seguido de un apéndice hasta el 1 de abril de 1905 (Santiago: Imprenta Universitaria, 1905), p.xvii-xviii. "se puede asegurar que hasta que no se solucione el problema de la radicación indígena, no podrá el Fisco constituir tranquilmente en la frontera la propiedad particular...Si no se discurre un medio para incorporar y asimilar dicha raza a la cultura patria, convendría derogar leyes de excepción que le impiden enajenar su propiedad...no se puede negar que la estagnación de la propiedad en manos de una raza perezosa y dejenerada, es fatal para el desarrollo agrícola de las provincias de la antigua frontera araucana..."

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Títulos de Merced. Between 1883 and 1930, the Chilean state assigned approximately 3000 titles for roughly 10,000 families, at an average of 6 hectares per person.[20]

In all, approximately 500,000 hectares in separate plots were recognized as indigenous lands, most of them in the present day Ninth Region, some in the provinces of Arauco and the Bíobío in the Eighth Region, and some in the Tenth Region. In contrast, foreign colonists were granted up to 500 hectares per head of family with tools and animals, while Chilean settlers received 50 hectares per head of family. Bengoa estimates that as much as a third of the Mapuche did not receive any land, and those that did received the less desirable land, often including infertile or poor soils, or hills that could not sustain intensive subsistence agriculture.[21] The livestock of the Mapuche, which had been the basis of their economy and considerable wealth before the war, was lost as a result of the pillage. The military defeat and the *radicación* thus meant a sudden and severe impoverishment, as well as the disarticulation of their social and political organization.[22]

Because the Chilean state did not establish indirect rule, but rather direct submission to Chilean authorities, the Mapuche leaders lost much of their prestige and authority. Internal conflicts, some of which were the result of the *radicación* itself, stimulated individual Mapuche to appeal to Chilean authorities rather than rely on

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[20] See Eduardo Castillo, "Chile. Legislación indígena?" Law & Anthropology no. 3 (1988): 247-266; Bengoa and Valenzuela 1984.

[21] Bengoa 1985.

[22] Stuchlik 1974; Bengoa 1985.

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traditional leaders to resolve disputes. Because of their great poverty, Mapuche families were soon forced into very unequal relations with the neighboring Chilean landowners. Chilean estate owners pressured the Mapuche to sign "rent" contracts, even though often they did not read Spanish and thus did not understand what they were signing. These rental contracts sometimes were actually land sales. In other cases, landowners simply threw Mapuche families off their *reducciones* and marked a new property line with a fence.[23] Courts and lawyers connived with settlers to make legal papers concur with the new boundaries, using violence to enforce them, sometimes with the participation of local police. The 1912 Report to the Chilean Congress on Colonization details a number of such incidents. The Report also mentions that the Mapuche frequently brought complaints to Chilean authorities, even travelling to Santiago to denounce the usurpations and violence.[24] One state-appointed Defender of the Indigenous, whose duty was to oversee the exchange of indigenous lands, denounced that "notary publics continued to notarize [Chilean] titles to indigenous property [in the *reducciones*], on the premise that the witness was not indigenous, even when his last name, language, attire, and appearance evidently proclaimed the contrary..." and that "in the majority of cases, the

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[23] See accounts in Martín Correa C., Catastro de Conflictos y Demandas de Tierras Mapuches en la Provincia de Malleco (Temuco: Corporación Nacional de Desarrollo Indígena, 1995) (unpublished draft); José Bengoa, Historia de un Conflicto: El Estado y los Mapuches en el Siglo XX (Santiago: Editorial Planeta, 1999), and Bengoa 1985. Such tactics are, of course, not confined to Chile. Similar tactics against indigenous peoples occurred in many countries of Latin America. See Alejandro Lipschutz, La Comunidad Indígena en América Latina y Chile (Santiago: Editorial Universitaria, 1956) and John Womack, Jr., Zapata and the Mexican Revolution (New York: Alfred A. Knopf, 1969).

[24] Comisión Parlamentaria 1912: 145. The report details numerous complaints of forced and violent removal of families, which included the burning of their homes and crops, even cases in which persons were burned within their homes, and of "pilgrimages of Araucanos (i.e., Mapuche) who periodically go to the capital to submit complaints for the usurpation of their lands." ("romerías de araucanos que periódicamente van a la capital a interponer quejas por el despojo e sus terrenos"); see also Bengoa 1985; Correa Cabrera 1995; Raúl Molina and Martín Correa, Territorio y Comunidades Pehuenches del Alto Bío Bío (Santiago: Corporación Nacional de Desarrollo Indígena, Agencia de Cooperación Internacional, and Agencia Española de Cooperación Internacional, 1996); Foerster and Montecino 1988.

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families were thrown off their land by orders given by judges without the intervention of the Protector of Indigenous [as the law required] because he was never informed."[25]

In sum, the protracted war with the Chilean troops, which ended in the military defeat of the Mapuche, meant the loss of their political autonomy, destruction of their goods and livestock, loss of life, and confinement on small plots of the land, which in general were not suitable for intensive agriculture. The Chilean state established the legal regime for the settlement of the frontier (*Frontera*),[26] which facilitated the creation of a system of large estates, some medium sized ones, and many small properties, given in common to groups of Mapuche. This arrangement forced the Mapuche into economic subordination with respect to their Chilean neighbors who controlled the commercial businesses and the agricultural estates. With the loss of most of their lands, the Mapuche the lost the subsistence use of distinct landscapes--the valleys for pastures, the hills for forests, where they could find fruits, game, herbs, small clearings that could be rotated for sustainable small-scale agriculture.[27] They were restricted to plots too small to support their population, forced into intensive use of these same lands, which would degrade the soil and make the lands even less able to sustain the families living on them. Almost at once, the Mapuche communities would have to solve the subsistence problem by

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[25]Comisón Parlamentaria 1912: 463. "los notarios continúan otorgando escrituras sobre terrenos indígenas,...fundándose en que los testigos declaran que el otorgante no es indígena aun cuando su apellido, su lenguaje, sus ropas, y hasta su fisico están denunciando evidentemente que lo es...en la mayoría de los casos, esos lanzamientos se decretan en juicios en que el Protector de indígenas no ha intervenido porque no ha tenido conocimiento de ellos."

[26] The formerly autonomous Mapuche territory, approximately the Ninth Region.

[27] See Raúl Molina, "Reconstrucción de los Etno-territorios" in Tierra, Territorio y Desarrollo Indígena (Temuco: Instituto de Estudios Indígenas and Universidad de la Frontera, 1995), 111-118, and Tom Dillehay, Araucanía: Presente y Pasado (Santiago: Andrés Bello, 1991).

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becoming temporary laborers on the nearby estates. Soon, as well, many would have to emigrate to cities. These social, political, and economic consequences of the military defeat were meant to produce the cultural assimilation of the Mapuche. The Mapuche had been robbed of the lands and cattle which had provided them with wealth and prosperity, culturally invaded by foreign religions and schools which explicitly sought to eliminate Mapuche culture and practices, and politically subordinated to the Chilean Republic. Most political authorities and contemporary observers assumed that the Mapuche would soon disappear as a culturally distinct people. Unlike some other parts of Latin America, most of the Mapuche found themselves in relative proximity to Chilean settlers—in most cases, the Mapuche were not living in remote forests or mountain ranges, but next to a Chilean estate and relatively close to a new town.

Nevertheless, the Mapuche did not cease to recognize themselves as Mapuche, different from the Chileans. Whether born and raised in the rural community, surrounded by Mapuche and speaking the Mapuche language, or not, most Mapuche have retained a sense of ethnic identity. They also created a political movement to defend their claims to lands that they had lost and to demand the right to accede to education and economic assistance as poverty become more acute. At the same time, through the system of *reducciones*, the Chilean state created a powerful barrier to the raising of demands on a broad, political, "ethno-nationalist" basis. Until recently, the tendency of the Mapuche political organizations has been to make demands through the principal political channels of access to the state--the political parties--and to frame those demands within the legal limits imposed by the state, in terms of the concrete needs of the rural communities,

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rather than the situation of political subordination which affects all Mapuche, rural residents or city dwellers. Currently, some sectors of the Mapuche movement question this strategic alliance with political parties and advocate an autonomous stance, both because of the limited scope for substantive reform, and as a means for cultural renovation. The following chapters describe the social and political forces behind the Mapuche political movement from 1910 to 1973.

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Chapter 3. Periphery of the Periphery: The Export of Growth, Income, and Population

Chilean state policies aimed to open the newly conquered territory to orderly settlement by Chilean and foreign immigrants, who, policymakers believed, would stimulate economic development and bring "civilization" to the conquered territory. The state was decreed the owner of "unoccupied" lands, so that the government could oversee the auctioning of public lands and the establishment of private property, and thereby reduce conflicts over property title and provide the stability for dynamic economic growth. The state sought to control the Mapuche population by a system of "*reducciones*" (similar to the Indian reservations created by the United States, though without legal autonomy). As the previous chapter shows, government officials, as well as many others, assumed that the Mapuche would eventually become assimilated into the Chilean culture.

State policies, however, did not trigger lasting economic growth in the Ninth Region, nor did the Mapuche disappear as a distinct people. Down to this day, the lack of dynamism in the economy of the Ninth Region has been widely noted and criticized. A study by the Ministry of Interior and the Corporación de Investigaciones Económicas para América Latina (CIEPLAN) found that of the thirteen regions of Chile, the Ninth Region had one of the lowest average growth rates between 1960 and 1992 of Chile's thirteen regions.[1] During this period, the Ninth Region had a growth rate of 3.0 percent

[1] The findings of the report, La Evolución del Producto por Regiones 1960 – 1992, were summarized in El Diario Austral 15 July 1994, A7. The Ninth Region showed a growth rate of 3%, the Fifth Region had 2.6% and the Twelfth Region had 1.6%. Calculating the regional per capita product also places the Ninth Region among the lowest, along with the Tenth and the Fourth Regions. Similar negative results for the Ninth Region had been noted by the Instituto Geográfico Militar (1982), pp.15-18. The Instituto Nacional Estadístico (INE) found that the Ninth Region's gross regional product was only 2.8% of the gross national product in 1960; the percentage dropped to 2.3% between 1966 and 1973, registered 2.7% in 1975, then dropped again in later years to 2.3% (1979), 2.4% (1983), rising only to 2.5% in 1990.

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while the national average growth rate was 3.6 percent. The 1996 government socioeconomic survey (CASEN) found that approximately one in three persons in the Ninth Region is poor, while in the Metropolitan Region of Santiago, one in seven is poor.[2]

This chapter gives an overview of the economic, social, and demographic consequences of the state policies of conquest and colonization. As "periphery of the periphery," the Ninth Region has never undergone sustained, dynamic economic growth. The promise of a booming overseas grain market of the mid-nineteenth century quickly faded with the conquest of native North American peoples and the linking of the Great Plains in the United States to urban markets. The Ninth Region's economy, based upon a structure of large estates and small Mapuche *reducciones*, entrenched a highly unequal distribution of material resources and income. The regional economy remained concentrated on the export of primary products to the rest of the country, and dependent upon other regions for intermediate goods, manufactured products, and investment capital. Although the regional capital city grew in population, job growth lagged behind the demographic growth rate, forcing the region's population to seek employment outside the region. This demographic "diaspora," did not extinguish ethnic identity among the urban-dwelling Mapuche, nor prevent the emergence of a political movement in defense of the Mapuche communities and culture. The following chapter will discuss the political movement from its beginnings in 1910 up to the military coup of 1973.

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[2] El Mercurio July 13, 1997, quoting the official results of the CASEN 1996 survey published by Mideplan.

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Economic Consequences of the National Policies of Colonization and Development

The California gold rush in the late 1840s created economic incentives, in addition to geopolitical ones, for the conquest of the Mapuche territory in the nineteenth century. This market was very short-lived, however, because wheat exports from Australia and Argentina, as well as the production of the U.S. Great Plains, filled the demand.[3] The Ninth Region, however, continued to concentrate on the production of grains for the internal market, which briefly stimulated domestic production until the nitrate industry collapsed in the 1920s.

The Ninth Region became known as the "granary" of Chile, for the specialization of its economy in agriculture. After the first decades of the twentieth century, however, the fertility of much of the land in the northern half of the region (the province of Malleco), diminished markedly. This area had once been covered by native forest, and much of it is characterized by rolling topography. During the conquest of the Mapuche territory, the native forest had been burned as a war tactic; after the conquest, more of the forest was cleared for agriculture and livestock raising, as well as in response to the demand for wood for construction of the railroad and cities. The monoculture typical of the large estates, and the intensive use of hillsides and less fertile soils by the small farmers, reduced the quality of the soils. Initial yields in the northern province of Malleco were good in terms of the technology of the period (36qq/ha.),[4] but did not last. Rather

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[3] Bengoa 1985; Comité Interamericano de Desarrollo Agrícola (CIDA), Chile: Tenencia de la Tierra y Desarrollo (Santiago: CIDA, 1966).

[4] Instituto Geográfico Militar, Geografía de la IX Región (Santiago: IGM, 1982); quoted by Peralta et al.

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than introduce the use of fertilizers and soil conservation techniques to increase yields, the estates tended to expand the area cultivated--often at the expense of neighboring Mapuche *reducciones*. The usurpation of lands from the Mapuche *reducciones* and the increase in the population living on those lands, steadily reduced the average number of hectares *per capita*. At the beginning of the century, the *reducciones* had an average of 6 hectares *per capita*. By the mid 1960s, the report for the Agrarian Reform found an average of 10 hectares per family (given family size, the average number of hectares *per capita* would have been about 2 hectares).[5] Studies in the 1980s estimated an average of approximately 1.5 hectares.[6]

The Ninth Region's concentration on the cultivation of cereal grains and cattle meant that the region "exported" primary products to other parts of the country, and "imported" manufactured products from the other regions. In response to the world depression of the 1930s, the Chilean state promoted import substitution industrialization, stimulating industrial and demographic growth in the Metropolitan Region of Santiago, and other cities, such as the port cities of Valparaíso and Concepción. Businesses of other regions began to dominate the local economy, as transportation links improved and the production costs of large enterprises, due to economies of scale, dropped below those of local ones.

1992, p.14. "qq" refers to quintals, or hundredweights.

[5] Comité Interamericano para el Desarrollo Agrícola 1966, 91.

[6] Bengoa and Valenzuela 1984; José Bengoa, Las Economías Campesinas Mapuches, Dcto. de Trabajo no. 6 (Santiago: Grupo de Investigaciones Agrarias, 1981); Babarovic et al. 1987; H. González, "Propiedades Comunitaria o Individual. Las Leyes Indígenas y el Pueblo Mapuche," Nütram no. 3 (1986): 10-11.

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As the urban population in Chile expanded, agricultural yields could not keep pace, either in volume or in costs. To help maintain relatively low food prices for the urban population, grains began to be imported in the 1930s.[7] The low agricultural prices and the progressive reduction in the fertility of the soil stimulated the expansion of cattle raising as a substitute for grains in the Ninth Region.[8] Neoliberal economic policies introduced by the military regime in the 1970s reduced tariffs on imports, causing prices to fall further for agricultural products. Between 1986 and 1997, prices dropped for all the principal agricultural products of the Ninth Region except milk, but in the case of milk, the price paid producers has also dropped because a few major companies buy the milk for the elaboration of milk products. Prices for wheat, oats, and barley fell by about 50 percent. Even though grain yields increased due to improvements in seeds, techniques and technology, the number of hectares planted with grains has continued to fall, due to the unfavorable prices. Subsidies for the establishment of tree plantations under Decree Law 701 of 1974, coupled with falling agricultural prices, stimulated a switch out of agriculture and into silviculture, even on lands technically suitable for agriculture.[9]

These production transformations on the large estates reduced the need for hired labor, and thus had an important affect on the Mapuche peasant families. Because the size of the *reducciones* was insufficient from the beginning, Mapuche peasants were forced to adopt a variety of strategies to supplement income: seasonal labor on the nearby estates,

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[7] See CIDA 1966, and Marvin John Sternberg, Chilean Land Tenure and Land Reform (Ph.D. dissertation, University of California at Berkeley, 1964), 10.

[8] See Babarovic et al. 1987.

[9] Data from Regional division of the Agricultural Ministry.

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sharecropping, and emigration, in addition to mechanisms within the *reducciones* to share resources--*medieria*, common use of pasture and forest, etc.[10] The shift from wheat cultivation to cattle raising, as well as the mechanization of wheat growing, however, led to a significant reduction in the need for seasonal help. Bengoa estimates that the mechanization of the wheat harvest displaced "large numbers" of men from the rural areas of the Ninth Region, as reflected in high rates of emigration beginning in the 1940s. In addition to mechanization, the shift to cattle raising was another factor in the loss of local jobs. Bengoa states, for example, that an estate which before mechanization required some twenty-five to thirty men to sow wheat, would need only four to five men to watch over cattle.[11] Writing in the early 1980s, at the beginning of the shift to industrial tree plantations, which need even fewer laborers, Bengoa calculated that only one worker was needed for every fifty-eight hectares of a tree plantation, and that the trend was to employ one worker per 100 hectares for optimal efficiency.[12]

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[10] *Medieria* or sharecropping, might occur between relatives or close families. I use the term medieria in Spanish, in order to distinguish the relatively equal relationship established and understood between Mapuche families assuming cooperative arrangement and that between a Mapuche farmer and the Chilean estate owner who assume a sharecropping agreement, because both the differences in ethnicity and income are perceived and color the relationship in the latter case. A widow with more land than she could farm might offer some of it to a relative, who would plant and cultivate some crop, and the harvest would be shared. The raising of animals similarly might be shared. Common lands became rarer in the Mapuche reservations, but in the Andean highland where the Araucaria trees provided nuts, the community would move to high summer pastures; each family generally had a section of the forest in which to harvest the Araucaria nuts. Similarly, on the seacoast, each family harvested marine resources from a particular stretch of coast. Thus, social relations tended to redistribute resources so as to lessen, or offset, inequalities within the indigenous communities. See Milan Stuchlik, Life on a Half Share (London: C. Hurst, 1976) and Bengoa and Valenzuela 1984.

[11] Bengoa 1981, p.8.

[12] Ibid.

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The mechanization of agriculture began in the 1940s, although the change took place slowly. By the 1960s, the Agrarian Reform law itself stimulated the acquisition of machines to raise productivity and avoid expropriation. Babarovic et al. state that for the *reducción* of Camar, in the municipality of Carahue, the large estates began to mechanize in the 1940s and ceased hiring temporary labor.[13] In the late 1970s, the conversion to pine and eucalyptus plantations on the large agricultural estates meant that even less seasonal labor was required. At the time of the initial planting, unskilled labor sometimes would be used, but during the 15 to 20 year growth period, the saplings need only to be occasionally pruned. The harvest, and recently the planting as well, is a highly mechanized process, done by subcontracted businesses.[14]

Both the demands raised by the rural Mapuche communities and numerous studies over the years testify to the poverty of the Mapuche.[15] These small farm families were forced to practice "subsistence" agriculture on lands that could not produce enough for a family. They were not autarchic, nor marginalized from the economy. On the contrary, the unequal structural relations with neighboring landowners forced the Mapuche *reducciones* into very unfavorable economic relations. Somehow, the Mapuche

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[13] Babarovic, et al. 1987.

[14] See José I. Leyton, "El fomento de la actividad forestal y su impacto sobre el desarrollo rural en Chile" in El Desarrollo Frutícola y Forestal en Chile y sus Derivaciones Sociales, Estudios e Informes de la CEPAL no. 57 (Santiago: CEPAL, 1986): 121-227, and Alfredo Unda and Alejandro Stuarda, Expansión Forestal en la Novena Región y Desarrollo Sustentable (Santiago: Instituto Forestal, Divsión de Estudios Ambientales, December 1995).

[15] See Babarovic et al. 1987; Bengoa and Valenzuela 1984; Comité Interamericano de Desarrollo Agrícola 1966; Alejandro Saavedra 1971; Héctor González and Ana María Carrasco G., "Ingreso Económico y Subsistencia Mapuche en la Comuna de Pucón," Boletín del Museo Regional de la Araucanía 2 (1985): 33-36; Espinoza Inostroza 1990 (a and b), Sandra Huenchuán, "Mujeres rurales e indígenas en la Araucanía: huellas demográficas y aspectos de sus condiciones de vida" Revista Liwen no. 4 (June 1997): 80-103 (Temuco: Centro de Estudios y Documentación Mapuche Liwen, 1997).

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families had to generate a "surplus," when the farm income actually ran a deficit, in order to have items that they needed but could not produce, such as oil, sugar, yerba mate or coffee, candles, school supplies and some clothes. One study of 150 Mapuche families in the municipality of Pucón[16] found that the average Mapuche family farm of about 12.4 hectares, which produced a combination of grains and small livestock, yielded a net income loss for the year. Because the farm only produced enough wheat for about seven months' consumption of flour, the family had to buy its supply of flour to cover the remaining five months of the year. Similarly, other basic goods had to be bought with income from government subsidies (such as old age pensions), money sent by relatives who worked off the farm, typically as domestic help or manual labor, or wages from odd jobs or seasonal work.[17]

The productive transformations on the large estates meant that Mapuche peasant families had more and more difficulty finding supplemental sources of income locally: there was less and less land available for sharecropping, local estates tended to hire less temporary labor, and their own agricultural production was insufficient for year round subsistence. Forced to assume debts, they often could not make payments, particularly

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[16] INE, Síntesis Estadística Regional, 1992, 17; the study was done by González and Carrasco 1985, cited above. Pucón is noted for its spectacular scenery of lakes, volcanos and national parks which has made it a tourist mecca. Tourism has stimulated a significant demographic growth in the municipal capital since 1970. Its image of luxury hotels, casino, restaurants and elegant beach-front summer homes is not associated with poverty. Government statistics, however, register twenty-five percent of the population as extremely poor—that is, having an income which cannot cover basic nutritional needs. The study by González and Carrasco was conducted in the agricultural year 1983-84. Official data almost ten years later shows that significant amount of poverty continues to characterize the municipality. With a total population in 1992 of 14, 537 inhabitants, the government data list 8,839 people (60%) as poor and 3,694 (25.41%) as extremely poor.

[17] González and Carrasco 1985, 25.

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given the high interest rates charged. The sale of some livestock, garden vegetables, handicrafts, or natural produce (Araucaria tree nuts, seaweed, logs, firewood or charcoal, rose hips, mushrooms, etc.) covered some immediate expense, without providing an adequate income. Since the need for cash was usually immediate, these goods had to be sold at prices determined more by the buyer than the seller--and the intermediaries who purchased these goods took advantage of the fact that the Mapuche had difficulty making the trip to town to sell products--such trips were an expense as well, and there was always work to be done on the farm. Rural Mapuche families thus faced a net yearly income deficit, which has been met by limited subsidies, such as old age pensions, income generated by members who find seasonal work, or by doing without.

Social and Demographic Consequences of State Policies

Given the exhaustion of the natural resources on the Mapuche *reducciones* and the unequal economic and political relations between the local elites and the Mapuche communities, poverty has remained a defining characteristic, despite the intervention of development organizations, government social programs and sectorial economic dynamism, such as that experienced by industrial forestry or tourism. Using the United Nations concept of the "index of human development" which combines quality of life data, such as access to medical attention, nutritional status, quality of housing, access to potable water, life expectancy, and level of education, with data on the internal gross product, the neoliberal Instituto de Libertad y Desarrollo estimated regional indices in a study in 1992. The Ninth Region received the lowest index in Chile. The Ninth Region

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has the lowest literacy rate, the lowest level of schooling in its population, the next-to-last level of life expectancy, and its gross regional economic product was ninth out of the thirteen regions.[18]

Many of the municipalities of the Ninth Region with a high percentage of Mapuche population are also those with a high percentage of poverty. Recent government surveys have found that over 30 percent of the regional population live in indigence, defined as having an income insufficient to cover minimal nutritional requirements; in 18 of the 31 municipalities, the percentage of indigent population is greater than the regional average; poverty is defined at roughly twice the level of indigence; that is, people in poverty have sufficient income for basic nutritional needs but not for all basic needs (housing, transportation and clothing, etc.).[19] Almost half of the population of the municipalities of Galvarino, Puerto Saavedra, Curarrehue, Lonquimay, Melipeuco, Teodoro Schmidt, and Nueva Imperial were found to be indigent. These are municipalities with a high percentage of rural population and a high percentage of Mapuche population. When, in 1996, the government social and economic survey (CASEN) of the population included for the first time areas outside the urban area of Temuco, the regional poverty rate, which had been declining since 1987, jumped three

[18] El Mercurio, September 27, 1992, F 12.

[19] A monthly income level of approximately 15,000 pesos *per capita* (US$30, approx.) is considered indigent (slightly lower in the rural areas and higher in urban areas); the poverty income level is set at twice the level of indigence (US$60, approx.). In 1994, the national average monthly *per capita* income was 96,000 pesos (US$240, 1994 rates, approx.) and for households, the national average monthly income was 323,000 pesos or US$807. In 1994, according to government data, 70 percent of the households had less than the average national household income. La Epoca, 3 Sept. 1995, p. 18.

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percentage points.[20] It was the only region in the country to show an increase in poverty since the previous survey in 1994. Even so, the survey excluded the poorest municipalities of the Ninth Region and still probably underestimates regional poverty levels.

As the population in the Mapuche *reducciones* increased, and the local seasonal labor jobs became scarcer, many young Mapuche emigrated to urban areas, in particular Santiago, Concepción, and Temuco. Census data on the population living in Mapuche *reducciones* register similar figures in each national population census since 1952.[21] In 1940, the Ninth Region had 10.5 percent of Chile's population. By 1982, the region had only 6.2 percent of the country's population, and in 1992, only 5.9 percent.[22] Census data suggest that relatively high rate of Mapuche migration from the rural communities coincides with the beginning of the import substitution industrialization process that attracted people to the Greater Santiago area.[23]

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[20] See the results published in the document "Pobreza y Distribución del Ingreso en Chile 1996. Resultados de la Encuesta de Caracterización Socioeconómica Nacional," (Santiago: Mideplan, 1997). The national socio-economic survey of individuals and households has been conducted every two years since 1987; the other surveys were conducted in 1990, 1992, 1994.

[21] See discussion in Diane Haughney and Pedro Marimán Q., Población Mapuche: Cifras y Criterios (Temuco, Chile: Centro de Estudios y Documentación Mapuche Liwen, December, 1993); data from the Instituto Nacional de Estadística; Saavedra 1971, and Bengoa and Valenzuela 1984.

[22] Intendencia, Ninth Region, Plan Regional de Desarrollo 1986-1990 (Temuco: Serplac, 1986), 20 and INE, 1992. The precentages are rounded to the nearest tenth. The regional plan characterizes Temuco as an "extractor of the profits generated by the economic activity of the regional municipalities," without stimulating benefits to the latter.

[23] Bengoa and Valenzuela 1984; CIDA 1966; Babarovic et al. 1987.

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It is the younger generations, high school aged women and young men, who leave to find jobs as domestic help or manual labor. In fact, if they want to receive a high school education, they must leave the rural communities and live in an urban area. Because of the expense, many cannot attend high school, and leave the *reducciones* to seek employment. Since the 1960s, some studies found that in some *reducciones*, there were very few women or children.[24] In many rural Mapuche communities today the ratio of men to women is high, because women generally find long-term employment as domestic servants, while men often take seasonal jobs and also retain more access to land in the *reducciones*.

This high rate of emigration over the last several decades, has led to a significant change in the distribution of the Mapuche population, but not an elimination of ethnic identity. At present, almost half (44 percent) of those 14 years and older who identified themselves as Mapuche in the 1992 census live in the greater Metropolitan Region of Santiago, while the Mapuche in the Ninth Region constitute only 16 percent of the total Mapuche population, and approximately 26 percent of the population of the Ninth Region, the center of their historical autonomous region.[25]

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[24] This was reported in the 1966 study by CIDA, and by Aldo Vidal H., "Indicadores sociodemográphicos de la población mapuche rural. ¿Crisis de la reproducción societal?" in Sociedad y Cultura Mapuche: El Cambio y la Resistencia Cultural (Temuco: CIID and Sociedad Mapuche Lonko Kilapan, 1992), 207-221. In some areas, the grandparents assume the raising of their grandchildren, as the middle generation works for extended periods of time, as seasonal labor, away from the *reducciones*. (personal commentary, municipal agricultural extension agent for Pucón, 1997).

[25] See Haughney and Pedro Marimán 1993. The census did not consider those under 14, and was determined by a question: "If you are Chilean, do you consider yourself belonging to one of the following cultures: 1. Mapuche, 2. Aymara, 3. Rapa Nui, 4. None of the previous." Questions have been raised as to whether the results expressed an under or overcount, because of the high percentage of urban residents, especially in Santiago, who declared themselves Mapuche. Most previous estimates were around 400,000 to 500,000 Mapuche, but the 1992 census yielded almost one million persons who identified themselves as Mapuche. The authors argue that both academic and popular notions of ethnicity associated indigenous

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A study of the patterns of regional emigration found that the Ninth Region had one of the highest rates in the country between 1965 and 1982.[26] According to the 1992 census, most Mapuche now live in urban areas. The 1992 census, which included a question for those 14 years and older as to ethnic identity, registered the Ninth Region as the region with the highest rate of Mapuche emigration (4.5 percent; in numbers, 6,002 Mapuche reported that they had immigrated to the Ninth Region between 1987 and 1992, while 12,538 emigrated from the Ninth Region during the same period). Most of the emigrants went to Santiago (over 40 percent). Given the history of industrialization in Chile, which has drawn the rural population to the cities, this geographic distribution is probably typical of the permanent Mapuche emigration since mid-century. Since the shift to export agriculture in the 1970s, seasonal emigration outside the region reflects the demand for temporary workers for the central regions of Chile, and to a lesser extent, Argentina.

The relatively high demographic growth rate of Temuco, the regional capital, contrasts with the stagnant rate for the region as a whole. Between 1960 and 1970, Temuco grew at a rate of 2.9 percent; between the censuses of 1970 and 1982, the rate

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persons with rural reservations and traditional life styles, and did not consider second or third generation urban dwelling Mapuche as indigenous—but as Chilean. Despite the fact that the Maupche are now a minority in the historic Mapuche territory, they still constitute a majority of the population in various areas of the Ninth, Eighth, and Tenth Regions. In the Ninth Region, many municipalities are mostly Mapuche or more than 30 pecent Mapuche. Using other criteria (last names, persons younger than 14), the number of Mapuche would be significantly higher. The last time the census had included data on the Mapuche population was in the 1952 census, when the census only counted Mapuche living on the *reducciones*.

[26] Jorge Martínez Pizarro, Patrones Migratorios Interregionales en Chile: análisis de casos seleccionados, Dcto. Serie A, no. 212 (Santiago: Centro Latinoamericano de Demografía, 1990), 60.

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was 2.56 percent, and between 1982 and 1992, 2.36 percent.[27] In contrast, the demographic growth rate of the province of Malleco (northern half of the Ninth Region) was only 0.14 percent between 1960 and 1970, 0.81 percent between 1970 and 1982, and 0.60 percent between 1982 and 1992. The demographic growth rate of Cautín province (southern half of the Ninth Region), which includes the municipality of Temuco, was 0.69 percent during the period 1960 to 1970, 1.42 percent between 1970 and 1982, and 1.20 percent between 1982 and 1992.[28]

The disparity between the regional emigration rate and the growth of the city of Temuco can be traced to the structure of the regional economy. The regional economy remains predominantly agricultural, including livestock production and, since the mid 1970s, industrial plantation forestry. Government statistics from 1992 indicate that the primary sector accounts for 27 percent of the regional gross product, commerce 17 percent, and construction and manufacturing industry, 10 percent each. The rate of growth of the gross regional economic product has been relatively stagnant, lagging in recent decades at half the national average, while the regional participation in the Chile's gross domestic product is on a par with that of the sparsely populated, desert or distant regions (Third, Fourth, Eleventh and Twelfth Regions), declining from 2.8 percent in 1960 to 2.3 percent in 1992.[29]

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[27] Instituto Nacional de Estadística (INE), Resultados Oficiales Censo de Población 1992 (Santiago, INE, 1993).

[28] Ibid. and Direción Regional de INE, Síntesis Regional Estadística, 1992, 21-22.

[29] Intendencia, Estrategia de Desarrollo (Temuco, Chile: Secretaría Regional de Planificación,1991), 8; and Banco Central, summary of economic statistics 1960-1988 and monthly bulletins.

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Because of the free trade policies pursued by the state since the 1970s, the traditional agricultural sector of grains and cattle faces severe competition from imports. Wheat imports in particular have undercut the profitability of local farms. Prices for traditional agricultural products such as wheat, other grains, potatoes, and livestock fell by twelve percent between 1986 and 1997. Wheat prices dropped by half over the same period. Between the agricultural seasons of 1987/88 and 1995/6, the number of hectares planted in wheat in the Ninth Region dropped by 14.8 percent, while the number of hectares of tree plantations rose by 49.1 percent.[30] Despite the continued decline in area since the 1970s, wheat is still the principal annual crop of the Ninth Region, both for large commercial growers and small subsistence farmers. The Ninth Region produced 34 percent of the Chile's wheat. Regional productivity for wheat increased from an average of 17.8 quintals per hectare in 1980 to 28.4 quintals per hectare in 1991, and continued to improve during the 1990s with changes in production techniques and seeds.[31] At the same time, regional yields are relatively low in comparison to other zones. The Concertación government has continued to seek free trade agreements, such as membership in NAFTA and MERCOSUR (Argentina, Brazil, Uruguay) that will continue to undermine the profitability of the traditional agricultural sector. By contrast, MERCOSUR offers competitive advantage to Chile's forestry sector, as tariffs on member states' industrial forestry products were removed on October 1, 1996, the date Chile entered into an association with MERCOSUR (not as full partner).

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[30] Comité Interministerial de Desarrollo Productivo, "Política de Desarollo Productivo" (ms), March, 1997 and Instituto Nacional de Estadísticas, Censo Agropecuario 1997 (Santiago: INE, 1998).

[31] Data from the Instituto Nacional de Estadisticas and the Regional Secretariat of the Agricultural Ministry.

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Poverty and inequalities of wealth, income, and resources continue to characterize the Ninth Region. According to statistics gathered by the regional division of the Economic Ministry, the Ninth Region has the greatest percentage of minimum wage workers of all the thirteen regions of Chile.[32] Most of these minimum wage workers have no contract, and thus no deductions for pensions or health services. The mean regional monthly income of 140,643 pesos (approx. US$350) in 1995 was only 62 percent of the national average (227,780 pesos or approx. US$550). In addition, the Ninth Region lagged behind the rate of increase in the national average mean income, despite a rise in the regional average income.[33] Between 1990 and 1997, the Ninth Region generated the least number of jobs of the thirteen regions, and at a rate well below the national average (7.3 percent rate in the Ninth Region versus 16.8 percent in the country as a whole). The Ninth Region is also the region that spends less on training its workers.[34]

The regional labor force also is predominantly in the primary sector: 34.6 percent in the primary sector, versus 24 percent in social services, 13 percent in commerce, 10.3 percent in manufacturing industry, 9.2 percent in construction, 3.0 percent in financial services.[35] In the 1990s, the percentage of the labor force in the primary sector declined (from 42 percent in 1992 to 34.6 percent in 1996), while that employed in social services,

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[32] "Minuta de La Heterogeneidad en el Desarrollo Productivo Regional," (ms.) Ministerio de Economía, Ninth Region, Punta de Tralca, 11 July 1997.

[33] Comité Interministerial de Desarrollo Productivo, "Política de Desarollo Productivo" (ms), March, 1997.

[34] Ibid.

[35] INE data from 1996.

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construction and manufacturing increased slightly, until the recession triggered by the Asian economic crisis. The sectorial shift of the labor force towards services, commerce, industry, and construction was also reflected in an excessive concentration in Temuco. Temuco had 56.1 percent of the regional labor force employed in commerce, 42.7 percent of the regional labor force employed in services, 43.5 percent of the regional labor force employed in manufacturing, 46.6 percent of the regional labor force employed in transportation, and 66.4 percent of the regional labor force employed in financial services.[36]

Temuco's dynamic growth, coupled with the constant rate of emigration of the rural Mapuche population out of the region, and the stagnant regional economy, indicates that the rural Mapuche population cannot find economic alternatives within the Ninth Region. The rural Mapuche emigrant, however, is at a disadvantage because of a lack of training and education. The insertion in urban economies continues to be in low paying, low skilled jobs, which are vulnerable to reductions in employment in times of economic slowdown.

During the economic recession of 1998-99, the entire Chilean economy suffered, with official unemployment rates reaching double digits for the first time in a decade. Particularly hard hit were the more industrialized urban centers: Santiago, Valparaíso, and Concepción-Talcahuano. These areas had high rates of unemployment, not only because the Asian recession dramatically reduced the demand for some of Chile's major

[36] INE data from 1997.

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exports (copper and wood pulp), but also because in recent years the fish products industry had overexploited several fish species, forcing the application of limits to harvests (no industrial catches, only those resulting from "research" whose catch is destined for human consumption. Industrial production of fishmeal used for animal feed is currently banned.[37]

The Ninth Region typically has had lower rates of unemployment than the national average both because of the high rate of emigration out of the region, and the absorption of the labor force on the Mapuche farms. Yet the gradual downward trend in the percentage employed in the primary sector, and upward trend in urban sectors, such as services, construction, commerce, and manufacturing have been accompanied by a steady upward trend in rates of unemployment in the region: from 3.1 percent in 1994, 3.9 percent in 1995, 4.1 percent in 1996, 5.0 percent in 1997.[38] In addition, the sectorial shift in the labor force provided no cushion against the recession that began in 1998. The Ninth Region registered an official open unemployment rate of 10.5 percent in July 1999, close to the national average of 10.8 percent. Although macroeconomic figures returned to positive growth in 2000, national and regional unemployment rates remained high throughout the year.

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[37] Marcel Claude, Una vez más la miseria: ¿Es Chile un país sustentable? (Santiago: LOM Ediciones, 1997).

[38] Data from the regional division of the Economic Ministry, published in El Diario Austral, 7 Feb. 1998 A5. In the news article, Regional Economic Minister Rodrigo Saavedra stated that traditionally the Ninth Region has had a low rate of unemployment because of its high rate of emigration. The labor force tends to emigrate towards the more industrialized regions, [Santiago, Eighth Region, Fifth Region], but these regions have experienced important recessive phenomena....such that many people have had to stay in the Ninth Region. The solution [he argued] is the integrated development of the region, oriented toward the [different] municipalities, not, as occurs today, concentrated only in the city of Temuco.

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The Question of Social Change and Ethnic Identity

Military defeat and confinement to the *reducciones* produced significant changes in Mapuche culture. The Mapuche could not sustain the same social and political relations as before, nor did they have the economic means to maintain their relative prosperity. Nevertheless, although the Mapuche had to endure poverty and many of the later generations emigrated to cities, especially Santiago, most Mapuche did not assimilate. Mapuche both in rural communities and in urban areas continued, generally, to view themselves as belonging to a distinctive culture.

Many early social scientists and politicians assumed that cultural assimilation was a matter of time and an inevitable consequence of close contact with Chileans. Additionally, the school system was supposed to foster new cultural patterns and a new national identity as Chileans. Missionaries also sought to impose new beliefs and customs. Many politicians pushed for the subdivision of Mapuche lands on the basis of the argument that private property ownership would act as a stimulus to cultural change (e.g. fostering "industriousness") as well as increased economic productivity. Urban living was taken as a sign of assimilation, since most outward signs of Mapuche culture would not be visible, and perhaps not even transmitted to younger generations (as in the case of the Mapuche language).

Cultural assimilation, however, proved not to be so inevitable, either in cities or in rural communities. By the mid-twentieth century—several generations after the military

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defeat of the Mapuche, anthropologists working in the field disputed the thesis that the Mapuche were in a process of cultural assimilation.[39] These scholars argued that the Mapuche, as a whole, adjusted to their new unfavorable circumstances by adopting elements that preserved cultural identity. Education and fluency in Spanish became important to Mapuche in order to help avoid becoming victims of fraud, as well as to "advance" economically or socially.[40] An elderly Mapuche gentleman recalled an unpleasant experience as a young man in the early twentieth century, when he was ridiculed for his lack of command of Spanish while he was making some purchases in a frontier store in Argentina. After returning to Chile, he became a schoolteacher, convinced that competence in Spanish was essential to avoid humiliation and to protect one's own interests.[41]

In rural areas, conversion to Christian religions often was a cause for divisions among Mapuche, particularly if the converts attempted to suppress Mapuche traditions. Even so, ethnic identity did not necessarily disappear. Frequently, contradictory beliefs

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[39] Louis Faron, Mapuche Social Structure, (Illinois, 1961) argued that the Mapuche managed to conserve their culture and that their culture was in a state of "dynamic equilibrium" in which new, foreign elements were adopted but were inserted into social patterns in a way that preserved Mapuche identity and culture. Stuchlik (1974) criticized the notion that the Mapuche would passively accept cultural change by mere contact, and that changes in customs revealed a society that made changes in order to serve internal (Mapuche) purposes. Barth, and others (1976) argue that cultural identity is actually a function of the interaction between different peoples, and thus, that a distinct collective social identity can be maintained, even when differences to some outside observors seem minimal. Eidheim (1976) shows how contexts of social discrimination often induce a subordinate group to hide their allegiance to their culture.

[40] Pablo Marimán Q., Demanda por Educación en el Movimiento Mapuche en Chile: 1910-1990. Una aproximación desde la Historia Oral (Temuco: Universidad de la Frontera, 1993). Thesis to obtain degree as professor of History, Geography and Civic Education. Foerster and Montecino's history of the Mapuche movement also documents the demands for technical training in agriculture, scholarships, residences for students attending higher education, and free university education (1970) in the Mapuche movement. See Foerster and Montecino 1988.

[41] Interview of Antonio Quilaleo at his home, (95 years, approximately) conducted by his son, Gustavo Quilaleo B., December 1994. The author was present.

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and customs were woven into coherence in an individual's personal philosophy—or even an organization's. The Unión Araucana, founded in 1926 under the auspices of the Capuchin monks, for example, criticized most Mapuche customs as barbaric, and advocated "modernization" through the adoption of Christian beliefs and ways. At the same time, it called for the state to grant lands to those Mapuche who had not been assigned to a *reducción*. The assimilationist stance of the Unión Araucana was an exception to the pattern of most Mapuche political organizations that valued Mapuche traditions and culture. Like other Mapuche organizations, however, the Unión Araucana sought economic assistance from the state and defended the protection of Mapuche lands.[42]

By the last quarter of the twentieth century, loss or erosion of elements of Mapuche culture, whether territory, the use of the Mapuche language, or traditional knowledge and subsistence practices, would be characterized by some Mapuche activists as injuries to their collective rights as a people, not as indications of assimilation. Even as industrial projects and public works took over more Mapuche lands, Mapuche in urban areas formed organizations and revived cultural and religious practices, signed up for Mapuche language courses, proclaimed their ethnic identity in the national census, gave their children Mapuche names, and generally showed allegiance to their culture. In rural areas, the principal religious ceremony, the *nguillatun*, was revived in communities

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[42] Foerster and Montecino 1988. José Marimán, "El conflicto nacionalitario y sus perspectivas de desarrollo en Chile: el caso mapuche" ms. May 2000, (to be published in the Revista Austerra of the Universidad Bolivariana, Santiago, Chile in August 2000), citing Rolf Foerster, gives another example of ideological contradictions which nonetheless, do not dispel ethnic identity: Sergio Liempi, who ran for the far right wing party in the 1989 elections, stated "the more Evangelical I am, the more Mapuche I feel."

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where it had not been practiced in many years, and, in others where it had been maintained, it flourished. Rural communities that seemed to have lost more of the old ways began to revive traditions.[43]

Social and political organizations, both traditional ones, and new ones styled after Chilean organizations, countered pressures to assimilate. Although traditional authorities played a secondary role, since they had no influence upon Chilean political authorities, they did not disappear.[44] New organizations, many of them linked to Chilean political parties, defended economic interests of Mapuche communities. These organizations helped to conserve ethnic identity, just as did the daily patterns of cultural transmission in private interactions among relatives and friends. Memories of discrimination, loss of land, and cases of violence inflicted upon a relative or friend, as well as recollections of old customs, reminded Mapuche that they had a common heritage and a shared history of struggle against perceived injustice. The following chapter describes the efforts of the Mapuche political movement to defend community lands and culture, and to gain economic assistance for Mapuche peasants.

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[43] An anthropologist working in the countryside near Chol Chol described to the author in 1999 how one Mapuche community which had not retained traditional organizations, nor the language, nor the *nguillatun*, decided that they wanted to have a *nguillatun*. On second thought, the community decided to try a less ambitious, and less costly project first--inviting nearby communities to play the Mapuche sport, *palin*. The school children enthusiastically learned how to play from their elders, and began to bring *chueca* sticks for *palin* rather than the usually ubiquitous soccer ball. (The game resembles field hockey.) This was a case of a rural community which might have seemed to have assimilated, only to undertake the revival of forgotten traditions on its own initiative, doubtlessly influenced by a social and cultural context of renewed cultural pride.

[44] Ana Mariella Bacigalupo, "El rol sacerdotal de la machi en los valles centrales de la Araucanía" in Modernización o Sabiduría en tierra Mapuche (Santiago: CERC, 1995), 51-95. Bacigalupo argues that Mapuche religious leaders adopted priest-like characteristics in those central valley areas in close contact with Chileans, in order to defend Mapuche religious customs and beliefs. See Rolf Foerster, Aproximaciones a la Religiosidad Mapuche (Santiago: Editorial Universitaria, 1993) for other examples of adaptations in religious practices which act to reinforce Mapuche culture rather than undermine it.

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Chapter 4. The Mapuche Movement from the 1930s to 1973: The Defense of the *Reducciones.*

Throughout the twentieth century, both regional and national elites lobbied to remove the protection of indigenous property and allow Mapuche lands to be sold on the free market. Mapuche organizations, in turn, sought to maintain the protection of their lands in the *reducciones*, forming alliances with a range of political parties. These political alliances prevented the elimination of the special status of Mapuche lands, except for a brief period in the 1940s. Mapuche organizations directed their claims to the state, just as did most other social sectors. On the eve of the military coup in 1973, they had not only preserved the protected status of Mapuche lands, but also had won a new indigenous law that responded to the demands of Mapuche organizations, rather than the interests of the large estate owners.

Mapuche communities consistently pressed claims to usurped lands, in courts, through their organizations, and occasionally, in take-overs of estates. At the end of the 1960s through 1971, in all parts of Chile, many rural and urban workers seized farms and factories. In this context of political and social challenge to capitalist control of property, many Mapuche communities did not wait for the proposed new indigenous law to pass, and seized estates, taking back land that had been usurped from their *reducciones.*

During the period from the beginning of the twentieth century until the military coup of 1973, rightist, centrist, and leftist parties sought, in different ways, to remove what they perceived as contradictions between the indigenous property status

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and overall economic policies. For the Right, this meant the elimination of the protected status of Mapuche lands. During the era of the Agrarian Reform, for the Center, the solution was to give Mapuche communities technical assistance to improve agricultural production, either under individual ownership or in cooperatives. For the Left, the solution lay in returning usurped lands, organizing private or state-owned cooperative production, and providing technical, and financial assistance and training.

For the most part the Mapuche organizations made demands within the framework of Chilean law (as in the case of the defense of the community lands), or sought financial assistance to alleviate the harsh poverty, rather than seek a new political relationship with the Chilean state, based upon collective political rights.[1] With the exception of some organizations started under the auspices of the Catholic Church, which denounced many cultural and religious practices, these organizations defended Mapuche culture and did not seek to eliminate Mapuche traditions or deny the dignity of their heritage.[2]

The period of *Radicación* (the assignment of Mapuche to lands held in common title, called *reducciones*) lasted from 1883 to 1930. During this long period, conflicts occurred between Mapuche and Chilean settlers. Large landowners sometimes used violence, as well as fraud, to force Mapuche families to leave their lands, and then had the titles recorded as their own in state registries.[3] In other cases,

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[1] One exception was Manuel Aburto Panguilef, leader of the organization Federación Araucana, who called in the early 1930s for an independent Mapuche Republic. See Foerster and Montecino 1988.

[2] See Foerster and Montecino 1988.

[3] See Bengoa 1985; idem 1999; and Comisión Parlamentaria 1912.

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overlapping or imprecise property boundaries led to title disputes. As early as 1929, Mapuche communities had filed 1,219 lawsuits over usurped lands, and by 1940, more than one-fifth of the original grants of lands to the *reducciones* had been lost through fraud.[4]

In 1931, Law 4.111 terminated the process of *Radicación* and established provisions for the division of the Mapuche properties into individually owned plots at the request of one third of the members of a *reducción*.[5] Proponents of subdivision argued that individual property would stimulate a productive use of the lands, and in those cases in which it did not, market forces would act to transfer the lands to owners who were prepared to invest. The regional newspaper used the term "suicide belt" to refer to the numerous Mapuche *reducciones* near the capital city of Temuco, both at the end of the nineteenth century and again in the 1940s, voicing the opinion of economic elites who complained that these Mapuche communities thwarted regional development.[6] In the 1940s, the regional agricultural association, the SOFO, demanded the elimination of the Mapuche *reducciones*, including the recommendation that the Mapuche population be transferred to the far south of Chile. In the late 1940s, during the Presidency of González Videla, the Land Ministry

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[4] Foerster and Montecino 1988 and Bengoa 1999.

[5] See Hugo Ormeño and Jorge Osses, "Nueva legislación sobre indígenas en Chile," Cuadernos de la Realidad Nacional (CEREN) no. 14 (October 1972): 15-45; Gonzalo Bulnes, Los Mapuches y la Tierra (Santiago: PAS, 1985); Eduardo Castillo, "Chile: Legislación indígena?" Law & Anthropology no. 3 (1988): 247-266.

[6] "No es posible dejar en los alrededores de Temuco en las mejores tierras un cinturón suicida que impedirá el desarrollo de la ciudad" Bengoa 1985, 342; see also the article by the regional agricultural society, the SOFO, in the Revista Cautín (1948): 30-31.

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designed a proposal to expel the Mapuche from the Ninth Region, and a bill was proposed (unsuccessfully) in Congress to expel them to Aysén in Chilean Patagonia.[7]

The Rise of Mapuche Political Organizations

An organized political movement emerged as early as 1910, led by Mapuche who were teachers or businessmen. Mapuche organizations defended the rural communities' claims to lands, economic assistance, and education or technical training.[8] From the beginning of the twentieth century, Mapuche farmers not only faced threats of usurpation, but also found themselves forced to apply for credit. Since they did not own land individually, credit was hard to obtain. Usurers offered credit, but demanded goods and lands if the Mapuche farmers could not pay the loans back.[9] At the same time, the Chilean state promoted the settlement of the southern regions by offering credit and tools to foreign immigrants and Chileans.

Early in the century, Mapuche leaders adopted the strategy of alliances with political parties. These leaders generally assumed political positions with respect to property ownership and indigenous lands that reflected their party's ideology. Two Mapuche leaders, Manuel Manquilef and Francisco Melivilu, were elected to Congress in the 1920s, running for the Liberal Democratic and Democratic parties, respectively.[10] Manuel Manquilef followed liberal ideas and advocated subdivision of

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[7] See Foerster and Montecino 1988.

[8] Foerster and Montecino 1988 give a history of the Mapuche political movement from 1910 to 1970.

[9] Similar practices occurred in Mexico. See Roger D. Hansen, Mexican Economic Development: The Roots of Rapid Growth (National Planning Association, 1971), 78-9.

[10] Foerster and Montecino 1988.

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Mapuche lands into private, individual plots. By the end of the 1920s, however, most Mapuche leaders recognized that subdivision facilitated the loss of lands from *reducciones*, and no longer advocated it.

In the 1940s and 1950s, the Mapuche organization with the broadest support was the Corporación Araucana. Several organization leaders would achieve political office, running as members of the Conservative Party. Bengoa (1999), discussing the alliance between some Mapuche leaders and the Conservative Party, notes that the large landowners in the Ninth Region belonged mainly to the Radical Party, not the Conservative Party, as in Central Chile. By supporting the leaders of the Corporación Araucana, the Conservative Party gained votes in the Ninth Region without alienating its landlord base in central Chile. Foerster and Montecino (1988) believe that the great strength of the organization lay in the qualities of its principal leader, Venancio Coñuepán, who combined a respected lineage, leadership abilities, and wealth, and thus was admired and respected by Mapuche peasants.

Leftist parties earned some support in Mapuche communities through Mapuche militants who had joined leftist trade unions in the coal mines near Lota, in the Eighth Region, south of Concepción, or in urban jobs.[11] Leftist organizers faced persecution, including the period between 1947 and 1958, when the Communist Party was outlawed. Even so, leftist parties generally supported the demands of Mapuche communities to restore usurped lands.

[11] Bengoa 1999 and Foerster and Montecino 1988.

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For the most part, Mapuche leaders defended the material interests of Mapuche living in the rural communities. They did not emphasize "national" difference, as some contemporary Mapuche political activists have. Political advertisements for one successful Mapuche leader, Venancio Coñuepán, who ran as candidate for the Conservative party after an attempt as an independent, made appeals to Chileans as well as Mapuche, including references to his patriotism toward the Chilean state. An exception is the leader Manuel Aburto Panguilef, who called for a Mapuche Republic in 1931, and used many traditional elements in his organizational meetings.[12] Regional elites, and even the Mapuche president of the Unión Araucana, Floriano Antilef attacked Panguilef as an unpatriotic communist.[13] Panguilef had a considerable following initially, but later the Corporación Araucana, under the leadership of Venancio Coñuepán, became the most popular and powerful of the Mapuche organizations in the mid-twentieth century.

During the 1940s and 1950s, most of the Mapuche organizations met the threat of loss of Mapuche lands by uniting under the aegis of one organization, the Corporación Araucana. This organization had affiliates throughout the Ninth and Tenth Regions. In 1948, it convoked an estimated 12,000 Mapuche in Temuco for a meeting, marking the event with traditional religious ceremonies, speeches in the Mapuche language that were transmitted by the local radio, and a march through the capital streets.[14] Running as candidate of the Conservative Party, the Corporación Araucana leader, Venancio Coñuepán, was elected to Congress by a wide margin in

[12] Foerster and Montecino 1988, 136-150.

[13] Ibid, 136.

[14] Ibid.

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1949. Two other leaders of the Corporación Araucana also won congressional seats and 12 were elected to local government offices.

The peak in the influence of the Corporación Araucana occurred in the term of President Carlos Ibáñez del Campo (1952-8), but it proved to be short-lived. President Ibáñez appointed Coñuepán head of the Ministry of Lands and Colonization, and created the Office of Indigenous Affairs (*Dirección de Asuntos Indígenas*). As Minister and as one of the Directors of Chile's Central Bank, Coñuepán and his organization gained control of the Indian Courts that dealt with property disputes. The influence that Coñuepán wielded alarmed conservative elites, who launched an attack on him and his organization, and succeeded in ending his control of the Indian courts.

Even when the Corporación Araucana became the Mapuche organization with the most support among the Mapuche and influence within state structures, it never directly challenged the structural, political, and economic terms of subordination to the Chilean state.[15] It promoted the protection of indigenous lands, but did not attempt to demand more land, nor make demands for political rights as a people. Challenges to established order occurred at the grassroots, both in the form of occasional land takeovers and in cattle rustling, and were treated by the state as delinquency.[16] The regional newspaper reported land takeovers in the 1930s, by Lake Budi, and in the municipalities of Toltén and Lonquimay.[17] These actions were not supported by the Corporación Araucana, and were isolated or sporadic incidents that

[15] Foerster and Montecino 1988; José Marimán, "Cuestión Mapuche, Descentralización del Estado y Autonomía Regional" Tópicos 90 no. 1 (Santiago: Centro Ecuménico Diego de Medellín, 1990): 137-150.

[16] Foerster and Montecino 1988.

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did not reflect a broad, coordinated movement, though they were often supported by leftist parties working through local Mapuche militants.[18]

Working within the institutional framework, the Corporación Araucana defended the rural Mapuche community interests against loss of land by mounting public campaigns, pressuring against proposed laws to subdivide Mapuche lands in Congress, and presenting the demands of the rural communities for economic assistance. The Corporación Araucana, for example, led a successful campaign against the construction of a new airport (El Natre) for Temuco in the 1940s which would have required removing Mapuche families from their lands, as had happened in 1928 for the construction of the Maquehue airport. Corporación Araucana leaders, especially Coñuepán at one point, enjoyed considerable support among the Mapuche, but they did not try to change the indigenous laws, and merely sought to prevent the subdivision of the communities and to alleviate the poverty of the rural communities. Coñuepán proposed the creation of a Mapuche savings and loan association (*Caja de Crédito Indígena*) in order to provide Mapuche with an alternative to the high interest rates charged by local lenders. Nor did the Corporación Araucana leaders echo Aburto Panguilef's call for a republic, although initially, before joining the Conservative Party, Coñuepán had advocated the creation of a "Mapuche political party."[19]

The Corporación Araucana framed its demands in terms of the immediate needs of the rural communities, not a reordering of the overall political relationship

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[17] Ibid.

[18] Foerster and Montecino 1988 and Bengoa 1999.

[19] Foerster and Montecino 1988; Bengoa 1999, chapter 8. See also the article in El Diario Austral December 6,1932. Coñuepán had attended the first congress of indigenous peoples of Latin America in

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between the Mapuche people and the Chilean state. The demands for credit and the idea of a "Mapuche bank" indicate that neither the economic nor the political system itself was questioned by the Corporación Araucana, and that, with protection for the community lands, adequate training and financial assistance, Corporación Araucana activists believed that the Mapuche communities could become prosperously integrated into the rest of Chilean society on mutually beneficial terms. Given the fact that many of the movement leaders of the mid century maintained close ties with the rural communities and spoke the Mapuche language, the defense of culture perhaps seemed less important, as they took for granted that daily life in the communities assured its maintenance, while the defense of material interests was unquestionably urgent.

The political influence of the Corporación Araucana at the end of the 1940s was such that regional economic elites launched a concerted effort to discredit it. Both politicians and the local press attacked the Corporación Araucana as contributing to a separatist movement "contrary to democratic postulates."[20] These critics claimed that the Mapuche organization had created a clientelist network composed of "people who spoke a language different from Spanish."[21] Virtually accusing the organization of subversion (because of the organizations' alleged racist and separatist orientation) and corruption (because of its alleged control of some state funds and its extraction of dues from its members), these critics attacked the protection of Mapuche lands as preventing the Mapuche from being able to apply for credit and improve their

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Mexico, in 1942, when the Instituto Indigenista Americana was created.

[20] Foerster and Montecino 1988, 242.

[21] Ibid, 223.

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productive technology. In the absence of capital investments, they argued, the overexploitation of natural resources and poverty of the Mapuche communities was inevitable.[22] Echoes of these arguments continue to be heard today.[23]

Movement Demands and State Responses during the era of Agrarian Reform: 1960s-1973

During the mid-century, at the time of the height of influence of the Corporación Araucana, the Chilean economy reached a point of stagnation and double-digit inflation. The influence of the Corporación Araucana and its leaders rapidly dwindled, as the new right-wing administration of Jorge Alessandri (1958-64) reduced funds for social and economic programs. A conservative backlash against the Corporación brought defeat for the three Congressional candidates of the organization in the 1957 elections. Some of its leaders resigned from the organization, and it never again had the same support in the Mapuche communities. The Mapuche movement split into many different organizations whose ties with the different political parties

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[22] Ibid, 221-234.

[23] See for example, right wing deputy (UDI) Jorge Ulloa of Talcahuano in an article in the newspaper El Sur (9 March 1999) argued that the Mapuche should not have special privileges since they were no different from other Chileans, and all Chileans should be treated equally; in a news article in El Mercurio 14 March 1999, the neoliberal think tank, Instituto de Libertad y Desarrollo sharply criticized the 1993 indigenous law for prohibiting the sale of indigenous lands and for creating obstacles to development projects; El Mercurio editorialized (19 March 1999, "Solución para Mapuches") that the government should not give more land to the Mapuche or protect their lands as under the 1993 law, but rather should apply the Law for Internal Security of the State and integrate the rural Mapuche into the economy. In another editorial on 25 February 1998 ("El Retorno de las Tomas"), El Mercurio argued that the Mapuche problems could be summarized as poverty, education, land tenancy and "cultural factors", none of which were effectively addressed by the 1993 indigenous law. In a letter to the editor in El Diario Austral, (30 March 2000), Camilo Salvo, Socialist party member and lawyer contended that the Mapuche problem was one of marginality, poverty, lack of education, as well as the threat of the logging companies, urban emigration and loss of culture, and that an appropriate social and economic solution, which would defeat the "temptation for autonomy," would involve the integration of the Mapuche into the economy. Then undersecretary of the Interior Guillermo Pickering (PDC) stated in El Mercurio (20 April 1999, A8) that the (Chilean) state had never adequately solved the problem of integrating the Mapuche into the life of the rest of the nation, and that they continued to live in marginality in spite of the efforts of the new indigenous law.

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were much closer than those of Mapuche organizations in previous years.[24] Partisan ideological differences became acute, just as they did in other spheres of Chilean society of the period. Nevertheless, towards the end of the 1960s, many Mapuche organizations began to reach common ground on basic demands in their efforts to formulate a proposal for a new indigenous law. Most of the Mapuche organizations of the time had links to left parties, which were also coming together in a leftist coalition, with the goal of winning the 1970 elections.[25]

Two national Mapuche congresses were held, one in 1969 in the town of Ercilla (Ninth Region), and the other in 1970 in Temuco. Delegates from the Eighth, Ninth, and Tenth Regions, and Santiago participated.[26] Their proposal incorporated many of the principal demands raised in the past: protection of the lands recognized by the *Títulos de Merced*; restoration of the lands usurped from the *reducciones*; facilities for credit and technical assistance; educational scholarships; free university education and student residences; a bilingual education program; and the promotion of indigenous organizations. The Mapuche organizations also called for the creation

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[24] Foerster and Montecino 1988 and Bengoa 1999.

[25] Foerster and Montecino 1988 and Almino Affonso et al. 1970.

[26] For accounts of these congresses, see Foerster and Montecino 1988; Affonso et al. 1970; and articles in El Diario Austral (Temuco) of the time. For a participant's account, see Vicente Mariqueo, "El Pueblo Mapuche," in Indianidad y Descolonización en América Latina (Mexico: Editorial Nueva Imagen, 1979), 137-198. In 1953, another national congress of Mapuche organizations was held in Temuco, with 63 delegates from Arauco, Concepción, Biobío, Malleco, Cautín, Valdivia, Osorno, Llanquihue, and Chiloé. At this congress, the Asociación Nacional Indígena de Chile was created. This Association was linked to the Communist Party. In a Declaration of Principles, the Association called for all Mapuche organizations to unite to fight against all racial discrimination, to achieve total emancipation as a national minority, to preserve their culture, language, art, reconquer their lands, and improve their social, economic, and political situation. The principles also called for the Mapuche organizations to join with the working class to struggle for the recovery of civil liberties and the democratization of the regime, the defense of national sovereignty, and the termination of the military pact with the United States. At the time, the Law for Permanent Defense of Democracy (1947) banned the Communist party, and leftist union leaders were persecuted, including the poet Pablo Neruda (a Communist Party member).

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of a specific state agency for indigenous development, to be directed by ten Mapuches from the five provinces with a substantial Mapuche population in the historical Mapuche territory (the provinces of Arauco, Malleco, Cautín, Valdivia and Osorno, of the Eighth, Ninth and Tenth regions).[27] The proposal reflected the conceptual vision of the problems and demands of the rural Mapuche communities that was similar to the conception of the problems of the rural sector in all of Chile, that is, as a socially and economically marginalized sector.[28]

The Mapuche organizations sought to correct a deficiency of the 1967 Agrarian Reform Law, and the Rural Unionization Law. These reforms represented major reforms of the Christian Democratic government (1964-1970), but they were not relevant to the situation of the Mapuche communities. The Agrarian Reform law of 1967 meant to overturn the structural inequities in land ownership and offer technical and financial assistance to the poor rural permanent worker who lived on the agricultural estate. There were no specific provisions in the law, however, for the Mapuche, who would be much less likely to benefit from land reform, because they had their own lands and did not live on the large estates, but only worked there as seasonal labor. The proposed new indigenous law was aimed at the concrete needs of Mapuche peasants. Congress delayed two years, finally approving the law in

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[27] See Actas (official records) of the debate in the Chamber of Deputies, 14 June 1972, p. 323.

[28] Wilson Cantoni, "Fundamentos para una política cultural mapuche," Cuadernos de la Realidad Nacional (October 1972): 74-95, succintly critizes the Chilean left's lack of capacity to consider ethnic-national claims: "the Chilean left, is, at the same time, left, and Chilean." He then explains that the Chilean leftists are not immune to the reigning stereotypes and prejudices about the Mapuche, and, additionally, Marxism has a theoretical lacuna with respect to the ethnic question, and the Mapuche themselves tend to recognize ethnic discrimination more than class. Charles R. Hale, in his study of the relations between the Miskito and the Sandinistas, Resistance and Contradiction. Miskitu Indians and the Nicaraguan State, 1894-1987 (Stanford, Ca.: Stanford University Press, 1994), decribes how the leftist, mestizo Sandinistas overlooked racial and ethnic discrimination, while the Miskito overlooked questions of class and external (United States) domination.

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September 1972. Although Congressmen both of the Right and Left occasionally urged approval of the law in order to calm the Mapuche in the countryside, who had begun a series of land takeovers, the state response proved to be too slow for the Mapuche communities, and too threatening for regional elites.[29]

In the countryside, in 1969 and 1970, the Mapuche communities engaged in a wave of land takeovers.[30] Mapuche peasants took over 277,000 hectares in the Ninth Region province of Cautín, many of which were not large estates.[31] In the entire country, mobilized peasants seized estates: in 1969, there were 148 farm takeovers; between September and December of 1970, there were 192 takeovers; in 1971, there were 1,278.[32] In this context of political struggle, Mapuche peasants did not wait for the passage of a new indigenous law. The Mapuche in the *reducciones* remembered the usurpations and the years of unjust treatment they had received from local landowners. The Mapuche communities had preserved the memory of the original boundaries of the *Títulos de Merced*, as well as the ancestrally used land before the *Radicación*. Community leaders continued to make title searches to back up claims and present lawsuits, but they also began to organize and plan to take for themselves

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[29] See Actas of the Chamber of Deputies on October 26, 1971, pp. 404-5, and 16 November 1971, pp. 1088-89, when Deputy Hardy Momberg of the rightist Partido Nacional complained that the government was not controlling the take-overs of estates by the Mapuche, and that he supported the passage of the proposed law in order to calm the Mapuche, and pp. 1104-5, when Deputy Pedro Alvarado, a Christian Democrat, said that the delay in passing the law was responsible for the take-overs, and mentions that the DASIN (Department of Indigenous Affairs) offices in Temuco were also taken over.

[30] See Steenland 1977.

[31] Steenland 1977, 206-7. Foerster and Montecino (1988) state that Mapuche in the municipalities of Lumaco, Lautaro, Loncoche, Nueva Imperial (all in the Ninth Region), Ralco (Eighth Region) Panguipulli, and San Juan de la Costa (Tenth Region), took over estates.

[32] Steenland 1977, quoting the Diagnóstica de la Reforma Agraria, (Santiago: ICIRA, 1972). The figures are for the entire country. The study recorded 36 takeovers between 1960 and 1966, 9 in 1967, 27 in 1968, and 148 in 1969. See also Affonso 1970; Brian Loveman, Struggle in the Countryside. Politics and Rural Labor in Chile 1919-1973 (Bloomington, Indiana: Indiana University Press, 1976).

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what the state and the Chilean landowners had long denied them.[33] Attentive to the political juncture, the Mapuche communities launched numerous takeovers on the eve of and directly after the 1970 election of Socialist President Salvador Allende.

Although leftist parties, including the Movimiento Campesino Revolucionario of the MIR (*Movimiento de la Izquierda Revolucionaria*, or Movement of the Revolutionary Left, a far left party which was not a part of coalition of leftist parties of the Popular Unity government) did have adherents among the Mapuche peasants, and supported the takeovers, the widespread mobilization at the end of the 1960s and during the Allende government cannot be attributed to mere political manipulation. These takeovers were not artifices provoked by "extreme left agitators," but a reflection of a deeply held claim to lands, a claim made against the state, as well as against specific landowners, that had long been pursued in the courts and with political authorities, but to no avail.[34]

Juan de Dios Coliqueo, a leader of one of the first of the land takeovers in the municipality of Lautaro, Ninth Region, was a supporter of the right wing presidential candidate Jorge Alessandri in 1970, and of the conservative politics of the Corporación Araucana leader, Venancio Coñuepán. Yet, according to the first-hand account given to José Bengoa, Coliqueo believed that his reputation as an honorable person and his wealthy friends would protect him, and that Salvador Allende, if

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[33] The author listened to one such account of land claims, title searches, and, in this case, helpful bureaucrats during the Allende government, from an elderly Mapuche peasant in 1998 in Temuco at a public meeting. The same Mapuche community was again pressing land claims in 1998, this time against a logging company. See also Brian Loveman, El Campesino Chileno Le Escribe a Su Excelencia (Santiago: ICIRA, 1971).

[34] Bengoa 1999 and Correa 1995.

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elected, would keep his promises. Coliqueo's conservative politics did not imply an acceptance of the status quo in land tenure, nor did it hinder him from asserting his community's land claims by direct action on the eve of the presidential elections.[35] The land conflict of Coliqueo's *reducción* dated back to 1927, when his father, without knowing how to read or write Spanish, had signed a notarized contract. His father thought that the agreement was a rental, but the papers authorized the sale of some land and subsequent subdivision of the *reducción*, leading to further losses of land. Years of fighting in the courts had come to nothing. The decision of Coliqueo to lead a take-over reflected a strategic political decision, taken on behalf of his and his community's land claims, rather than the political strategy of a particular party.[36]

The mobilization caused the Allende government concern, as the takeovers happened autonomously of the Popular Unity government and provoked a sharp reaction by local elites and right wing politicians. In an effort to control the mobilization, the government sent the Minister of Agriculture, Jacques Chonchol to Temuco, capital of the Ninth Region and near a particularly conflictual area, the municipality of Lautaro.[37] Neither the institutional path of expropriation offered under the Agrarian law nor the promise of the proposed indigenous law could contain the demands of the Mapuche communities.

Despite the number of land takeovers, and the political controversy they provoked, the Mapuche peasants did not harbor revolutionary objectives in Marxist

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[35] See Bengoa's account (1999),117-118, and Steenland (1977).

[36] Bengoa 1999 gives this story, as related to him by Coliqueo.

[37] Steenland 1977.

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terms. Within the *reducciones*, families worked their own plots, although they sometimes worked together at harvest or plowing times. There were even disputes over land inheritance among family members.[38] Bengoa argues that many leftists confused the strong sentiment of the Mapuche in favor of recovering usurped lands with a desire for common ownership. He contends that they equated the *reducciones* with Soviet state farms. In fact, both the estates taken over by Mapuche communities and those expropriated by the government, were usually run as cooperatives. Mapuche peasants worked both at the cooperative and on their small plots in the *reducción*. Some cooperatives were economically successful, increasing production and capitalization—animals and machines.[39] The cooperatives also hired workers when extra labor was needed. The temporary workers sometimes complained of low salaries, and peasants left out of the benefits of the land takeovers (for not participating in the takeovers) objected to the use of estate equipment for private benefit.[40]

Steenland (1977), who was in the Ninth Region during the Allende period and evidently spent time on Mapuche *reducciones*, argues that the alliance of Mapuche peasants and leftist revolutionaries was not so much ideological, as pragmatic. He contends that the Mapuche peasants involved in takeovers believed that their allies provided useful advice and tactical assistance. In some areas, leftist activists worked closely with Mapuche peasants, not only encouraging takeovers, but also the

[38] Steenland 1977 and Bengoa 1999.

[39] See Babarovic et al. 1987 and Arthur L. Jolly, Omar P. Brevis, and Oscar Le-Feuvre, "Estudio Económico de los Asentamientos, 1966-7," (Santiago: ICIRA, 1970).

[40] Steenland 1977 and Bengoa 1999. Stepan identified similar problems between members and hired workers in the agricultural cooperatives created under the Peruvian military regime. See Alfred Stepan, The State and Society: Peru in Comparative Perspective (Princeton, N.J.: Princeton University Press, 1978).

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formation of new peasant organizations with strong grassroots support.[41] The Popular Unity government controlled peasant unions in many parts of the country, and thus, union representatives often responded more to the priorities of government leaders, who wished to proceed more slowly, than to their base.[42] In the Ninth Region, however, in particular, in the municipality of Lautaro, Mapuche peasant organizations had usually been promoted by the far left MIR, rather than one of the leftist parties of the government. The MIR believed that socialism could only be achieved by forcing changes, not by waiting for legal reforms. In Lautaro, there was a coincidence of interest between MIR organizers and Mapuche peasants who wished to recover their lands, which conflicted with the Popular Unity government's efforts to control the pace and scope of reform.

The Mapuche did not need to be told that they had suffered injustice. Their tactical alliance with the left, however, did not mean that they aspired to a socialist system, although cultural norms induced social relations of reciprocity and equalization of resources, rather than individual achievement and a reliance on the invisible hand of the market for redistribution. While some Mapuche leaders did embrace Marxist ideology,[43] as a whole, the land takeovers in the south expressed a

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[41] See Steenland 1977; Cuadernos de la Realidad Nacional, October 1972; and the following articles in Punto Final: "Consejos comunales pasan a la acción" 25 April 1972, no. 156, Año VI, pp. 24-26; "En la senda de Moises Huentelaf" 1 August 1972, no. 163, Año VI, pp. 10-11, and in the same issue, "Campesinos exigen reforma agraria", pp. 28-29; 13 February 1973, no. 177, Año VII "Ofensiva burocrática contra los Consejos Comunales Campesinos."

[42] Peter Winn recounts the conflict between the factory workers, base level union leaders, and the Popular Unity government over the workers' seizure of theYarur textile factory in Santiago, in Weavers of Revolution: The Yarur Workers and Chile's Road to Socialism (New York: Oxford University Press, 1986).

[43] A Mapuche woman, Catalino Carbolao, who was a political leader in the municipality of Lautaro, for example, asserted that "We Mapuche organize to fight, not in function of our race, but rather, as exploited workers" in an interview in Punto Final, no. 163, Año VI, August 1972, p. 32. She was the only female delegate to the Provincial Peasant Congress of Cautín, held in Temuco in July 1972. A

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demand to take back land that had once been Mapuche–a concrete, incipient nationalist demand.

In the eyes of the Right and the estate owners, such distinctions were meaningless. In their opinion, the Mapuche were manipulated by extreme leftists, had certainly attacked the landlords' basic interests, and should be dealt with accordingly. The violence following the coup against the Mapuche is testimony to this belief.[44] Roberto Morales (1991/2) compiled a list of 137 assassinations of Mapuche committed during the military dictatorship; more than one hundred occurred in the Ninth Region. Bacic Herzfeld et al. (1997) found that many Mapuche in rural areas of the Ninth Region still feared retaliations in the mid-1990s, and therefore had not reported deaths and disappearances to the Aylwin government's commission that investigated deaths and disappearances committed during the military dictatorship. She and her team also found that fear made many Mapuche reject political activism and even blame victims for their own deaths. The government human rights commission reported 113 deaths in the Ninth Region.[45]

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study carried out by the peasant delegates of that congress, to assess the progress of the Agrarian Reform, concluded that "the situation of the Mapuche peasant remains static." Although considering positive the agrarian reform policies of the government, nevertheless, the report declared that the policy "was not resolving the problem of the difficult conditions of life of the majority of the Mapuche peasants, and consequently, is not responding to the just aspirations which they had deposited in the Popular Unity government." *ibid.*

[44] See Roberto Morales Urra, "Violaciones al Derecho a la Vida de los Mapuche" Nütram Año VII, no. 24 (1991/2): 24-56, and Bacic Herzfeld et al. 1997. Steenland 1977, also gives an account of some of the assasinations, torture and imprisonment of Mapuche and Chileans in the Ninth Region, conducted by the military, in some cases with the assistance of civilians, in the period immediately before the coup and in the following months.

[45] See the Aylwin government's official report of the assasinations which ocurred under the military regime, Informe de la Comisión Nacional de Verdad y Reconciliación, 1991, also known as the *Informe Rettig*, for the Chair of the Comission, Raúl Rettig. The Rettig report only documents deaths and disappearances, not cases of torture in which the victims survived. For Chile as a whole, the Rettig Comission records 2,774 deaths caused by agents of the Pinochet regime and 423 deaths due to political violence. In July, 2000, the vicar general of the Temuco Catholic diocese, Monsignor Jorge Hourton, doubted that persons would come forth with information concerning the whereabouts of the 160 detained-disappeared of the Ninth Region, (160 is an up dated number from the initial Rettig

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While the takeovers continued in 1970-71, parliamentary debates of the proposed indigenous law delayed its passage until September 1972. The Congressional debates during 1970-72 over the proposed new law for the Mapuche and the debates over the rural takeovers reveal that for the political elites, the key issue was the protection of the entrenched power of large landowners in the countryside versus the demands of rural workers and peasants. Deputy Mario Palestro decried that the "history of the people is built on the basis of the lies, abuses, and the exploitation [by the Right], ...of the Mapuche and of all the people of Chile."[46] The right wing Deputy Frías (Partido Nacional) countered by declaring that "the missions went to the Araucanía to impart culture and to try to incorporate into civilization people who had been abandoned."[47]

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commission report). Msr. Hourton was named to be the person to receive the information, which would then be passed on to President Lagos. The deadline for giving information was January 2001. Sources would remain anonymous under the agreement reached in negotiations with the Armed Forces in 1999. The prelate said that after some six months, he had received only one phone call from someone who had heard a rumour that bodies had been thrown into Lake Colico. He said that there were many civilians, including some estate owners, who know what happened with the detained persons because they themselves took the military squads to their own estates and handed over or accused their own workers. "No one is going to admit that he asked the police to 'clean up their estates' or that he pointed out the union or political activists, because they hide behind screens. Just as they had acted through the armed forces, no one now is going to assume their own responsibility." He stated that it would be very unlikely that today, twenty years after the fact, even with the promise of secrecy, the persons who participated or who have knowledge of these cases, would come forth with information. He recalled that, of all the disappeared in the region, only one, nine years before, had been recovered and buried. See El Diario Austral 22 July 2000, C2.

[46] Actas of the Chamber of Deputies, 14 June 19733, pp. 347-9. "Toda la historia de este pueblo está hecha, está fabricada sobre la base de la mentira, el abuso y la explotación que Uds. han hecho y en este caso de los mapuches y de todo el pueblo de Chile."

[47] Ibid, "las misiones a la Araucania que fueron a impartir cultura y a tratar de incorporar la civilización a gente que estaba abandonanda." In other sessions, right wing deputies warned that the Popular Unity government would expropriate the land but then not turn it over to the Mapuche, but that the state agency INDAP would put them all in cooperatives. (Actas, 26 October 1971, pp.404-5). Deputy Hardy Momberg (Partido Nacional) complained of the "indivisibility and the prohibition against sale of the indigenous communities, and stated that therein was the cause of their poverty. (16 November 1971, Actas).

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The preface to the proposed indigenous law explicitly stated that, "the indigenous question is different from that of the rest of the peasantry, just as is different the scale of values and conduct of the Mapuche...the attitude of the Mapuche is that of one who feels dispossessed of something which by right belongs to him, while for the other peasants, land is a conquest. The Mapuche emblem of struggle is recovery, while that of the other peasants is distribution..."[48] Nevertheless, the government posed the solution to the conflict in the rural south in very similar terms for both Mapuche and Chilean peasants--technical and productive assistance, reform of land tenure, training and education programs.[49]

Christian Democrats and some of the leftist politicians conceived of the problem as one of social marginalization and poverty, which could be solved by access to education, training programs, and an end to the *minifundio* (extremely small plots of land). The tremendous poverty of the Mapuche peasants was evident and obviously required some response. The study of rural land structure conducted for the Agrarian Reform documented that the average per capita income of the Mapuche peasant in 1966 was 1680 *escudos*, at a time when the national average per capita income was 5403 *escudos*.[50] President Eduardo Frei Montalva (1964-1970) proposed a law to eliminate the Mapuche *reducciones*, and to solve the poverty of the Mapuche

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[48] Ibid.

[49] See discussion in the Actas of the Chamber of Deputies, 14 sept. 1971, session 35, pp. 3234-35: "La problemática indígena es distinta a la del resto del campesinado...como es diversa su escala de valores, lo es también su conducta...su actitud es la de quien se siente desposeído de algo de que en justicia le pertenecía, en tanto para los restantes campesinos, el logro de la tierra constituye una conquista. Su bandera de lucha es la recuperación, mientras que para los demás es la distribución..."

[50] See the Actas of the congressional debate on 14 September, 1971, pp. 3236 and Comité Interamericano de Desarrollo Agrícola 1966, 84.

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peasants by encouraging cooperatives.[51] Although it did not pass, it reflected the centrist and rightist perspective that the small Mapuche landowners needed to be integrated into the land market, as individual property owners on viable plots of land, while those who could no longer own land would simply become part of the urban population. Since the Mapuche peasant families worked their lands individually, despite common title to the *reducción* as a whole, those favoring an end to the *reducciones* and the imposition of individual private property argued that the Mapuche acted as *de facto* private landowners, without enjoying the benefits of access to credit, and thus were prevented from making productive inversions.

As the size of the *reducciones* had never been sufficient and had been reduced by the usurpations over the years, the rural Mapuche families were, in practical terms, peasants with extremely small plots of land, too small to be sufficient for the families living on them. For this reason, the Popular Unity government and leftist Congressmen supported cooperatives or state-owned agricultural enterprises.

The Agrarian Reform law, however, did not make special provisions for the Mapuche, who would generally be left out of the benefits of the law because they were not permanent estate workers (but were only seasonal labor) and because most of the large estates of the Ninth Region were smaller in size than the limit for expropriation, set at the equivalent of 80 hectares of "basic irrigated hectares or BIH." A "basic irrigated hectare" is the amount of land needed to produce as much as that of one hectare of good irrigated land in Chile's Central Valley. This concept was

[51] Foerster and Montecino 1988.

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created by the 1967 Agrarian Reform law. Steenland (1977) states that "as a very general rule, 80 BIH correspond to about 500 hectares in south central Chile."[52]

In the Ninth Region, those estates located in the Andean foothills or the coastal range occupied land that was much less productive for agriculture than the flat, irrigated lands of Chile's Central Valley, and, therefore, estates in these areas are generally smaller than 80 BIH. Because many of the Chilean landowners with whom the Mapuche communities had conflicts owned estates that were much smaller than 80 BIH, the 1967 Agrarian Law did not permit expropriation of their estates unless it could be proved that the estate owner was not using the land productively.

The Congressional debates in the Allende era over the proposed indigenous law reveal a basic consensus among Chilean political elites that the Mapuche communities should be integrated into the national society and into the economy, even though the elites were divided as to whether that national society should be socialist or capitalist. The question of the ideology of a homogenous nation-state, the reform of its centralist, unitary character, or statutes of autonomy to recognize the rights of peoples to set their own path to "development" did not arise.

A leftist Congressman, for example, argued that the law would solve the problem by integrating the Mapuche into the national community, improving the level of their production, and offering scholarships so that they could work in urban

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[52] Steenland 1977, p. 8 and p. 221. The article "En la senda de Moises Huentelaf" Punto Final 1 August 1972, no. 163, Año VI, pp. 10-1, states that 160 hectares in the Ninth Region province of Cautín would be roughly equivalent to 20 hectares of good irrigated land in Chile's prime agricultural area, the Maipo River valley near Santiago.

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industries instead of having to settle for jobs as unskilled labor.[53] The right consistently argued that cooperatives, whether those established under the Agrarian law or the form established by the Popular Unity government, were forms of state totalitarianism. One right wing Congressman denounced that "the proposed indigenous law's fundamental flaw was that instead of integrating the Mapuche into our nationality, it would transform them into a separate sector."[54] Political and economic elites today continue to criticize the protected status of Mapuche lands as detrimental to national unity and a cause for the poverty of Mapuche communities, as will be shown in later chapters.[55]

The demands expressed by the Mapuche organizations and evidenced by the actions of the Mapuche peasants between 1960 and 1971 were interpreted by the political elites in terms similar to those of past decades--that the Mapuche were impoverished and that, as small holders inserted in common property protected from

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[53] "La ley va a solucionar problemas para integrarles a los mapuches a la comunidad nacional, mejorar su nivel de producción, ofrecerles becas para que puedan trabajar en sectores industriales de la ciudad en vez de ser mano de obra no calificada." Actas, 14 June 1972, Cámara de Diputados, Diputado Tejeda, pp. 321-349.

[54] "El error de fondo de la ley es que en vez de integrar a los Mapuche a nuestra nacionalidad, se les viene a transformar en...un sector aparte..." *Actas*, 26 October, 1971 Chamber of Deputies, pp. 400-406.

[55] For example, the national daily, El Mercurio, regularly publishes editorials voicing the concerns of economic elites. On May 24, 1999, for example, El Mercurio published an editorial entitled "Integridad Nacional en Peligro" (National Integrity in Danger), criticizing the Concertación's indigenous policies for attempting to artificially reestablish cultural conditions that were current before the 16th century Spanish empire (sic). An editorial in the regional newspaper, El Diario Austral, "Problemas Indígenas" April 7, 1999, argues that the policy of positive discrimination established by the 1993 indigenous law (access to special subsidies on the basis of ethnicity) has fostered conflict among "different components of Chilean nationality,"and that giving Mapuche more land does not help them. Another editorial in El Mercurio on February 25, 1998, "The Return of the Take-overs" ("El Retorno de las Tomas"), also complained that government policies tended to separate the Mapuche from the national community. An editorial in El Mercurio, on March 19, 1999, "Solución para Mapuches," criticizes the proposal of then presidential candidate Ricardo Lagos' to buy more land for the Mapuche, on the grounds that poor, infertile lands would not alleviate poverty in the indigenous communities. It further criticizes the protection of indigenous lands, calling it a euphemism for collective ownership that does not allow Mapuche to "freely use and dispose of their lands," and finally, criticizes the government for not invoking the Law of Internal Security of the State when the logging estates are occupied by Mapuche families.

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the market, they were "obstacles" to their own "development" and that of the region. They were seen as needing education and technical assistance from the government in order to become full members of the national society. Whether the integration was to occur via the unfettered free market or by a modified Agrarian Reform, the politicians pursued the objectives of development and national integration without considering basic changes in the structure or ideology of a centralist, nationally homogenous state. Cultural differences were reduced to ceremonial traditions and family customs, irrelevant for social relations in the public sphere.

Over the course of the period from 1930 to 1973, Mapuche organizations had tried to defend the *reducciones* against the efforts by large landowners to subdivide them and to eliminate the prohibition of the sale of their lands to non-indigenous buyers. By September 1972, Mapuche organizations had managed to win passage of a new indigenous law that responded to many of the demands raised by communities. The 1972 law provided for substantial state technical and financial assistance, support for indigenous organizations and students, and for the restoration of usurped lands. Many Mapuche communities had already forced the state to expropriate estates, by taking them over. But these gains, and those of workers elsewhere in Chile, were soon offset by political strife in Congress, the courts, and finally, by the military coup itself on September 11, 1973. The military dictatorship proceeded to carry out a violent persecution of leftist activists, closed down Congress, and banned all political activity. Then it transformed political institutions and economic policies, reversing the decades-long tradition of state activism in social services and economic development. The nature of that neoliberal transformation of state and society in Chile, and its impact on Mapuche communities, is the subject of the following chapter.

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Chapter 5. Neoliberal Ideology and Institutionalization

Since the 1930s, the Chilean state had played a predominant role in the economy and society. Political parties had brokered reforms with their ideological adversaries, creating public health, public education, social security, and pension systems, and regulating prices and wages. The parties acted as effective links to most sectors of Chilean society, creating incentives for pragmatic reform and participation.[1]

By the end of the 1950s, however, slow economic growth rates, double digit inflation, and balance of payment deficits had become chronic problems.[2] The inward-looking economic model of import-substitution industrialization, based upon protected industry, a single dominant export (copper) vulnerable to world price fluctuations, and a stagnant agricultural sector brought increasing social and political tensions. Political reforms (secret ballot and the legalization of the Communist Party), the rise of an ideologically uncompromising centrist party (the Christian Democrats), and growing unity and strength in the Left, led to increasing political competition and ideological polarization. Direct challenges to capitalist control of production by organized workers and peasants, the refusal of political elites to reach compromises, subversive intervention

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[1] Arturo and J.Samuel Valenzuela, "Chile: The Development, Breakdown, and Recovery of Democracy" in Latin America: Its Problems and Its Promise, ed. Jan K. Black (Boulder, Co.: Westview Press, 1998), 497-535; Loveman 1988; Arellano 1985; Timothy Scully, Rethinking the Center: Party Politics in the Nineteenth and Twentieth Century Chile (Stanford, Ca.: Stanford University Press, 1992); Tomás Moulián, La Forja de Ilusiones. El Sistema de Partidos 1932-1973 (Santiago: Universidad ARCIS and FLACSO, 1993).

[2] See John Sheahan, Patterns of Development in Latin America (Princeton, N.J.: Princeton, 1987); Arellano 1985.

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by transnational companies and the United States government, and the politicization of military leaders, culminated in the military coup in 1973.[3]

The military regime (1973-1990) blamed democratic politics itself, not merely the Socialist coalition government of Salvador Allende, and set out to transform Chilean political institutions, economic policies, and social relations in order to prevent the reemergence of the Left in any future civilian regime. The regime first applied state terror to eliminate physically the leadership of leftist parties and many base level leftist party and union leaders.[4] It created a specific state security apparatus to carry out the campaign against leftist activists and to counter any challenges to the military dictatorship. It also banned all political activity, outlawed trade union activity, closed down Congress, and imposed censorship on the media.[5]

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[3] Many books have been written about the breakdown of democracy in Chile. For some basic sources, see Arturo Valenzuela, The Breakdown of Democratic Regimes: Chile (Baltimore, Md.: The Johns Hopkins University Press, 1978); Tomás Moulián, La Forja de Ilusiones. El Sistema de Partidos 1932-1973 (Santiago: Universidad ARCIS and FLACSO, 1993); and Timothy R. Scully, Rethinking the Center. Party Politics in Nineteenth and Twentieth Century Chile (Stanford, Ca.: Stanford University Press, 1992); Peter Winn, Weavers of Revolution: The Yarur Workers and Chile's Road to Socialism (New York: Oxford University Press, 1986).

[4] Petras and Leiva 1994; Moulián 1997; Roberts 1998.

[5] On the use of state terror in Chile, see Inger Agger and Sören Buss Jensen, Trauma y Cura en Situaciones de Terrorismo de Estado: Derechos Humanos y Salud Mental en Chile bajo la Dictadura Militar (Santiago: Ediciones Chile-America and CESOC, 1996); Moulián 1997; Roberta Bacic Herzfeld, Dra. Teresa Durán Pérez, Roberto Arroyo Rios, and Pau Pérez Sales, Memorias Recientes de Mi Pueblo 1973-1990. Muerte y Desaparición Forzada en la Araucania. Una Aproximación Etnica (Temuco, Chile: Centro de Estudios Socio-Culturales, Universidad Catolica de Temuco, 1997); Roberto Morales Urra, "Violaciones al Derecho a la Vida de los Mapuche" Nütram Año VII no. 24 (1991/2): 24-56; and Informe de la Comisión Nacional de Verdad y Reconciliación (Santiago: 1991). On Chile under the military regime, see Loveman 1988; Baño and Canales 1992; Roberts 1998.

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The regime then destroyed the social and economic bases and mobilizational capacity of the left by the imposition of neoliberal institutions and economic policies.[6] The regime dismantled tariff barriers, destroying much of the domestic manufacturing sector, privatized most of the state social service sector, and it returned state-owned industries, expropriated estates, and businesses to former owners or sold them, concentrating economic resources.[7]

The military dictatorship justified these changes and the violence it employed as a necessary response to a threat to national security. Its ideologues claimed that national security and the nation's prosperity required an unregulated free market, oriented to the world economy, a regime of private property, and a homogenous national society. This ideology provided the basis for the regime's implementation, starting in 1978, of individual private property in Mapuche communities under Decree Law 2568, and its efforts to assimilate the Mapuche into Chilean society, eliminating their distinctive identity. From the ideological perspective of the military regime, therefore, the historic protection of Mapuche *reducciones* from the free market had created an obstacle to economic growth, while the common property and past history of takeovers constituted a threat to national security. Additionally, from the standpoint of the military dictatorship,

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[6] See Rodrigo Baño and Manuel Canales, "De la dictadura a la democracia" in Chile: Evolución Macroeconómica, financiación externa y cambio político, Patricio Meller, Pilar Romaguerra, Andrea Butelaman, Rodrigo Baño and Manuel Canales (Madrid: Cedeal, 1992): 95-185; Petras and Leiva 1994 ; Moulián 1997; and Roberts 1998, for a discussion of the political aims of the neoliberal changes.

[7] For discussions of the neoliberal policies and their impact on the Chilean economy, see Alejandro Foxley, Latin American Experiments in Neoconservative Economics (Berkeley, Ca.: University of California Press, 1983); Arturo Valenzuela and J.S. Valenzuela, Military Rule in Chile (Baltimore, Md.: Johns Hopkins University Press, 1986); Jose Pablo Arrellano, Politicas Sociales y Desarrollo. Chile 1924-1984 (Santiago: CIEPLAN, 1985); Fernando Dahse, El Mapa de la Extrema Riqueza. Los Grupos Económicos y el Proceso de Concentración (Santiago: Editorial Aconcagua, 1979); Manuel Delano and Hugo Translaviño, La Herencia de los Chicago Boys (Santiago: Ediciones del Ornitorrinco, 1989).

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and its supporters, Mapuche claims to ethnic difference were groundless, but threatening to security of property rights, since these claims had motivated takeovers of estates. For the military regime, the imposition of individual private property on Mapuche communities, and the expansion of capitalist production on indigenous lands, would finally bring about both national integration and economic development.

The repression against the Mapuche was particularly violent, and was carried out with the participation of some estate owners and civilian paramilitary groups, such as *Patria y Libertad.* In the Ninth Region, the violence began even before the coup, with an attack in August 1973 upon a Mapuche cooperative on the Pacific coast in Nehuentué, which the military claimed was a guerrilla training camp.[8] Steenland (1977), in the Ninth Region at the time, states that the cooperative had been taken over in May 1972 with the help of the *Movimiento Campesino Revolucionario* (the rural branch of the far left MIR). He says that the MIR did not have a training center at the farm, but that there was a small arms cache in a nearby Mapuche *reducción* and that the MIR had used a shed there to make crude hand grenades.

According to Steenland's account, some of the peasants on the cooperative denounced the arms cache to the military. These peasants had not supported the takeover, although later they had been invited to become members of the cooperative. They continued to pass information to the former owner, one of the most powerful

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[8] See Bengoa 1999, 154; Steenland 1977, 189-193; Morales 1991/2; and Informe de la Comisión Nacional de Verdad y Reconciliación 1991. Both Bengoa and Steenland say that the charges that there was a

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persons in the Ninth Region and the owner of several estates. On August 30, 1973, one hundred and fifty troops surrounded the cooperative while six helicopters, armed with machine guns, buzzed the farm and landed. Over the next three days, the military arrested the peasants, tortured them, and interrogated them. They learned of the arms cache, and held a press conference. The provincial governor stated that he doubted that the military had found arms on the cooperative, and the Minister of Agriculture and President Allende agreed to meet with a group of peasants from Nehuentué. Military courts, meanwhile, began trials of the peasants, and in less than two weeks, the armed forces seized power.[9]

The Neoliberal Ideology of the Military Regime

The military regime, in the official document, *Declaración de Principios, Objetivo Nacional y Políticas Generales* (1974) explicitly described its mission as that of refounding Chilean society. The document is a mixture of authoritarian principles justifying the military coup and the repression, corporatist principles justifying a hierarchical society based upon the Common Good, and neoliberal principals defending the operation of the free market and private property. In a subsequent document, *Objetivo Nacional y Políticas Generales* (1981), the military regime emphasized that national

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guerrilla training camp were never proved. Bengoa, using first-hand accounts, states that peasants were hung from the helicopters while their companions watched helplessly.

[9] Edward Boorstein in Allende's Chile: An Inside View (New York: International Publishers Co., 1977) describes military arms searches of factories and working-class neighborhoods in various provinces using the Arms Control Law as a pretext. Steenland 1977 also mentions the arms searches of Popular Unity government offices and of leftist party and union offices in Temuco, in the months just prior to the coup. Steenland, in the Ninth Region at the time, says the military never looked for arms in right-wing offices.

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security depended upon national unity and a homogenous national society. This basic ideological perspective laid the foundation for the new constitution, new laws, and economic policies that have been preserved in the democratic regime.

The document begins by justifying the coup and the violent repression by the military as necessary for "national reconstruction." Criticizing both liberal, individualistic societies and Marxist-Leninist ones, the document maintains that Chile must be reconstructed upon a Western, Christian concept of man and society; that natural rights have their origin in God and that the State must recognize them and never deny them.[10] The purpose of the State was to pursue the Common, General Good of Society. This Common Good was defined as that "of order...requiring a concern and respect for the good of all..., being neither the Good of the State, nor that of the majority, and much less that of a minority....As an ideal, it can never be reached fully...so that its pursuit constitutes a permanent challenge to the State." This notion of a Common Good has its roots in Corporatist philosophy, and is in contradiction to neoliberalism, which denies that a General Good can be identified by the state. The notion of the Common Good and the state role in securing that Good, however, provides a justification for the violent campaign against leftist political activists and the subsequent refounding of state-society relations.

The document goes on to argue that there must be restrictions on the legitimate range of state action, for the Common Good requires respect for the principle of

[10] This document was written at a time of extreme violent repression by organs of the state, which did not recognize human rights.

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subsidiarity, which limits the domain of action of higher bodies of society over lower ones. Thus, individual conscience and the family must be respected by the State. The principle of subsidiarity is consistent with corporatist principles that allow lower levels of social groups a degree of autonomy under overarching hierarchy. This principle supplies the link between the corporatist notions and the neoliberal premise that limits the state role in society, and particularly, in the market.[11]

With this philosophical basis for limits on the role of the state, the document introduces neoliberal concepts, justifying the unfettered action of the market (free initiative) while restricting the state to national defense, foreign policy, and certain strategic services and industries (such as the state-owned copper industry). Private property is defined as the "natural" form of land ownership. No other form of ownership is considered normal, viable, or productive.

Finally, the document presents the "Fundamental Objective" as that of making Chile into "one, great nation." National unity is the most prized goal, and it rejects class conflict, foreign ideologies, and sectarianism. Identifying a chronic problem of a lack of coordination between national planning and national security, the state is directed to design a plan for national reconstruction. It rejects many philosophies and ideologies, and the freedom of thought that had characterized Chilean politics through its prior democratic history. The national plan, therefore, would not arise from the initiative of

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[11] For a discussion of corporatism, see Malloy 1977; Howard Wiarda, ed., Politics and Social Change in Latin America: The Distinct Tradition, 2d ed. (Amherst, Ma.: University of Massachusetts Press, 1982) ; Peter H. Smith 1995; Stepan 1978; Erickson 1977; Ruth Berins Collier and David Collier, Shaping the

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free, autonomous citizens (as might be conceived from a liberal position), nor from the organized intermediary groups within society (as might be the case according to corporatist philosophy), but rather would come from the (militarized) state, which must assume the role of defining and defending the values, beliefs, norms and modes of life of society. For reconstruction, it is imperative to change the mentality of Chileans. To effectively take on such a task, the military regime expected to stay in power for a considerable time. In a future democratic regime, once appropriate values have been reconstituted, the document asserts that the armed forces will not retire from politics, but, on the contrary, aim to create a great civic-military movement.

In a later document, *Objetivo Nacional y Políticas Generales* (1981), the military regime emphasized that National Security depended upon National Unity and upon a homogenous national society. The document specified that it was the duty of the entire nation to insure national unity, the "basic element needed to achieve an adequate internal security." Citizen participation was tolerable in so far as it did not reflect political or ideological diversity, or challenge the military regime. In fact, the regime assumed the necessity of educating the Chilean society so that all citizens would comprehend what the regime characterized as the devastating effects of subversion and anarchy.

Decentralization, a professed objective of the military regime, did not mean a devolution of political powers to regional or local government, or a federalization of the State. In practical terms, the military regime maintained control over all levels of

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Political Arena: Critical Junctures, the Labor Movement, and Regime Dynamics in Latin America (Princeton, N.J.: Princeton University Press, 1991).

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government, although it implemented a degree of administrative decentralization by transferring to municipal governments the administration of public health and education programs according to policies and budgets decided by the central government. The centralist tradition of the state, dating from the colonial era and reinforced by the process of economic growth under the model of import substitution industrialization, therefore received further reinforcement under the military regime, despite its rhetoric to the contrary.

The Neoliberal Transformation of State and Society

In 1978, the head of the military regime, General Augusto Pinochet, announced plans to consolidate and perpetuate the neoliberal institutions and processes in a new constitution that would preserve the neoliberal system under a future civilian regime.[12] The guiding principles for this new social order became known as the "seven modernizations." The institutional changes implemented in the legal system included a new labor law (which legalized unions under strict limits to their power); the privatization of the health system, the education system, and the pension system; changes in the justice system and in regional administration; and Decree Law 2568, which ended common title to the property in the Mapuche *reducciones* and forced its subdivision into privately-held parcels. These reforms institutionalized the neoliberal political economy in state - society relations, by reducing the activist role that the state had assumed between

[12] See Rodrigo Baño and Manuel Canales, "De la dictadura a la democracia" in Chile: Evolución Macroeconómica, financiación externa y cambio político, Patricio Meller, Pilar Romaguerra, Andrea Butelman, Rodrigo Baño and Manuel Canales (Madrid: Cedeal, 1992): 95-185; Loveman, 1988; Moulián

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1930 and 1973 and by extending the dominion of market forces in the provision of social services, the promotion of development, and the distribution of the benefits of economic growth.[13]

The neoliberal changes, based upon the belief in the efficacy of the market, were extended to the legal regulations concerning the exploitation of natural resources as well. Traditionally, subsoil mineral and water resources were considered property of the state, even when the "surface" property was in private hands.[14] Reforms in the Mining Code and Water Code, however, allowed private citizens and corporations to acquire rights to explore for and exploit subsoil resources and water, regardless of surface property rights and without restrictions which would safeguard these resources from overexploitation or damage to resources needed by all. The "common good" of fertile soil, conservation of native species, and adequate, uncontaminated water (among other considerations) disappeared in the new legal codes permitting the purchase of concessions to these resources. Laws still remained that imposed sanctions for the contamination of air and water, and conservation programs sometimes were retained, but market incentives nevertheless threatened the conservation of these resources.[15]

1997; Arturo Valenzuela and J.S. Valenzuela, Military Rule in Chile (Baltimore, Md.: Johns Hopkins University Press, 1986).

[13] For a discussion of the neoliberal policies and their consequences see Loveman 1988; Petras and Leiva 1994; and Delano and Translaviño 1989, 89.

[14] See the discussion in Toledo 1997, 58-75. For the Mining code, see Article 19, n° 24, the Law n° 18.097 (1982) and the Mining code (1983). The Mining and Water Codes are published by Editorial Jurídica de Chile (Santiago).

[15] The right to live in an environment free of contamination was even included in Article 8 of the 1980 Constitution.

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The announcement of procedures to petition for such concessions and for the granting of them were published in the *Diario Oficial* and local papers, but these notices would rarely be read by the small land owners whose access and use rights would be prejudiced. Although mineral concessions require the payment of a fee, water rights do not. Disputes over water rights became notorious in the north of Chile, where mining corporations acquired water rights and their activity contaminated rivers and soils.[16] More recently, the conflict over water has extended to Central and Southern Chile, both due to the desire of large corporations to install hydroelectric plants and to the problems caused by large-scale plantations of non-native fast-growing tree species by the logging companies, cases to be explored in later chapters.

The Imposition of Individual Private Property in Mapuche Communities: Decree Law 2568.

For the military regime, the Mapuche represented an obstacle to development, as their property was held in common and protected from sale. The restriction on the free market in the case of indigenous lands was blamed by the regime for the poverty, low level of technology, and low productivity of the small Mapuche farms. Regime officials argued that such poverty would disappear once the market could act freely, as those with capital bought properties from poor landowners and then made capital investments:

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[16] Toledo 1997, 44; José Aylwin and Eduardo Castillo, Legislación sobre indígenas en Chile a través de su historia, Dcto. de Trabajo no. 3 (Santiago: Comisión Chilena de Derechos Humanos, 1990); Aarón

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> The incorrectly denominated "indigenous problem" [is] only the regionally, localized expression...of deficiencies in economic, social, and cultural development.... [R]egional and national agencies should work for the elimination of poverty...respecting [Mapuche] customs...when they are positive for national integration and do not hurt the Common Good or National Security.[17]

Additionally, the memory of the wave of land takeovers by Mapuche communities raised the specter of a threat to national security and the unity of the country.

While previous attempts by the Chilean state to divide the Mapuche *reducciones* occurred in a democratic political regime and had met with concerted opposition by Mapuche organizations, Decree Law 2568 was implemented in the context of an extremely repressive military dictatorship. The initial version of the law, echoing the call for national security in the dictatorship's ideology, was frank in its assimilationist objectives, declaring that once individual property was instituted and the lands were free to be sold, indigenous people would cease to exist in Chile.[18] The decree law stated that, "upon inscription in the Registry of Property, the plots resulting from the subdivision of

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Cavieres, Estudio del efecto de las políticas de uso de los recursos hídricos del altiplano chileno sobre las comunidades de pastores aymaras (Santiago: CODEFF, 1985).

[17] INDAP, 1978, 27.

[18] See Comisión Chilena de Derechos Humanos, "Los Pueblos Indígenas y la Legislación Nacional e Internacional" 1988 and "Carta de Ad Mapu al Presidente de la República" 6 August 1982. The decree law also did away with the *Instituto de Desarrollo Indígena* (IDI) of the 1972 law, replacing it with the *Departamento de Asuntos Indígenas* (DASIN) of INDAP, which was charged with carrying out the subdivision of the *reducciones*. The decree law also considered all occupants of the *reducción* legitimate—when, in fact, there were a number of cases in which a non-indigenous person had acquired lands fraudulently within the boundaries of a *reducción*. These cases had led to many lawsuits. The decree law of 1978 made a clean slate of the judicial record by recognizing all occupants, while its provisions allowing any single occupant to set in motion the subdivision of the *reduccion* paved the way for the legal confirmation of the title of non-indigenous occupants.

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the *reducciones* will cease to be considered indigenous lands and so will their owners." The division process could be undertaken at the request of any single occupant of the *reducción*. By 1986, 1739 indigenous *reducciones* had been subdivided, or almost 60 percent of them.

A 1978 document of the state agency for Agricultural and Livestock Development (INDAP), denies the existence of indigenous peoples, and it recommends a policy of integration of the "marginalized" peasants into the modern economy, which, so the document argues, would integrate them socially and culturally. The document insists repeatedly that there are no indigenous people in Chile:

> It is necessary to stress the absurdity of the legal definition [found in the 1972 law for indigenous people], and for that reason its artificiality, as well as its discriminatory and offensive [nature] [....]It is not possible to establish that there exists a sector of society in Chile today which is indigenous, not only because it is materially impossible to distinguish [such a group], but also because such a distinction is an affront to the fundamental values of nationality[....]Today there are no indigenous people, [and] the law can not establish such a discrimination.[19]

Similarly, during the debates over the proposed reform of the International Labor Organization's Convention 169 regarding indigenous peoples, the Pinochet regime asserted that the convention was not relevant to Chile, because there were no indigenous

[19] Proposición de una Política de Integración para el Sector que la ley 17.729 denomina "indígena.," INDAP, 1978, 11, 31, 23. The statement that there no longer exist any indigenous people in Chile continues to be asserted; see for example the letter to the editor by Alfonso Marquez de la Plata in El Mercurio 25 March 1999 or the letter by Sergio Villalobos on 14 May 2000 in El Mercurio, which generated a series of responses by critics of that position, both in El Mercurio and in Internet on the the web page of Fundación Rehue (xs4all.nl/~rehue), in particular, the response of José Marimán, "El nacionalismo asimilacionista chileno y su percepción de la nación mapuche y sus luchas."

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people in Chile, only Chileans, and that the government of Chile was opposed to discriminating among Chileans.[20]

Mapuche Communities and the Expansion of Logging

Besides blaming the Mapuche *reducciones* for causing their own poverty and constituting a national security threat, the government argued that the protected status of Mapuche communities acted as a barrier to the expansion of one of the leading sectors of the economy, logging. Under Decree Law 701 of 1974, large logging companies, affiliated with investment conglomerates combining national and international capital, received subsidies for the establishment of tree plantations on land characterized as apt for forestry use. These subsidies covered 75 percent of the costs, and rose to 90 percent at one time during the economic crash of the early 1980s. The result was a rapid expansion of pine and eucalyptus plantations, many times on lands whose native forests were cut down for export as "wood chips." According to the forestry legislation, certain native forests could be defined as "degraded" (such as old growth forests which had been selectively logged, in which the large trees are cut, leaving behind undergrowth, saplings and dead trees), and their clearing would also be subsidized.

The protection of the land of the Mapuche *reducciones*, however, created an obstacle to the further expansion of plantations, which had proceeded at a rapid pace on land owned by large landowners who no longer could make a profit because the new

[20] Eduardo Castillo and Jorge Sanderson, Pueblos Indígenas : Normas Constitucionales y Derecho Internacional (Santiago de Chile: Comisión Chilena de Derechos Humanos, July 1990).

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neoliberal economic policies (sharp drop in tariffs and import duties) caused a fall in prices for wheat and other traditional crops. By the end of the 1970s, the neoliberal economic policies had burdened many capitalist estate owners with debts, while the prices of agricultural products continued to drop. Many large landowners therefore began to sell their properties to logging companies. Sharecroppers and squatters on those estates were forced to abandon them.[21] Unlike other small properties, Mapuche *reducciones* remained protected legally, and the Mapuche peasants continued to claim lands that had been usurped long in the past. Under the Pinochet regime decree law to divide Mapuche *reducciones*, the protection was to continue for twenty years until 1998, at which time the logging companies or other large investors would be able to buy indigenous lands, and would undoubtedly continue to make cash offers expected to tempt poor landholders.[22]

The INDAP document also states as a specific demographic policy the relocation of population considered "excessive" in rural areas, noting that this policy is called for "especially in certain zones of the Eighth, Ninth, and Tenth Regions, where the so-called

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[21] The impact of the expansion of logging estates on non-indigenous small landholders and peasants is discussed in Rigoberta Rivera and María Elena Cruz, Pobladores Rurales (Santiago: Grupo de Investigaciones Agraias, 1984); Rigoberta Rivera, Los Campesinos Chilenos (Santiago: Grupo de Investigaciones Agrarias, 1988); José I. Leyton "El Fomento de la Actividad Forestal y su Impacto sobre el Desarrollo Rural en Chile" in El Desarrollo Frutícola y Forestal en Chile y Sus Derivaciones Sociales, Estudios e Informes de la CEPAL no. 57 (Santiago: CEPAL, 1986): 121-227; and Jorge Morales Gamboni, El Desarrollo Forestal en Concepción (Santiago: GEA and UAHC, 1989).

[22] Market forces have acted to provoke the surreptitious sale of some of the Mapuche lands in areas of high demand, i.e., lands which logging companies desired and those near lakes and areas of tourist potential.

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indigenous communities are located, so that the distribution of the population harmonizes with the capacity of the soils to support it."[23]

In these documents, the military regime repeated the stance of critics of the protection of Mapuche communities, by declaring that this protection was both an obstacle to economic development and a reflection of cultural backwardness, which would disappear when the Mapuche became private property holders or emigrated to the city. Their assimilation was viewed by the military regime as good, even valuable and necessary for national security. The principal mechanism of assimilation was thought to be private, individual property ownership. Private ownership, according to the ideology, would stimulate a profound change in mores and values, in addition to a rise in the level of economic productivity. At the same time, the change in tenancy laws would allow the more powerful economic actors to gain access to Mapuche lands, while depriving the Mapuche peasants of the basis for their direct challenge to political and economic domination—their lands. The memory of the avalanche of land takeovers during the Allende period served to justify the objectives of D.L. 2568.

The Decree Law, however, sparked a resurgence of protest by Mapuche communities and activists, which is the subject of the following chapters. Mapuche activists saw the Decree Law as a direct threat to their communities and to the survival of Mapuche culture. The protest movement did not succeed in blocking the implementation of the Decree Law, and the movement split as the political parties divided over tactics and strategy to oppose the dictatorship. The movement did, however, raise new, political

[23] INDAP, 1978, 31-2.

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demands for autonomy and recognition of their status as "a people," demands increasingly voiced in the conflicts detailed in this study.

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Chapter 6. Resurgence of the Mapuche movement: Reaction to Decree Law 2568, the Rise of New Demands, and the Political Process During the Transition

This chapter analyzes the resurgence of the Mapuche movement in response to the dictatorship's policies to eliminate their lands and identity, its subsequent splintering along party lines, and the rise of new demands for political autonomy and for recognition of the status of the Mapuche as a "people." These political demands did not immediately gain broad support among the rural Mapuche communities, while many urban Mapuche, although sympathetic, tended to consider demands for territorial political autonomy as utopian in the context of the transition to democracy.

The movement became important, although not because of success—indeed, it neither prevented the subdivision of the Mapuche communities, nor gained lasting social support. The organization failed to maintain its initially broad support, and by the end of the 1980s on the eve of the transition, the Mapuche movement was composed of several organizations with little support among different Mapuche social sectors.

Nevertheless, the protest movement is important because Mapuche activists raised new political demands for the recognition of collective rights as a people that had not been among the characteristic demands of earlier years. While the demand for political rights as a people, such as autonomy and self-determination, did not succeed in rallying Mapuche peasants who were faced with the immediate concrete difficulties of subsistence on small plots of land, these demands reflected an evolution in political

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vision among some movement leaders and activists that would lead some sectors of the movement to distance themselves from former partisan allies.[1]

Opposition party elites, however, lent support for a limited reform of state indigenous policies, one conceived along lines of previous conceptions of the Mapuche people's plight as one of poverty and social marginalization. They agreed to work for a new indigenous law to replace D.L. 2568, and voiced support for respect for cultural diversity within the national society. These party elites saw integration into the neoliberal economy through targeted training programs as the solution to the poverty of rural indigenous communities.

Opposition to the Decree Law to Subdivide the Mapuche Communities

In 1978, faced with the imminent threat of D.L. 2568, which would subdivide the Mapuche *reducciones* into individually owned properties, some 300 Mapuche activists met in Temuco, capital of the Ninth Region, under the protection of the Catholic Church, and created the organization *Centros Culturales Mapuches* as a vehicle for the protest movement.[2] This particular case is an example of a protest

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[1] See Carta al Presidente...Ad-Mapu, 6 August 1982. In addition to proclaiming that the Mapuche are a people, and thus have the right of self-determination, Ad-Mapu makes a number of demands in the letter that reflect the needs of the rural Mapuche communities, such as the repeal of the decree law to subdivide the communities, exemption from real estate taxes and elimination of debts with the state Agricultural and Livestock Institute (INDAP), technical and financial assistance to peasant farmers, protection of natural resources on community lands, access to such basic services as health, housing, and education, including bilingual education, primary schools that include eighth grade in Mapuche communities, and scholarships for elementary, secondary and higher education.

[2] See Eduardo Castillo and Jorge Sanderson 1990, 35-40; Bengoa 1999, 151-189; Carta al Presidente de la República General Augusto Pinochet, Ad-Mapu, 6 August 1982. The letter describes the beginning of the

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movement emerging before any "political opening," but it does support the arguments concerning the importance of grassroots leaders.[3]" Without the shelter of the Catholic Church, it would have been very difficult to coordinate so many clandestine activists and rural communities in three regions. The protest movement at first gained support quickly among Mapuche peasants, who feared that they would lose their land immediately. At the peak of the movement, more than 1,000 Mapuche communities in the Eighth, Ninth and Tenth Regions, or about one third of the communities, participated as members.[4]

In 1982, in a move to emphasize the ideological autonomy of the Mapuche movement from the Catholic Church, the *Centros Culturales Mapuches* became Ad-Mapu. This political mobilization of the Mapuche communities coincided with the urban-based, mass protests against the dictatorship that erupted in May 1983 and lasted three years.[5] This period of national protest also marked the beginning of more active partisan

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organization: "As a way of responding to this threatening and destructive aggression, the Mapuche created an organization on the 12th of September 1978, the Centros Culturales Mapuches de Chile, today known as "Asociación Gremial Ad-Mapu," whose principal task consists of informing the Mapuche people and public opinion of the consequences of this legislation and to openly reject its application."

[3] The role of a political opening in creating an "opportunity structure" for social movements is discussed in J.Craig Jenkins and Charles Perrow, "Insurgency of the Powerless: Farm Worker Movements (1946-1972)," American Sociological Review 42, no. 2 (April 1977): 249-268; J. Craig Jenkins, The Politics of Insurgency: The Farm Workers Movment in the 1960s (New York: Columbia University Press, 1985); Sidney Tarrow, Power in Movement: Social Movements, Collective Action, and Politics (New York: Cambridge University Press, 1994); and Cathy Schneider, Shantytown Protests in Pinochet's Chile (Philadelphia, Pa.: Temple University Press, 1995). Jenkins, Perrow, and Tarrow refer to political conjunctures in a liberal democracy which give outside groups added political leverage because of divisions within political elites. Schneider stresses the catalyzing effect of the economic crisis in the detonation of mass protest against the dictatorship, and also emphasizes the key role played by grassroots party activists.

[4] "El pueblo Mapuche: presente y futuro." Ad-Mapu, November 1982.

[5] The evolution of the national protests is analyzed by Gonazalo de la Maza and Joan Garcés 1985; Baño 1985; Baño and Canales 1992; Moulián 1997; Schneider 1995; and Philip Oxhorn, Organizing Civil Society: The Popular Sectors and the Struggle for Democracy in Chile (University Park: Pennsylvania State University Press, 1995).

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recruitment by opposition parties within social groups and protest organizations, and divisions among the opposition parties concerning tactics and goals for ending military rule and recovering democracy appeared within the Mapuche movement as well. Ideological divisions led to resignation from Ad-Mapu of some activists who created new organizations that reflected their political affiliations.[6]

Complicating the growing partisan differences within Ad-Mapu was the organization's inability to prevent the subdivision of the Mapuche communities. Although some groups in Mapuche communities tried to resist the imposition of individual private property, others accepted the subdivision because they hoped that the individual title would—at last—guarantee their ownership of their farms. The military dictatorship counteracted the resistance to its decree with a dual strategy, similar to that used against the urban protests. It persecuted movement leaders and activists, while also skillfully offering a variety of subsidies, such as for the improvement of rural homes or credit for agricultural projects, contingent upon the acquisition of individual title.[7] As the Mapuche peasants realized that individual title did not mean the seizure of their lands, opposition to subdivision diminished. For many Mapuche peasants, Ad-Mapu's continued denunciation of the Decree Law rang hollow, while its broad political demands

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[6] See Estanislau Gacitua, "Hacia un marco interpretativo de las movilizaciones mapuches en los últimos 17 años", Nütram Año VIII no. 28 (1992/2): 22-44; and José Marimán Q., Movimiento Mapuche: Transición Democrática en Chile (1989-1993): ¿nuevo ciclo reivindicativo mapuche?" (Temuco: Universidad de la Frontera, 1993); idem, Transición Democrática en Chile: ¿Nuevo Ciclo Reivindicativo? (Temuco: Centro de Estudios y Documentación Mapuche Liwen, 1994). For a discussion of divisions within the opposition to the military dictatorship, the role of the parties in the promotion of social protest and the evolution in opposition tactics and strategies, see Baño and Canales 1992; Moulián 1997; and Roberts 1998

[7] Bengoa 1999.

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for the recognition of their status as "a people," reference to the International Labor Organization's Convention 169 for indigenous peoples, or political autonomy, did not seem relevant to the problem of overcoming their extreme poverty. The division was carried out relatively quickly during the 1980s. By 1986, almost sixty percent had been subdivided (1739 *reducciones*).[8]

The division of the communities, however, meant that common areas, such as ceremonial areas or pasture lands and forests would become the property of a few individuals, and lost to the community as a whole, while at the same time the small size of the plots could not assure an adequate subsistence. In addition, the division was meant to legally resolve all conflicts over title, including those pending, whether or not the Mapuche community or individual had actually dropped claims. Finally and most importantly, the Decree Law would allow indigenous lands to be freely sold in twenty years (approximately 1998).

The regime believed that these changes would stimulate a more economically productive use of the land.[9] The Right and the military regime assumed that very poor Mapuche peasants would prefer to sell, rather than remain on small plots of poor

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[8] See Comisión Chilena de Derechos Humanos, "Los Pueblos Indígenas y la Legislación Nacional e Internacional en el Derecho Comparado" (Santiago: Comisión Chilena de Derechos Humanos, 1988); the documents of the Comité Exterior Mapuche, published in Huerrquen, June-December 1986, which denounces police raids and detentions on Mapuche communities. The Carta al Presidente... of Ad-Mapu August 1982, cited above, denounces threats and forceful imposition of the subdivision of communities.

[9] For a critique of the premises by which the military regime justified D.L. 2568, see Elizabeth Leland Parmelee, "Indigenous Policy in Chile: Decree Law 2568: Development or Destruction?" (Denver, Colorado: Graduate School for International Studies, University of Denver, 1990). Thesis for Masters degree.

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agricultural land. The delay of twenty years would serve both to allay fears of the Mapuche peasants that the decree law aimed to take away Mapuche lands, and to make their lands available to investors in the medium term.[10] The timing of twenty years would also coincide with the demand for more land for industry tree plantations, as new wood pulp plants were ready for production.

By the end of the 1980s, the Mapuche movement consisted of a number of organizations that were more representative of specific political parties and party factions than broad sectors of Mapuche society.[11] In fact, the weak social bases of the Mapuche political organizations reflected the militants' adherence to partisan agendas, and their distance from the concerns of the rural communities or other Mapuche sectors, such as students, or urban professionals. Although the organizations claimed to be autonomous of parties, and some even claimed to be ideologically diverse, their stances and demands usually coincided with the political perspectives of the different opposition political parties with respect to the strategy to end the dictatorship and the conception of a democratic society.

These schisms not only reflected partisan divisions, however, but also a new development: a movement within the Mapuche movement for autonomy from the current political parties. The resignations of some Mapuche from political parties were

[10] Despite this provision, there was a legal loophole, and cases of fraud as well, which meant that Mapuche lands in some areas (such as lake shore areas of tourist attraction) were "rented" for ninety nine years, and thus really were sold.

[11] Gacitúa 1992 and José Marimán Q. 1994.

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motivated by objections to party elites' refusal to allow Mapuche militants to formulate specifically ethnic demands. These Mapuche activists endeavored to create a political movement genuinely independent of party paternalism.

One influential political leader of the Mapuche movement, who had once been active in the Communist Party but had distanced himself from its position regarding the Mapuche, explained the emerging view of autonomy, increasingly articulated within the Mapuche movement:

> ....In democracy, the Mapuche people must have participation, and in that instance is where we say to the political parties let us Mapuche, through our own organizations, formulate our own plan for development, which aims at heart and in the long run at autonomy....not just land, but also our own direction....I think that we have lost the greater part of our youth, our time, and our capacities in the service of partisan ideologies....What we should have done in the past is to have given that capacity to our People. To do that we need to have our own organization...we, not the *winkas*[12] [i.e., non-Mapuche; Chileans] have to be the actors and protagonists of our development....The Self-determination of Indigenous Peoples is one of our great objectives....Our demand is not just for land,....but for political, social and economic rights, the recovery in some way of our autonomy of direction as a Nation.....[13]

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[12] "winka" is the Mapuche word often used to refer to non-Mapuche (that is, Chileans; foreigners would be "gringo/as"). Winka is pejorative and also connotes thief. Mapuche activists often use the letter "w" or "k" when writing a Mapuche word in order to emphasize both phonological and ethnic difference. To date, there is no generally agreed upon alphabet for the Mapuche language, although several have been proposed. Writings published in Mapuche simply opt for one of the competing alternatives.

[13] "...En la democracia el Pueblo Mapuche tiene que tener participación y ahí es donde les decimos a los partidos políticos déjenos a nosotros como Mapuche, mediante nuestras propias organizaciones, elaborar nuestro propio plan de desarrollo que apunta en el fondo y a largo plazo a la autonomía....[Nuestra reivindicación] no solamente [es] tierra sino también una conducción propia....Creo que nosotros hemos perdido gran parte de nuestra juventud, de nuestro tiempo, y de nuestras capacidades al servicio de ideologías partidarias....Lo que deberíamos haber hecho en el Pasado,....es haber entregado esa capacidad al servicio de nuestro Pueblo. Para ello tenemos que tener nuestra organización...Nosotros tenemos que ser los actores y protagonistas de nuestro desarrollo, no los huincas [the non-Mapuche],...La autodeterminación de los Pueblos es uno de nuestros grandes objetivos....Nuestra reivindicación no es solamente la tierra, ...sino derechos políticos, económicos y sociales, recuperar de alguna manera nuestra autonomía de dirección como Nación...." "Entrevistas a Melillán Painemal y a Santos Millao sobre el Partido de la Tierra y la Identidad." Nütram Año IV (1988): 4-17.

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Another Mapuche leader, who as a young man had joined the *Centros Culturales* when it started in 1978, reflected publicly in 1999 on the evolution in political demands and perspective from the mid 1980s through the 1990s, which brought a growing sector of Mapuche activists to search for an autonomous stance in relation to Chilean political parties. The goal was the renovation of a culture, different from that of Chilean culture, but this renovation involved territory and economic resources, not merely an end to social prejudice and a respect for diverse cultural heritages.

> Since 1978, when we formed the *Centros Culturales* we have realized that what divided us Mapuche organizations were the political parties....That is where the splits and the disarticulation of the Mapuche movement began....It's not that we have an anti-political attitude. It's that the political parties must act according to the principles that they have....The leftist parties fight for the liberation of a social class, but not for the liberation of a people. We are fighting for a territory, for a language, to continue to project ourselves as a people and even to manage to recover something of what we have lost, among other things, an objective history and our political and organizational rights and own law.[14]

Parallel to the different views on tactics and strategies for bringing about a transition from the military dictatorship, and differences in terms of the nature of democratic society, there were divisions within the Mapuche movement over whether to opt for reform within the neoliberal institutional framework advocated by the coalition of parties that would become the Concertación, or to maintain an autonomous stance from

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[14] Alfonso Reimán, in an interview in El Diario Austral 1 April 1999, A8. "Nos hemos dado cuenta desde el año 1978 en adelante que es cuando se formaron los Centros Culturales, quienes nos dividieron a las organizaciones mapuches fueron los partidos políticos....Es ahí donde comenzó la descoordinación, la desarticulación, del movimiento indígena...no es que nuestra actitud sea antipolítica. Lo que sucede es que los partidos políticos deben actuar de acuerdo a los principios que ellos tienen....los partidos de la izquierda luchan por la liberación de una clase social, pero no la liberación de un pueblo. Nosotros estamos luchando por un territorio, por un idioma, por seguir proyect·ndonos como pueblo e incluso por lograr recuperar algo de lo que hemos perdido, entre ello, una historia objetiva y nuestro derecho político y organizacional...."

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the state and the political parties, and seek radical changes, such as political autonomy in a specific territory.[15]

Finally, during the 1980s and early 1990s, Mapuche non-governmental, non-partisan organizations emerged, creating an alternative vehicle for Mapuche professionals. Some of these institutions focused their work in rural communities, improving production techniques, fostering the revival of cultural traditions, and promoting social organization.

The Politics of Regime Transition and Indigenous Policy Reform

In a plebiscite in 1988, Chileans voted against giving Pinochet another ten years as head of the government by 55 percent to 44 percent, preparing the way for presidential and parliamentary elections in 1989.[16] In the Ninth Region, however, including areas with a substantial Mapuche population, voters favored Pinochet in almost the reverse percentage of the total national vote: 52 percent to 44 percent with 3.1 percent null or blank votes; approximately 8.8 percent of those of voting age did not register to vote.[17]

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[15] José Marimán Q., "Cuestión Mapuche..." 1990; see also statements of Mapuche leader Aucan Huilcamán, El Diario Austral, 26 April 1990, A5-6, El Diario Austral 24 October 1991, and the periodical Voz Mapuche Aukiñ no. 3 (January 1991) of the organization Consejo de Todas las Tierras.

[16] Unlike the plebiscite in 1980 over the constitution, the 1988 plebiscite was monitored by a team of national and international observers and more than 90 percent of the eligible electorate registered and voted. Voting is mandatory for those registered. Despite moments of tension and delay before the announcement of the plebiscite results, the defeat of Pinochet was publically acknowledged and accepted by the military regime.

[17] Registration is not required, but for those who are registered on electoral roles, voting is mandatory. The penalty for not voting is a fine. Over 90 percent of those eligible to vote registered for the 1988 plebiscite.

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Analysts have tried to explain the paradox of the favorable vote for the dictator in a region that had suffered extreme repression.[18] Bengoa points out that the military regime's programs of old age pensions, subsidies for rural housing, aid to poor families, and an unemployment program during the economic crisis from 1981 through 1984 provided essential cash income for impoverished Mapuche peasants. He also argues that municipal services, including access to health care at public hospitals required registry in the electoral roles. In addition, he argues that memories of the violent repression may have acted to intimidate voters from expressing opposition to the dictatorship. Finally, he states that the coalition of parties opposed to Pinochet failed to campaign effectively for a "no" vote in the rural areas, in part because of the divisions within the Mapuche movement. That is, some sectors of the opposition rejected the plebiscite as engineering by the military regime to continue in power and campaigned against participation, using the slogan "half of the people voting, half of the people fighting.[19]

Mapuche organizations which identified with the coalition of parties in the Concertación presented a series of demands to Patricio Aylwin, the Concertación's presidential candidate in 1989, including a new indigenous law which would protect indigenous lands, the constitutional recognition of the status of "peoples" for the

[18] Bacic Herzfeld et al. 1997 relate the fear that prevented relatives and friends of victims of the military regime from denouncing crimes to the Aylwin government's human rights commission; Bengoa (1999, 162-3) describes the constant repression against Mapuche in the Ninth Region well after the initial years of the military regime. Using police statistics on detentions, Bengoa calculates that in 1976-77, 20 percent of the population was detained on suspicion in the Ninth Region, as compared to 10 percent in the country as a whole and 5 to 6 percent in urban areas. Bengoa concludes that the police in the Ninth Region detained Mapuche "simply for being Mapuche" and that a climate of terror existed in the countryside of the Ninth Region in those days.

[19] José Bengoa, "Entrevista en torno al plebiscito", Nütram, año IV, no. 4, (1988): 7-23; Pedro Marimán, "Algunas Consideraciones en torno al voto Mapuche" Revista Liwen Año 1, no. 2 (1990): 25-34; José Marimán 1994: "la mitad del pueblo votando, la mitad del pueblo luchando."

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indigenous peoples of Chile, and the ratification of Convention 169 of the International Labor Organization (ILO) which recognized the rights of indigenous peoples to their lands, to a share in the benefits from the exploitation of natural resources within their territories, the right to veto development projects within their territories, and the protection of indigenous languages, religions, and customs.[20] In the name of the future Concertación government, Aylwin signed an agreement with the indigenous organizations (commonly referred to as *el Acuerdo de Nueva Imperial*, after the town in which it was signed), promising to incorporate into its political program 1) the constitutional recognition of the status of "peoples" for the indigenous peoples; 2) a state development agency for indigenous peoples, in which indigenous peoples themselves would actively participate; 3) the creation of a Special Commission for Indigenous Peoples (*Comisión Especial para los Pueblos Indígenas* or CEPI) to study the proposals of indigenous organizations and to begin implementation of programs for indigenous peoples.[21] Indigenous organizations signing the agreement promised to work within institutional channels, and to support the Concertación coalition.

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[20] See Edición especial Nütram (December 1989) and "El indigenismo de la Concertación y la ley 17.729: una comparación" Revista Liwen año 1 no. 1 (1989-90): 24-34.

[21] See For a reprint of the Agreement of Nueva Imperial, see Revista Liwen año 1, no. 2 (1990): 69 and Nütram, Edición especial (1989). The recognition of "people" was in the same sense as that used in the convention 169 of the International Labor Organization, in which *self-determination is specifically stated not to be implied in this use of the term "people."* Aymara and Rapa Nui organizations also signed the agreement. The Comisión Especial de Pueblos Indígenas (CEPI) was created in April 1990 by presidential decree. See El Diario Austral, 2 April 1990, A8. The CEPI had fourteen persons in its direction: seven indigenous persons (four Mapuche, one Aymara, one Rapa Nuei, and one representing indigenous persons living in urban areas—i.e., Santiago) and seven others named by President Aylwin. Their activities were coordinated by José Bengoa (author of Historia del Pueblo Mapuche and many other works on both Mapuche and the rural sector) and José Aylwin (the latter is a lawyer, who worked in the Chilean Human Rights Commission, and is the son of Patricio Aylwin).

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The decision by the Concertación to make a specific promise to indigenous peoples reflected both the influence of some noted intellectuals and human rights activists who favored indigenous peoples' rights, and the strategic political juncture. The Concertación needed to win more than two-thirds of the national vote in order to have a working majority in Congress. Without such a majority, the right could block reforms because of a series of authoritarian features instituted by the military regime, described below. The Ninth Region, as the only region in Chile that favored Pinochet in the plebiscite, was key, and the Concertación hoped to win Mapuche votes with the promise of the repeal of Decree Law 2568 and a reform of indigenous policy.

Institutional Obstacles to Processes of Democratization

The military regime dictated the "rules of the game" for post-authoritarian Chilean politics by the authoritarian constitution of 1980, a series of special laws passed after the 1988 plebiscite, and by "packing" the Supreme Court and the state bureaucracy. These laws and actions aimed at assuring the maintenance of neoliberal policies under future civilian governments. The Right and the military held veto power in the Senate by virtue of the nine designated senators (one-fifth of the Senate), four of whom give representation to the four branches of the Armed Forces.[22] This advantage in the legislative branch was further insured by the new electoral districts drawn up by the military regime. The districts had unequal numbers of voters, varying the effective

[22] Pinochet appointed the first nine. Pinochet himself, between the plebiscite and the 1989 elections wrote more laws into the Constitution, one of which made him Senator for life (and thus a tenth non-elected senator), once he stepped down as Commander -in-Chief of the Army in 1997.

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representative weight of the vote from 1 to 5.35, in which the bias always favored the areas won by the military regime[23] in the plebiscite.

In addition, the constraints posed by the electoral law and the law for political parties, both written under the military regime, make electoral victories of minor party candidates very difficult.[24] These laws were specifically designed to create a party system dominated by two parties (or coalitions), and to break with the historic tradition of a multiparty political system, often governed by coalitions elected by narrow pluralities.[25]

Furthermore, the electoral law reinforces the chances of the second-placing party or electoral pact by means of the binomial representation system. Binomial representation gives each electoral district two representatives. The electoral law favors a party system composed of two dominant parties or coalitions. If the first placing party or pact fails to win in a landslide-- more than two thirds of the votes cast in a district, then it splits the district with the second placing party or coalition. Minor parties, therefore, have a very

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"[23]¿Puede un Mapuche independiente llegar al parlamento? Sistema Electoral y Distrito 51" Revista Liwen, año 1, no. 1 (Dec.-Feb. 1989-90): 20-23.

[24] See Pedro Marimán Q., "¿Puede un Mapuche independiente llegar al parlamento? Sistema electoral y Distrito 51," Revista Liwen Año 1, no. 1 (December-February 1989-90): 20-23. (Temuco: Centro de Estudios y Documentación Mapuche Liwen); and Genaro Arriagada, "El sistema político chileno. Una exploración del futuro," Colección Estudios CIEPLAN no. 15 (December, 1984): 171-202.

[25] See the analysis of the Chilean political system by Arturo Valenzuela in his book, The Breakdown of Democratic Regimes: Chile (Baltimore, Md.: The Johns Hopkins University Press, 1978), and in his earlier work, Political Brokers in Chile: Local Government in a Centralized Polity (Durham, N.C.: Duke University Press, 1977), in which he argues that despite the wide ideological differences of the political parties, pragmatic compromise had characterized party relations, until the 1960s and 1970s. He argues that certain institutional reforms, the decline of a non-ideological center party (the Radical party) and the rise of an ideological one (the Christian Democratic party) introduced rigidities into the political system, which, in an era of increasing ideological polarization, eliminated key institutional mechanisms for the moderation of social conflict.

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difficult time gaining seats if they are not part of an electoral pact. The electoral rules mean that the lists of the two main parties or electoral pacts can win the first and second places, even though a candidate from a minor party, which is not part of a pact, comes in second. Such was the case of the congressional candidate of the Communist Party, Gladys Marín, who thus lost a seat for a Santiago district in the 1989 elections, and of current president Ricardo Lagos (PPD) who ran unsuccessfully for a seat in the Senate for the district of Conchalí in the Metropolitan Region (Greater Santiago) in 1989, even though he won twice the votes of the right wing candidate, Jaime Guzmán (UDI), who did win a seat after his coalition partners' votes were summed together with his.[26] Along with the 9 designated senators, these modifications guaranteed the military and the Right veto power in the legislature, as long as the Concertación failed to receive an overwhelming two-thirds victory throughout the country.

The military is an institutionalized player in the Chilean political system.[27] Besides having representation in four of the nine designated Senators, the military has four representatives on the National Security Council (NSC). The NSC may be convened by the request of the President or any two members, and the President's vote carries no special weight. The NSC advises the President on matters of national security, makes

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[26] Linz and Stepan (1996, 207) quote Arturo Valenzuela and Peter Siavelis that the Concertación perhaps lost seventeen seats in the December 1989 elections because of these rules. For an analysis of military prerogatives see Alfred Stepan, Rethinking Military Politics: Brazil and the Southern Cone, (Princeton, N.J.: Princeton University Press, 1988) especially pages 93-127. See also Peter Siavelis and Arturo Valenzuela, "Electoral Engineering and Democratic Stability: The Legacy of Authoritarian Rule in Chile," in Institutional Design in New Democracies: Eastern Europe and Latin America, eds. Arend Lijhart and Carlos H. Waisman, 77-100 (Boulder, Co.: Westview Press, a Division of HarperCollins, 1996).

[27] See discussion of Pinochet's eleventh hour constitutional amendments in Baño and Canales 1992; Linz and Stepan 1996, 207-210; Roberts 1998, 141-143; Moulián 1997, 51; Mark Ensalaco, "In with the New, Out with the Old? The Democratizing Impact of Constitutional Reform in Chile," Journal of Latin American Studies 26, part 2 (May 1994): 409-430.

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known to the President any situation the Council deems a threat to national security, and has the authority to demand from public officials all information regarding matters of national security that it deems necessary.[28] The 1978 amnesty law bars convicting military members for human rights crimes committed between 1973 and 1978.[29] The military are also financially more autonomous, by virtue of being constitutionally guaranteed 10 percent of the revenues of the state-owned copper industry; the top military chiefs cannot be fired by the President; General Pinochet remained head of the Army until 1997 when he became a Senator for life.[30] These features mean that the

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[28] Articles 95 and 96 of the 1980 Constitution.

[29] The case of the assasination of Orlando Letelier constitutes an important exception, although the convicted generals were given relatively light sentences (seven years for retired General Manuel Contreras, head of the CNI, and six years for Brigadier General Pedro Espinoza). Since the mid 1990s, as the Concertación government has been able to appoint new members of the Supreme Court, there has been more investigation of human rights crimes, in an effort to at least establish responsibilities, even if amnesty is subsequently declared. Investigating Judge Juan Guzmán asserted the concept—also current in international norms—of kidnapping with the disappearance of the victim, as a permanent crime in the eyes of the law. This legal view—not taken as literally presuming that the victim is still alive, means that certain human rights cases have been investigated more aggressively, or reopened. It is a view contained in the Convention Against Torture, which Chile signed in 1988. The Chilean Supreme Court agreed with Judge Juan Guzmán that when the victim is not recovered, the crime is still ongoing, and thus can not be amnestied. If and when the remains are found, however, the courts would probably grant amnesty. After the detention of General Pinochet in London in 1998, many more human rights cases were filed in Chilean courts. The extradition process initiated by the Spanish Judge, Baltazar Garzón, made politically viable Article 5 of the Chilean constitution, which makes international treaties and conventions signed by Chile binding in Chilean courts. The main Chilean case involving General Pinochet concerns the Caravana de la Muerte (Caravan of Death), in which top military officials flew to military bases throughout Chile in October 1973, to order summary executions of persons detained at the bases. Many of the victims were never found again, but some mass graves were discovered in the north shortly before the end of the military dictatorship. See Roberts 1998 note 38 in Chapter 4 (p.302) and Alexandra Barahona de Brito, Human Rights and Democratization in Latin America: Uruguay and Chile (New York: Oxford University Press, 1997). The remains discovered in Pisagua were those of the entire regional directorate of the Socialist party. Another case of discovery of remains occurred in Chihuío in the Tenth Region, where, in 1990, 18 victims' bodies were found. See El Diario Austral, 27 August 1990, A23. The article reports that these victims were illegally buried in October 1973, then dug up and hid again sometime during 1978 and 1979, only to be finally recovered in 1990.

[30] As a consequence of his detention in London, there was sufficient pressure on the Chilean government that the Supreme Court voted to remove his immunity as Senator, thus allowing investigation of his involvement in the case of the Caravana de la Muerte. The English lords had eventually ruled that Augusto Pinochet could stand trial for crimes against humanity because all three states involved (Chile, Spain and Great Britain) were signatories of the international pact against torture. The English law lords decided that, since Chile became a signatory in 1988, only the cases of human rights crimes from 1988 could be used to

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supporters of the military regime, the Right, and the military must approve any legislative change.

Finally, the unitary character of the state had been reaffirmed in the constitution of 1980. Chile is divided administratively in thirteen regions, each in turn made up of provinces and local governments called *comunas* (similar to municipalities or counties). The central government retains control of policy and most budgetary decisions. The President appoints the heads of the thirteen regional governments, the heads of the provincial governments, and the heads of the regional divisions of the various ministries. There are no popularly elected regional legislatures, but rather regional councils that are elected by the members of the municipal council. The regional council, in conjunction with the regional executive, decides what infrastructure or development project will receive funding from the National Fund for Regional Development. It does not act as a legislative body. Municipal councils and mayors are directly elected. The latter was one of the principal political reforms of the first Concertación government.[31]

Constitutional reforms need the approval of three-fifths or two-thirds of the representatives in each house of Congress, depending on the reform, and the approval of

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decide the grounds for Pinochet's extradition. Finally, the British Foreign Relations Minister decided that Augusto Pinochet was too infirm to stand trial and allowed him to return to Chile. Chilean government spokespersons consistently defended the right, on the grounds of national sovereignty, of Chilean courts to resolve the question of General Pinochet's culpability and responsibility as head of state for crimes committed under the military dictatorship. The author was present in Chile during this time.

[31] For the laws concerning regional and local government, see Articles 99 through 115 in the Constitution, Ley Orgánica Constitutional sobre Gobierno y Administración Regional. Leyes anotadas y concordadas. n° 8, Ley 19.175. El Diario Oficial, n° 34.413, 11 November 1992 and Ley Orgánica Constitucional de Municipalidad, n° 5, Ley 18.695, El Diario Oficial, n° 33035, 31 March 1988.

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the Constitutional Tribunal.[32] Given the number of senators appointed by General Pinochet at the end of the military regime, and the fact that he appointed the members of the Constitutional Tribunal, the Concertación faced great obstacles to constitutional reform, and, indeed, to any proposed law that the Right did not approve.

The reforms called for by the Concertación in its 1989 campaign platform did not include dismantling the neoliberal institutions, but rather distributional reforms (such as tax law reform), direct election of mayors, and adjustments in state assistance programs for the very poor.[33] The proposal for indigenous policy reform was also congruent with the neoliberal framework of economic incentives and individual initiative, rather than constituting a promotion of collective rights for indigenous peoples.[34] The proposal, however, came at a time when various conflicts gave media prominence to indigenous demands. One of the more polemical conflicts concerned the Mapuche-Pewenche community of Quinquen, which pitted Mapuche communities against a logging company.[35] The plight of the Quinquen, and the threat to the protected tree species, the

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[32] Articles 116 through 119 in the Constitution.

[33] See Oscar Muñoz, Transición a la Democracia. Marco Político y Económico (Santiago CIEPLAN, 1990). Mayors had been appointed by Pinochet under the military regime. The most significant change in taxes was the raising of the value added tax on almost all purchases, from sixteen percent to eighteen percent. The Concertación hoped the higher value added tax would help finance an increase in social spending, without having to win passage of an increase in taxes on income or corporate profits. The public assistance programs would be adjusted to focus on groups as well as individuals and entrepreneurial skills.

[34] "La Concertación de los Partidos por la Democracia a los Pueblos Indígenas," Nütram Edición especial (3 October 1989). This issue also contains the proposals of Mapuche organizations.

[35] The Mapuche-Pewenche are those Mapuche who live in the Andean highland area--the word Pewenche means "people of the pewen" or Araucaria tree which grows above 1000 meters between the Eighth and Tenth Regions and provides an edible nut. Similarly, the Mapuche of the seacoast are known as Lafkenche (people of the sea); Williche, the Mapuche south of the Toltén river are "people of the South"; Mapuche means "people of the land." Geographical differences explain differences in subsistence patterns, and certain cultural customs, but the language, despite some difference in pronunciation and words, is the same.

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Araucaria, generated wide support among Chilean ecologists, human rights activists, and the general public, and united (for a time) the Mapuche movement.

In addition, the conflict over the first of several proposed hydroelectric plants on the Upper Bíobío, which threatened Mapuche Pewenche communities, also generated controversy, and the conjuncture with the 500th anniversary of the landing of Columbus in the New World spurred various types of demonstrations and demands for the recognition of collective rights for indigenous peoples. The year 1992 was brought to the attention of the world by indigenous organizations throughout Latin America, as they strongly objected to its celebration, and emphasized that the "discovery" had meant the devastation of their cultures, enslavement, decimation of their populations, and five centuries of ethnocide.

The Concertación's campaign proposal with respect to indigenous peoples in 1989, however, failed to reflect or generate a consensus among the Mapuche organizations, including those affiliated to parties within the Concertación.[36] The Concertación's proposal underplayed key demands of the Mapuche movement for territorial control over natural resources, and emphasized the state's role in the design of development plans and their coordination, rather than the role of Mapuche organizations, institutions, or communities or even the Mapuche population as a whole. While the "market" was supposed to act as the motor of economic growth and provider of social

[36] See discusion in Pedro Marimán 1990 and the interview with Ad-Mapu leaders Elisa Avendaño and Ana Llao in the same issue, pp. 20-24; also Nütram Edición especial (1989) and "El indigenismo de la Concertación y la ley 17.729: una Comparación," Revista Liwen año 1, no. 1 (1989-90): 24-34; and José Marimán 1994.

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services for the rest of the society, in the case of the Mapuche the proposal envisioned a controlling role for the state in the assignment of funds for local social development projects and in the coordination of programs of different state ministries and levels of government (i.e., regional or municipal levels). Benefits, however, would come mostly from the assistance programs designed for the poor sectors of society, which provide grants for small-scale entrepreneurial initiatives. Both Congress and the Finance Ministry would limit funds for these programs in order to refrain from burdening the government budget with greater deficits.[37]

This perspective indicates the importance placed by political elites on maintaining the basic lines of neoliberal economic and political policy. The economic team of the Concertación coalition was determined to maintain balanced budgets, if elected, and had come to accept the subsidiary role of the state. In general, social programs were aimed at specific social sectors, to promote their insertion into the economy on more beneficial terms.

Despite last minute efforts between the 1988 plebiscite and the 1989 election by the Concertación to win Mapuche votes, the Ninth Region gave only lukewarm support for the candidates of the Concertación. Profiting from a split in the right, which ran two presidential candidates, Aylwin won 47.2 percent of the regional vote versus 52.8 percent for the two rightist candidates, Hernán Büchi (29.1 percent) and Francisco J. Errázuriz

[37] The government was already burdened with the "subordinated debt" for having rescued the financial sector in the early 1980s, and thus, under neoliberal monetary and fiscal restraints, had less funds available for social programs.

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(23.8 percent). Nationally, the results favored Aylwin 55 percent to 44 percent—(Büchi, 29.40 percent; Errázuriz 15.43 percent), while the binomial electoral system assured that the senatorial and deputy seats were split equally, five deputies for the Right and five for the Concertación, two senators for the Right and two for the Concertación.[38]

Proposals for a New Indigenous Law

Between the Concertación's victories in the 1988 plebiscite, the December 1989 general elections, and the inauguration of the democratic government in March 1990, Mapuche organizations (and those of other indigenous peoples), tried to influence the Concertación proposals for reform of indigenous policies.[39] In January, 1990, twenty-seven indigenous organizations, including Aymara, Atacameño, Rapa Nui, as well as Mapuche organizations throughout Chile, formed the National Council of Indigenous Peoples, *Consejo Nacional de Pueblos Indígenas (CNPI)*.[40] This Council was associated with the Indigenous Peoples Department of the Chilean Human Rights Commission of

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[38] The Concertación de Partidos por la Democracia at this juncture was a coalition of 14 parties who opposed the military regime and decided to work together within the limits imposed by the regime, first in the plebiscite of 1988 and then in the presidential elections. The dominant parties were the Christian Democratic party, the Socialist Party and the break-off from the socialist party, the Partido por la Democracia (PPD), the Radical party, (a historical party of the center); there were also several minor parties, including some new ones, such as the Humanist-Green party. The main right wing parties, the Unión Democratica Independiente (more closely allied with the military) and the Renovación Nacional, formed an electoral pact and ran Büchi; finally, Errázuriz, politically right wing, ran on a "independent" ticket (Unión del Centro Centro), in an attempt to capture the non partisan electorate.

[39] See "Presentación a los Partidos Políticos de la Propuesta de Reconocimiento Constitucional de los Pueblos Indígenas" 21 January 1989 in Nütram edición especial 1989: 25-28. This list of demands was elaborated by representatives of 28 indigenous organizations. The same issue also contains the proposals of other Mapuche organizations and that of the Concertación.

[40] El Diario Austral, 30 January 1990 A7 and "Segundo Acuerdo de los Pueblos Indígenas de Chile, Niágara 27 y 28 enero de 1990," Nütram Año VI, no. 1 (1990): 10-11; José Marimán 1994.

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the Concertación. Mapuche organizations demanded the right to participate fully in the elaboration of a reform proposal, but they did so at a juncture when most had narrow social bases, and thus little capacity to mobilize a broad show of support of their demands.[41]

Amenable to implementing reforms in indigenous policy, the new democratic government under Patricio Alywin (1990-1994) created the Special Commission for Indigenous Peoples (*Comisión Especial de los Pueblos Indígenas*, CEPI) in May of 1990, as promised in the Agreement of Nueva Imperial, and ordered the Commission to implement studies and certain benefits (such as scholarships for indigenous students) while the proposed indigenous law was debated in Congress.[42]

The Technical Committee of the Indigenous Peoples (*Comisión Técnica de los Pueblos Indígenas*), linked to the Chilean Human Rights Commission of the Concertación, elaborated a draft proposal for a new law, which was to be presented at a congress of representatives of indigenous organizations, in order to allow the input of representatives of the indigenous peoples. The indigenous congress, in turn, would deliver the proposal, with whatever modifications the delegates considered pertinent, to the Concertación government.

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[41] José Marimán 1994.

[42] "Discurso del Presidente de la República con motivo del acto de la Comisión Especial de Pueblos Indígenas," Nütram VI, no. 2 (1990): 44.

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The Technical Committee's proposal called for the protection and increase of indigenous lands, in order to alleviate the problems stemming from the small size of the individual plots.[43] It also called for the protection of the natural resources within indigenous territories, including provisions for funds to recover the quality of degraded resources. Finally, the proposed draft introduced the concept "development territories" which would be those areas identified by the State in which indigenous peoples had lived ancestrally and in which there still existed a high percentage of indigenous population who depended on natural resources.

The concept of "territory" in the proposal emphasizes the ecological integrity of an area, rather than a political one that incorporates mechanisms of self-management, much less self-determination. These development areas would not coincide with actual political boundaries of *comunas* or regions. They were conceived as "social, demographic, and ecological spaces fundamental for the existence and development of indigenous peoples," in which the state would focus special attention by its coordination of development projects.[44] Although the draft proposal included statements regarding the

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[43] See Comisión Especial de Pueblos Indígenas, Primer Borrador de la Ley indígena, Santiago: CEPI, July 1990.

[44] In 1995, an offical document of the Ninth Region's government concerning Indigenous Development Areas gave criteria for their designation, based upon, among other considerations, ancestral occupation of an area by the Mapuche. While recognizing that "a large part of the Ninth Region" would thus qualify as an Indigenous Development Area, the document warns that designating much of the Ninth Region an Indigenous Development Area would lead to "making decisions at too encompassing a scale." "En la Araucanía, estos criterios deben ser analizados cuidadosamente, pues en toda la región la presencia Mapuche es ancestral, la propiedad comunitaria consitutye uno de sus rasgos representativos, al igual que la vinculación de primer orden con amplias cuencas hidrográficas. Vale decir, gran parte de la IX Región podría ser considerada como Area de Desarrollo Indígena, esto último estaría produciendo un análisis muy general de lo que es la presencia mapuche y conduciría a una toma de decisiones demasiado global que no consideraría las condiciones particulares de cada espacio territorial ocupado por la etnia indígena." Oscar Eltit Spielman, (Regional Government head at the time), Secretario Regional Minsterial de Planificación y Coordinación, IX Región, "Planificación Regional y Areas de Desarrollo Indígena" (n/d), p.4.

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right of indigenous communities to participate in the decisions affecting them, and in the benefits of the exploitation of the resources within these areas, neither the degree of participation, nor the nature of that participation were specified.

Parallel to the Technical Committee's work, the Concertación organized a series of local and regional meetings of indigenous organizations and individuals to enlist grassroots participation in the proposal for a new indigenous law.[45] At the local level, approximately 2,800 meetings were held throughout Chile, in which 3,000 delegates to regional meetings were elected, and these elected delegates for the National Congress of Indigenous Peoples, held in Temuco in January 1991.[46] The process has received varying evaluations; some consider it unique, and virtually unprecedented in Chilean history in terms of citizen participation in the elaboration of proposed legislation,[47] while others acknowledge that the level of participation varied greatly.[48] Some criticized the involvement of political parties, noting also the isolation of those indigenous

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[45] These meetings were not confined to the Mapuche, but included other indigenous peoples even though these peoples had no recent nor historical organized political movement.

[46] See the speech of President Patricio Aylwin at the closing of the National Congress of Indigenous Peoples, published in Nütram Año VII, no. 1 (1991); the conclusions of the Congress in the same issue. See also Congreso Nacional de Pueblos Indígenas, published by the Comisión Nacional de Pueblos Indígenas (Santiago, 1991).

[47] Cf. comments to that effect by José Bengoa in "Entrevista a José Bengoa C., Director de la Comisión Especial de Pueblos Indígenas," Nütram Año VI, no. 2 (Santiago, 1990): 47-55. The process of elaboration of the proposal for a new law in the Mapuche national congresses of 1969 and 1970 perhaps approximates the level of participation, in terms of Mapuche organizations and in terms of final wording of the law. See Cantoni 1972; Foerster and Montecino 1988.

[48] Former National Director of the CONADI, Mauricio Huenchulaf, admitted this in an interview with the author in 1998.

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representatives identified with Ad-Mapu, which was associated with parties that did not form part of the Concertación.[49]

Despite the ambiguity of the degree of participation at the National Congress of Indigenous Peoples, the delegates formulated a proposal that reiterated many of the demands raised by the Mapuche movement in the 1980s, both those of a general, political nature and those responding to more immediate problems. The proposal of the indigenous Congress included a demand for the protection and increase of the indigenous communities' lands, assistance in recovering the quality of the natural resources (i.e., soil suffering from erosion) within indigenous communities, the right of the indigenous communities and associations to participate in the decision-making process of those development projects affecting them, and it stipulated their right to halt such projects, as well as a right to participate in the benefits accruing from the exploitation of those resources.[50] Recalling provisions of the International Labor Organization's Convention 169, they also called for the right of indigenous peoples to participate in local, regional, and national levels of government. The delegates also demanded constitutional recognition of their status as indigenous peoples. Finally, they called for the recognition of indigenous customary law, which could be used to resolve local, internal disputes. The delegates did not demand political autonomy, self-determination, or a statute of regional,

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[49] See interview with Ad-Mapu leaders Elisa Avendaño and Ana Llao in Revista Liwen Año 1, no. 2 (1990): 20-24.

[50] See Comsión Especial de Pueblos Indígenas, Congreso Nacional de Pueblos Indígenas de Chile, Temuco 1991 (Santiago: Edición CEPI, 1991). See also Víctor Toledo 1997 for a critical discussion of the elaboration of the proposal for the new draft law for indigenous peoples.

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ethnic-based autonomy. These demands were raised publicly, but were not espoused by those Mapuche organizations associated with the political parties of the Concertación.[51]

Demands for Autonomy and Divisions within the Mapuche Movement

Between 1991 and 1992, the organization Consejo de Todas las Tierras, (Aukiñ Wallmapu Ngulam) formed by some of the Mapuche who left the organization Ad-Mapu, began a series of peaceful land takeovers and to demand the right to self-determination and political autonomy. These takeovers caused an uproar in the media. The Consejo also organized a meeting of traditional Mapuche leaders from 48 Mapuche communities to judge the demands for lands and resolve what actions to take, summoning the President of Chile, Catholic bishop Sixto Parztinger, members of the government indigenous commission and estate owners to give testimony before the tribunal.[52] Leaders of the organization also denounced the history of land usurpations in international forums, such as those of the United Nations.

The Concertación government officials reacted to the land takeovers by arresting community members and organization leaders, and publicly criticizing the refusal of the

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[51] In 1990, the Mapuche institution, Centro de Estudios y Documentación Mapuche Liwen proposed a constitutional statute granting political autonomy to the Ninth Region and certain adjacent areas. In the Autonomous territory, the entire population would elect a Regional Assemby by proportional vote, and the Regional Government would emanate from the Assembly. See José Marimán 1990. The Mapuche organization Consejo de Todas las Tierras also demanded territorial political autonomy. See Voz Mapuche Aukiñ, no. 3 (January 1991).

[52] "El Gobierno rechaza el 'pleno indígena" El Mercurio 25 April 1992, C9; "Intendente califica de payasada al Tribunal Mapuche" El Mercurio 26 April, C12; Prisma Político, Año 2 no. 6 (Santiago, August 1990): 53-56.

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organization to work with the government commission on indigenous peoples and wait for the passage of the proposed new indigenous law. The proposed indigenous law stalled in Congress, and was temporarily shelved.[53] The Courts finally condemned the leader of Consejo de Todas las Tierras and 144 members of Mapuche communities with membership in an illicit association, usurpation of lands, and violation of the Law of Internal Security of the State. Other Mapuche organizations, public figures, and supporters of indigenous rights raised a public outcry at the government's invocation of the Law of Internal Security of the State. Even those Mapuche organizations linked to parties of the Concertación criticized the government reaction as excessive.[54]

Government officials, such as the regional government head, *Intendente* Fernando Chuecas (Christian Democrat), the Subsecretary of the Government, Edgardo Riveros, the subdirector of the government commission on indigenous peoples, Víctor Hugo Painemal, a Mapuche affiliated with the Christian Democratic party, and the major

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[53] José Marimán 1994.

[54] See "Declaración Pública de la Comisión ejecutiva y las organizaciones pertenecientes al Consejo Nacional de Pueblos Indígenas de la Region Metropolitana 27 June 1992" in Nütram Año VIII, no. 28 (1992/2) "The indigenous movement has as its objective the demand that the State restore those rights; the mechanisms are different. The CNPI advocates exhausting the institutional channels within the legal, economic, and social framework, and therefore demands that Congress approve the Constitutional amendment and ratify Convention 169 of the ILO.....Although we do not agree with the methods of the Consejo de Todas las Tierras, we feel it a duty to express our solidarity with them due to the discriminatory reaction adopted by the government....We categorically reject the charge that the Consejo de Todas las Tierras is an illicit association...[or constitutes] a threat to organizations, which in the majority do not have legal incorporation, as no proper legislation yet exists....We condemn any expression which harms or degrades the integrity of any indigenous[person]...." : ....El movimiento indígena tiene como finalidad exigir al Estado la restitución de aquellos derechos—los mecanismos son distintos. El CNPI propicia agotar la vía institucional dentro de un marco jurídico, económico, social, por lo que exige al Congreso Nacional aprobar....la Reforma Constitucional y el Proyecto Ley y la Ratificación del Convenio 169 de la OIT....Si bien no concordamos con los métodos del Consejo de Todas las Tierras, sentimos un deber solidarizar con ellos....Rechazamos categóricamente la querella por asociación ilícita....que consituye una amenaza a las organizaciones que en su mayoría no cuentan con personalidad jurídica [porque] no existe legislación "adecuada" que lo permita....Condenamos toda expresión que dañe o menoscabe la integridad de cualquier indígena...." Similar declarations from other organizations can be found in the same issue.

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newspapers (in particular, El Mercurio) attacked the Consejo as promoting a "dangerous" separatism, an unrealistic demand to return to the past, manipulation of poor Mapuche by extreme leftists, and disrespect for the "Rule of Law." The *Intendente* of the Ninth Region, Chuecas, questioned the use of the term "people" in the media as a stereotype and a "pseudoconcept," making reference to the demands for the rights of peoples and autonomy of the Consejo de Todas las Tierras as "dangerous," just as was, in his opinion, the demand for respect for indigenous customary law, territorial rights, and traditional authorities.[55] Despite the fact the Concertación had included the word "people" in the draft law for indigenous peoples, Chuecas objected that it was erroneous to conceive of the indigenous as "original ["native"] peoples," because, he argued, historical accounts showed that they [the Mapuche] had come from other lands and were not "native" to Chile.[56] Furthermore, Chuecas asserted that the Mapuche and other indigenous peoples were "ethnic minorities" who were family groups, and had never conceived of themselves as "a people."

These assertions by the regional government head contrast sharply with the claim to the right to be recognized as "peoples" made by Mapuche leaders and organizations, including those affiliated with the Concertación, in their public statements to

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[55] See El Diario Austral, October 10, 1992, A 10; El Diario Austral, 18 March, 1992, A7; El Mercurio April 1992, C9 and C11 for examples.

[56] See Bengoa 1985 for a discussion of the debate over the origens of the Mapuche people. The notion that the Mapuche are not "native" to what is now Chile, but rather arrived from Argentina in the twelfth century was held by Latcham and the Chilean historian Francisco Encina, through whom this notion found its way into Chilean school texts. This idea was rejected by Guevara, an early twentieth century anthropologist, as well as later scholars such as Berdichewsky and Dillehay. Bengoa reports that, based upon current arqueological evidence, the Mapuche culture has existed in south central Chile since 500-600 B.C.

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Concertación party elites.[57] The demand for recognition as "a people" cut across ideological and tactical differences among the Mapuche organizations and institutions. Almost a decade earlier, in 1982, the organization Ad-Mapu had declared that the right of self-determination was "indispensable."[58] As the Mapuche organizations affiliated with parties of the Concertación demanded recognition as "peoples," the Centro de Estudios y Documentación Mapuche Liwen called for a constitutional level statute granting territorial political autonomy, defining autonomy as a liberation project of a people dominated and colonized internally by the Chilean nation-state.[59] In 1991, Consejo de Todas las Tierras declared that the "Mapuche people have a culture, a language, a religion, their own organizational structure, and a territory which was robbed from us by the Chilean Nation-State."[60]

The Mapuche did not have a centralized state, either before the arrival of the Spanish in the 1500s or afterwards during the 300-year period when the Spanish crown recognized their political and territorial autonomy.[61] The lack of a centralized political

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[57] See "Presentación a los Partidos Políticos de la Propuesta de Reconocimiento Constitucional de los Pueblos Indígenas" January 1989 in Nütram edición especial (1989): 25-28; José Aylwin and Enrique Besnier, Demandas de los Pueblos Indígenas de Chile en la Transición Democrática, Dcto. de trabajo, no. 1 (Programa de Derechos Humanos y Pueblos Indígenas de la Comisión Chilena de Derechos Humanos, March 1990).

[58] Ad-Mapu, "El Pueblo Mapuche: Presente y Futuro" November 1982.

[59] José Marimán 1990.

[60] Voz Mapuche Aukiñ no. 3 (January 1991).

[61] Bengoa 1985 argues that a number of factors promoted the centralization of political authority in Mapuche society, and also a degree of differentiation of control over resources, during the 1700s. Among these factors were the increased ease and speed of communication and transportation due to the horse, the increase in wealth due to the horse and cattle trade with colonial settlements, and the concentration of wealth in the chiefs, who controlled access to land. With the war in the nineteenth century, this process of centralization and concentration of wealth and authority was halted.

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authority does not mean that a sense of common cultural and ethnic identity did not exist. The current use of the term "people" is a demand for collective rights, including collective economic and political rights, and is certainly consciously used by Mapuche activists to evoke norms of international human rights conventions, as the following representative statements illustrate:

> Autonomy and self-determination are not political stances of some sector in particular; they are rights that emanate from our collective condition as a nation...[62]

> We are a people because we have a territory, which has been usurped and invaded. We are a people because we have our language, beliefs, and religion. We are a people because we have (our own) economic system and organizational structure...[63]

The rejection by government officials of concepts such as "a people" and the demands for autonomy indicate the gap between the political demands of the Mapuche movement and the degree of willingness to reform state policies even among officials of the new democratic government. While Consejo de Todas las Tierras reiterated these demands in headline-catching events, other Mapuche organizations also demanded the constitutional recognition of the status of "a people." The difference lay in the option

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[62] "Los propósitos del diálogo mapuche" Francisco Caquilpán, Presidente, La Corporación de Desarrollo Mapuche Xeg-Xeg and Víctor Naguil, Director, Centro de Estudios y Documentación Mapuche Liwen, 31 March 2000. Response to article by Camilo Salvo (PS) in El Diario Austral 30 March 2000, published on the web page Ñuke Mapu (soc.uu.se/mapuche): "...la autonomía y la autodeterminación no son posturas políticas de algún sector en particular, son derechos que emanan de nuestra condición de nación..."

[63] Galvarino Reimán, "Perspectivas de Salida al Conflicto Mapuche-Forestal" in Pueblo Mapuche y Expansión Forestal (Santiago: Programa Chile Sustentable, 1999), 35-36. Quote taken from speech given at a conference at the Universidad Católica de Temuco in August, 1998. "Para relacionarnos a la solución de conflictos, es necesario plantear dichos principios o fundamentos en relación a lo que somos: personas y pueblo mapuche. Somos pueblo porque tenemos un territorio, que nos ha sido usurpado e invadido. Somos pueblo porque tenemos nuestro idioma, creencias y religiosidad. Somos pueblo porque tenemos un sistema económico y una estructura organizacional..."

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chosen by the organizations affiliated with the Concertación to await the new law, and to seek change via legal means. The majority of the Mapuche organizations at this time judged that the political juncture was delicate, and that it would be more appropriate to move gradually. Aroldo Cayún, Mapuche and one–time president of the short-lived Partido de la Tierra e Identidad, for example, declared that, "negotiation, backed by mobilization, would be the most effective means of achieving reform." He also noted that "it would not be positive for indigenous organizations to promote political mobilization in an effort to transform local conflicts into broader ones, similar to Quinquen."[64] In the view of those linked to the Concertación, other efforts at reform would take precedence, and the political right could use the land takeovers, although peaceful, to be an excuse to block even relatively mild reform.[65] Given the public statements of politicians and government officials, however, as well as the limits posed both by electoral laws and the right wing's control over the Congress, basic demands raised by moderate organizations, such as constitutional recognition of the status of "peoples" for the indigenous peoples of Chile or control over subsoil resources on those lands the state recognized as indigenous, faced formidable obstacles.

More important, perhaps, than these differences in the estimation of the political conjuncture and appropriate strategy, was the weakness of the grassroots support for the

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[64] See the interview with Cayún in "Quinquen, Autonomía y política. Entrevista a Aroldo Cayún," Nütram Año 8, no. 24 (1992): 35-39. The Partido de la Tierra e Identidad (Party of Land and Identity) was a party founded in January 1989 as an effort to group together indigenous political activists and advance demands in the name of all indigenous peoples. It did not succeed in gaining support either among Mapuche or the other indigenous peoples of Chile. See interview with Cayún in "La Formación del Partido de la Tierra y la Identidad en Chile. Entrevista a Aroldo Cayún," Nütram Año V, no. 2 (1989): 3-12.

[65] See for example the expression of support for the Concertación government given by Mapuche organizations allied to the government, El Diario Austral 23 April 1991, A6 and discussion in Bengoa 1999.

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Mapuche organizations. Most of the organizations that were affiliated with or sympathetic to the parties of the Concertación had very weak ties to Mapuche communities, or to other sectors of Mapuche society. Consejo de Todas las Tierras had more strength in rural communities, but this support would fade as it failed to achieve the concrete goal of recovery of usurped land. Internal dissension within Consejo also led to splits and loss of activists. Consejo enlisted support for international solidarity organizations and lobbied in international forums for indigenous rights, while its influence within Mapuche circles declined for a time.

By 1990, on the eve of the assumption of office of the Concertación government, most Mapuche political organizations were more party vehicles than agents of social bases. Notwithstanding their demands to participate in the elaboration of a new indigenous law, and the willingness of the Concertación to elicit the opinions of indigenous organizations in seminars and congresses, the organizations did not wield much leverage. Concertación elites set the priorities and pace of reform. Delegating the initiative to party elites, Mapuche political organizations linked by party ties to the Concertación became politically quiescent, and eventually insignificant, both to social bases and to the party elites. More critical sectors of the Mapuche movement, such as the Consejo de Todas las Tierras and elements within the Mapuche non-governmental, non-partisan institutions, followed two basic strategies. The Consejo opted for dramatic, headline-catching actions that led to a standstill, although ultimately it won solidarity in international support groups, while the other institutions turned to quiet work within Mapuche groups and communities.

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Within the Concertación itself, the parties differed in their acceptance of Mapuche demands for constitutional recognition of their status as "a people," control over natural resources in indigenous lands, and the right of indigenous communities to participate in decisions regarding development projects that affected their lands. The prevailing voices favored an indigenous policy reform that would—ostensibly—harmonize with maintaining dynamic neoliberal growth, the unitary character of the state, and an acceptance of cultural diversity within an overarching national homogeneity. The issues of "peoples," "territory," and "development" that provoked objections and debates within the Concertación itself, in the Executive Branch, and in Congress are treated in the following chapter.

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Chapter 7. The Indigenous Law of 1993: Contested Concepts of Peoples, Territory, and Development

The Concertación de los Partidos por la Democracia was a coalition of centrist and non-Marxist leftist parties whose principal objective had been 1) to defeat General Augusto Pinochet in the 1988 plebiscite; and 2) to win the 1989 general election and assume office as government. The coalition was an instrumental alliance of separate parties, not an ideological alliance, nor an incipient new party. Nevertheless, the minimum common denominator of the Concertación's political program was the maintenance of neoliberal policies and the neoliberal conception that the proper role of the state is the promotion of the free market. Not only the centrist parties of the coalition, but also the "renovated" leftist parties agreed on the need for an open economy and the reduced state role in social services.[1]

Indigenous policy reform would be subject to this policy framework. The question,"what are the limits to social reform?" is, thus, both a function of the authoritarian prerogatives incorporated into the Executive, Legislative, and Judicial branches of government, and the ideological changes experienced by party elites, particularly those of the Left.

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[1] See Petras and Leiva 1994; Moulián 1997; and Roberts 1998, for analyses of the ideological changes in leftist parties.

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The Concertación had proclaimed its support for the recognition of the "political, social, economic, and cultural rights of indigenous peoples in Chile" in its electoral platform of 1989 and in the Agreement of Nueva Imperial between then presidential candidate of the Concertación Patricio Aylwin and indigenous organizations.[2] Government spokesman, Minister Secretary General of the Government Enrique Correa emphasized the priority which the Aylwin administration gave to the proposed constitutional amendment to recognize the status of "peoples" for the indigenous peoples of Chile and for the passage by Congress of a new indigenous law.

"The concern of the Government dates back to the [campaign] platform of the Concertación, in which the coalition set forth its willingness to fully recognize the political, economic, and social rights of indigenous peoples...." The proposed legislation, Correa stated, was precisely "the mechanism which society should employ to create equal opportunities for all of its members[....]It is not enough to

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[2] The electoral platform of the Concertación is quoted in the document Pueblos Indígenas: Normas constitucionales y derecho internacional by Eduardo Castillo and Jorge Sanderson, of the Programa de Derechos Humanos y Pueblos Indígenas of the Comisión Chilena de Derechos Humanos, Documento de Trabajo, no. 2 (July 1990). See also "La Concertación de los Partidos por la Democracia a los Pueblos Indígenas" in Nütram, Edición Especial (October 1989). The Agreement of Nueva Imperial (1 Dec. 1989) is reprinted in the Revista Liwen, Año 1, no. 2 (1990): 69. In the Agreement, Aylwin, in the name of the Concertación, pledged to support the demand for constitutional recognition of the status of peoples for the indigenous peoples and to promote the economic, social and cultural development of indigenous peoples with their participation. In turn, indigenous organizations who signed agreed to work within legal channels.

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speak of modernity,..., if, at the same time, concrete normative conditions are not purposively promoted...to lift the most forgotten sectors out of their situation of marginalization."[3]

The themes of diversity and modernity in Correa's statement reveal the dilemma of the Concertación: cultural diversity and respect for indigenous peoples was a rhetorical value of the Concertación, at the same time that the neoliberal conception of modernity remained unquestioned. From the perspective of the Concertación, the problem was how to create the policy instruments for integrating indigenous peoples into that modernity.

The Concertación's program explicitly recognized the existence of cultural diversity within the Chilean national culture, and valued such diversity as part of Chile's national heritage, marking a dramatic contrast with the insistence of the military regime that "there were no indigenous in Chile," and its efforts to

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[3] Correa is quoted in El Mercurio 9 October 1991, A1, A 12, on the day the draft indigenous law and proposed constitutional amendment were sent to Congress. The article summarized Correa's commentsin this way: "Correa dijo que esta preocupación gubernamental se remonta al propio Programa de la Concertación—donde quedó explicada la voluntad de reconocer plenamente los derechos políticos, económicos, sociales y culturales de los pueblos indígenas—y a la creación de la Comisión Especial de Pueblos Indígenas, instancia asesora que participó en la confección de las iniciativas legales citadas[.....Correa reconoció que la disciminación positiva] es precisamente el mecanismo que la sociedad debe utitilizar para procurar la igualdad de oportunidades entre todos sus miembros, [....] No es suficiente hablar de modernidad...si, junto con ello, no se promueven decidamente normativas concretas que tiendan a hacer despegar a los más desprotegidos de su situación de desamparo."

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eliminate the protection of indigenous lands and promote the expansion of large national and transnational corporations on indigenous lands.[4] The Concertación promised to protect indigenous lands and promote the development of indigenous peoples.

It was also willing to propose a constitutional amendment recognizing the status of "peoples" for the indigenous peoples of the Chilean nation. The proposed amendment recognized a multicultural society within one nation, not a plurinational society. Even so, the use of the term "peoples" consistently provoked objections within members of the Concertación as well as from the military and the Right, and Congress rejected it.

In many ways, the proposed new indigenous law reflected the 1972 law, by establishing a state development agency for indigenous peoples, and creating

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[4] See Castillo and Sanderson 1990, 34-40. The Concertación program stated "pluralism indicates that there is no room for proposing a cultural project from only one conception of the world, since that would mean ignoring the diverse tendencies and sectors which make up the national culture, whose right to exist should be guaranteed by the State...in society, a plurality of *subcultures* exist (social, regional, youth, ethnic, etc.) Only to the extent that this heterogenity is recognized and is given channels, will the basis for the creative action of individuals be fully expressed." (emphasis added). "El pluralismo indica también que no cabe plantear un proyecto cultural desde una sola concepción del mundo, puesto que si así se hiciera se estarían desconociendo las diversas tendencias y sectores que integran el conglomerado cultural nacional....en la sociedad coexisten una pluralidad de subculturas (sociales, regionales, juveniles, étnicos, etc.). Solamente en la medida que esa heterogeneidad sea reconocida y se le abran cauces, se estarán sentando las bases para que el movimiento creador de cada individuo pueda expresarse plenamente." Cf. The statements made by the Socialist party leader, Camilo Salvo, in June 2000, in chapter 9. The comment of the Pinochet regime's representative to the International Labor Organization, is quoted by Castillo and Sanderson on p.39.

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funds for social and economic programs. Whereas the indigenous legislation prior to the 1972 law had promoted the subdivision of indigenous lands and their integration into the free market, as did the subsequent D.L. 2568, both the 1972 and the proposal of the Concertación contained provisions prohibiting the sale to non-indigenous. Both the 1972 law and the Concertación's proposal incorporated some of the demands of the Mapuche organizations.

Despite these similarities with the 1972 law, the Concertación's proposal did not transcend the neoliberal institutional framework. While the 1972 law promoted the expropriation of estate land for indigenous communities and the restoration of usurped indigenous lands, the Concertación did not propose any wholesale restoration of lands nor advocate expropriation. The government hoped to channel land conflicts through the courts and case-by-case arbitration between specific communities and landowners.

The Concertación's policies towards indigenous peoples reflected continuity with that of previous governments in three key areas: those concerned with the concepts of "peoples," "territory," and "development." These concepts provoked opposition not only in right- wing parties and the military, but also among the politicians of the Concertación. Even those members of the Concertación who favored the use of the phrase "indigenous peoples" in the

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proposed constitutional amendment and in the draft indigenous law continued to employ the concept within a hierarchy, recognizing indigenous "peoples" as diverse cultural tendencies within the Chilean nation, rather than a recognition of many nations within one state. In similar terms, the use of "territory" in the draft law did not imply a transfer of political power to indigenous peoples in specific regions. The unitary state continued to be the basis for political power for the Concertación as well as for the right. Both members of the Concertación and the rightist parties considered "development" for indigenous peoples to mean their integration into the neoliberal economic model. This chapter discusses the evolution of these concepts in the drafting and passage of the 1993 indigenous law, and in the Congressional debates regarding the proposed constitutional amendment to recognize indigenous peoples. The following chapters present case studies of the implementation of the 1993 indigenous law.

The Editing of the Draft Law in the Executive branch

Before the draft law was sent to Congress, representatives of various ministries and the Armed Forces made changes in the draft.[5] Several

[5] This discussion draws upon a document written by the Instituto de Estudios Indígenas of the Universidad de la Frontera, discussing the concept of "development areas" of the 1993 indigenous law. See Informe Sobre Areas de Desarrollo Indígena y Legislación Chilena (Temuco, Chile: Instituto de Estudios Indigenas de la Universidad de la Frontera, 1998). See also Bengoa's comments on the editing of the draft version of the law by the executive branch, including

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representatives of the ministries objected to the use of the term "peoples," contending that the Constitution of 1980 in Article 5 explicitly stated that "people" was synonomous with "nation" and only the nation exercised the right of sovereignty. Accordingly, they argued, the 1980 constitution upheld national homogeneity and the unitary state as fundamental principles and integral aspects of popular sovereignty.

On similar grounds, representatives of the ministries and the Armed Forces objected to the use of the term "territory" in the draft law in the clause regarding "indigenous development territories," despite the fact that these "territories" were not political, but rather areas which were defined in the draft as those traditionally inhabited by indigenous people, which would be targeted for social and economic assistance. The representatives of the ministries and the Armed Forces maintained that the 1980 constitution defined the term "territory" as the country as a whole, and thus, just as with the concept "peoples," the concept was linked to the principle of a unitary state and with the exercise of sovereignty. Although the phrase "indigenous peoples" was kept in the draft indigenous law and in the proposed amendment, these reviewers eliminated the word "territory" and

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participation by representatives of the Armed Forces, in José Bengoa, "Declaración de las Naciones Unidas sobre los derechos de las poblaciones indígenas," Dcto. no. 2 (Temuco: Instituto de Estudios Indígenas, November, 1994), and the comments by Victor Toledo on the revisions made by the Executive branch in his article "Todas las aguas. El subsuelo, las riberas, las tierras. Notas sobre la (des)protección de los derechos indígenas sobre sus recursos naturales y contribución a una

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substituted "area" in the phrase "indigenous development areas."

The ministries also modified the draft law by having the Ministry of Planning and Cooperation (Mideplan) establish the indigenous development areas, rather than the new state agency for indigenous development, the CONADI, which the draft law was to create. This change put the definition of development areas more directly in the hands of the executive branch. In no instance did the ministries consider allowing the indigenous communities to participate in the establishment of the development areas, nor in the elaboration of development projects to be carried out in them. From the start, the indigenous development areas were conceived by the ministries as a state-directed solution to a problem defined by the Concertación as one of poverty and social marginalization.

The ministries also eliminated the clauses recognizing the right of indigenous communities to participate in the decisions involving private sector investment projects directly affecting them or to share in the benefits stemming from the exploitation of the natural resources within their communities. These prerogatives are features of the International Labor Organization's (ILO) Convention 169, and one of the main reasons why the Chilean legislature did not

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política de defensa" Revista Liwen no. 4 (June 1997): 36-79.

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ratify it.[6] The Economic ministry objected specifically to the draft law's clause allowing the indigenous communities the right to veto such investment projects, arguing that the indigenous communities would become "obstacles" to development, and investment opportunities would be lost. It should be remembered that the hydroelectric projects planned for the Bíobío River had already caused a growing polemic and protest movement. By eliminating the clause allowing indigenous communities to halt large investment projects which they believed would be detrimental to them, the Concertación made clear that the reform in its policies towards indigenous peoples was to be limited by the government's economic priorities. The notion of "development areas" was also criticized for the possibility that the property rights of non-indigenous people living in such areas would be restricted.

The Debate in the Congress

Despite the modifications in the draft law, the concepts of "peoples," "territory," and "development" continued to act as fulcrums of congressional

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[6] The ILO Convention 169 was signed by Chile, but the Congress did not ratify it, shelving discussion of the convention until nine years later, when the Chamber of Deputies finally approved it in April, 2000. To date, the Senate has not ratified it, and the right-wing remains opposed. See El Mercurio, 12 April 2000, C3. A group of right wing Congressmen challenged the constitutionality of Convention 169, on the grounds that the convention's provisions violated the 1982 Mining Code, among other considerations, but the Constitutional Tribunal rejected their arguments (August 2000). See El Mercurio 4 August 2000, C3.

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debates. The term "peoples" figured in the proposed constitutional amendment, the draft indigenous law, the ILO Convention 169, the draft law on Regional Government, and the Fund for Development of Indigenous Peoples of Latin America and the Caribbean.[7]

Right-wing opposition was so strong to the phrase "indigenous peoples" that the Executive branch suggested its elimination and the use of the word indigenous by itself, while the proposed constitutional amendment was still in committee. "Indigenous" can be used alone with the noun antecedent implicit. This solution had the advantage of being ambiguous as to whether the antecedent was individual ("persons") or collective ("peoples"). Even with the elimination of the word "peoples," which made the proposed amendment merely symbolic, the Senate rejected it. (The Chamber of Deputies, where the Concertación had a majority, approved it by a vote of 90-0, with one abstention).[8] Although the

[7] The Fund for the Development of Indigenous Peoples of Latin America and the Caribbean was established in the Second Summit of Ibero-American States in Madrid, July, 1992, and required Congressional ratification. The Chilean Congress ratified it in 1995.

[8] In 1999, the proposed constitutional amendment was rescheduled for congressional action. In October, 2000, the Chamber of Deputies voted to reject the amendment. As a constitutional amendment, the reform needed 78 votes to pass, but only 69 deputies voted in favor, 9 against, and 3 abstained. In 1999, Concertación had 70 deputies, 53 of whom approved the reform; 16 members of opposition parties also approved it. The proposal stated "The State recognizes the indigenous peoples, who form a part of the Chilean Nation. The law will promote the respect and development of their cultures, languages, social organization, and customs, and will guarantee indigenous persons the participation which corresponds to them." "El Estado reconoce a los pueblos indígenas, los cuales integran la Nación Chilena. La ley promoverá el respeto y desarrollo de sus culturas, lenguas, organización social, costumbres, y garantizará a sus integrantes la participación que corresponda." See El Mercurio 23 September 2000, C4 and 19 October 2000, C6.

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executive branch had eliminated the word "territory" from the clause concerning "indigenous development areas" in the draft law, right-wing Congressmen objected to territorially-assigned benefits linked to these areas.[9] "Positive discrimination," a central element of the Concertación's indigenous policy, by which indigenous persons are eligible for special benefits, such as scholarships, subsidies for the purchase of land, improvement of homes, etc. was a target of right-wing criticism as well, on the grounds that positive discrimination violated the principle of the equality among citizens. Politicians of all parties consistently evoked the notion of development as integration into the neoliberal model, rhetorically rejecting both "assimilation" and "segregation."

"Peoples"

The discussion of the term "peoples" in the proposed constitutional amendment, the draft indigenous law, and the draft law on Regional Government (to become law 19.175) followed lines similar to that which had occurred in the

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[9] See records of Congressional debates in the *Actas* (official transcripts) of parliamentary sessions, the official record of the 1993 indigenous law, "Historia de la ley indígena 19.253" in the Congressional Library, and excerpts of the official *Actas* published concurrently in El Mercurio and La Epoca. Quotations of Congressmen are taken from these official records. The compilation of the "Historia de la ley indígena" had not yet been done when I consulted the librarians of the Congressional Library in 1998. They kindly made a computarized search of the *Actas* and photocopied those sections in which the draft law was discussed. The pagination, thus, refers to the *actas* of different days and of each branch of Congress, but because the official edition of the "Historia...." had not been printed, there was no consecutive pagination when the author had access to these documents. In addition, a key debate on the use of the term "peoples" occurred during the discussion by the Chamber of Deputies of the proposed constitutional amendment, not the law itself, and was not included in the sections delivered to me. The author, however, had access to the official records of that debate, which occurred on June 9, 1992, 6th Session of the 324th Legislature.

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Executive branch. The proposed constitutional amendment would have added to the first article, the clause "that the State would insure the adequate legal protection and development of the indigenous peoples that are part of the Chilean nation." In addition to this basic recognition, the amendment included clauses specifying that legislation could establish benefits or tax exemptions in favor of indigenous communities, and a system of legal protection and benefits for the development of indigenous peoples.[10]

Politicians of both the Right and the Concertación who opposed the use of the term objected to its nationalist and separatist connotations. According to Francisco Cumplido, the Christian Democratic Minister of Justice at the time, Article 5 of the Constitution defined "people" as citizenry or the "nation," and thus use of the same word in the sense employed in the ILO Convention 169 would create an unacceptable, and contradictory confusion.[11] Rightist Deputy, Francisco

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[10] "que el Estado velará por la adecuada protección jurídica y el desarrollo de los pueblos indígenas que integran la Nación chilena. (in Article 1)....La Ley podrá también establecer beneficios o franquicios determinados en favor de las comunidades indígenas. (in Article 2).....Establecer sistema de protección jurídica y beneficios o franquicias para el desarrollo de los pueblos indígenas. (in Article 3)." See debate in the *Actas* of the Chamber of Deputies, 6th Session of the 324 Legislature, 9 June 1992, p. 405 ff.

[11] See *Actas* of the Chamber of Deputies, 9 June 1992, pp. 420-21. It should be recalled that the ILO explicitly stated that the use of the term "people" did not imply a recognition of the rights of self-determination implied by international law. The Convention was approved by the Commision of Human Rights, Nationality and Citizenship of the Chamber of Deputies in 1991, but advanced no further in the legislature, and to date, has not been ratified. In April, 2000, the Chamber of Deputies approved ratification of the Convention 169, and it was sent to the Senate. See El Mercurio, 12 April 2000, C3. An attempt by a group of right wing Congressmen to contest the constitutionality of Convention 169, principally on the basis of not conforming to the 1982 Mining Code, was

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Bayo (RN) declared that the use of the word was "dangerous" as it could provoke racial conflict that could be manipulated by terrorist groups.[12] He contended that the Chilean nation had resulted from the "fusion" of, primarily, the Spanish race (*sic*) with the Araucanian.[13] (The Mapuche were called by the Spaniards "Araucanos.") His right-wing colleague Patricio Melero (UDI) argued that a constitutional amendment was not necessary because specific benefits could be granted to needy sectors of society through an adequate assignment of funds and prioritization of programs, within the framework of the subsidiary role of the state. He declared that the minorities should be aware that the Chilean nation is one and indivisible (*una sola*).[14]

The opinion of the legal experts invited to speak to the Special Committee on Indigenous Legislation of the Chamber of Deputies argued against the proposed constitutional amendment to recognize the status of "peoples" for the indigenous peoples of Chile. A law professor of the Catholic University of Chile (Santiago) considered the constitutional amendment unnecessary.[15] The report

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rejected by the Tribunal Constitutional in August 2000. See El Mercurio 4 August 2000, C3.

[12] *Actas*, Chamber of Deputies, 9 June 1992, p. 422-23.

[13] Ibid. The Ninth Region's full title is the Ninth Region of the Araucanía.

[14] Ibid, pp. 427-29.

[15] Ibid, 404.

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issued by the Centro de Estudios y Asistencia Legislativa of the Catholic University of Valparaíso and a law professor of the University of Concepción characterized the phrase "indigenous peoples" as inadequate and not reflective of Chilean society, recommending instead "indigenous minorities." They also argued that the 1980 Constitution equated the term "people" with the Chilean electorate and nation, and that therefore, the use of "peoples" to refer to a particular segment of society would create an undesirable ambiguity.[16]

In contrast to these opinions, representatives of indigenous organizations emphatically demanded constitutional recognition of the status of "peoples." Alberto Hotus (Rapa Nui) declared that "we want our existence recognized by Chilean society, because at present we don't exist." José Millalén, (Mapuche, representative of the organization Ad Mapu), stated that "the Chilean state, since its inception, has not recognized this cultural and ethnic diversity...we believe that now is the time...this would mean nothing more than that this country would put itself in tune with the advances and evolution that have occurred in international

[16] Ibid, 405-6. Note that at times, although the controversial phrase was plural, referring to various, distinct indigenous peoples, and the claim made by indigenous organizations was to the recognition of specific, indigenous peoples (i.e., the Mapuche people, the Rapa Nui people, the Aymara people, etc.), sometimes the indigenous peoples would be referred to as one ("a segment of society"). Indeed, the draft law made provisions for the national council of the CONADI to have a representative of urban "indigenous," as if they were a distinct segment, or at least had common interests distinct from those of their people residing in rural areas. In this way also, the indigenous representation in the CONADI is conceived of as that of particular interests of a social sector, rather than, for example, of ethnonational interests.

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law."[17]

Given the vigorous opposition to the term "peoples," the executive branch suggested omitting it and letting "indigenous" stand alone, and also suggested dropping the two clauses concerning special tax benefits and a system of legal protection from the proposed constitutional amendment.[18] The willingness of the executive branch to weaken the proposed amendment in order to gain its passage, indicates that its approval was politically valuable to the Concertación. In an effort to gain Congressional support for passage of the amendment, Minister Secretary General of Government, Enrique Correa, stated that

> *Democracy and modernization* require the integration of all....Among the most abandoned and historically forgotten...are the Chilean indigenous sectors....They are fused with the roots of our nationality and, in some manner, we have contracted a debt with them, because...we have never recognized them explicitly....Public opinion recognizes in this important sector of fellow countrymen a particular identity, reflected in a particular system of life, distinct social norms and customs, forms of work, language and religion.(emphasis added)[19]

Even with the elimination of the word "peoples" from the proposed amendment, and the Chamber of Deputies' approval by a vote of 90-0, with one abstention, the Senate rejected it while it was still in committee. Senator Onofre

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[17] Ibid, 403.

[18] Ibid, 407.

[19] Ibid, 409-410.

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Jarpa (RN) expressed the general arguments of the Right in the Senate, that a constitutional reform was unnecessary, and that benefits which would be destined only to indigenous would be discriminatory to other poor people. He declared, "They're talking about 'positive discrimination' but I, personally, would prefer that there were no discrimination of any sort. I wish that all of us would concern ourselves with improving the lot of the indigenous, but also of Chileans who are at the same level or even a greater level of poverty."

Both the proposed amendment and the draft law, according to Jarpa, were sent to Congress in order to make Chilean legislation conform to the International Labor Organization's Convention 169. Senator Jarpa stated that "he didn't know what the Convention 169 of the ILO had to do with the situation in Chile, which was totally different from what might be occurring in Africa or Brazil." He added that "it had become fashionable to be concerned with the indigenous, but that in Chile, since its independence, the first decrees of O'Higgins and Carrera were about the indigenous, but in order to incorporate them into the Chilean nationality with all their rights, not to discriminate."[20]

When the proposed indigenous law came to the floor of the Chamber of

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[20] 8 October 1991, El Mercurio, C4.

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Deputies, José Viera-Gallo, deputy of the Concertación (PS) and then President of the Chamber of Deputies, voiced a theme evoked by politicians of the Concertación and the opposition, arguing that the proposed law avoided two mistaken approaches to the notion of cultural pluralism: that of assimilation and that of segregation.[21] Viera-Gallo asserted that segregation meant discrimination by norms or legal statutes which established total separation, comparable to apartheid in the Republic of South Africa, while assimilation meant the disappearance of cultural differences. He declared that the proposed law meant to establish a just equilibrium, recognizing cultural pluralism in Chile within one common nationality. He added that he regretted that the term "peoples" had been omitted from the legislation.[22]

In the same session, Deputy Sergio Ojeda, (DC) another member of the Concertación, defended the draft indigenous law as following much of the spirit of the ILO Convention 169 by virtue of the draft law's positive discrimination

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[21] See the statements of right wing Congressmen during the debate over the proposed amendment in the Chamber of Deputies, in which they professed a rejection of assimilation and approval of integration in order to defend a political position adamantly opposed to the recognition of collective political or territorial rights. Deputy Patricio Melero (UDI) stated that "our original critical posture (toward a constitutional recognition of the status of peoples) has nothing to do with assimilationist critieria...we are in favor of integration...(*Actas* of the 6th Session of the 324 Legislature of the Chamber of Deputies, June 9, 1992, p. 427). Teodoro Ribera (RN), stated that "we reject assimilation and believe that cultural diversity is a richness of the Nation...we oppose....segregation and tend to favor a model of integration..." (ibid, 437).

[22] Session 44 of the Chamber of Deputies, 21 January 1993, *Actas* p. 3723 of Historia de la ley indígena 19.253.

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towards indigenous peoples. Ojeda argued that a recognition of cultural diversity was a characteristic of a modern democratic society. Although the draft law no longer contained the term "peoples," it figured in the Convention, which at that time, was in committee. Ojeda emphasized that the use of the concept "peoples" in Convention 169 did not aim to recognize the right of self-determination or self-government, but rather, reflected a "sociological reality." He contended that the Constitution acknowledged the existence of "intermediate groups," distinct from both individual citizens and society as a whole, upon which society is organized. The recognition of indigenous groups as "intermediate groups," Ojeda maintained, did not challenge the nation's unity.[23]

Virtually all politicians avoided the term "assimilation" because of its connotation of forced cultural change. Sometimes, social scientists used the term "acculturation" to refer to cultural change in a more neutral way. In the Congressional discussion, right-wing politicians called for integration of the indigenous peoples, but by this they generally meant their integration into the neoliberal model and an end to any exceptional status, such as the protection of indigenous lands. Members of the Concertación parties defended "integration" as integration into the benefits of the neoliberal growth model so as to alleviate or overcome social and economic marginalization. To this end, their proposed law

[23] Ibid, pp. 3728-30.

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provided subsidies for small development projects, scholarships, cultural activities, the purchase of lands, and water rights. The government coalition and the opposition parties coincided in terms of the economic model. Mapuche organizations linked to the parties of the Concertación hoped the proposed law would be a step towards the goal of "integration," in the sense of easing poverty and providing access to education and technical assistance, while hoping that the reform would provide mechanisms for the preservation of indigenous cultures. More radical organizations called for political rights, objecting to the proposed law for failing to end the state's domination of indigenous peoples, and for abrogating their inalienable rights as peoples to determine their own development.

The final wording of the 1993 indigenous law left out all terms which could imply a collective subject, using instead the expression "indigenous" or "indigenous ethnies" but not "indigenous peoples," and expressly declaring that they constitute part of the Chilean nation. The "indigenous community," in essence, equivalent to the former group of people living on the *reducción*, could be registered legally and thus given legal status as a corporate "person," and therefore able to apply as a unit for state subsidies, development projects, etc. The indigenous community is defined by the law as a group of indigenous people who come from the same family line, or who have possessed indigenous lands under common title, or have come from the same settlement, or recognize traditional

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leaders.[24] Thus, the legal definition of indigenous community is not meant to refer to the Mapuche people, or the Aymara, as a whole, but to the many separate indigenous communities in the countryside.

The phrase "indigenous peoples" was also used in the proposed law on Regional Government and Administration.[25] In its original version, the law stated that the regional government would, among other duties, promote the cultural expressions of the region, preserve the historical, artistic and cultural patrimony of the region, and guarantee the protection and development of the indigenous peoples. This law was to be an "organic constitutional" law, meaning that its modification would require a two thirds majority and that it would take precedence over laws of lower rank.

The Chamber of Deputies passed the proposed law with the original text, but the Senate rejected it. The right wing Senator William Thayer objected on the grounds that the phrase "indigenous peoples" was "ambiguous" and could stimulate the creation of distinct peoples within the nation, while the intention

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[24] Título 1, 4th Paragraph, Articles 9-11.

[25] What was to become law 19.175, in Article 19, stated "En materia de desarrollo social y cultural, corresponderá al gobierno regional....f) fomentar las expresiones culturales, cautelar el patrimonio histórico, artístico y cultural de la región y velar por la protección y el desarrollo de los pueblos indígenas." See Ley Orgánica Constitucional sobre Gobierno y Administración Regional, anotadas y concordadas nº 8 Ley 19.175 (Santiago: El Diario Oficial nº 34.413, 11 November 1992), 35.

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was that of promoting cultural traditions.[26] Senator Sergio Diez from the Ninth Region, also of the right (RN), declared that the word "people" was "dangerous" and that "in our country we are all Chileans." He complained that making distinctions among citizens would lead to political discrimination. Another right-wing and former Minister of Interior under the military regime, Senator Sergio Fernández, (UDI) echoed this point, saying that the phrase would be "odious and contradictory to the notion of 'equality before the law.'"

Enrique Correa (PS), Minister Secretary General of the Government under Aylwin, pointed out that the "indigenous groups had specific problems and that it was good....that regional governments be concerned with their protection and development." Hoping to find a compromise, he stated that the intention of using the phrase "indigenous peoples" was to solve problems of poverty, not to recognize a special status, nor a collective right. Concertación senators from the Ninth Region, senators Jorge Lavandero (DC) and Ricardo Navarrete (PR), emphasized that the indigenous peoples constituted sectors which were "clearly marginalized and impoverished," and that therefore it was important to make

[26] See notes of discussion included in the Diario Oficial publication of the official version of the law, Ley orgánica constitucional sobre Gobierno y Administración Regional Leyes anotadas y concordadas nº 8 Ley 19. 175 El Diario Oficial nº 34.413 11 November, 1992. The discussion is summarized on pp. 34-37.

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efforts to integrate them into the development of the country.[27]

At one point in the congressional debates, the right-wing deputy Evans de la Cuadra wished to deny benefits to those indigenous people who lived in cities, and only allow benefits to be given to those who lived in rural communities. His objection reflected the notion that indigenous people could only be "indigenous" if they responded to stereotypical images of who was indigenous. In his view, an indigenous professional who lived in the city would be an example of someone who had assimilated into Chilean culture, no matter how much that professional might deny assimilation.

By this argument, many aspects of contemporary Chile are reserved for the non-indigenous culture only, as if being indigenous means being frozen in the past, and indigenous cultures were authentic to the degree that they were static, while Chilean culture could evolve.[28] In similar fashion, early modernization

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[27] Ibid, pp. 34-37.

[28] The notion that indigenous cultures are authentic to the degree that they are static, and that their contact with industrialized cultures will lead to the assimilation of indigenous cultures as they adopt the ways of industrialized cultures was prominent in anthropology until the 1970s. Wright argues that the ideological premises of nineteenth century evolutionism justified the military conquest and colonial subjugation of indigenous peoples, and that early structural functionalism portrayed indigenous cultures as incapable of self determination. Additionally, he argues that acculturation studies assumed that the processes of integration and assimilation of indigenous peoples were inevitable. See Robin M. Wright, "Anthropological Presuppositions of Indigenous Advocacy" in Annual Review of Anthropology 17 (1988): 365-90.

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perspectives in political science presumed that "Third World" countries would become "modern" as they adopted traits of the industrialized societies. Beside the prejudice inherent in such notions, the Concertación believed that granting benefits to rural indigenous communities would establish clientelistic ties with them.

The final version of the law on Regional Government used the phrase "original (i.e. 'first') ethnies" (*etnias originarias*). Despite the Agreement of Nueva Imperial, the Concertación failed to fulfill one of the central demands of the indigenous organizations—the recognition of their status as "peoples." The commitment to neoliberal economic policies in the Concertación blocked the recognition of rights which might jeopardize the investment opportunities of the large economic conglomerates, and thus place in doubt the achievement of high macroeconomic growth rates. In addition, the legal political power exercised by the Armed Forces in the Executive and Legislative branches through their representation in the Cabinet and the designated senators, as well as right-wing parties' effective veto power in the Senate, created obstacles to any suggestion of collective political or territorial rights for indigenous peoples.[29] Finally, the

[29] The Armed Forces have *de jure* representation in the Chilean Senate via the institution of designated senators, four of whom give representation to each of the four branches of the military. The President of the Republic names two of the designated seantors, the National Security Council (which has four members from the Armed Forces) names four and the Supreme Court names three. See Moulián 1997, p. 51; Juan J. Linz and Alfred Stepan, Problems of Democratic Transition and

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openness of some Congressmen of the Concertación and members of the Executive branch to a recognition of cultural diversity did not mean a willingness to recognize many nations in one political community or a willingness to alter the unitary character of the state.

"Positive discrimination," Compensation, and Reparation

Another contentious issue concerned the notion of "positive discrimination." In the debates over the indigenous law, right-wing politicians launched a frontal attack on the concept, introduced by the Concertación, by which the law would grant special subsidies to indigenous individuals, and in some cases, groups, for scholarships, the purchase of land, housing subsidies, etc. In the view of the Right, positive discrimination was an affront to the concept of equality among citizens. According to these politicians, poverty would be better overcome by programs targeted for specific income levels, rather than according to ethnic identity. Making distinctions based upon ethnic group, they argued, would create Chileans of "first" and "second" class, as well as damage efforts to alleviate the poverty of non-indigenous poor. Following the notion of a subsidiary state in a neoliberal economy, the state might help create conditions that would

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Consolidation. Southern Europe, South America and Post Communist Europe (Baltimore, Md.: Johns Hopkins University Press, 1996), 207-210; and Kenneth Roberts, Deepening Democracy? The Modern Left and Social Movements in Chile and Peru (Stanford, Ca.: Stanford University

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improve opportunities for individuals to insert themselves in productive activities. Nevertheless, the main task of the state was to insure that the free forces of the market generate the positive growth that would overcome poverty.

The weakness of the concept of "positive discrimination" lies precisely in the ambiguity of the justification of creating distinctions in favor of certain individuals, groups, or categories within an ideology that equated "equality" with "uniformity." It was an effort to make "compensation" rather than "reparation," but, conceptually, positive discrimination equates the two concepts.

Reparation recognizes a wrong, and seeks to establish a framework that prevents the wrong from occurring again. What causes the wrong is considered bad, and the damage produced as unjust. Compensation, on the other hand, does not necessarily correct something which causes damage. Quite possibly that which causes some harm is seen as necessary, or at least as valid as the situation without that effect. Rather than consider the harm as wrong or unjust, it may be considered inconvenient for some group or interest. Thus, that which causes the inconvenience, or harm, may be permissible or acceptable, and is not necessarily stopped even when the inconvenience, or harm, continues. A mitigation of impact or a recompense is arranged, by offering something else as substitute.

Press, 1998), 141-3 on the *de jure* authoritarian prerogatives in the Chilean political system.

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Compensation, thus, implies a certain equivalency or the possibility of balancing positive and negative consequences for all or between groups or individuals.

A demand for historical reparation, in contrast, often recognizes that compensation for the harm done is not possible, but for that reason, it is seen as imperative to establish a new relationship which prevents the harm from occurring again—a "never again." In essence the new relationship usually involves a recognition of rights, a reordering of power relations. With compensation, however, the harm could continue in the present and even into the future. While there is a certain payment, the unequal relationship continues. If there is an acknowledgment of a wrong or an injustice, as opposed to something merely inconvenient or disadavantageous for one party, it is not considered so grave as to demand a new ordering of relations to prevent its recurrence.

For example, the Rettig Commission, the government commission appointed by President Aylwin to investigate the deaths and disappearances under the military regime, defined reparation as "a set of actions which express the recognition and responsibility which corresponds to the state in the deeds and circumstances which are the matter of this report...moral and material reparation appear to be an absolutely necessary task for the transition to a more profound

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democracy.[30] In contrast, compensation is defined in the environmental law 19.300 as "to produce or generate a positive effect, as an alternative and equivalent to the identified adverse effect."[31]

Instead of recognizing the rights of collective subjects, which requires the recognition of the equality of groups on the basis of the inherent dignity of each one, the notion of "positive discrimination" seeks to correct disadvantageous situations which derive from historical causes. An injustice is acknowledged, but not necessarily its contemporaneous reproduction, and therefore, a reform of the contemporary economic, political or legal system is not viewed as necessary. It lends itself, as well, to a disguised pity in the attitudes toward and action upon some unfortunate group or individual, that is to say, from someone supposedly superior to someone supposedly inferior. This type of attitude is not markedly

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[30] "entendemos la reparación como un conjunto de actos que expresan el reconocimiento y la responsabilidad que le caben al Estado en los hechos y circunstancias que son materia de este Informe. La reparación es una tarea en la que el Estado ha de intervenir en forma consciente y deliberada.....la reparación moral y material parece ser una tarea absolutamente necesaria para la transición hacia una democracia más plena...la reparación ha de convocar a toda la sociedad chilena. Ha de ser un proceso orientado al reconocimiento de los hechos conforme a la verdad, a la dignificación moral de las víctimas y a la consecución de una mejor calidad de vida para las familias más directamente afectadas..." Informe de la Comisión Nacional de Verdad y Reconciliación, Vol. 2 (Santiago, February 1991), 823.

[31] See the "Regulations of the System of Impact Evaluation, published in El Diario Oficial, 3 April 1997, Article 61 of Title VI, "Concerning plans for measures of mitigation, reparation and compensation." Reparation in the environmental law is defined as the repair or restoration or replenishment of components or elements of the environment to a quality similar to that which they had before the damage, or the restablishment of their basic properties. (Article 60). Mitigation is the avoidance or diminishing of adverse effects. (Article 59).

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different from that of those who came to "civilize" the indigenous peoples, who were thought not to have "civilization." A recognition of collective rights, in contrast, starts with the acceptance of the value and the legitimacy of diversity. Differences exist, which do not constitute a fault, or a lack, or a threat; an essential equality is premised among distinct groups, accepting the validity of different systems of culture and society.

This distinction between reparation and compensation, which may seem to have been implied at first, in the good will of those who wished to heed the demands of the indigenous peoples for a new relationship with the state and society as a whole, is crucial in that it highlights the source of the difficulties, not only with the respect to positive discrimination, but also those that arise when major investment projects threaten indigenous communities.[32] The indigenous law allowed indigenous landowners to receive compensation in the form of a trade of land, of equal value or better, when an investment project would pass through their property, as long as it did not involve the home and subsistence lands. The individual would solicit a trade (*permuta*), which would then be analyzed by the state agency for indigenous development in order to insure that there had been full and free, informed consent, and that there had been no fraud in

[32] Similarly, the new environmental law, Law 19.300, emphasizes "compensation" and the arrival at a consensus, when large investment projects, such as pipelines or hydroelectric plants cause irrevocable losses which cannot be restored.

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terms of compensation.

The indigenous community, as a collectivity, was not involved, but rather, its members, as individuals. As can be anticipated from the discussion of the term "peoples," there was no legal recourse for making complaints on the basis of injuries to a people as a whole, even if the people, or some of its members, believed that a project might cause irreparable damage to their rights as a people.

Protection of Mapuche Subsistence Lands and Homes

Members of Congress did not eliminate two key clauses from the bill that gave explicit protection to indigenous lands: one which stated that *the house and subsistence lands could not be exchanged*, and another clause which stated that, *by the requirements of the national interest*, the indigenous lands would enjoy protection, and could not be alienated by sale or expropiation, impounded, taxed or acquired in other ways, except among communities or individuals of the same ethnie.[33]

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[33] "The lands referred to,...*due to national interest*, will have the protection of this law and can not be alienated, impounded, taxed, or ceded except between indigenous communites or individuals of the same ethnie. Nevertheless, they may be traded, with the authorization of the Corporation (of Indigenous Development). *This trade can not involve the home or lands used for subsistence.* Similarly, the indigenous lands under communal title can not be rented, given in trust, nor ceded to third parties for use, exploitation or administration. Those of indigenous persons may be for a period of not more than five years. In any case, such lands may be, with the authorization of the

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After the passage of the law, there were conflicts over major industrial projects, such as those concerning the hydroelectric dams on the Bíobío river, and these clauses would become the focus of controversy over the degree of protection given to indigenous lands. In the case of the Bíobío projects, the energy consortium ENDESA would claim that its hydroelectric project would be a social benefit to the society as a whole, while opponents of the dam would object that the project violated the indigenous law and threatened the culture of the indigenous communities affected.

Despite the explicitness of the prohibition of land exchanges or sales involving the home and subsistence lands, cabinet officials would specify degrees of protection, depending on whether the indigenous land is held in common (a very minor proportion, at present, because of D.L. 2568) or individually. As will

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Corporation, traded for non-indigenous lands of similar commercial value duly accredited, which thereafter will be considered indigenous lands, while the former will relinquish this status." "Las tierras a que se refiere..., *por exigirlo el interés nacional*, gozarán de la protección de esta ley y no podrán ser enajenadas, embargadas, gravadas, ni adquiridas por prescripción, salvo entre comunidades o personas indígenas de una misma etnia. No obstante, se permitirá gravarlas, previa autorizacion de la Corporación. *Este gravamen no podrá comprender la casa-habitación de la familia indigena y el terreno necesario para su subsistencia.* Igualmente las tierras cuyos titulares sean Comunidades Indígenas no podrán ser arrendadas, dadas en comodato, ni cedidas a terceros en uso, goce o adminstración. Las de personas naturales indígenas podrán serlo por un plazo no superior a cinco años. En todo caso, éstas con la autorización de la Corporación, se podrán permutar por tierras de no indígenas, de similar valor comercial debidamente acreditado, las que se considerán tierras indígenas, desafectándose las primeras." (Título II, Artículo 13, ley 19.253) Emphasis added. Ironically, the phrase "in the national interest" was a modification made by a Senate committee.

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be shown in the chapters on the Bíobío hydroelctric projects, government authorities argued that the law allows the rental of indigenous lands under individual title for a maximum of five years. Under this interpretation of the text, the protection provided indigenous lands by the new law could be circumvented.[34] In its support of the large industrial projects, the Concertación chose to read the law "liberally," minimizing the legal restrictions placed upon the transfer of indigenous lands.

The energy consortium, ENDESA, resorted to five year rental contracts with a number of Mapuche Pewenche of the Upper Bíobío in order to begin construction for the hydroelectric project, Ralco, without having to wait for the authorization of the CONADI. Legal consultants, however, concluded that the rental contracts constituted "*servidumbres*" because the degree of transformation of the properties was so great that they could not be returned to their owners in

[34] Domingo Namuncura, national director of the CONADI between April 1997 and August 1998, describes the differing interpretations of the restrictions on transfer of indigenous lands, indicating that his interpretation allows for rental and land trades of individually held indigenous lands--even those involving the house and lands used for subsistence. He also describes the subterfuge of ENDESA' use of rental contracts in order to begin construction of roads, extension of power lines,etc. Since such construction constitutes permanent change of the property, a *servidumbre* (state granted permission to build, dig, etc. in order to carry out some project that will be of general benefit) and a land transfer would be the legally consistent operation, rather than a five year rental contract. According to his reading of the legal text of the indigenous law, a rental contract does not require the approval of the CONADI, but a land transfer does. See Domingo Namuncura, Ralco: ¿Represa o Pobreza? (Santiago: LOM Ediciones, June, 1999),108-116. In contrast, the first national director of the CONADI, Mauricio Huenchulaf, reads the law "strictly"--as prohibiting the exchange of land if it involves the home or subsistence lands. (personal comment, interview with the author, Temuco, June 1998).

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their original condition. As, "servidumbres" the properties' owners should be compensated, and that compensation should be evaluated for its fairness by the CONADI.[35] As will be demonstrated in detail in the following chapters, the Concertación's commitment to the neoliberal vision of economic development and the pressures of powerful interests acted in concert to create legal "mirages" of protection for indigenous lands.

"Territory" and "Development"

The concept of "development areas" also provoked controversy, even after the elimination of the term "territory." Development areas were defined in the draft law as areas traditionally inhabited by indigenous peoples, where there still exists a significant indigenous population, and that these areas depend upon the natural resources within them for ecological balance. In these areas, state agencies would direct their action toward the harmonious development of indigenous communities.[36] The Right argued that development areas were unnecessary, and that the various state agencies could, through a coordinated effort, stimulate the development of the areas without recognizing a territorial entity. René Manuel

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[35] Namuncura 1999, 26-45.

[36] See "Historia de la ley indígena, 19.253," vol. I, p. 3623, on the 43rd Session of the Chamber of Deputies, 20 January 1993 and Título III, 2nd par., Articles 26-27.

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García, (RN), a right-wing deputy from the Ninth Region, objected to the granting of benefits on the basis of territory, rather than on individually based criteria, as occurred in other parts of the law.[37] Another right-wing deputy from the Ninth Region, Teodoro Ribera, (RN) criticized this use of "sociological and territorial" criteria to make distinctions among citizens. Since there was no intention of recognizing "development areas" in all those areas where indigenous peoples lived, he objected that indigenous persons who did not live in a development area would be disadvantaged, even though they might be just as poor and marginalized.[38]

Politicians of the Concertación defended the concept on the grounds that it was necessary to "lift the indigenous peoples out of their underdevelopment and eliminate their poverty." They stated that the development areas would serve to focus programs and resources, and would not depart from the basic nature of assistance programs espoused by the Concertación. Supporters of the reform emphasized that the development areas would be areas where indigenous communities had lived historically, and would not be identical to administrative divisions, such as municipalities or regions. The members of the Concertación

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[37] See the comments by Deputy René Manuel García (RN) in the 44th Session of the Chamber of Deputies, 21 January 1993, p. 3715 of "Historia de la ley indígena 19.253"

[38] Ibid, 3738-40.

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thus strove to distinguish the "development areas" from any notion of political territorial divisions or of provisions that would allow indigenous communities the political authority of local self-management of indigenous development areas.[39] In the end, the concept of development areas was retained in the bill.

The Corporación Nacional de Desarrollo Indígena: "Development" and "Participation"

One other area of debate, relevant to the subject of collective rights and the degree of reform in state policy towards indigenous peoples, was the composition and powers of the state agency for indigenous development—the *Corporación Nacional de Desarrollo Indígena* (CONADI). As detailed in the proposed law, this state agency followed the outline of the development agency originally established by the law 17.729 of 1972, that is, it was a state agency whose purpose was to coordinate state sponsored development programs and projects, emphasizing technical productive assistance to rural indigenous communities, but including social and cultural programs.

Reflecting the demands of Mapuche organizations in the context of the Agrarian Reform, the 1972 law made provisions for assertive state action to return

[39] Ibid, 3708-3710, for comments by Deputy Octavio Jara and p. 3731 for the comments by Deputy

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usurped lands. The Institute of Indigenous Development (IDI-*Instituto de Desarrollo Indígena* of the 1972 law) was given the legal authority to plan expropriations of lands and execute the restitution of usurped lands. Finally, the IDI was dependent on the Minister of Agriculture, with a Directing Council composed of 9 representatives of the State and 7 representatives of Mapuche peasants. In line with the politics of the Agrarian Reform, the agency focused on promoting a rise in economic production under the direction of the State.

The 1993 law established the Corporación Nacional de Desarrollo Indígena, CONADI, as a state agency dependent upon the Ministry of Planning and Cooperation, whose aim is to promote economic, social and cultural development, by sponsoring projects and coordinating government programs. In contrast to the IDI, which had a mandate to expropriate and restore usurped lands to indigenous communities, reflecting the political context of the Popular Unity era, the CONADI was to resolve the most conflictual land disputes by mediation. For non-conflictual situations of *minifundio* (extremely small agricultural properties), the 1993 law established a fund to subsidize the purchase of additional land by indigenous communities and individuals. The possibility of access to lands was limited by prices determined by the free market, the savings capacity of the individual or community applying for a subsidy, and, to an

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Sergio Ojeda.

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uncertain degree, the political power to create a contentious dispute, in order that the case be considered a priority.

Although the Mapuche organizations evidently aspired to have a significant role in the CONADI, the proposed ratio of state to indigenous representation of the national council makes clear that, once again, the agency was to be a state agency, not a channel of representation of the indigenous peoples.[40] In contrast to the demand made by the National Congress of Indigenous Peoples in 1991 to establish an agency under majority indigenous control with the representatives of indigenous peoples freely elected by them, the proposed law initially called for a state agency directed by a council whose composition gave a majority to the state ministries, giving the President the authority to name the National Director and non-indigenous members of the CONADI's national council, and to select the indigenous members of the national council from a list generated by elections held by legally recognized indigenous organizations and communities.[41]

The Executive's spokesperson to the Congress defended the bias in the

[40] See the comments concerning the importance of gaining participation in the new state agency by Mapuche leaders of the organization Ad Mapu, Ana Llao and Elisa Avendaño, in Revista Liwen Año 1, no. 2 (1990): 20-24

[41] See Título VI, Articles 38-53 of the Law 19.253.

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composition of the CONADI national council in favor of the representatives of the state ministries, declaring that the development agency was to be an agency of "public service," and denied that there was any intention of creating a channel of political participation: "It would be a different matter if it were to be established that the Council (of the CONADI) were to be an organ of participation."[42] The Right was in agreement with the Executive branch in giving a majority to the executive branch on the national council of the CONADI.

Senator Ricardo Navarrete of the Concertación (PR, Ninth Region) objected to giving majority representation to the executive branch on the CONADI national council, recalling that a fundamental demand of the indigenous organizations was that of obtaining channels of participation and decision-making, which would be better achieved by a composition that gave equal weight to representatives of the state and of the indigenous organizations and communities.

One Senator from the Right, Senator Eugenio Cantuarias, pointed out that giving the indigenous organizations a majority on the Council of the CONADI

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[42] "Distinta sería la situación si se estableciera que dicho Consejo fuera un organismo de participación." See "Historia de la Ley 19.253", Actas de la Cámara de Diputados y el Senado durante la discusión del proyecto ley, Vol. I, p. 1346, Diario de Sesiones del Senado, 10th Session. In 1999, Claudio Huepe, minister of the Frei Ruiz- Tagle administration, reaffirmed the Concertación government's position that the purpose of the CONADI was to be an agency of development, not a channel of representation for the indigenous world. See El Diario Austral, 1 April 1999, A 23.

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was "not necessary--[in his opinion]--since all the indigenous representatives, and the National Director, who would vote in cases of ties, were to be named by the President."[43]

In the final version, the President chose the indigenous representatives on the national council from a list of candidates elected by indigenous people. The number of indigenous representatives were equal in number to the non-indigenous council members, who represented various state ministries, and the president was assured of ultimate control through the tie-breaking vote of the national director.[44]

The issue of the participation of indigenous peoples' representatives in the state agency continued to be polemical. It was claimed as a right by some indigenous organizations, cited as evidence of indigenous policy reform by President Aylwin at the promulgation of the new law, qualified by government officials as not accurate in terms of the purpose of the state agency, and considered false by various indigenous organizations.[45] At first only those from

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[43] Diario de Sesiones del Senado, 10th Session, p. 1346 in "Historia de la Ley Indígena, Vol 1."

[44] The state ministries represented on the CONADI national council are the Secretary General of the Government, Mideplan, Agriculture, Education, National Patrimony. Three more representatives, including the national director of the CONADI, are named by the President. The other members are the 8 indigenous representatives—4 Mapuche (for being the most numerous of the indigenous peoples), 1 Aymara, 1 Atacameño, 1 Rapa Nui, and 1 urban indigenous representative.

[45] In addition to the opinions expressed by Ana Llao and Elisa Avendaño, op cit., and those of the

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indigenous communities or organizations were allowed to vote, but later the elections were open to any indigenous person.

Before the first elections to the CONADI national council, Mapuche organizations linked to the Concertación predicted that some 40,000 indigenous persons would vote. Only about 28,000 indigenous persons in the entire country actually voted. Even fewer participated in the second election for indigenous representatives on the CONADI national council in October, 1999—22,430, of the 83,350 persons eligible.[46]

On the eve of the first elections for candidates to the CONADI national council, Mapuche organizations made declarations to the effect that the elections indicated an historically significant step forward in political participation, and the head of the CONADI, Mauricio Huenchulaf, declared that the elections "were a first step towards authentic self-managed development for indigenous peoples." Christian Democratic deputy for the Ninth Region, Francisco Huenchumilla,

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executive branch's spokesman cited above, see the comments by President Patricio Aylwin and leaders of indigenous organizations at the ceremony for the promulgation of the 1993 indigenous law, emphasizing the participation of indigenous peoples in the CONADI. Then President Patricio Aylwin describes the CONADI as having "corporative" representation. See El Diario Austral 28 September 1999, A5; El Mercurio 29 September 1993, A1, A11; La Nación 29 September 1993 pp. 2-3; La Epoca 30 September 1993, p. 11; and for negative comments by various Mapuche leaders in El Metropolitano, 20 November 1999, pp. 6-7.

[46] José Aylwin, "Los conflictos en el Territorio Mapuche: Antecedentes y Perspectivas," Revista Perspectivas (Santiago: Universidad de Chile) 3 no. 2 (2000).

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objected that the elections were a sham. Government authorities responded by publishing a declaration in major newspapers declaring that the CONADI was a state agency to promote the development of indigenous communities, and that Deputy Huenchumilla erred in characterizing the selection of CONADI national council representatives as an election.[47]

The Indigenous Law of 1993: Development, Participation, and Identity

In a talk given in 1993, shortly before the promulgation of the new indigenous law, José Bengoa, a Chilean social scientist noted for his historical studies of the Mapuche who was appointed head of the CEPI, emphasized the participatory process in the elaboration of the law. Bengoa noted that, over and over again, two aspirations were repeated: "development" and "identity." The indigenous peoples, he recalled, were clear in stating that they wanted to participate in the benefits of development without ceasing to be indigenous. Bengoa, however, affirmed that this was not easy; that these two ideas, development and identity, were in tension with each other. He stated further that

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[47] See Naguil 1997, p. 29, who points out the declarations of Mapuche organizations; for the statements of Deputy Francisco Huenchumilla and the official "declaration" of the Ministry of Planning and Development, see El Diario Austral, May 13, 1995, A 12 , May 16 and May 17, 1995, A 11. In an interview in 1991, Huenchumilla emphasized that "I have never posed as a Mapuche candidate for political office, but rather as a Christian Democrat, and that therefore I do not represent only Mapuche, but all the voters..." El Diario Austral 16 October, 1991, cited in José Marimán 1994.

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the source of the tension came from two perspectives within the indigenous movement itself. On the one hand, in Bengoa's opinion, there were those who called for a sort of return to the past, who had a "purely cultural" notion of how to maintain identity and culture. On the other hand, there were those who supported changes which would make indigenous cultures disappear. The new law, in Bengoa's opinion, strived to satisfy the two aspirations without tending toward the extremes of either perspective.

The new indigenous law, promulgated by President Aylwin in October in 1993 in a ceremony in the rural town of Nueva Imperial (Ninth Region), where, as candidate in 1989, he had agreed to support such a law, incorporated a number of contradictions. On the one hand, the fact that the new, democratic government had responded to the demands of the Mapuche movement by passing a new law and repealing the military dictatorship's decree law to subdivide indigenous communities, seemed to reflect a significant change in state policies towards indigenous peoples. Even though the effort to gain constitutional recognition of the status of "peoples" had failed, and the International Labor Organization's Convention 169 languished in congressional dockets, the first article of the new law marked a sharp difference in tone from the assimilationist directives of the Pinochet regime as well as most past indigenous legislation:

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> Both the State, and society as a whole, have a duty to respect, protect and promote the development of indigenous [persons], their families and communities, adopting the adequate measures for such ends and for the protection of indigenous lands; and to guarantee their appropriate exploitation, their ecological equilibrium and for the expansion [of indigenous lands].[48]

Publicly and juridically, the state recognized the existence of different indigenous "ethnies" who had preserved and continued to maintain cultures distinct from the "national" culture, and that this difference in itself was legitimate. What remained vulnerable were the collective rights sustaining the capacity to project that cultural difference in the present and in the future.[49]

At the ceremony celebrating the promulgation of the new indigenous law, President Patricio Aylwin drew attention to the creation of the new public agency for indigenous peoples' development, the Corporación Nacional de Desarrollo Indígena, (CONADI). He described its direction as "corporative," combining state and indigenous representatives, and described it as being a channel of participation for indigenous peoples.[50]

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[48] Título 1, párrafo 1, principios generales, Artículo 1° : "...Es deber de la sociedad en general y del Estado en particular, a través de sus instituciones, respetar, proteger y promover el desarrollo de los indígenas, sus culturas, familias y comunidades, adoptando las medidas adecuadas para tales fines y proteger las tierras indígenas, velar por su adecuada explotación, por su equilibrio ecológico y propender a su ampliación."

[49] For a discussion of collective rights, see de Obieta Chalbaud 1980; Breton 1983; Bonfil 1982 and Varese 1982.

[50] El Diario Austral 28 September 1993, A5.

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Mapuche leader José Santos Millao, a member of Ad-Mapu and chosen to be one of the indigenous representatives on the CONADI national council, stated that, although the new law "did not fulfill all our aspirations,...it allows us to think about recovering that which belongs to us.[51]" Santos Millao noted the failure of Congress to approve the constitutional recognition of their status as "peoples," the law's lack of a recognition of indigenous territory, the incompleteness of the political participation of indigenous peoples provided in the CONADI, and the incomleteness of the reforms in education, but, he acknowledged, that, nevertheless, the new law was a significant improvement over past indigenous laws.[52] Mario Millapi, Mapuche leader of the Mapuche and Christian Democratic organization, Nehuen Mapu, declared that the Mapuche were optimistic, "knowing that [legal] norms existed to assure [the continuance of Mapuche] culture, tradition, education, health and land.[53]"

In the discourse of the first government of the Concertación, the term "participation" was used as a key term for the government's democratic posture

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[51] La Epoca 30 September 1993, p. 11.

[52] El Diario Austral 29 September 1993, p. A6-7.

[53] For Millapi's comments and those of other indigenous leaders, see ; La Nación 29 September 1993, p. 2-3; "Ley para Pueblos Originarios: Protección a la Tierra el Principla Objetivo" El Diario Austral 28 September 1993, A5; El Mercurio 29 September 1993, A1, A11.

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and openness towards citizens' initiatives. In March 1990, on the eve of the assumption of the Aylwin government, the first democratic regime since 1973, Edgardo Boeninger, Minister Secretary General of the Presidency, listed participation as one of the means to achieve the Aylwin administration's goal of the democratization of society.[54]

As a result of the reforms proposed in the state's policies towards indigenous peoples, their participation was supposed to occur in state agencies at all levels of government in those matters which would have an impact upon them. Articles 34 and 35 of Title V, of the 1993 indigenous law state that their opinions are to be considered when the state officials make decisions on government projects directly affecting indigenous communities. The term "consideration," however, is not specified. A few years after the promulgation of the law, when the professionals of the Instituto de Estudios Indígenas of the Universidad de la Frontera conducted a workshop with local government officials about the new indigenous development area that had been established in their municipality, they discovered that many government officials were ignorant of the 1993 indigenous law, both in specifics and in the implications for policy implementation of the

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[54] See Edgardo Boeninger, "El marco político general y el marco institucional del próximo gobierno" in Transición a la Democracia: Marco Político y Económico, ed. Oscar Muñoz (Santiago: CIEPLAN, 1990), 43-67.

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Indigenous Development Area.[55]

Economic integration of rural indigenous communities was also presumed to be a straightforward matter of subsidizing the improvement of productive technology. In the development projects funded by the CONADI, "participation" meant insertion in the market, not participation in the decisions made about investment, resource exploitation, or conservation, nor much less a challenge to the large logging companies operating in the region on lands claimed by Mapuche communities. As will be shown in the chapters on the conflict between indigenous communities and logging companies, in the second government of the Concertación, the key term in official political discourse no longer was "participation" but "*gobernabilidad*," or, in other words, "law and order" and "respect for the 'Rule of Law.'"

Similarly, the respect for cultural diversity proclaimed at the promulgation of the indigenous law and the creation of the Special Commission for Indigenous Peoples, (*La Comisión Especial de Pueblos Indígenas*, or CEPI, the agency created by President Aylwin to carry out special programs until the new indigenous law was passed) was always framed within an affirmation of the

[55] Personal comment by a professional involved in the workshop on the Lake Budi indigenous development area in the municipality of Puerto Saavedra, Ninth Region.

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unitary state and the overarching homogeneity of the Chilean nation. The diversity referred to ancestry, to cultural legacies, which should be recognized and honored. This acknowledgement of diversity, however, did not mean a recognition of multi-nationality.[56] Notably, public figures have come to "celebrate" the indigenous roots of Chilean society, while at the same time, emphasizing that all are Chileans. There is a recognition today in some sectors of Chilean society of indigenous heritage, whereas in the past, the indigenous heritage was recognized in veiled and pejorative terms only in "the lower classes."[57] The notion of the multinational character of Chile, despite the demand by some sectors of the Mapuche movement for the recognition of their status as a "people," continues to

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[56] Andrés Aubry writing of Chiapas and Mexican indigenous politics, critiques the celebration of cultural diversity and the 500 years since the arrival of Columbus in these terms: "Ante la protesta universal que suscitó el anuncio de una "celebración," pronto rebajada en "conmemoración," del encuentro entre dos culturas," la nueva imagen del poder será la del diálogo. Se hablará de "participación," se recuperarán las palabras mayores del indianismo: identidad cultural, fuerza de las etnias, vigencia de la "costumbre," derecho a la diferencia, pluralismo de la sociedad; ...en vez de ocultar la parte indígena de la sociedad, se la exhibirá como un distintivo de la pluralidad étnica del país, "orgulloso" de las raíces "ancestrales"...como se ve, la nueva norma es cultural..." In the face of the universal protest which the announcement of a "celebration", quickly reduced to a "commemoration" of the "encounter between two cultures" provoked, the new image of power will be that of dialogue. (The state) will talk of "participation," will recover the key words of indianism (the ideology which stresses the differences between a western, i.e. European and USA world view, values, norms, etc. and those of indigenous American cultures): cultural identity, the power of the ethnies, the relevance of "custom," the right to difference, pluralism of society;...instead of hiding the indian part of society, that part will be exhibited as representative of the ethnic pluralism of the country, "proud" of its "ancestral" roots...as one can see, the new norm is cultural" Aubry, Andrés. Los 500 años: Después Dcto. 040-IX-91 (San Cristóbal de las Casas, Chiapas, México: Inaremac, 1991), 5.

[57] See José Bengoa, "Sociedad criolla, sociedad indígena y mestizaje. Ensayo histórico acerca de los desencuentros y estereotipos de la sociedad chilena," Proposiciones 12 (Santiago: Ediciones Sur, 1986): 121-140 and idem, Conquista y Barbarie (Santiago: Ediciones Sur, 1992) for an analysis of the common stereotypes of the Mapuche held by different sectors of Chilean society.

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be limited to a recognition of diversity in cultural (past) heritage for political elites and most others.

Among the instruments which the new law contained to achieve "development with identity" were the protection of the indigenous lands (based on those lands recognized by the *Títulos de Merced* and their equivalents); a fund to acquire additional land, on the basis of individual or communal petitions; a fund for the purchase of lands in certain cases which had caused conflict; a fund to subsidize the purchase of water rights; a fund to finance economic or cultural projects; a clause acknowledging the necessity of establishing a program of bilingual, intercultural education; legal recognition of indigenous communities (thus giving legal status, beyond the level of the individual peasant landowner, to what would usually correspond approximately to the group of families and their lands in the former *reducción*).

Unlike "corporatist" inclusion of peasants in other eras and other countries, the Concertación's policies toward indigenous peoples did not envision the creation of a politically closed, state-sponsored, corporate organization as a vehicle for controlling potentially disruptive demands or movements.[58] In line

[58] For an analysis of the concept of "corporatism" see Philippe C. Schmitter, "Still the Century of Corporatism?" The Review of Politics 36, no. 1 (January 1974): 93-94; David Collier and Ruth Berins Collier, "Who Does What, To Whom, and How: Toward a Comparative Analysis of Latin

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with neoliberal state-society relations which emphasize "economic citizenship"[59] and self-help, CONADI assistance programs are oriented towards promoting small scale economic activities as vehicles of "self-management" and participation in the benefits of neoliberal growth. While identifying the most economically vulnerable sectors of the population as potential recipients of project funding, the individual, family or community projects are "autonomous" of state support, and subject to all the obstacles and pressures which face small scale enterprises in the neoliberal market. Many of these efforts are short lived, or too small scale to stimulate activities that reduce significantly the poverty of these families or individuals. Thus this state assistance does not create a coopted political vehicle, nor solve the root causes of poverty, nor alter the structural relations which impose material vulnerability and political subordination, although immediate needs may be addressed in part. Because rural, grassroots "support" for a particular government or political party has historically been very instrumental, predicated upon the delivery of concrete, tangible benefits which are needed by

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American Corporatism" in Authoritarianism and Corporatism in Latin America, ed. James M. Malloy (Pittsburgh, Pa.: University of Pittsburgh Press, 1977), 489-512; David Collier, "Trajectory of a Concept: 'Corporatism' in the Study of Latin American Politics" in Latin America in Comparative Perspective. New Approaches to Methods and Analysis,ed. Peter H. Smith (Boulder, Co.: Westview Press, 1995), 135-161; for analyses of state policies of incorporation of lower classes, see Kenneth Paul Erickson, The Brazilian Corporative State and Working Class Politics (Berkeley, Ca.: University of California Press, 1977) and Alfred Stepan, The State and Society: Peru in Comparative Perspective (Princeton, N.J.: Princeton University Press, 1978).

[59] cf. Schild's (1998) discussion of the women's movement in Chile and state efforts to channel private sector assistance to poor and working class women into paths functional to the neoliberal model.

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these extremely poor and institutionally (politically) powerless rural poor, this state policy aims to offer concrete benefits to some specific sectors, while maintaining the relations of subordination and creating obstacles for the Mapuche (or other indigenous peoples) to organize in terms of broader, autonomous political demands.

These policy instruments, thus, do not serve to establish a "new relationship" between the state and indigenous peoples, in which collective rights of indigenous peoples are recognized. They are oriented towards alleviating some of the concrete problems of the indigenous peasants, without guaranteeing protection against the basic situation of disadvantage of the small landowner in the neoliberal economy. The budget, decided yearly by Congress at the suggestion of the Finance Ministry according to overall budget goals, is inadequate to respond to the need to increase the size of indigenous lands, much less respond to conflictual situations, where land values are often distorted. Officials of the CONADI, including former national director, Mauricio Huenchulaf, as well as observers, have pointed out the inadequacy of the funds allotted to the CONADI, even for its daily functioning as an agency with offices throughout the country, and all the more so in terms of the expressed purposes of the Fund for Development and the Fund for Lands and Water.[60] It is widely

[60] Personal comment in interview with the author, June 1998. See also his statements in an article in

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acknowledged that it would take many years to resolve only the most conflictual land disputes through the institutional route of land purchases and transfers, given the scarcity of funds and the market prices of land. The funds left over for those cases which do not involve open conflicts, but which originate in the poor peasants' need for additional land, are very limited, while the funds for the small scale community or family infrastructural and productive projects are likewise insufficient to overcome the poverty in rural indigenous areas.

In addition, the law reflects a "peasant" bias, almost ignoring the concerns of indigenous peoples who live in urban areas. This rural, peasant focus not only reflects stereotypes as to who is an indigenous person, but also the historical aim of state policies to respond to concrete demands while rejecting broader, political claims, in an effort to control or coopt indigenous communities and organizations. Only two articles make reference to indigenous people who reside in urban areas. Articles 75-77 of the law define who is an "urban indigenous [person]," or emigrant to an urban area, allow them to form indigenous associations to pursue common economic, professional or social objectives, and allow the CONADI to promote and coordinate plans and programs of state ministries and muncipalities

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El Diario Austral, 6 January 1998, in which he declared that the Fund for Lands received so few funds that it would take more than 50 years to resolve only the most contentious land conflicts. He estimated that there were more than 180,000 hectares in conflict, to which must be added the demands for more lands of poor rural landowners who did not have title conflicts but lived on highly eroded soils and needed access to more and better quality land to overcome their extreme poverty.

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for the benefit of urban and migrant indigenous. Thus the rural emphasis in the new indigenous law makes the law out of phase with the sociological complexity of the indigenous peoples, the majority of whom, at present, reside in urban areas. In fact, according to the 1992 census, the Metropolitan Region of Santiago has almost half the Mapuche population, a situation which is the result of constant, relatively high rates of emigration out of the rural areas.

Once in Santiago, or other cities, however, ethnic identity is not necessarily lost, as indicated in the census results, nor is there necessarily no political mobilization in pursuit of ethnic demands.[61] Since the beginning of the 1990s, many new indigenous organizations, institutions, and associations have emerged in urban areas. These organizations celebrate dates relevant to indigenous history with marches, ceremonies, traditional games, and other activities. There is a clear effort to make the practice of indigenous customs and

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[61] The 1992 census attests to the high rate of identification of Mapuche (and that of other indigenous peoples) as Mapuche, despite urban residence. See discussion in Haughney and Mariman, 1993. On the question of the retention of Mapuche identity by Mapuche who live in urban areas, see Wilson Cantoni, "Relaciones del mapuche con la sociedad nacional chilena" in Raza y Clase en la sociedad nacional postcolonial (Paris: UNESCO, 1978), 227-332; José Ancan Jara, "Los Urbanos: Un Nuevo Sector Dentro de la Sociedad Mapuche Contemporánea," Pentukun, no. 1 (1994): 5-15, (Temuco, Chile : Instituto de Estudios Indígenas de la Universidad de la Frontera); Carlos Munizaga, Vida de un Araucano (Santiago: Universidad de Chile, 1971) and, by the same author, Estructuras transicionales de mapuches migrantes a Santiago (Santiago: Escuela de Antropología, 1966). See the interview of Guillermo Bonfil Batalla, a Mexican anthropologist, for an analysis of the retention of ethnic identity and patterns of social relations in the urban residing indigenous peoples in Mexico city, "Entrevista a Guillermo Bonfil Batalla. Proyecto Nacional y Realidad," Revista Liwen, Año 1, 3, (1990): 12-24.

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religious rites a regular, "normal" practice, as opposed to a staged or folkloric event. Traditional communal, religious ceremonies have been held in cities, and over the years have become common and have brought together significant numbers of people. Urban based organizations have contributed support to rural communities as conflicts over lands and large investment projects have become more heated. Historical studies, such as Foerster and Montecino (1988), document the existence and involvement of urban-based Mapuche organizations in earlier decades. Urban residence, just as insertion in the urban economy, have not produced cultural assimilation among all indigenous persons, although the emigration from rural indigenous communities to cities often means the loss of the language and unfamiliarity with many traditions and cultural knowledge and beliefs in the urban-raised children of those emigrants.[62]

Even such programs as bilingual education are restrictively conceived in

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[62] In addition to the authors cited in the previous note who argue that ethnic identity is maintained in urban dwelling Mapuche, and that urban Mapuche develop social organizations in the city to help preserve and transmit Mapuche culture, other scholars argue that the system of *reducciones*, contact with Chilean settlers, foreign religions and with the economic and political system did not lead to the assimilation of rural dwelling Mapuche. Contrary to the expectations of early twentieth century Chilean politicians, as well as some early anthropologists such as Tomás Guevara, these scholars argue that the system of *reducciones* helped to conserve Mapuche culture. See Louis Faron, an anthropologist working in the Ninth Region in the 1950s, in Mapuche Social Structure (Urbana, Il.: University of Illinois, 1961), Stuchlik 1974; Foerster 1993, and Bengoa and Valenzuela 1984. Eidheim 1976 describes how ethnic identity can be maintained, but is kept secret because of a social context of discrimination. For the opinions of some Mapuche regarding Mapuche identity, see Elicura Chihuailaf 1999, José Marimán June 2000, Rehue Foundation web page (www.xs4all.nl/~rehue)and his May 2000 article to be published in the journal *Austerra* in 2000. (The author read the article before the journal issue was published).

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the 1993 law as programs for indigenous children in rural areas. There is no commitment to a revision of how history is taught in the official school texts, or of the concepts used to refer to indigenous peoples in the general curriculum.[63] These biases in the new law reflect the state's continued rejection of collective political and economic rights for indigenous peoples.

The Concertación's reluctance to acknowledge even a minimal amount of participation for indigenous peoples is revealed by the tardiness of the designation of "indigenous development areas," which happened after major industrial investment projects, discussed in the following chapters, had provoked protest. This pattern occurred in the case of the Upper Bíobío, which was designated an indigenous development area in the midst of the conflict over the proposed hydroelectric projects, or the proposed indigenous development areas for Lumaco and Purén, where Mapuche communities have resorted to land takeovers to assert claims to usurped lands currently held by logging companies. The case of the designation of the indigenous development area of Lake Budi is not the exception (despite little protest), since a major coastal highway is under construction and promises to have a significant impact on Mapuche communities.

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[63] President Lagos proposed that changes be made in the general school curriculum concerning the presentation of indigenous peoples. Previously, the proposals concerning intercultural education emphasized curriculum reforms in schools with predominately indigenous students. Initially, there were no specific reforms proposed in the teaching of history or the portrayal of indigenous peoples in required school texts.

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The Ministry of Planning and Cooperation (Mideplan) defines the boundaries of a specific development area. In the case of the Budi Indigenous Area, the coastal area has many indigenous communities, and the area around Lake Budi is predominately Mapuche; nevertheless, some Mapuche communities near Lake Budi were left outside the boundaries of the designated development area.[64] In the case of the Upper Bíobío, the proposed relocation of many Mapuche-Pewenche families would put them outside the indigenous development area.[65]

In contrast to these cases, the government rejected indigenous development areas proposed by indigenous organizations. A proposal emanating from local Mapuche organizations to have the entire municipality of Lonquimay designated a development area was denied.[66] Likewise, the recent proposal from Mapuche communities of Arauco province to constitute autonomously-managed

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[64]Personal commentary to the author by a professional involved in the implementation of programs in the Lake Budi indigenous development area.

[65] Molina 1997.

[66] Personal commentary by a professional of the Instituto de Estudios Indígenas; see also the document of the Regional Government of the Ninth Region which specifies that indigenous development areas should not be the same as the actual political limits of a municipality, or of a region, "Planificación Regional y Areas de Desarrollo Indígena" (Temuco: Secretaría Regional Ministerial de Planificación y Coordinación, IX Región, n/d).

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development areas was rejected by government officials and sharply criticized by conservative sectors.[67]

The conception of "development" in the indigenous law and in the discourse of state officials and politicians, is based upon the assumption that there is only one viable model of development, and one conception of modernization, one that reflects the hierarchy of values and control over capital and productive resources inherent in the neoliberal political economy. The tension between "development" and "identity" cited by Bengoa is rooted in the denial of the viability —or the validity--of alternative modes of development, founded upon other value hierarchies. Typical of the neoliberal ideology, "development" is conceived in economistic terms, without reference to the political implications of economic policies. Similarly, "culture" is visualized in terms of discrete aspects of social life, in isolation from any political connotation which underlies a characterization of social relations between different peoples.

Respect for indigenous "culture," as conceived in the 1993 indigenous law, is an appreciation for a heritage of customs, a celebration of folklore, a rhetorical acknowledgement of the value of indigenous languages, without granting them

[67] "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales," Identidad Mapuche Lafkenche de la Provincia de Arauco, Eighth Región de Chile, May, 1999.

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official status. Indigenous culture, associated in stereotypes with rural, atavistic communities, is still conceived as anachronistic, as incompatible with "modern" urban life,[68] and therefore in need of "modernization", that is, rural indigenous communites must become "functional" to the neoliberal growth model.

Sergio Diez, for example, (right wing senator from the Ninth Region), stated that a constitutional recognition of the Mapuche as a people was "inconvenient," since that would be an acknowledgement that not only the Chilean people exists, but also the Mapuche. That, continued Senator Diez, "seems to us to be absolutely discriminatory. It may seem at first that this is done as positive discrimination, but in the long run it is discrimination....a great historic wrong would be done to the country, harming national unity,....the way to establish true justice is equality, that all be considered [part of] the Chilean

[68] An example of the prevalence of stereotypes concerning indigenous peoples is the stupefaction of editorialists, newswriters, even, in some cases public officials, that members of the current Mapuche protest movement feel comfortable before microphones, responding in articulate fashion to the questions of the media, giving evidence of a command of history and contemporary economics; or their surprise when protest participants, including rural community leaders, have acquired cellular phones, despite the fact that cellular phones have dropped in price, while the costs of installation of rural electricity lines, and thus of phones in rural homes, remains high for many rural Mapuche families. In 1999, a nationally televised commercial made fun of the same stereotypical notion by having a blue collar worker answer his cellular phone to the surprise of his white collar companions in an elevator. Another stereotypical notion is the presumption that someone involved in a protest incident couldn't be Mapuche because of "the form of speaking" or dress, as if there were strictly maintained dress codes or a similar level of language and vocabulary (presumably that of one with little formal schooling). Countering this stereotypical treatment which frequently occurs in the media, a survey in early 1999 found that 85 percent of the persons interviewed felt that the Mapuche deserved the lands they claimed had been usurped. The survey was conducted in Santiago. See La Tercera, 18 April 1999, p. 18.

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people....I am in favor of preserving cultural traditions, but one has to take into account that they serve little to incorporate and enjoy natural riches unless [is also taken into account] what man can produce with his head."[69]

Senator Diez's comments were quickly attacked by Mapuche organizations and institutions, which delivered a press release (which the newspapers did not publish):

> From the opinions of Senator Diez, his profound ignorance and ethnocentric, asimilationist perspective becomes clear. His comments seem rather outdated, in the context of what is occurring in the modern world today, for, while he maintains that the constitutional recognition of indigenous peoples, in particular, the Mapuche, is not necessary, throughout Latin America practically all the states have done so already....
>
> ...In the United Nations, at the present time, the Draft Declaration of the Rights of Indigenous Peoples is being discussed, as it also being discussed in the Organization of American States, ... [international norms recogninzing indigenous peoples include] the Convention 169, The Convention on Biodiversity, the Convention on the Rights of Children, the Convention against all forms of Discrimination against Women, the Beijing Accords...their fundamental principals stem precisely from the necessity of recognizing the rights of these peoples within the framework of the Nation-States, which should be done at a constitutional level...

62.The senator is quoted in El Diario Austral 19 August 1999: "un reconocimiento constitucional de los Mapuche es inconveniente, porque eso es aceptar que en Chile no solo existe el pueblo chileno, sino tambien el mapuche. Eso nos parece absolutamente discriminatorio; puede que al principio diga que esto es para discriminación positiva, pero a la larga es discriminación...al país se le hace daño histórico de proporción, que se vulnera la unidad nacional, y que la forma de establecer la verdadera justicia es la equidad, que todos seamos considerados el pueblo chileno...Yo estoy de acuerdo en que hay que mantener las tradiciones culturales, pero hay que tomar en cuenta que sirven poco para incorporarse y gozar de las riquezas naturales sino lo que pueda producir el hombre con su cabeza.

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...The international community...understands that peace and progress of peoples is built upon respect, tolerance for diversity and reciprocal acknowledgement, and not on the basis of the negation of the other, nor on the subjugation of one people by another nor by the negation of their most elementary rights, such as, territorial, economic, social and political rights, which are the rights which guarantee their existence as Peoples with their own language and territory, practicing their own religion, sports, medicine, art...developing their life according to their customs and their particular way of understanding the world...

...To recognize constitutionally indigenous peoples is nothing more than giving formal acknowledgement to something which in fact exists and always has existed, since before the creation of the Republic of Chile...

...To recognize indigenous peoples constitutionally is to open the way to understanding and peace...it is a minimum act of reparation of the historical debt which Chilean society and the Chilean state has with the Mapuche people...

...It permits the construction of the unity of the Chilean nation, and not its weakening...

...It is and has been one of the most deeply felt aspirations of the great majority of Mapuche, ...

...The initiation of a new relationship between the state and our people, and a contribution to the deepening of democracy...[70]

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[70] The author read the statement posted on the bulletin board of a Mapuche institution and was told by one of the Mapuche professionals that it had not been published by the press. "A través de las opiniones del señor Diez, queda de manifiesto su profunda ignorancia y su visión etnocentrista, asimilacionista. Sus comentarios aparecen bastante anacrónico al revisar lo que pasa hoy día en el mundo moderno pues mientras él plantea que no es necesario el reconocimiento constitucional de los pueblos indígenas en Chile, particularmente del pueblo Mapuche, a nivel de Latinoamérica practicamente todos los Estados ya lo han hecho...a nivel de las Naciones Unidas, se discute en estos momentos el Proyecto de Declaración de los Derechos de los Pueblos Indígenas del Mundo, lo mismo se está haciendo a nivel de la OEA, Convenio 169, Convenio de Biodiversidad, Convención de los Derechos del Niño, Convención sobre todas las formas de Discriminación de la Mujer, los Acuerdos de Beijing 1995...los fundamentos principales radican justamente en la necesidad de reconocer los derechos de estos pueblos al interior de los Estados nacionales que deben partir con el reconocimiento constitucional...la comunidad internacional...entiende que la paz y el progreso de los pueblos se construye en base al respeto, la tolerancia a la diversidad y del reconocimiento recíproco, y no en base a la negación del otro ni a la subyagación de un pueblo a otro ni en la negación de sus derechos más elementales, tanto: territoriales, económicos, sociales y

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Adherence to an indigenous culture does not inevitably mean tension with "development," but rather that alternative conceptions of development are in conflict with those imposed by the state and powerful economic interests. "Development" in one definition is in conflict with "development in another definition," or, to put it a different way, a colonial style, neoliberal capitalist mode of development is in conflict with the rights of self-determination of indigenous peoples.[71] The following chapters will illustrate these conflicts and show how, in practice, the 1993 indigenous law subordinated the rights and interests of the Mapuche to the goals of the neoliberal development model.

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políticos que son los que garantizan la existencia como Pueblo con un idioma y territorio propio, practicando su propia religión, deportes, medicina, arte...desarrollando su vida en base a sus costumbres y a sus particulares formas de concebir el Mundo...Reconocer constitucionalmente a los Pueblos Indígenas no es otra cosa que darle formalidad a algo que en el hecho existe y siempre ha existido desde muy antes de la conformación de la República de Chile...es abrir un camino de entendimiento y de paz...es una mínima acción de reparación de la deuda histórica que la sociedad chilena y el Estado tiene con el Pueblo Mapuche...permite contribuir a la unidad de la nación chilena y no a su debilitamiento...El reconocimiento constitucional es y ha sido una de las sentidas aspiraciones de la gran mayoría de los hermanos Mapuche, como el inicio de una nueva relación entre el estado y nuestro Pueblo y como aporte a la profundización de la democracia."

[71] See José Marimán Q., "Cuestión mapuche, descentralización del Estado y autonomía regional" Tópicos 90, Seminario: Utopía indígena, colonialismo y evangelización, no. 1(Santiago: Centro Ecuménico Diego de Medellín, October, 1990): 137-150; Víctor Naguil, "Desarrollo Mapuche y Derecho de Autodeterminación" in Liwen no. 4, (June 1997): 8-35 (Temuco: Centro de Estudios y Documentación Mapuche Liwen).

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Chapter 8. Indigenous Rights under Siege: the Conflict over the Bíobío Hydroelectric Projects

The case of the Bíobío illustrates how the Concertación government's adherence to neoliberal economic priorities put limits on reforms in indigenous and environmental policy. Both the indigenous law (19.253) and the environmental law (19.300) were heralded as examples of the Concertación's commitment to democratization and to its willingness to recognize some of the claims of the indigenous movement, in particular the protection of indigenous lands, and a recognition, respect for, and promotion of indigenous cultures.[1] An analysis of the official process to review environmental and social impacts of Bíobío hydroelectric projects, however, makes clear that the Concertación has opted to promote major industrial projects at the expense of indigenous

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[1] See comments of indigenous leaders at the promulgación of the new indigenous law in El Diario Austral, 29 September 1993 p. A 6-7. For example, José Santos Millao, leader of the Mapuche organization Ad Mapu and member of the government's Comisión Especial de Pueblos Indígenas at that time: after listing the deficiencies of the law, in particular, the lack of constitutional recognition of their status as a people, the recognition of territory, political participation, and the incompleteness of the reforms proposed in education, he stated that, even so, it contained very significant reforms which had not figured in previous indigenous laws. President Patricio Aylwin, in his speech at the ceremony for the proclamation of the new indigenous law in Nueva Imperial, acknowledged that the law "is not a panacea, that it does not solve all the problems, but it does represent a fundamental step [in that direction]." Among the key articles of the law, President Aylwin drew attention to the creation of the new state development agency for indigenous peoples, the CONADI, which he defined as having "corporative" direction combining state and indigenous representatives, and as being a center of participation for indigenous peoples. In addition, he stated, the law creates a mechanism for the protection of indigenous lands and water."

Nueva Imperial was chosen as the site of the proclamation ceremony because it is the town where Aylwin and indigenous organizations signed the Agreement of Nueva Imperial in 1989, in which then presidential candidate Patricio Aylwin, in the name of the Concertación, promised to support the demand for constitutional recognition of the status as a "people" for indigenous peoples and to promote the economic, social and cultural development of indigenous peoples with their participation, while Mapuche organizations agreed to work within legal institutional channels, (see text of "Acta de compromiso" 1 December 1989, reprinted in Revista Liwen Año 1, no. 2 (1990): 69.

For other comments about the new indigenous law at the time of the proclamation, see "Ley para pueblos originarios: Protección a la tierra el principal objetivo" in El Diario Austral 28 September 1993, A5; El Mercurio 29 September 1993 A1,A11; La Nación 29 September 1993 p. 2-3, which quotes Mario Millapi, Mapuche leader of the organization Nehuen Mapu, as stating that "Mapuche aspirations are founded upon an optimistic view of the future, knowing that [legal] norms exist to assure [the continuance of Mapuche] culture, tradition, education, health and land;" La Epoca 30 September 1993 p.11 which quotes Santos Millao as saying that the "law does not fulfill all our aspirations, but allows us to think about recovering that which belongs to us."

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lands, indigenous cultures and environmental protection. The public support for the hydroelectric projects of the recently privatized energy holding company, the Empresa Nacional de Energía (ENDESA) by top government officials of the Concertación reflects not only the degree of political influence which the energy conglomerate wields, but also the consensus between the political leaders of the Concertación and the representatives of large, transnational consortia with respect to goals and conception of development.[2] This coincidence of interest and vision blocks the institutional channels for contesting this notion of development.

ENDESA's proposed series of hydroelectric projects on the Bíobío river pitted one of Chile's leading economic conglomerates against seven Mapuche Pewenche communities located in the Upper Bíobío river. ENDESA and the Concertación government succeeded in framing the controversy in the media as "development of Chile vs. a small group of families within the indigenous communities." Government officials and representatives of ENDESA labelled the allies of the families who refused to move as outsiders and extremists who were out of touch with the real sentiments and needs of these impoverished and marginalized communities. Despite periodic mobilization and protest, Mapuche organizations and environmental groups have not been able to stop the projects.

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[2] President Eduardo Frei Ruiz-Tagle is an industrial engineer. He was a partner, along with then general manager of ENDESA, José Yuraszeck, in Sygdo Koppers, the firm responsable for part of the design of the electromechanics of the Pangue hydroelectric plant. Relations between Yuraszeck and Frei were close-- when president Frei travelled to the United States in 1997, inviting 130 businessmen to accompany him, he invited Yuraszeck to fly with him in the presidential plane. See Patricio Bustos, "Ralco, El Alto Bío Bío y los Pehuenches: Los dimes, diretes y aristas de una central hidroeléctrica anunciada," El Canelo no. 79 (May 1997): 7-12.

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The discussion below will show how the directors of the newly created state agencies, the National Environmental Commission (CONAMA--Comisión Nacional del Medio Ambiente) and the Corporación Nacional para el Desarrollo Indígena (CONADI) bowed to executive branch pressure to approve the Ralco dam project, disregarding recommendations of these agencies' technical committees to reject it. Additionally, the actions of the CONADI, as well as of ENDESA, S.A., in the case of Ralco project, reveal how the legal status of individual title for indigenous lands (achieved through Decree Law 2568) is used as a means to push forward major industrial projects, regardless of the provisions of the 1993 indigenous law. The review process, as a consequence of the pressure from the Presidency, brought the CONADI and CONAMA into a jurisdictional conflict because of the governments' interpretation of the 1993 indigenous law and the 1994 environmental law. This interpretation makes a dead letter of central elements of these laws: the protection of indigenous lands and the protection against negative environmental impacts of industrial projects.

The Bíobío case also highlights the conceptual and ideological consensus in Center and Left party elites concerning development, modernization, and indigenous demands, despite the criticisms of individual party members. This consensus is based on a conception of development as high economic growth led by the private sector, modernization as implicitly structured by the leading economic groups, and indigenous demands as admissible only in so far as they are subordinate to the interests of those economic groups. As a consequence, social sectors which are critical of the goals or consequences of neoliberal economic policies, such as the indigenous communities or

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environmental organizations, find that their efforts to defend rights are blocked both in legal, institutional channels and in political party agendas of the Center Left Concertación coalition, as well as in those of the rightist parties.

Finally, the case also reveals the divisions within the Mapuche movement, given the movement's ideological diversity, its weak ties to the indigenous communities of the Upper Bíobío, and the vulnerability of the Mapuche Pewenche communities.

The Monopolistic Position of the Energy Firm

For ENDESA, the series of hydroelectric plants on the Bíobío River is part of a strategy aimed to protect its monopolistic position in the energy market. ENDESA has 100 percent control of the transmission of energy in the central, most populated and industrialized area of Chile, from Tal Tal 1,000 kilometers to the north of Santiago to Chiloé, 1,000 kilometers to the south, in the Tenth Region, through its affiliate, Transelec. ENDESA also has the rights to sixty-seven percent of the water sources with potential for electric power generation in the Central Interconnected System (Tal Tal to Chiloé).[3] Enersis, the holding company that owns ENDESA, controls forty percent of the distribution of energy, through its affiliates Chilectra, Río Maipo and Puente Alto.[4]

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[3] La Tercera 15 November 1997.

[4] Pilar Molina, "Conservar o Producir: ¿El Bíobío o Más Electricidad?" El Mercurio, 23 March 1997, D 4, D6; Bustos, 1997. See also Octavio Sommel, "ENDESA, Ralco y los roles del presidente Frei: Una peligrosa 'doble militancia,'" El Canelo no. 79 (May 1997): 14-16. Sommel notes that in Argentina, no firm is allowed to control more than 15 percent of the generation of energy. Neither Bolivia nor Argentina permits vertical integration in the energy sector. The degree of vertical integration in the energy sector in Chile far exceeds that of neighboring countries, such as Argentina and Bolivia. Genaro Arriagada, Minister Secretary of the Presidency in the first Concertación administration, criticized the market

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ENDESA is a subsidiary of ENERSIS, one of Chile's leading economic conglomerates. [5] ENERSIS concentrates its investments in the energy sector, which has experienced a boom since the mid 1980s. Demand for energy has grown at an average rate of more than eight percent a year, exceeding the pace of the economy that grew at an average of six to seven percent between 1986 and 1997.[6] This strong demand for energy motivated the privatized ENDESA ESPAÑA to take control of ENERSIS at the end of 1997. The U.S. Securities and Exchange Commission subsequently investigated the deal to protect the interests of U.S. shareholders, as did the Chilean authorities to protect Chilean shareholders, and the investigation led to the resignation of top Chilean executives involved in the negotiations of sale, after they were charged with profiting from inside information.

The main competitor of Enersis in the energy sector is Chilgener, associated with the corporation Gas Andes. Through Gas Andes, Chilgener has contested the market share of Enersis by bringing natural gas from Argentina in pipelines over the Andes.[7]

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distortions caused by the regulations permitting such a degree of market control. The law allows ENDESA to charge ENDESA's large affiliated clients lower prices than competitors and offer them guaranteed supplies of energy.

[5] see Hugo Fazio, Mapa de la Extrema Riqueza en Chile (Santiago: LOM Ediciones, 1997), for a description of the leading economic groups in Chile.

[6] See Alejandro Jadresic, "Ralco en el contexto de la política eléctrica," Ambiente y Desarrollo vol. XIII no. 2 (June 1997): 12-13. Jadresic was at that time the Minister President of the National Energy. Commission, and the article is based upon his speech to the Committee on Natural Resources and National Patrimony of the Chamber of Deputies on 1 April 1997.

[7] The chief executive of Chilgener criticized the argument employed by executives of ENDESA and President Eduardo Frei Ruiz-Tagle that hydroelectric energy, based upon "Chilean water" should be a priority on the basis of national security. "If one believes in the market, one can not fall back upon strategic arguments. One has to produce at the least cost". Cited in Sommel 1997.

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Other transnational consortia have plans for gas pipelines, or are constructing them, both in the North of Chile and in the Eighth Region just north of the Bíobío River, wagering on the strong energy demand.

A Brief Historical and Cultural Overview of the Upper Bíobío and the Mapuche Pewenche

The Upper Bíobío is a long, spectacularly deep gorge in the Andean highland area separating Chile's Eighth and Ninth Regions. It is located in part of the territory historically occupied by the Mapuche Pewenche, the "people of the pewen" (in the Mapuche language, Pewen refers to the Araucaria tree and *che* means "people").[8] There are seven Mapuche Pewenche communities in the Upper Bíobío area, as well as some small non-indigenous settlements. The area remains relatively remote even today. The entrance to the Upper Bíobío area lies ninety-four kilometers from the medium-sized city of Los Angeles, located in the central valley on the main Pan American Highway. Access to the more distant settlements in the Upper Bíobío, some of which are located near the Chilean-Argentine border, continues to be by rough dirt road and trails. As late as 1980, the upper reaches of the Bíobío gorge were connected with the municipal capital (Santa Bárbara) only by a horse trail. Recent construction, related to the dam projects, has graded and widened the surface of the main road as far as the site of the second proposed

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[8] See Raúl Molina and Martín Correa, Territorio y Comunidades Pehuenches del Alto Bío Bío (Santiago: Corporación Nacional de Desarrollo Indígena, Agencia de Cooperación Internacional, and Agencia Española de Cooperación Internacional, June 1996); Sergio Villalobos R., Los Pehuenches en la Vida Fronteriza (Santiago: Ediciones Universidad Católica de Chile, 1989), and José Bengoa, Historia del Pueblo Mapuche (Santiago: Ediciones Sur, 1985).

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dam, Ralco, but even so, the local residents generally must rely on the public bus companies to reach cities when they need supplies, when their children seek secondary education, or when family members emigrate to find jobs. The nearest large cities, Chillán and Concepción, are approximately five hours by bus from one of the nearer indigenous communities, while Los Angeles is approximately four hours by bus (approximately 120 kilometers).

Traditionally, the Mapuche-Pewenche were hunter gatherers, collecting the nut of the Araucaria tree which served as the basis of their diet. The Araucaria tree, growing in Chile above 1,000 meters altitude between the Eighth and Tenth Regions, has great ritual significance, figuring as the focal center of the main religious ceremony (rather than the Canelo tree, as is the case for the Mapuche in the lowlands). The Mapuche Pewenche migrated seasonally, occupying lowland areas (below 1,000 meters above sea level) during the winter, to avoid the heavy snows, and moving to the high meadows during the summer, where the Araucaria tree could be found. With the incorporation of the horse into the Mapuche culture in the seventeenth century, the Mapuche Pewenche modified their hunter-gatherer existence, as the horse greatly increased their mobility. They became livestock raisers and traders of cattle captured in the Pampas of Argentina. Besides cattle, the Mapuche Pewenche traded leather hides, salt, and woven ponchos in the markets of Chillán and other nearby Chilean colonial settlements.[9]

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[9] See Raúl Molina and Martín Correa, Territorio y Comunidades Pehuenches del Alto Bío Bío (Santiago: Corporación Nacional de Desarrollo Indígena, Agencia de Cooperación Internacional, and the Agencia Española de Cooperación Internacional, June, 1996); Sergio Villalobos R, Los Pehuenches en la Vida Fronteriza (Santiago: Ediciones Universidad Católica de Chile, 1989); and José Bengoa, Historia del Pueblo Mapuche (Santiago: Ediciones Sur, 1985); Arturo Leiva, "La Araucanización del Caballo en los Siglos xvi-xvii," Anales de la Universidad de la Frontera (Temuco: Universidad de la Frontera, 1981-82): 181-203.

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In the eighteenth century, the Mapuche extended their territory to the borders of the province of Buenos Aires in Argentina. Although not united under one leader, in the mid nineteenth century the Mapuche people controlled much of the area between the Bíobío and Toltén rivers in Chile and the Pampas of Argentina, until their military defeat in the 1880s. Although Chilean colonists had settled in Mapuche territory in the coastal area south of the city of Concepción in Chile and in the area between the Bíobío and Malleco rivers, the remoteness and difficulty of the terrain delayed the establishment of Chilean settlements in the Upper Bíobío. Nevertheless, the legal creation of the province of Arauco (1852) and that of Bíobío (1875) facilitated the inscription of property titles by Chileans in Chilean state registries, which were to conflict with Mapuche Pewenche communities ancestral occupation.[10]

Towards the end of the nineteenth century, the Mapuche Pewenche became caught in a vise between the armies of the new Chilean and Argentine Republics.[11] Both the Chilean and Argentine Republican governments coordinated actions against the indigenous peoples in order to facilitate conquest of the Mapuche territory. The Chilean government was also concerned to assert sovereignty along the Andean border down to Patagonia and the tip of South America, in order to prevent the new Argentine government from extending its control west of the Andes.[12] Although there were contacts

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[10] See Molina and Correa 1996, 19-25.

[11] See Molina and Correa 1996; Bengoa 1985; and Villalobos 1989.

[12] Bengoa 1985, 259-261.

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between Mapuche chiefs who lived further south and the Mapuche Pewenche, there was no armed alliance against the Chilean forces.[13] Chilean commanders acted to prevent such alliances, reaching agreements with Mapuche Pewenche leaders in some cases, and in other cases by sending in troops and establishing forts in the highlands. Faced with the incursions of the Argentine as well as the Chilean military, the Mapuche Pewenche retreated into the more remote areas, not having the firearms needed to defeat either the Argentine cavalry or the Chilean troops fresh from their victory in the War of the Pacific (1879-1881) against Bolivia and Peru in the north.[14]

At the end of the nineteenth century, Chilean colonists began to settle in the Upper Bíobío area and had property titles recorded in state registries, sometimes long before attempting to occupy the area physically. One consequence of the relative isolation of the Bíobío area is that far fewer *Títulos de Merced* were granted, and they often were granted after Chilean colonists had registered titles. The overlap between the colonists' legal papers and the ancestrally inhabited settlements of the Mapuche Pewenche led to many conflicts. Tomás Guevara, a social scientist writing at the end of the nineteenth century, noted that Mapuche Pewenche had conflicts with settlers who

[13] In the military reports of 1870 to the Chilean government, Coronel Saavedra informed that "in the first days of December, I had reports, from various sources, principally from agents in indigenous territory, that the *arribanos* or *moluche* tribes [Mapuche of the central valley area] led by the chief Quilapan, were in continuous comunication with all of the tribes of the Araucanía, including those of the Andean highland and *pehuenches*, who were invited to join a general uprising to impede the occupation of Malleco [northern portion of Araucanía or present day Ninth Region, just south of the Bíobío river]... [they have been working] to carry it out from the moment that they had word of our war with Spain." See "Documentos Relativos a la Ocupación de Arauco que contienen los trabajos practicados desde hasta (sic) la fecha por el Coronel Cornelio Saavedra." (Santiago, 1870).

[14] Bengoa 1985. Villalobos 1989.

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denied them access to the Araucaria trees.[15] Some of the Mapuche Pewenche communities fought court battles unsuccessfully for years against colonists and logging companies.[16]

Their military defeat, confinement to small parts of their former territory, the usurpation of lands needed for subsistence, and the ending of the trans-Andean cattle trade, led to the impoverishment of Mapuche Pewenche. Today, the Mapuche Pewenche communities continue to practice transhumance, moving their livestock and themselves to high meadows for the summer season, gathering the Araucaria nuts in the fall, and marking the seasonal activities with a religious ceremony. Near their winter homes, the families cultivate garden vegetables, some grains and legumes. Some families also gather wood, rose hips, and mushrooms for their own use as well as for trade and sale in order to obtain basic necessities.[17]

Although their isolation was one factor helping to preserve certain aspects of their culture, such as language or religious and ceremonial rites, the lands of the communities were too small to provide subsistence for later generations.[18] While the communities

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[15] Tomás Guevara, Historia de la Civilización Araucana (Santiago: Imprenta Barcelona,1898), chapter vi, p. 172.

[16] See Molina and Correa (1996) for a history of the court cases and the continuing claims of the Mapuche Pewenche communities, to lands, grazing and access rights, despite unfavorable court rulings, or Agrarian Reform which tended to favor Chilean workers on highland estates, rather than the Mapuche Pewenche communities nearby.

[17] Morales et al. 1998; Molina 1997.

[18] See Molina and Correa 1996; Roberto Morales et al., Ralco: Modernidad o etnocidio en territorio Mapuche (Temuco: Instituto de Estudios Indígenas,Universidad de la Frontera,1998); Barbara Johnston and Terence Turner, "Los Pehuenche, el grupo Banco Mundial y ENDESA, S.A.: Violaciones de derechos humanos en los proyectos de las represas Pangue y Ralco en el Río Bío Bío, Chile" report of the Human

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continue their ceremonies and cultural practices, Christian religions have made converts.[19] Younger members often choose to seek work as unskilled labor in urban areas. The emigration has been chronic, just as in other Mapuche communities.[20]

Today, the older generation continues to speak the Mapuche language with family and community members, and although most can also speak Spanish, many of the older people do not have a good command of written Spanish. Younger members of the Mapuche Pewenche communities are bilingual.

The lack of a broad command of Spanish, in particular of written, legal jargon, put many of the older people at a distinct disadvantage in their dealings with representatives of ENDESA. Mapuche organizations, and some of the representatives of the CONADI,

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Rights Committee of the American Association of Anthropologists, (March 1998).

[19] The acceptance of elements of foreign religions, or even conversion, does not necessarily mean a change of ethnic identity. It may mean a critical view of some Mapuche beliefs and customs, or, it may mean an "appropriation" of some foreign cultural element and its transformation into a part of Mapuche culture. Rolf Foerster and Sonia Montecino in Organizaciones, Líderes y Contiendas Mapuches 1910-1970 (Santiago: CEDEM,1988) give many examples of Mapuche political organizations of the beginning of the twentieth century which criticized certain Mapuche customs, although Mapuche identity itself was not rejected. Ana Mariella Bacigalupo, in her article "El rol sacerdotal de la machi en los valles centrales de la Araucanía" in Modernización o Sabiduría en Tierra Mapuche (Santiago: CERC, 1995), 51-95, argues that the adoption of priestly characteristics by Mapuche religious authorities (the *machi*) in areas in close contact with Chilean culture, such as communities in the central valley of the Ninth Region, were attempts to use foreign elements to strengthen Mapuche culture and beliefs in the face of economic hardship and the threat of a loss of Mapuche identity. She maintains that the machi adopted sacerdotal characteristics in the main religious ceremony to enhance the authority of the *machi*, Mapuche religious beliefs, and ethnic solidarity among the congregational community (the group of Mapuche communities who come together in the Mapuche ritual, the *nguillatun*). See also Rolf Foerster, Aproximaciones a la Religiosidad Mapuche (Santiago: Editorial Universitaria,1993) for a discussion of Mapuche beliefs and the appropriation of foreign religious elements in ways that maintain and reinterpret Mapuche beliefs and identity.

[20] Emigration does not necessarily lead to an abandonment of attachment to the communities, or to an assimilation into Chilean ethnic identity, or acceptance of the Bíobío hydroelectric projects. In conversation with the author in September 1998, one of the younger people who belongs to one of the families opposed to the dams and to relocation, stated that she had emigrated to Santiago, where she had worked as a maid, but she had since returned and lives with her husband and young children in the Upper Bíobío area. She refuses to move, and is active in the fight against the Ralco project.

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would conduct interviews with the community members through an interpreter fluent in Mapudungun, the Mapuche language, both as a courtesy and to ensure better understanding of the implications of the dam project and the compensations offered by ENDESA, yet these interviews were conducted after many of the community members had signed notarized agreements with representatives of ENDESA accepting relocation. Despite evidence of abuse, misleading information, and fraud compiled by CONADI legal teams, by outside auditors, such as the anthropologist Theodore Downing, hired by the World Bank, by the team from the international human rights organization, Federación Internacional de las Ligas de Derechos Humanos, and by Mapuche organizations, it is difficult to prove fraud and retract from the notarized contracts.[21]

The State Against Its Own Laws: The Uncivil Society

During the Pinochet regime, some members of the Mapuche Pewenche communities resisted the imposition of individual properties by Decree Law 2658, but most agreed to individual titles. The military regime threatened to impose individual title forcibly and also promised access to subsidies and real estate tax exemptions to convince members of the communities to accept individual titles.[22] The new property lines did not

[21] Author's interview with lawyer Rodrigo Lillo, who has assumed the defense of Mapuche in various cases. Temuco, April, 2000.

[22] See Elizabeth Parmelee, "Indigenous Policy in Chile: Decree Law 2.568. Development or Destruction?" (Denver, Colorado: Graduate School for International Studies, University of Denver, 1990), 56, Masters Thesis, for a discussion of the pressures on the Mapuche Pewenche community of Pitril, and Molina and Correa 1996 for a concise history of the conflicts of the Upper Bíobío communities from the late 1800s to the 1990s. Namuncura 1999, 263, mentions the 1986 declaration of the Mapuche Pewenche communities Quepuca Ralco and Ralco Lepoy that they preferred to maintain communal title. Bengoa (1999, 171- 175) discusses the process by which the Pinochet military regime imposed subdivision upon Mapuche communities and how the promise of subsidies, the threat of force, the fact that a single community

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respect the traditional uses of summer and winter range, nor ensure the Mapuche Pewenche access to the Araucaria forests. The military regime ignored prior lands claims of the Mapuche Pewenche communities, making a "clean slate" of previous unsettled title disputes.[23]

The efforts to impose individual property titles occurred during the time when the recently privatized (1989) Empresa Nacional de Energía, S.A., ENDESA, consortium for the generation and distribution of energy, had identified the area as suitable for a series of six hydroelectric plants, which, if all were built, would affect some 1,000 Mapuche Pewenche and 22,000 hectares in the Upper Bíobío area.[24] Individual titles would facilitate the expropriation of land for the construction of the dams. In 1990, although recently elected President Aylwin had decreed a halt to the distribution of individual titles until the advent of a new indigenous law, the subdivision of the Mapuche Pewenche communities continued.

In early 1997, with full fanfare, President Eduardo Frei Ruiz-Tagle inaugurated Pangue, the first of the hydroelectric dams scheduled for the Upper Bíobío planned under

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occupant could begin the legal process of division by requesting individual title, and the fact that, from the perspective of the community members who lived on the reducciones, obtaining a legal document attesting to their property title, rather than immediate loss of land as had been warned initially, undermined Mapuche communities and organizations' resistance to the division.

[23] See Molina and Correa 1996, a legal and historical investigation commissioned by the CONADI, for a list of community problems and demands.

[24] The hydroelectric dams planned for the Upper Bíobío include Pangue (inaugurated in 1997), Ralco, Huequecura, Aguas Blancas, Ranquil, and Quintraman. See Grupo de Acción por el Bíobío, El Proyecto Hidroeléctrico del Alto Bíobío: Una Amenaza para el Medio Ambiente y el Pueblo Mapuche-Pehuenche de Chile (Santiago: GABB, 1990[a]); Katherine Bragg, "Dudoso Desarrollo del Bío Bío," Revista Liwen, Año 1, no. 3 (December, 1990): 25-28.

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the military regime.[25] President Frei also announced at that time that the Upper Bíobío was to be designated an Indigenous Development Area. The declaration of the Upper Bíobío as an "Indigenous Development Area" merely underlines the inadequacy of the development area concept as response to the cultural and social disarticulation, which the dam projects would cause. It also underlines the relations of domination/subordination, as the "indigenous development areas" are a state response to protests against its development policies. President Frei's open support for ENDESA's hydroelectric projects, in spite of protests by Mapuche organizations and environmentalists, negative evaluations by independent studies conducted by the University of Concepción and consultants hired by the World Bank, and lawsuits, underscores the Concertación's commitment to neoliberal priorities as key to Chile's development and modernization.[26]

The discourse of Concertación government officials defined sustainable development as sustained, high economic growth, coupled with attention to concerns for environmental protection and social equity.[27] In the words of then President Frei, the

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[25] See press reports of March 7, 1997; José Marimán, "Centrales Hidroeléctricas en el Río Bíobío: Etnocidio Mapuche Pewenche" April, 1997, web page of the Fundación Rehue (www.xs4all.nl/~rehue); Patricia Bustos, "Ralco, el Alto Bío Bío y los Pehuenches: Los dimes, diretes y aristas de una central hidroeléctrica anunciada." El Canelo no. 79 (May 1997): 7-12; Octavio Somonel,"ENDESA, Ralco y los roles del presidente Frei. Una peligrosa 'doble militancia'" El Canelo no. 79 (May 1997): 14-16.

[26] See Centro EULA de la Universidad de Concepción, "Análisis del informe de Evaluación de Impactos Ambientales relevantes del Proyecto Pangue realizado para Pangue, S.A. por Ecology and Environment, Inc. and Agrotec, Ltda.," (Concepción: Centro Eula, Universidad de Concepción, August 1992). This report by the Centro EULA was presented to the Commission on Natural Resources, National Patrimony and Environment of the Chamber of Deputies. See also Cristián Opaso, "El Bío Bío tiene dueño," Punto Final, (September, 1993): 10-11; Carolina Robino, "ENDESA y el Banco Mundial. Goliat contra Goliat," Revista Hoy in Internet, no. 1023 (3-9 March, 1997).

[27] Representative statements include that of then Secretary General of the Presidency, Juan Villarzu, in Congress, on June 12, 1997, in a session discussing Ralco, which will be analyzed below. In his speech to the Deputies, then Minister Secretary General of the Presidency Juan Villarzú (DC) stated the government's position with respect to development in this way: "the concept of development which inspires us is founded upon three objectives which we wish to reach simultaneously....maintain the rate of

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Bíobío projects were not only crucial to Chile's development, but to national security as well. In a meeting with students, shortly after the inauguration of Pangue, and in the midst of the controversy over the Ralco project, President Frei responded to a question concerning the Ralco project by justifying ENDESA's hydroelectric plans for the Bíobío in terms of national security: "....Hydroelectric power is the only energy source which Chile does not have to import....The country must keep building dams...as long as the indigenous communities are relocated and are given a better opportunity than they have today".[28] In 1992, Jaime Toha, (PS), then President of the National Energy Commission, (CNE), maintained that, "the government did not have the right to stop such projects as Pangue"[29] and that "Pangue would not cause environmental damage."[30]

Besides public statements in support of ENDESA's hydroelectric projects, the Concertación government also sought to sway the courts so that judicial rulings would favor the dam projects. In June 1993, the Appellate Court of Concepción ruled against the Pangue project, on the grounds that ENDESA did not have the proper water use rights. This decision followed the October 1992 ruling of the government agency in charge of issuing water rights, the Dirección General de Aguas, (DGA), which declared that ENDESA did not have consumption use rights, (the right to withdraw water and not

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economic growth as high as possible, [maintain] a commitment with equity and equal opportunities; and [maintain] the protection of the environment." In the official records of the Eighth Session of the Chamber of Deputies, June 12 1997, p.12.

[28] El Mercurio, 17 June, 1997, C2. See also the article by Patricio Bustos in El Canelo, no. 79 (May 1997): 7-12.

[29] El Diario Austral, A5, 15 November 1992. In 2000, President Ricardo Lagos appointed Toha *Intendente*, or head of the regional government of the Eighth Region, where the dam projects are planned.

[30] El Diario Austral, A5, 18 December 1992.

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return similar amount to water source) although the operation of the dam implied such use, because it would significantly alter the volume of water flow.[31]

Shortly after the Appellate Court decision, the president of the National Energy Commission warned the Supreme Court that, without Pangue, electricity rates might skyrocket 46 percent.[32] In addition, the DGA sent a statement to the Supreme Court that reversed its earlier position, declaring that ENDESA did have the appropriate water use rights for the Bíobío River. In August, 1993, the Supreme Court ruled in favor of the Pangue dam project, arguing that ENDESA had the necessary water rights, and that the project did not violate the constitutional rights claimed in the lawsuits by the Mapuche Pewenche communities and other landowners--that is, the right to life, to live in an environment free of contamination, and to property (Article 19, paragraphs 1, 8, and 24, respectively, of the 1980 Constitution).[33]

Protests against the Pangue project continued. Approximately 1000 people brought together from Santiago, Concepción and the Ninth Region, as well as members

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[31]Cristián Opaso, "El Bío Bío tiene dueño," Punto Final, (September, 1993): 10-11.

[32] Ibid.

[33] Ibid.The Supreme Court ruled that the Appellate Court had based its ruling on "hypothetical and abstract presumptions, and exaggerated supposed environmental impacts." On similar terms the Supreme Court rejected the charges of probable environmental damage brought by Mapuche communities in the Ninth Region in a lawsuit against a logging company which intended to establish a tree plantation near the communities. The communities argued that the tree plantation would deplete their water source, and that the logging company's use of chemical herbicides would contaminate their water and could poison their animals. Because the company had not yet planted the trees, nor fumigated the area, the court considered the environmental threats as merely hypothetical. Interview by the author of the lawyer who defended the Mapuche communities, Temuco, April 2000. A similar Appellate Court decision regarding the Trillium project to harvest lenga forest in Magallanes Region of the far south of Chile also ruled that, because the environmental damage had not yet occurred, the damage was merely hypothetical.

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of the seven Mapuche Pewenche communities of the Upper Bíobío gathered for a rally and march in the Upper Bíobío on October 12, 1993.[34] This peaceful demonstration, however, did not halt the Pangue dam project, nor did it mean that the movement in opposition to the dam project was strong or united. To the contrary, despite the impressive size of the protest, and the variety of different groups--students, environmental organizations, Mapuche organizations, and non-governmental Mapuche development agencies, underlying tactical and ideological differences among these groups prevented them from forging long-term coordinated strategy to oppose the dam project.[35] The legal, institutional route of opposition to the Pangue dam favored ENDESA. The Supreme Court decision approving the project signaled the government's support, thus raising the stakes of opposing the dam project for organizations linked to

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[34] The author's estimate of 1,000 persons is based upon the number of buses and other vehicles which transported people to the Upper Bíobío.

[35] The case of the Bíobío hydroelectric projects stands in striking contrast with the case of the conflict between the Mapuche Pewenche of Quinquen and a Chilean logging company. The community of Quinquen live in a high Andean valley, approximately 100 kms. east of Temuco, near one of the sources of the Bíobío river, Lake Galletué, and close to the Argentine border. For decades, the community of Quinquen has had conflicts with Chileans who claimed to own the land where the community lived. Towards the end of the the military regime, a logging company that wanted to exploit the native forest of Araucaria trees asserted claim to the property, and won a court case over the title to the land. The community of Quinquen vowed to defend their land at all costs, while Mapuche organizations, environmental organizations, student groups and others rallied to the support of the indigenous community. The promise of the incoming democratic administration of the Concertación, to push for a new indigenous law respecting indigenous lands and their cultures, was at stake, yet the court decision favoring the logging company was followed by a court order to have the militarized police, the Carabineros, remove the Mapuche Pewenche families by force. (A heavy snowfall prevented immediate action; several meters of snow kept the police vehicles from reaching Quinquen).

Faced with the prospect of having to support "the rule of law" by a violent removal of the Mapuche Pewenche families, the new administration negotiated the purchase of the land in dispute, (at a price of more than 6 million dollars for 26, 510 hectares), so that the land could be subsequently granted by the state to the Mapuche Pewenche community. The dispute was thus, apparently, settled--although four families of Quinquen had to leave their homes, as the legally recognized owner kept title to a portion of the property. Despite the fact that legal disputes continued in the courts over the property, the community of Quinquen has remained on their land. A news article in El Mercurio, 20 July 2000 reports that one of the Quinquen leaders denounced that the property still has not been transferred to the community of Quinquen. For a history of Quinquen, See José Bengoa, Quinquen: Cien Años de Historia Pehuenche (Santiago: CESOC, 1992), as well as news reports, particularly in 1990 and 1992.

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the Concertación. The two reform laws, the (October) 1993 indigenous law and the 1994 environmental law had not yet been enacted. ENDESA's and the Concertación's contention that the hydroelectric projects represented "clean energy" and "development" for Chile undermined the arguments of the environmentalists that the Pangue dam was only the first of a series of dam projects, and that the second proposed dam would have enormous negative consequences.

The Pangue dam has had a significant social and environmental impact.[36] Located at the entrance to the long canyon of the Bíobío River, the dam created a 500 hectare reservoir. Approximately 100 persons were directly affected and received minimal compensation for the loss of their homes and land. One family that refused to leave was removed by force.[37]

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[36] The social and environmental evaluations were conducted by the anthropologist Theodore Downing and Jay Hair, president emeritus of the National Wildlife Foundation, respectively, at the request of the World Bank in response to complaints brought to the World Bank's oversight committee by environmentalists, Chilean parlamentarians and Mapuche Pewenche. See Barbara Johnston and Terence Turner, "Los Pehuenche, el Grupo Banco Mundial y ENDESA, S.A.: Violaciones de Derechos Humanos en los Proyectos de las Represas Pangue y Ralco en el Río Bío Bío,Chile," Informe del Comité de Derechos Humanos, Asociación Americana de Antropología, (March 1998). The author had access to the Spanish version of the report written by two U.S. professors, members of the Human Rights Committee of the Anthropologists' Association. See also the report of the international human rights association, (with headquarters in Paris, France), Federación Internacional de las Ligas de Derechos Humanos, "Los Mapuche-Pehuenche y el proyecto hidroeléctrico de Ralco: un pueblo amenazado" Informe no. 256 (Paris: FIDH, March, 1998); Robino 1997.

[37] Johnston and Turner (1998), citing reports by the independent consultants hired to evaluate the compensations.

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Impact Studies and Institutional Processes: the Case of the Ralco Hydroelectric Dam Project

As will be analyzed below, political pressure from top government officials as well as a combination of threats, fraud, and promises of economic compensation by representatives of ENDESA, undermined the opposition to the Ralco dam project, even as new legal norms established by the 1993 indigenous law and the 1994 environmental law were violated. Senior government officials publicly defended the Ralco project as key to Chile's development, while those government functionaries who voiced opposition to the project were removed from their posts. The review processes established under the new laws to protect the environment and guarantee indigenous peoples' rights became a means for injuring those rights, rather than instruments to safeguard them, as a result of the political pressure exerted by the executive branch and the energy consortium.

The Pangue dam was merely a prelude to a much more ambitious hydroelectric project, Ralco. The proposed hydroelectric plant of Ralco is to be the largest dam in Chile, and requires an investment of approximately $500 million dollars, to generate 570 megawatts of electricity. It will create a reservoir of 3,467 hectares, extending seventy kilometers up the Bíobío River and the tributary rivers Lomín, Villucura, and Lolco, inundating the lands of some 555 people, most of whom are Mapuche Pewenche from the communities of Quepuca Ralco and Ralco Lepoy. The Ralco dam will flood the homes and thirty-five percent of the most fertile lands of Quepuca Ralco and seventy percent of the homes of Ralco Lepoy. In addition, it will inundate seventy archeological sites,

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fourteen ancient and contemporary cemeteries as well as various sacred sites still used for religious ceremonies.[38] The historic, material and cultural relationship of these communities to their lands will be destroyed, and the communities themselves split.[39]

As compensation, the company proposes relocating the Mapuche Pewenche families in several different estates.[40] One estate, *fundo* El Barco, where ENDESA proposes to transfer 76 families of Ralco Lepoy, is located at elevations where snow accumulation generally ranges from half a meter to three meters or more, and winter lasts from May to October, thus making it very difficult, if not impossible, for the families to feed their livestock and even themselves throughout the year.[41] Given the thin volcanic soils, the land of the *fundo* El Barco is not suitable for intensive use, whether for agriculture or livestock grazing, and cannot provide adequate supplies of forage or agricultural produce for year round existence. Before the winter snows cover the grasses and bushes, which provide forage for livestock, the herd needs to be moved to lower pastures. The families relocated to El Barco would not have low altitude grazing land,

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[38] Raúl Molina, "Proyecto Ralco: Un impacto irreversible sobre comunidades pehuenche" Ambiente y Desarrollo, Vol XIII no. 2 (Santiago: June 1997): 19-21. See also Bustos 1997; Bragg 1990; and Grupo de Acción por el Bío Bío 1992a.

[39] See Roberto Morales et al., Ralco: Modernidad o etnocidio en territorio Mapuche (Temuco: Instituto de Estudios Indígenas, Universidad de la Frontera, 1998). This book is based upon the social impact study written by members of the Instituto de Estudios Indígenas that was commissioned by the Comisión Nacional de Medio Ambiente in 1996. The impact study sharply criticized the Ralco project and the proposed mitigation plan of ENDESA.

[40] In the initial impact study which ENDESA turned in to the CONAMA, as required by the Law 19.300 (environmental law), there was no relocation plan at all for the families whose homes and lands would be flooded. This was objected to by the CONADI, and in the subsequent addendums, ENDESA added a relocation plan (and other proposals to compensate impacts noted by other government agencies). This will be discussed below.

[41] See Molina 1997. Molina reports that historically only five families are known to have lived intermittently on the estate.

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and thus would not be able to maintain their animals over the long winter. The families would depend on government assistance, and even so, be very poor.

Technical studies, undertaken by the CONADI and other government agencies have characterized the soil in the proposed areas for relocation as not suitable for agriculture.[42] Thirty-eight percent of the *fundo* El Barco is composed of snow fields and rocky areas; 14 percent of the rocky areas have dispersed stands of the Araucaria tree; almost 11 percent are high altitude meadows too fragile for livestock grazing and the remaining 37 percent is mostly native forest and shrub.[43] They are not lands that would allow the families to continue traditional subsistence activities involving transhumance between highland and lowland areas, which are not merely activities of subsistence, but practices imbued with social and cultural significance.[44] The reports state that the proposed lands of El Barco are not adequate for alternative agricultural and livestock activities.[45] Technical evaluations conducted by the Ministry of Agriculture and

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[42] The author attended the seminar. Months later, the journal Qué Pasa ran a story on the failure to disclose the report, entitled "Informe Confidencial" in its issue of October 10, 1998. In addition, both national directors of the CONADI, Mauricio Huenchulaf and Domingo Namuncura, listed, among other reasons for their opposition to approving the land trades, the inadequacy of the lands for year round subsistence, as shown by technical studies. See El Mercurio, 1 April 1997, C7 and La Tercera, 8 August, 1998. See also Namuncura 1999, pp. 304-5 and 311-312, in which he states that a Ministry of Agriculture evaluation characterized the lands as poor. Namuncura confirms that the report was held in reserve and that Deputy Navarro's requests to see the report were not answered by the Ministry of Agriculture, nor had any of the indigenous members of the CONADI national council seen the report. Such information would be relevant for the CONADI national council's decision on whether or not to approve the land excanges.

[43] Molina 1997, 21.

[44] See the report by anthropologist Jorge Sanderson for the CONADI (cited in Namuncura 1999, 102-7) and Morales et al. 1998 for an analysis of the link between sociocultural meaning and productive subsistence patterns rooted in the use and conception of specific ecological areas.

[45] These reports include the Ministry of Agriculture report of 1998, cited above, and as well as reports commissioned by the first national director, Mauricio Huenchulaf, in 1996. The reports are cited in Namuncura 1999, 98-107. See also Morales, et al. 1998; Molina 1997.

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consultants hired by the CONADI have concluded similarly that the lands are not sufficient in size or in quality for the number of families. The government classified these reports as "reserved" (i.e., classified) and thus, not open to general scrutiny. In a seminar in Temuco in 1998, Congressional Deputy Alejandro Navarro (PS) denounced this attempt to withhold information that gave negative evaluations of the proposed relocation areas.

For the families of Quepuca Ralco, the other community directly affected, ENDESA has offered three estates, separated from each other, some fifty-eight kilometers away from their present homes and outside of the Upper Bíobío area, and outside the newly designated "Indigenous Development Area." This proposed relocation thus breaks up the community and makes it impossible to continue the traditional transhumance. One estate is offered as substitute for summer pasture, but it does not have the Araucaria tree and is not suitable for grazing. Half of the estate is composed of rocky areas and the other half is second growth native forest, including the *lingue* tree species, which has a seed poisonous for livestock.[46] Another estate is to be subdivided into family plots, but its soils are mostly class VI, that is, not suitable for farming. Considering the poor quality of the soils, the relatively small size of the plots would make them inadequate. Since originally this estate had no wood, essential for cooking and heat, another estate has recently been added in order to provide forest for wood supplies, but it is some twenty kilometers away.[47] The relocation of the families in these estates would

[46] Molina 1997, op cit.

[47] See El Diario Austral 2 February 1999, p. B6 and Bengoa 1999, 212.

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relegate them to the status of poor peasants. A report by the Ministry of Agriculture concluded that, given the poor quality of the soils, the estate could not support the thirty-six families whom ENDESA proposed to relocate there.[48]

Cultural Impacts on the Mapuche Pewenche Communities

The relocation, however, is not simply a question of economic loss, but also the loss of specific places which have religious, social and cultural significance, generated by the communities over time.[49] Besides affecting places which have cultural and historical meaning because the communities have lived there for generations, the dam project will also damage, bury, or eliminate specific sites with religious significance, including ancient and contemporary cemeteries, sites for religious ceremonies, and other symbolic sites.[50] Opponents of the dam projects charge that the hydroelectric projects would so alter the lives of the Mapuche Pewenche families that they would not be able to continue to live their culture in daily activities.[51]

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[48] Cited in Namuncura 1999, 306-311, as "Informe Técnico sobre el Plan de desarrollo productivo predios El Huachi, Santa Laura y El Barco, Comuna de Santa Bárbara, Región del Bío Bío." (Concepción: Secretaría Regional Ministerial de Agricultura, VIII Región, August 1998).

[49] Tom Dillehay, a U.S. archeologist who has worked on early settlements in Chile, analyzes the link between specific natural landscapes and the social and religious meanings atttached to them by Mapuche communities. He describes how these meanings are collectivly affirmed in the main religious ceremony. See Tom Dillehay, Araucanía: Presente y Pasado (Santiago: Andrés Bello, 1991).

[50] Morales et al. 1998 contains a map and list of archeological and contemporary sites of religious, social and cultural significance. See also Molina 1997.

[51] For examples of this view, see Molina 1997; Morales et al 1998; Federación Internacional de las Ligas de Derechos Humanos 1998; and public statements by the Mapuche Pewenche organization Mapuche Domo Newen (formed by Mapuche women of the Upper Bíobío communities). A good source for these statements, in addition to media reports, is the Proyecto de Documentación Mapuche Ñuke Mapu (www..soc.uu.se/mapu), which maintains a press archive that is regularly updated, including articles and commentary by Mapuche and others.

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Other legal codes and norms, in contrast, recognize the cultural significance of sites of traditional settlement. Forced relocation of indigenous peoples has been defined legally in Spain's penal code in Article 607 as genocide; forced relocation and lack of participation in the terms of compensation and the benefits of exploitation of the resources and lands of indigenous peoples is in violation of the International Labor Organization's Convention 169 under articles 15 and 16.[52]

ENDESA discounts the cultural value of these places to the communities, in addition to asserting that the assimilation of the communities into Chilean culture is underway as an inevitable and natural process.[53] This notion that assimilation is inevitable is a justification for the imposition of the project and, from the perspective of the consortium, absolves it from responsibility for the social and economic consequences. Indeed, a relocation plan for the affected families was omitted in the first impact study submitted by ENDESA.[54] According to the ENDESA study, the poverty of the indigenous communities is considered evidence of cultural disintegration and even of an inferior culture yielding to a supposedly modern and "superior" culture. This characterization of the Mapuche Pewenche communities presumes that subsistence

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[52] For the ILO's Convention 169, see Oficina OIT para América Latina y El Caribe, Convenio nº 169 Sobre Pueblos Indígenas y Tribales en Países Independientes, Serie Documentos 89/1 Dept. Normas Internacionales del Trabajo, (Santiago: OIT, September 1989).

[53] Namuncura 1999 cites sections of ENDESA's study on pages 77-81. See also Von Bennewtiz, Chief of the Office for Evaluation of the Hydroeletric Projects of Endesa, (ms., no date, but the author had access to a copy of this document in October 1992).

[54] Testimony of Deputy Juan Pablo Letelier, 8th Session of the Chamber of Deputies, 12 June 1997, Actas oficiales (official records), pp.7-8.

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indigenous cultures are atavistic and anachronistic in modern societies, indeed, "obstacles to progress." The Chilean historian Sergio Villalobos published an article in El Mercurio, Chile's principal daily newspaper, in which he argued in terms similar to ENDESA's study, that the Mapuche were responsible for their military defeat because they were culturally inferior to the Chileans, that they subsequently adopted the "civilized" customs of their conquerors and today they are mestizo Chileans, not Mapuche. The article elicited sharp criticisms from various Chilean and Mapuche scholars, who drew attention to the fallacies and prejudice underlying his characterization of the Mapuche as "inferior" or his premise that the adoption of foreign elements necessarily indicates submission and assimilation.[55]

The lands proposed as compensation by ENDESA do not take into account the cultural significance of the lands that the Mapuche Pewenche have traditionally occupied. The compensation plan blandly proposes a program of "resemantization" of areas to create new sacred sites, ignoring the fact that the meaning of such sites has been created by historical, collective use of specific geographic locations, and can not be transferred "automatically" to a new area. The cemeteries which will be at the bottom of the

[55] In a letter to El Mercurio on 14 May 2000 A2, the noted Chilean historian, Sergio Villalobos argues that the Mapuche were the cause of their own defeat, and that the Mapuche were assimilated and no longer exist today, causing a great polemic. Mapuche and Chilean writers refuted Villalobos' argument, in particular, the premise of inevitable cultural assimilation of an "inferior" culture to a "superior" culture. The reponses to Villalobos in El Mercurio, (Daniel Salcedo 31 May; Villalobos' counter to Salcedo of 9 June, Rolf Foerster and Jorge Ivan Vergara on 26 August, and Villalobos' counter to them on 3 September) as well as those in Internet, are recorded by the web page of Fundación Rehue, (www.xs4all/~rehue). One of the more extensive replies to Villalobos that can be found on this web page is that of José A. Marimán, "El nacionalismo asimilacionista chileno y su percepción de la nacion mapuche y sus luchas" June 2000, which attacks the prejudices and stereotypes underlying an intellectual position which justifies denying collective, national rights to the Mapuche. In "El conflicto nacionalitario y sus perspectivas de desarrollo en Chile: el caso mapuche" May 2000, (ms. to be published in Austerra, the journal of the Universidad Bolivariana, Santiago) José Marimán makes specific reference to the case of the Biobío hydroelectric projects as evidence that the Frei administration practiced an assimilationist policy towards indigenous peoples.

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reservoir are supposedly to be protected from the waters, but they will never be accessible again. Indeed, the efforts to gain the consent of the families, by the offering of temporary manual labor jobs in the construction of the proposed Ralco dam, and of estates whose location and qualities impede the continuation of cultural practices, reflect a disregard for the value of those Mapuche Pewenche cultural practices.

Even though the loss of areas of ancestral territory meant that their economic impoverishment began decades ago, the communities had maintained intact many aspects of their culture, including language and religious ceremonies,[56] introducing changes in daily practices by decisions that were relatively autonomous. Since it was no longer possible to have cattle, then goats, which need less land and fare well on poor soil, provided meat. Access to the Araucaria trees whose nuts are used for food could be made difficult with the land conflicts, but the transhumance to gather the nuts and bring the animals to summer pastures, still continued. The radio and the bus served to ease communication between family members when they left for school or work, conserving in part, the social ties which provided the basis for the passing on of cultural beliefs and practices. To a degree, the communities adopted what was alien by fitting it into a larger, Mapuche Pewenche cultural "matrix." Cultural, ethnic identity was not lost, although some aspects might be. Sufficient internal social coherence maintained the communities' specific cultural identity, despite the loss of land, access to material resources, and the inroads of foreign religions.[57]

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[56] Morales et al. 1998.

[57] See Milan Stuchlik, Rasgos de la sociedad mapuche (Santiago: Editorial Nueva Universidad, 1974) for an analysis of relations between Mapuche and Chilean societies, in the historical context of Radicación to

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The proposed Ralco dam project, however, would lead to forced changes in places of residence and cultural use, mode of economic subsistence, social relations, cultural patterns of life, and family ties, within a very short period of time. If the Ralco dam project were constructed, the Mapuche Pewenche would lose irrevocably much of their lands, while their participation in the decision to build the dam is virtually nil, the compensations they are given are externally imposed, and they do not participate in the benefits of the exploitation of the natural resources that their lands contain.

The communities realized that they faced a very unequal battle. Anxiety over the very possible loss of homes and lands and the uncertain future created deep tensions and divisions within the communities and even within families, as groups and individuals chose different strategies to deal with the threat.[58] ENDESA's efforts to convince the community members to accept relocation aggravated internal conflicts and weakened resistance to the project. Anthropologist Theodore Downing's review noted that consortium representatives contacted individual families, and made no effort to discuss the project or the compensations with the communities as a whole.[59] Offers of jobs as

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the indigenous land reserves, in which Stuchlik emphasizes that Mapuche society adopted to the new, very disadvantageous circumstances, in ways that conserved ethnic identity. He argues that efforts by the Chilean government to introduce changes should take into account, and respect, Mapuche norms and practices. Stuchlik studied Mapuche communities in the Ninth Region in the 1960s, and advised the government of the Unidad Popular.

[58] The internal tensions and divisions within the Mapuche Pewenche communities and even within families were evident to the members of the Committee of Natural Resources, Environment, and National Patrimony of the Chamber of Deputies who visited the Upper Biobío in early 1997. See the testimony of Deputy Juan Pablo Letelier, 3 April 1997, 57th session, Actas. See also "Grupo Pehuenche Acepta Traslado por Central Ralco" in El Mercurio, 3 April 1997, C1and C4; Pamela Gutierrez, "Ralco: Peheunches no se ponen de acuerdo"in La Tercera 12 September 1999, p.15; and El Metropolitano 10 July 1999, pp.10-11.

[59] Johnston and Turner 1998.

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temporary unskilled labor by the contractors of ENDESA satisfied a real need for cash income to satisfy basic necessities, and created dependent economic ties to the implementation of the project.

The visible threat of the construction of Ralco caused considerable anxiety and stress within the communities, leading to increasing internal divisions that weakened efforts to oppose the dam project. In 1991, members of four of the seven communities made a public statement of their rejection of the Bíobío hydroelectric projects.[60] By 1998, after prolonged pressure by ENDESA employees, many members of the communities had signed agreements to move. A small number of families, nevertheless, still refused to move, directly challenging the ENDESA's, and the Concertación's, policies of development. Other families began legal battles to be released from the contracts they signed accepting relocation, on the grounds that their consent was forced or fraudulently obtained.[61] Still others stated that they did not wish to be removed, but feared that they would be forcibly removed and receive no compensation if they refused. There are also some who expressed satisfaction with the compensation measures. The CONADI's legal team interviewed each person who requested a land exchange in order to verify if they had given their free and informed consent, and concluded that many had consented against their wishes. Many of those who signed documents requesting a land exchange

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[60] See Gabb 1992a, 22-3. The same document, however, notes that ENDESA had divided the communities.

[61] See La Nación 3 July 1997 and 4 July 1997.

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did not fully understand what they were agreeing to, but felt they had no option, and could only accede to some compensation by signing.[62]

Environmental Consequences of the Bíobío Hydroelectric Projects

Besides the considerations of indigenous rights, the case of the Bíobío also reveals the fragility of the environmental law. Although hydroelectric power generation has been defended as relatively contamination-free, it is not free of other environmental effects. The area of the Upper Bíobío is at the border between the drier, warmer zone of Central Chile, and the cooler, more humid south. In addition, the long canyon extending from the high Andes to the Central Valley, creates a bio-geographical corridor between the Andean zone and the lowlands. This crossroads location gives the area great biodiversity, and makes it the home of many endemic species. Many of these species of flora and fauna are rare, vulnerable, or in danger of extinction, because their habitat has been taken over by human settlements, the substitution of non-native industrial tree plantations and other human activities for native forests.[63]

In addition to the individual species under threat, the ecosystems of the zone, the highland native forests and riparian habitats, have been identified as rare and threatened by the process of substitution of native vegetation with agricultural or industrial

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[62] Namuncura includes the text of interviews conducted by the legal team of the CONADI to verify the "free and informed consent" of the Mapuche Pewenche. The legal team concluded that the consent given was forced. Namuncura 1999.

[63] Franz E. Arnold, Sustitución del Bosque Nativo en Chile: Destrucción de un valioso patrimonio natural (Santiago: CODEFF and Amigos de la Tierra, 1998).

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activities. These forests and riparian habitats are not recoverable. They are unique bio-geological formations that require centuries of autonomous evolution for their emergence.[64] The creation of a series of major reservoirs will cause irrevocable changes in the zone, destroying the riparian habitat permanently and submerging large tracts of the native forests.

Questions Concerning the Cost Effectiveness of the Dam Projects

Environmentalists opposed to the dam projects, and "green leaning" politicians called for national debate over the projects, rejecting the arguments of company executives that the series of hydroelectric plants is necessary for Chile's energy needs,

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[64] The elimination of large areas of native ecosystems has been a subject of growing concern among conservation biologists, to the extent that some believe that habitat loss has reached the point of risking the elimination of the web of organic and inorganic processes on which the evolution of large life forms depend. This concern reflects the conclusions drawn by biologists in the face of the increasing rate of extinctions of distinct species and the transformation and loss of natural ecosystems.

A previous paradigm of ecosystems conceived of nature as a closed system, and assumed that endangered native species and their habitats could be conserved by a system of reserves, such as national parks. This notion of a closed system has come to be replaced by a concept of nature as an open system, which recognizes that impacts cross park boundaries, and indeed, the boundary zone itself, permeable to the impacts of human activities, natural events, and species that come from outside the reserve, can facilitate the transfer of disturbances to the reserve interior. Although naturally caused changes (such as lightning-caused wildfires in the mountain forests of western United States) are now recognized as playing an integral part in the ecosystem processes, sometimes disturbances may alter ecosystems such that they do not return to their former state.

The transformation of habitats caused by human activities, for example, is on a scale and a rate which eliminates not only distinct species, but also the web of interrelationships and processes which make up a community of species. As populations of species become isolated, gene pool diversity tends to be lost, contributing to the probability that the isolated population of a species die out. Gene pool diversity is a key resource of species, enabling them to adapt--and evolve--to new environmental conditions, and important for the overall vitality of population groups. As populations become extinct and species diversity within communities diminishes, communities of organisms suffer the loss of vital components of the web of organic and inorganic processes. This profound alteration of organic and inorganic processes threatens biological diversity and the diversity of options for evolution of species. See M.E. Soule, "Thresholds for survival: maintaining fitness and evolutionary potential" in Conservation Biology: An Evolutionary-Ecological Perspective, eds. M.E. Soule and B. A. Wilcox (Sunderland, Ma.: Sinauer Associates, 1980), 151-170; E.O. Wilson and R. MacArthur, Island Biogeography (Princeton University Press, 1967); and Claudia Sepúlveda, Andrés Moreira,and Pablo Villaroel, "Biodiversidad. (I) Conservación Biológica fuera de las áreas silvestres protegidas," Ambiente y Desarrollo vol. XIII no. 2 (June 1997): 48-58.

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and charging instead that the Ralco project was key to protecting ENDESA's monopolistic position in the Chilean energy sector.[65] Deputies Juan Pablo Letelier, (PS), Alejandro Navarro, (PS), and Andrés Palma, (PDC), criticized the monopolistic gains ENDESA would receive from the Bíobío projects, and argued that the Bíobío projects would cause tremendous harm to the Mapuche Pewenche communities and to the natural ecosystem.[66] As an alternative, environmentalists called for conservation of energy, charging that Chile made very inefficient use of energy, and that alternative sources of energy could provide improved quality of life.[67] The environmentalists argue that the hydroelectric dams will reduce the natural patrimony of Chile, will contribute to the further oligopolization of resources, will not lead to the improvement of living conditions of the local communities, and will cause grave harm to the indigenous communities.[68]

The dams, in contrast to the ecosystems they eliminate, have a useful production period of between 50 and 100 years, due to the accumulation of sediments in the reservoirs. They are dependent also upon at least a normal level of precipitation for

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[65] See speeches of Congressional deputies in the Actas of the Eighth Session of the Chamber of Deputies, 12 June 1997.

[66] Ibid, pp. 7-8; 54-56; and 37-41, respectively.

[67] See Gabb 1992b and the article by Juan Pablo Orrego in La Nación, Segundo Cuerpo, p. 12, 10 January 1993.

[68] See Gabb 1992a and Bustos 1997. Among the parlamentarians who expressed opposition to the dam was Octavio Jara, Deputy (PPD) for the city of Los Angeles, west of the Upper Bíobío, Eighth Region. He charged that the series of three hydroelectric dams on the Laja river, to the north of the Bíobío, had not contributed local development. In the municipality where the dams are located, 75 percent of the rural population does not have electricity and in the construction, ENDESA's subcontractors hired workers from other areas. Jara is quoted in Bustos 1997, p.8. See also Octavia Jara's opinion piece in La Epoca 13 February 1995, p.10, on the lack of contribution to local and regional development of the Pangue dam. In the congressional session of June 12 1997, cited above, Jara acknowledges the importance of the project but questions whether the Ralco project as proposed guarantees fair compensation to the Mapuche Pewenche families or to the Eighth Region, where the dam would be located. See Actas, Eighth session of the Chamber of Deputies, 12 June 1997, pp.41-46.

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efficient operation. Chile, however, depends to a large extent upon hydroelectric power, and has suffered from two severe droughts in the 1990s. University of Concepción records indicate that rainfall between 1994 and 1997 was forty-one percent below the average amount of the previous thirty years. While that drought ended in the austral winter of 1997, another drought began the following austral summer, impeding the recovery of reservoirs to former levels.[69] The 1998-9 drought, in the context of ENDESA's monopolistic position in the energy sector and ineffective governmental oversight, forced extensive rationing and periods of blackouts. Thermoelectric generating plants became crucial to meeting the demand.

The economic trade-off between the hydroelectric plants and other forms of energy generation has been questioned.[70] A non-governmental environmental organization, Grupo de Acción por el Bíobío, which opposes the dam projects, commissioned several studies of cost effectiveness, measured in purely economic terms. One study used the methods of estimation employed by the National Energy Commission

[69] In August 2000, the water level in the Laguna de la Laja, one of Chile's major reservoirs, used for a series of hydroelectric dams of ENDESA just north of the Bíobío that normally supply 12.5 percent of the energy in the SIC (interconnected central system, Tal Tal to Chiloé), remained well below the historic level of the reservoir of 5 billion cubic meters, having recovered to 3,352,000 cubic meters. Despite the fact that there had been ample precipitation during the austral winter of 1999 and 2000, experts stated that from two to four more years of at least normal levels of precipitation, in particular, snow in the winter, would be needed for the Laguna de la Laja to reach its historic level. In addition to the three hydroelectric dams, downstream farmers make heavy demand on the reservoir. The University of Concepcion initiated a study to assess current levels of extraction and their environmental impact, since evidence attests to a significant loss of fauna. Radio Bíobío broadcast, 16 August 2000, and El Mercurio 4 September 2000, C6.

[70] A May, 1996 report of the Programa de Investigaciones en Energía of the Physics and Mathematics department of the University of Chile, the Instituto Internacional de Conservación de la Energía and the National Resources Defense Council (USA), "Uso Eficiente de la Electricidad en Chile, 1994-2020. Resumen y conclusiones," concluded that approximately 20 percent of the demand for energy could be satisfied by a more efficient generation, transmission and distribution of energy, as well as the development of new sources of energy. It recommended a combination of smaller scale thermoelectric plaants powered by natural gas from Argentina and hydroelectric generating plants, as well as conservation measures and exploration of renewable energy sources.

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(CNE), another the most recent costs according to the current market prices, and a third inserted the current market prices into the method used by the CNE. In each case, the Ralco hydroelectric plant had higher costs than would a thermoelectric generating plant, powered by natural gas from Argentina ($159 million dollars more). The studies compared the costs of the Ralco dam with two thermoelectric plants, considering that the useful life of a thermoelectric plant is roughly twenty years, while that of the Ralco plant was estimated at 50 years.[71] The thermoelectric plants, in addition, are not vulnerable to drought, and generate the same amount of power at a lower cost.

In contrast to these findings, a study by the Catholic University of Chile, contracted by ENDESA, concluded that the Ralco dam would operate at a lower cost than thermoelectric plants. Finally, there are several projects underway for the construction of natural gas pipelines between Argentina and Chile, in the same region as the Bíobío, three gas pipelines in the far north of Chile, and one completed in the Metropolitan Region near Santiago. Natural gas represents an economically competitive alternative to hydroelectric power generation, a fact recognized by ENDESA, which is involved in one of the northern pipeline projects.

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[71] Bustos, Patricia, "Ralco, El Alto Bío Bío y los Pehuenches: Los dimes, diretes y aristas de una central hidroeléctrica anunciada" el Canelo no. 79 (May 1997): 7-12 ; also, Hernán Echaurren. "La Evaluación económica de las centrales hidroeléctricas" Ambiente y Desarrollo Vol XIII, no. 2 (Santiago , June 1997): 14-15 and Grupo de Acción por el Biobío, "Desarrollo Energético y Medio Ambiente" (July 1992b), paper presented at the Conference "Desarrollo Energético y Medio Ambiente" organized by the National Energy Commission.

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Accountability Evaded in the Review of Social and Environmental Impacts

The institutional process established to review social and environmental impacts of major investment projects shields those projects from effective public scrutiny and thwarts the political participation of local communities affected by such projects. The World Bank lending agencies and the Chilean environmental and indigenous laws require social and/or environmental impact studies. Reputable professionals did these studies, but the relevant World Bank and Chilean agencies suppressed and censored these findings until the government agencies had approved the projects and those decisions were irrevocable. This lack of accountability leads to effective impunity for the agencies as institutions, allowing them to circumvent their own policy directives and oversight procedure. In addition, the same lack of accountability gives impunity to the political appointees of the government agencies who violate procedures expressly established to assure indigenous rights.

In the case of those projects, such as the Pangue dam, which receive international funding, the World Bank structure creates an institutional impunity or "inaccountability" that contradicts the Bank's policy directives regarding social and environmental impacts.[72] The Bank is composed of four agencies, each of which is autonomous--the International Bank for Reconstruction and Development, the International Finance Corporation (IFC), the International Development Agency, and the Multilateral

[72] See the non-governmental organization, Bank Information Center, for documents explaining the Bank's policy directives regarding indigenous communities (Directive 4.20), and Johnston and Turner 1998, pp. 16-20. Currently, the World Bank is revising this directive, and it will be known as OP/BP 4.10. See the web page of the World Bank.

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Investment Guarantee Agency. The International Finance Corporation provided a 170 million dollar loan to the Pangue project, and secured additional funds from Swedish and Norwegian development agencies and international banks.[73]

Johnston and Turner (1998), authors of a report by the Human Rights Commission of the American Anthropological Association, argue that the denial of responsibility is incorporated into the structural relationship among the World Bank lending institutions.[74] They further contend this lack of accountability allows the World Bank to maintain public espousal of its own procedures for safeguarding human rights and environmental protection, while increasing its commitment to economic privatization. They also argue that privatization "exacerbates the tendency for development projects to operate beyond the reach of effective public scrutiny."[75]

Despite having system of directives and complaint procedures, the structure of the international lending group facilitates an institutionalized inaccountability. Communities negatively affected may bring complaints, but the legal assignment of responsibility for

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[73] Johnston and Turner 1998. See also the review of the World Bank policies regarding the rights of indigenous peoples, resettlement, and environmental protection in Jonathan Fox and L. David Brown, eds. The Struggle for Accountability: The World Bank, NGOs, and Grassroots Movements (Cambridge, Mass.: MIT Press, 1998).

[74] Ibid p. 17. The report is not an official document of the American Anthropological Association, but it gives "essential information that supports the recommendations made by the Human Rights Committee to the President of the Association (p.1). The investigation for the report was made at the request of Theodore Downing, who brought complaints to his professional association of violations of the human rights of the Mapuche Pewenche communities, and of his own rights as a professional anthropologist and consultant hired by the IFC.

[75] Ibid, p. 21. They define privatization as the transfer of social responsibility, political functions, and financial resources from the public sector to private corporations. (p.21) Cf. Roberts (1998) discussion of the domains of public and private decision-making, pp. 28-35.

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damage or wrongdoing, at least in terms of World Bank regulations, remains elusive. The International Finance Corporation, as an autonomous affiliate, reserves "the right to interpret those directives and its own institutional responsibility."[76] In sum, the multilateral lending agencies have established an interagency system to obstruct accountability for negative social and environmental impacts. Top World Bank officials deny responsibility for deficiencies or wrongdoing committed by affiliated branches, while International Finance Corporation officials claim a similar lack of responsibility for the actions of IFC representatives in the field. Top officials of the lending agencies may go as far as acknowledging "errors," describing negative consequences as regrettable experiences which serve to indicate how to modify regulations.[77] Yet, beyond apologies, the lending agencies do not redress the harm.

In May of 1995, the IFC contracted anthropologist Theodore Downing to evaluate the activities of the Fundación Pehuen because environmentalists had charged the organization with attempting to pressure Mapuche Pewenche to accept relocations. The Fundación Pehuen was supposedly created by the IFC and ENDESA to channel funds to assist families affected by the Pangue dam. Downing discovered that the funds were diverted to convince families who would be affected by the Ralco dam project to accept relocation. This transfer of funds was secret.[78]

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[76] See Johnston and Turner 1998.

[77] See Johnston and Turner 1998. When the Human Rights Commission of the American Anthropological Association questioned the representative of the World Bank, regarding the charges of Downing, the representative acknowledged mistakes and attributed them to part of the "learning curve" of Bank operations.

[78] Ibid.

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Downing had demanded and received a special clause in his contract stipulating that his report must be shared with the Mapuche Pewenche communities. As a general rule, the IFC retains exclusive control over the results of such evaluations for a period of three years, and the "independent" consultants lose their rights to reveal their findings without the authorization of the IFC. This effort by Theodore Downing to ensure the sharing of information with Mapuche Pewenche communities was thwarted by censorship by both ENDESA and the IFC.[79]

Downing delivered his report to the IFC in May of 1996, at which time the IFC warned Downing not to reveal his findings to the Mapuche Pewenche communities or to anyone else, threatening him with a lawsuit. The IFC then delivered the report to ENDESA, and ENDESA threatened to sue both Downing and the IFC if either made the evaluation public.[80]

The results of Downing's investigation were very critical. ENDESA, however, buried the findings. Downing found that the Fundación Pehuén, established by ENDESA as part of the compensation for the families affected by the Pangue dam, had been used to sway members of the Mapuche Pewenche communities who would be affected by the Ralco project, to concede to relocation. The anthropologist brought charges against ENDESA, for violation of contract, and protested publicly through his professional

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[79] Ibid.

[80] Ibid

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association.[81] Meanwhile during 1996 and 1997, ENDESA was involved with negotiations with the Concertación over the Ralco project. The IFC finally made Downing's report public in December 1997, well after the CONAMA approved the project in June 1997.

In November 1995, while construction of the Pangue dam continued, Downing conducted his field work. ENDESA and the CONAMA set the terms for the impact study for the second hydroelectric dam, Ralco. Meanwhile, forty-six nongovernmental organizations, three Chilean congressmen, some four hundred Chilean citizens, and representatives of the Mapuche Pewenche communities brought complaints to the World Bank's Inspection Panel charging that the IFC had violated the Bank's regulations concerning environmental impacts and projects involving the relocation of indigenous peoples.[82] The Inspection Panel rejected the complaint on the grounds that it did not have jurisdiction, but the president of the World Bank, nevertheless, hired an independent professional (Jay Hair) in May 1996 to conduct an internal review. His report, completed in April 1997, found that the IFC had not complied with 80 percent of its social and

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[81] Ibid.

[82] The Inspection Panel was established in 1993 to allow review compliance with Bank procedures on projects funded by the World Bank. The Panel is composed of three development experts not employed by the World Bank. The Panel sends a copy of complaints it receives to the World Bank's Board of Directors and to the Bank management. The Inspection Panel reviews both the complaint and the response of the Bank's management and then makes a recommendation to the World Bank Board of Directors. The World Bank Board, however, then decideds whether or not to carry out an investigation of the complaint, and also makes the ultimate decision regarding whether to take any action regarding any complaints which are investigated. Complaints brought to the Inspection Panel must show that there has been or is likely to harm because of a Bank failure to follow Bank's procedures on a project funded by the Bank. Complaints must also show that the problem was brought to the attention of Bank authorities and that they did not respond appropriately. The Board of Directors of the World Bank is composed of members of the states contributing to the Bank, who have voting power in proportion to the amount of dollars they contribute. See Fox and Brown, eds. 1998.

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environmental directives.[83] The IFC did not make the report public until July 1997, after the Chilean environmental agency had approved the Ralco dam project, and after deleting and altering a third of the document, including sections that detailed negative social and environmental impacts.[84]

Given the controversy surrounding the dam projects, and the objections raised by numerous government agencies, nongovernmental agencies, and the Mapuche Pewenche communities to the Ralco project, these two independent studies could have created more political obstacles to the approval for the Ralco hydroelectric project, and would have undercut the publicity campaigns conducted by ENDESA in the press and television in favor of the project.[85] In a media interview, World Bank President James Wolfensohn, at the Summit of the Americas in Santiago in 1998, mentioned the Pangue project and publicly apologized for the damages done to the indigenous peoples, but by that time ENDESA had prepaid its loan with the International Monetary Fund, securing additional funds from a consortium of European banks.[86]

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[83] See Barbara Johnston and Terence Turner, "Los Pehuenche, el grupo Banco Mundial y ENDESA, S.A.: Violaciones de derechos humanos en los proyectos de las represas Pangue y Ralco en el Río Bío Bío, Chile", informe del Comité de Derechos Humanos de la Asociación Americana de Antropolgía (March, 1998).

[84] This study was undertaken by the emeritus head of the U.S. environmental organization, the National Wildlife Federation, Jay Hair. Johnson and Turner (1998), 9 quote from Hair's letter of protest to the IFC. See Jay D. Hair, Ph.D., Benjamin Dysart Ph. D., Luke J. Danielson, Esq., and Avra D. Rubalcava, "Pangue Hydroelectric Project: An Independent Review of the International Finance Corporation's Compliance with Applicable World Bank Group Environmental and Social Requirements" April 4 1997.

[85] While in Chile, the author witnessed the massive television and newspaper ads paid for by ENDESA in which it defended the Biobío dam projects as clean energy without significan negative impacts. The opponents of the dam did not have the financial resources to mount a similar sized publicity campaign against the dam. If Downing's report had been available to the public, it would certainly have challenged ENDESA's portrayal of the projects.

[86] Carolina Robino, "Goliat contra Goliat" Hoy no. 1023, (3-9 March 1997); La Epoca, 20 April, 1998.

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The censorship of the independent evaluations points to the ineffectiveness of the World Bank's directives concerning the social and environmental impacts of major capital projects. Although criticisms of impacts caused by large scale, transnationally-financed projects prompted the World Bank to establish specific policy directives, the reforms are cosmetic and, in practice, have turned out to be of little use in efforts to assure the consideration of environmental impacts or the rights of indigenous peoples.

Using the Impact Studies Process to Subvert Reform

The process for evaluating social and environmental impacts created by the two reform laws of the Concertación, the 1993 indigenous law and the 1994 environmental law, reveal the political commitment of the Concertación government to neoliberal policies. Chile's 1994 environmental law (Law 19.300) requires that an environmental impact study be done on all major projects.[87] This study is to be commissioned and financed by the company that proposes the project, thus reducing the chances of a truly independent evaluation. Upon receiving the study, the national environmental agency, the CONAMA, solicits its technical committee (generally made up of professionals contracted ad hoc) and other state agencies whose area of competence is involved, to evaluate the study. Citizen comment is also allowed during this period. Then the CONAMA makes a decision on whether to approve the project.

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[87] See the text of the environmental law, Ley 19.300, "Ley de Bases del Medio Ambiente" in El Diario Oficial 9 March 1994, and for the regulations of the environmental law, see El Diario Oficial 3 April 1997 pp.5-16.

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In cases where the CONAMA requires design changes, further mitigation of effects, or additions to construction or mitigation plans, the firm submitting the project may appeal. In that case, a council of representatives of the various state ministries and of the presidency makes the final decision.[88] The Executive Director of the CONAMA has the right to "voice" but not vote on the council of ministers. The CONAMA, in effect, disappears *qua* technical agency. In the appeal stage, therefore, the politics of environmental policy explicitly supersede the previous, technical phase part of the procedures. The CONAMA and other government agencies, in collaboration with the private-sector firm, consistently suppressed negative evaluations of social and environmental impacts concerning the Ralco dam project, and disregarded evidence of fraud and abuse in ENDESA's attempt to gain contracts from Mapuche Pewenche agreeing to relocation.

Establishment of a system of evaluation of environmental impact has remained controversial, and business leaders and associations often complain that environmental regulations, as well as the evaluation process, act to dissuade investors.[89] Although the environmental law 19.300 was passed in 1994, its regulations were not written and

[88] The Minister Secretary General of the Presidency presides and casts the deciding vote in case of ties. The other ministries represented are: Economy, Public Works, Agriculture, National Patrimony, Health, Mining, Housing, Transportation-Telecommunications, and Planning and Cooperation (MIDEPLAN). See the text of the Ley 19.300, Ley de Bases del Medio Ambiente, Comisión Nacional del Medio Ambiente (CONAMA), 1994 and for the regulations, El Diario Oficial de la República de Chile, 3 April 1997 pp.5-16, especially, Articles 69-79.

[89] For example, see Richard García Z., "Restricciones Ambientales Afectan el Crecimiento," El Mercurio 23 March 1997, D8-10, and El Mercurio 28 March 2000, "Ministro de Hacienda Prioriza Crecimiento Económico."

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enacted until April 3 1997.[90] Technically, the regulations are needed to implement the law. Before the enactment of the regulations, major projects submitted impact studies "voluntarily,"--although major projects often had to submit impact studies to receive international funding, as in the case of the Pangue project.

In a number of controversial cases, political appointees at the head of the environmental agency have overruled the negative evaluations of technical committees. One such case concerns the Trillium project, a proposal of a transnational logging company to exploit native *lenga* forest in the Region of Magallanes, in the extreme south of Chile. The technical committee of the regional environmental commission (COREMA) recommended rejecting the project, judging that the rate of exploitation of the slow growing native forest precluded sustainable use of the natural resource or its replenishment.[91] Environmental organizations criticized the project on similar grounds and also argued that the state incentives that the logging company would receive, for investing in a frontier zone, amounted to a needless subsidy.[92] The regional council of ministers (which include the regional heads of state ministries and the regional head of government) nevertheless approved the project. Environmentalists brought suit, losing at the Appellate Court level but winning in the Supreme Court, on the grounds that the

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[90] El Diario Oficial 3 April 1997 pp. 5-16.

[91] The regional environmental commission evaluates those projects which involve only one region. the regional environmental commission top decision-making body is composed of the Regional government head, the heads of the of the regional branches of state ministries, and the governors of the provinces in the regions.

[92] Clapp notes that the Magallenic lenga forest can sustain harvesting for only thirty years, that second growth lenga forests are not harvestable for one hundred years. See Roger A. J. Clapp, "Waiting for the Forest Law: Resource-Led Development and Environmental Politics in Chile," Latin American Research Review 33, no. 2 (1998): 3-36.

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environmental law's regulations had not yet been enacted. A few weeks after the Supreme Court decision, in April 1997, the regulations were published in the official government record, El Diario Oficial, and the logging project was subsequently approved, despite environmentalists' objections. The timing of the Supreme Court ruling and the enactment of the regulations of the environmental law coincide with a peak moment in the controversy over the Ralco project.[93]

In September, 1995, ENDESA and the CONAMA negotiated the terms of reference for the Ralco project.[94] ENDESA turned in its impact study to the CONAMA at the end of March 1996. ENDESA's study was considered inadequate by twenty-two public agencies, addressing only thirty percent of the points agreed upon in the terms of

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[93] Several other major industrial projects which generated protest from environmental groups and local communities have been backed by government officials. One such case is the proposed paper pulp plant in the province of Valdivia (Tenth Region), which will dump industrial effluents directly into the water sources feeding Las Cruces Nature Sanctury (disregarding its protected status, which is the highest environmental protection afforded under Chilean law). This plant was protested by local communities and environmental groups but supported by the regional government, and ultimately approved by CONAMA.

Another case is that of the natural gas pipeline between Neuquén, Argentina and San Vicente-Talcahuano (Eighth Region, north of the Bíobío river) which seriously affected a national reserve and prime winter habitat of an endangered deer, the huemul (the national heraldic animal, along with the condor). The pipeline cuts through the best habitat site of the Nevados de Chillán area, impacting the most numerous group of the remaining huemuls of the Nevados de Chillán area. In this case, the technical committee had not recommended the rejection of the project, merely a serious attempt at mitigation of impact on the national reserve and on the huemul deer. Nearly every one of the stipulations of the technical committee for mitigation of impact, which the energy consortium had initially accepted, were disregarded. The consortium appealed the mitigation measures, and the CONAMA, after consulting with other government agencies, authorized changes which included a new route for the pipeline which created a barrier to the winter habitat of the huemuls, impacted more area than the original route and allowed construction during periods (e.g., period when huemuls give birth) which would more seriously affect the huemuls. The author was present at a meeting with representatives of the consortium (February 1999) in which the modifications of the mitigation plan were explained. The author has participated in field research with Chilean and U.S. biologists on huemuls in Chile since 1993. See Povilitis 1998 and Sierra Institute 2000.

[94] See the document of the CONAMA "Documento Consolidado de Acuerdos entre la Comisión Nacional del Medio Ambiente y la Empresa Nacional de Electricidad, S.A. para el Proceso de Evaluación de Impacto Ambiental, los Términos de Referencia para la Elaboración del Estudio de Impacto Ambiental y la Información y Participación Ciudadana en el Proceso de Evaluación de Impacto Ambiental del Proyecto Central Hidroeléctrico Ralco" Santiago, September 1995.

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reference.[95] The CONADI also sharply criticized the ENDESA impact study, particularly with reference to the cultural effects that the study did not take into account. In addition, the CONADI report characterized ENDESA actions in the Upper Bíobío as creating severe psychological pressure on the Mapuche Pewenche families, to make them believe that the dam project was inevitable and already had government approval, and that therefore they must take whatever was offered by ENDESA as compensation, or risk getting nothing at all.[96] The CONADI report stipulated a series of clarifications as necessary before accepting the project into the evaluation process.

The ENDESA study claimed that the Mapuche Pewenche communities were already undergoing a process of cultural assimilation, losing aspects of their own culture and adopting Chilean ways, and furthermore, suffered from poverty and isolation. From the standpoint of the energy consortium, as stated in the study, the dam project did not cause a new negative situation for the indigenous communities, and could offer positive effects (jobs in the construction of the dam), as well as certain negative consequences.[97]

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[95] Testimony of Deputy Juan Pablo Letelier, 8th Session of the Chamber of Deputies, 12 June 1997, Actas oficiales (official records), pp. 7-8. See also Pilar Molina, "Conservar o Producir: ¿El Bíobío o Más Electricidad?" El Mercurio, 23 March 1997, D4, D6; Bustos 1997, p.8 and Namuncura 1999, 93-95.

[96] Informe de Observaciones al Estudio de Impacto Ambiental del Proyecto Central Hidroeléctrico Ralco, Jorge Sanderson Espinoza, Anthropologist, (for the CONADI) 24 May 1996, cited in Namuncura 1999, pp. 87-93. Among the pressures described by Sanderson were meetings between individual families and representatives of ENDESA, and stakes marking water level of the reservoir. It should be recalled that Downing submitted his report to the World Bank on May 7, 1996, which also charged ENDESA with pressure tactics that combined offers of material compensation with warnings that the government had already approved the dam project. See Johnston and Turner 1998. See also the press communiqué of the Instituto de Estudios Indígenas of the Universidad de la Frontera, 16 June 1997 (carried by the web page of the Fundacion Rehue, www.xs4all.nl/~rehue), which noted efforts by representatives of ENDESA to pressure the Mapuche Pewenche into signing agreements to relocate. The Grupo de Acción por el Bíobío denounced similar deficiences in the impact study for the Pangue dam, required by the World Bank. Grupo de Acción por el Bíobío 1992a.

[97] Namuncura (1999) cites sections of ENDESA's study on pages 77-81. See also Von Bennewtiz, Chief of the Office for Evaluation of the Hydroeletric Projects of Endesa, (ms., no date, but the author had access to

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The CONAMA was on the verge of rejecting the study in July 1996 because of the negative evaluations of the public agencies, including its own technical committee. CONAMA's technical committee concluded that the study did not take into account its most relevant social and environmental impacts. The committee stated that so much additional information was needed, that a whole new impact study would be required. The committee therefore recommended that the project be rejected.[98]

This negative evaluation was leaked to ENDESA, and consortium representatives contacted President Frei. President Frei then ordered his cabinet minister, the Secretary General of the Presidency, Juan Villarzu, to inform the National Director of the CONAMA that the Ralco project could not be flatly rejected.[99] Therefore, on August 23, 1996, the CONAMA asked ENDESA to turn in an Addendum to rectify the deficiencies in its initial impact study.

The political clout of ENDESA, however, did not consist in merely receiving the opportunity to turn in a new study. In September 1996, the CONAMA and ENDESA set

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a copy of this document in October 1992).

[98] See Bustos, 1997, p. 8 and testimony of Deputy Letelier, op cit., pp.7-8. "The deficiencies of the impact study are such that the project does not take its most relevant effects into account, not even to the most minimal degree....The study does not fulfill the requirements for project approval established by article 16 of the environmental law. Given the noncompliance established in the terms of reference, it is not possible to ask the firm proposing the project (that is to say, ENDESA), to supply clarifications, amplifications, or rectifications of its impact study, since that would amount to an entirely new base line for the project, and consequently, would mean a new impact study, and thus would be a matter for a new evaluation process by authorities. Therefore the review committee recommends that the project presented in the impact study for the Ralco Hydroelectric Dam of ENDESA be rejected."

[99] Bustos, 1997 and testimony of Deptuy Letelier, op cit.; also, La Epoca, 11 June, 1997, p.15 and Molina, in El Mercurio, 23 March, 1997, D4, D6.

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the terms of what should be included in the Addendum, and the CONAMA acceded to ENDESA's petition to have the citizen participation period shortened by half, from sixty days as the environmental law stipulates in its article 29, to twenty-five days, and the scope of citizen participation to be limited to those groups and individuals who had participated in the initial evaluation.[100] Furthermore, the Subsecretary General of the Presidency told the Director of the National Energy Commission to authorize ENDESA to begin preliminary construction (such as widening and improvement of roads, establishment of high tension transmission lines). The National Energy Commission prioritizes energy development projects. In 1995, the Ralco project did not appear in its ten-year development plan, because it could not be justified on economic grounds, but in 1996, the Ralco project figured in the National Energy Commission's plans. The Ralco project had become a political priority.[101]

Following these concessions to ENDESA by CONAMA, the prospect of control and oversight of environmental impacts of the Bíobío hydroelectric projects became negligible, given executive branch support for the dams. In the following year (1997), similar pressure on the CONADI made starkly clear the subordination of the state indigenous development agency to the political priorities of the government, and, consequently, the denial of indigenous rights recognized under the 1993 indigenous law.

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[100] Bustos, op cit. and the testimony of Deputy Letelier, op cit.

[101] Bustos 1997. In 1996, then head of the National Energy Commission, María Isabel González, commented upon ENDESA's announcement of plans to construct the Ralco dam by saying, "That decision is regrettable. It means that the optimum plan, from an economic and social viewpoint, such as that of the Commission, will not be carried out." El Mercurio 26 March 1997, cited in Echaurren, 1997, p.14.

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During 1997, a series of announced plans for major industrial and infrastructure projects that would affect indigenous lands made ENDESA's proposed series of hydroelectric dams on the Bíobío emblematic of, rather than an isolated exception, to government policies with respect to development. One of these projects is a proposed highway by-pass of Temuco, which originally was to cut through twenty-five Mapuche communities. It will now cut through five. The by-pass is part of the renovation of the Pan American Highway from Santiago to Puerto Montt, to create a limited access, four-lane toll road to be run by the private consortia that would build the various sections. Another highway is being built along the Pacific coast between the Eighth and Tenth Regions. It would benefit principally the international logging companies and will affect many Mapuche communities located along the proposed route. This highway is sometimes referred to as the Route of the Conquistadors ("*Ruta de los Conquistadores*").

Among other major industrial projects is a proposed paper pulp plant to be built in the Tenth Region. Coastal villages whose livelihood depends upon small-scale fishing and summer tourism tried to stop the construction of the plant, fearing that the plant's industrial discharge would pollute the coastal waters, while environmentalists objected that dumping the plant's effluents into the Cruces River threatened a nature sanctuary. Another project is a proposed natural gas pipeline that would cut diagonally across the Ninth Region, from the Eighth Region port of San Vicente-Talcahuano to Pillanlelbun, a town ten kilometers north of Temuco, capital of the Ninth Region, thus cutting through many Mapuche communities along its route. As the communities have been subdivided into individual properties, most properties are very small, and hence, if the pipeline

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crossed them, a significant percentage of the property would be affected. The Mining and Water Codes, which allow extraction of natural resources regardless of surface property title also make indigenous communities vulnerable to industrial mining projects. Finally, the impact of the expansion of industrial tree plantations for existing paper pulp plants in the Eighth and Ninth Regions, much of which occurred on land claimed by Mapuche communities, will be analyzed in later chapters.

The Concertación government's commitment to neoliberal economic policies proved to be stronger than its promise to reform indigenous and environmental policies. The process established by the 1994 environmental law to review impacts provided the means to impose private and public sector development projects that serve the interests of large national and international corporations, rather than an instrument for ensuring public participation and oversight.

The following chapter will describe how the President pressured CONADI officials to approve the Ralco dam project in spite of the 1993 indigenous law's provisions for the protection of indigenous lands. In addition, the chapter will show how the neoliberal consensus on development in the parties of the Concertación impeded the protest against the dam project, depriving the Mapuche communities of political allies.

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Chapter 9. The Bíobío Dam Projects: Sustainable Development, National Security, and Indigenous Rights

President Frei made clear his full support for the Bíobío dam projects, and that, from his perspective and that of Concertación party elites, ENDESA's hydroelectric projects were national security priorities. In the name of national security, the President distorted the process for environmental impact evaluation, pressuring government agencies to approve the projects, dismissed officials who opposed the projects, and disregarded provisions of the 1993 indigenous law that protected indigenous subsistence lands. The legal oversight procedures geared to permit democratic decision-making on major projects directly affecting peoples' lives became the very means of overriding democratic participation.

This chapter will describe the evisceration of the 1993 indigenous law in the face of protests from the Mapuche Pewenche families and their allies. The government's and ENDESA's strategy to convince the families to accept relocation proved to be effective. Mapuche organizations linked to the Concertación parties focused on compensations, and ignored the violation of Article 13 of the 1993 indigenous law. Concertación government officials declared "Growth First!" accepting the neoliberal conception of development and dismissing alternatives as utopian. The transition from the military to the democratic regime had not eliminated authoritarian policy-making processes. The center-left parties, historically effective agents of social reform, closed ranks with government leaders. The Mapuche Pewenche communities and their allies were left without institutional channels

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for the defense of the very reforms—the indigenous and environmental laws—heralded as evidence of the transition to democratic politics and respect for cultural diversity.

By the end of 1998, the adherence of the Center and Left parties of the Concertación to the economic policies pursued by the government hamstrung the efforts by Mapuche organizations and groups to forge a united front against these projects and to demand a new relationship with the Chilean state, which would recognize the collective rights of indigenous peoples. The Concertación parties avoided taking stands on the Ralco project until relatively late in the controversy, and then emphasized the need to ensure fair compensation, rather than to reject the project itself. Similarly, Mapuche organizations linked to Concertación parties shifted the focus of their protest from the Ralco dam to the executive branch's manipulation of the CONADI, thus tacitly accepting the dam projects as inevitable. During the same period (1997 to 1998) ENDESA continued to exert pressure on the Mapuche Pewenche families to gain their agreement to move, and continued construction of the proposed dam. Many, though not all, of the Mapuche Pewenche families accepted relocation.

The political pressure on the CONAMA and the CONADI brought the two new reform laws into conflict, weakening, rather than reinforcing, the protection of the environment and indigenous rights specified under the new laws. Just as top government officials denied the environmental agency's prerogative to reject the Ralco project, Concertación government would not allow CONADI officials to block the project. To the

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contrary, CONADI approval of the land exchanges became the very means of obviating the protection of indigenous lands.

In February 1997, the World Bank informed Chile's Minister of Finance that ENDESA had been found in a situation of imminent negligence as a result of the social and environmental audits of Pangue (by that time the Pangue dam had been built and was about to be inaugurated by President Frei Ruiz-Tagle).[1] In the same month, ENDESA delivered the addendum to its environmental impact study to the CONAMA. The addendum, however, still failed to meet the requirements of the environmental law in a number of respects: there was an inadequate description of the project itself, an insufficient description and evaluation of the environmental impacts and damages, and it left out a mitigation proposal for the people affected, most of whom were Mapuche Pewenche, and for the 70 kilometers of river valley to be flooded.[2] More importantly, the permission to begin preliminary construction, before gaining the "free and informed" consent of the Mapuche Pewenche affected, made clear that the Concertación government fully supported the hydroelectric project.

The government chose to ignore the prohibition against land transfers that involve the houses and subsistence lands of indigenous peoples, contained in Article 13 of the 1993 indigenous law. ENDESA, meanwhile, stepped up efforts to convince the families to accept relocation, and in the event that some did not, prepared other legal and political strategies. Negotiations between government ministers and representatives of ENDESA

[1] See International Rivers Network web page, cited by José Mariman, 1997. (www.irn.org.)

[2] See testimony in Congress by Dip. Letelier, 12 June 1997.

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limited citizen participation despite the provisions of the new environmental law. The addendum (in effect, a new environmental impact study) was not open to full citizen comment, only to those who had participated in the period given under the first impact study.

In the interim, in March 1997 President Frei inaugurated the Pangue hydroelectric project and at the same time announced the declaration of the Upper Bíobío as an "Indigenous Development Area" as described in the new indigenous law. Frei made clear his political support for the series of hydroelectric projects when he stated, "Chile can not afford not to exploit its hydroelectric potential, because Chile lacks supplies of other sources of energy such as petroleum and natural gas. It is a matter of national security..."[3] President Frei's public approval of ENDESA's hydroelectric projects, before CONAMA could render its official decision, and his declaration of the Upper Bíobío as a "development area" sparked a vociferous protest movement among indigenous organizations and environmentalists.

"Beheading" the CONADI

Shortly after the President's declaration of support for the Bíobío dam projects, in March 1997, the national director of the CONADI, Mauricio Huenchulaf, recommended rejecting the environmental impact study, stating that Ralco violated the indigenous law

[3] El Mercurio, 26 March 1997, C1, C4.

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and that the CONADI would not approve the requests for land trades.[4] A contentious assembly of Mapuche organizations and institutions held in Temuco for three days (April 21-23 1997), ended with a declaration demanding that the government respect the 1993 indigenous law, and thus not approve the Ralco project.[5] Disregarding the protests, President Frei Ruiz-Tagle fired Huenchulaf on April 25 1997.[6]

President Frei appointed Domingo Namuncura, a Mapuche and a militant of the PPD, as is Mauricio Huenchulaf, as the new national director. Namuncura had worked previously as advisor in the Ministry of Public Works. Mapuche organizations and non-governmental institutions reacted to the dismissal of Huenchulaf by taking over the national offices of the CONADI in Temuco.[7] This take-over consisted of a non-violent lockout, in which members of Mapuche organizations denied entry to CONADI officials. Mapuche organizations issued a press release expressing outrage at the President's manipulation of the CONADI, declaring their lack of confidence in the new director, and calling for a thirty day period in which the government and the indigenous organizations would choose together the new national director of the CONADI.

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[4] El Mercurio, 1 April 1997, C7. El Diario Austral, 27 April 1997, A4. Mauricio Huenchulaf, who is Mapuche, and was the national director of the CONADI at the time, stated that the reasons for rejecting the impact statement were that the dam project would affect the homes and subsistence lands of the Mapuche Pewenche families, which the indigenous law explicitly prohibits. Such lands are not subject to transfers, according to article 13 of the 1993 indigenous law. In addition, he noted that the lands offered as compensation were not suitable for agriculture nor was the climate apt for year round living, hence the families would be impoverished even more, and forced to depend upon public subsidies. Finally, the dam's reservoir would bury the cemeteries of the communities, depriving the living relatives of any contact with their deceased relatives. Huenchulaf alluded to the parallel with the families of the disappeared who could not give burial to their lost relatives, in an effort to emphasize the impact that the dam project would have.

[5] El Mercurio 23 April 1997 C6.

[6] El Mercurio 26 April 1997, C1,C8.

[7] El Mercurio 29 April 1997; 30 April 1997; El Diario Austral 28 April 1997; 29 April 1997 A5; 30 April 1997 A7.

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The demand for participation in the naming of the new director, however, presaged the shift in the demands of those Mapuche organizations linked to political parties. These organizations demanded participation in the naming of the director of the CONADI, thereby dodging the real issue--the transgression of Article 13's protection of indigenous subsistence lands. The real cause of the crisis was the commitment of the government to the economic interests benefiting from large industrial projects, and the refusal of some Mapuche Pewenche to accept relocation.

Procedurally, according to the 1993 indigenous law, the President has the power to appoint and dismiss the director of the CONADI, and, indeed, the President also has the legal right to select the indigenous members of the CONADI national council from among those elected by indigenous organizations and communities. Demands for respect for the "co-government" of indigenous representatives and the executive branch exaggerate the political autonomy of the indigenous functionaries of the state agency. By focusing on the dismissal, the organizations avoided confronting the substantive obstacle to the enforcement of the 1993 law—the policy priorities of the Concertación.

The government adroitly overcame the impasse caused by the occupied headquarters by swearing in the new national director, Domingo Namuncura, in the regional offices of the CONADI, also in Temuco. The main offices remained in possession of the Mapuche organizations, while talks continued between officials of the Ministry of Planning and Cooperation (Mideplan) and Mapuche organizations, but the

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fact that the director had been sworn in already, as well as disagreements among the Mapuche organizations, led to the end of the take-over.[8]

The Reinterpretation of the 1993 Indigenous Law: Looking for Legal Loopholes

With Namuncura as the new head of the CONADI, the Concertación government employed a strategy aimed at diffusing the controversy, while still promoting the hydroelectric project. It was politically important that the Concertación appear to respect the spirit of its indigenous policy reform.

For the executive branch, the most expedient way to confront the families who opposed relocation was to ignore them, and direct efforts towards the compensation plan. To this end, the government delayed a final decision on the land transfers, continued to express the need to find a "just" compensation for the relocated families, and discredited the allies of those who opposed the dam project.

The new CONADI head was charged with finding a "legal" solution to the question of the land transfers. Namuncura, in one of his initial declarations as head of the CONADI, also hinted at a more comprehensive response to the protests of the Mapuche movement, in his statement that the 1993 indigenous law could be "perfected."[9] Namuncura, however, already interpreted Article 13 of the indigenous law differently

[8] El Mercurio 2 May 1997 C1.

[9] La Epoca 26 April 1997 p. 15.

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than his predecessor. According to Namuncura, individual indigenous properties could be rented for five years.[10] These rental contracts had to be approved by the CONADI to insure free and informed consent.

Namuncura relates that state ministers met with him and explicitly told him that CONADI could not declare the Ralco project illegal, before the CONAMA had made a decision on the project. The CONADI, the ministers said, did not have jurisdiction to evaluate the project as a whole, nor could the CONADI evaluate the "environmental" aspects of the project.[11]

The executive branch's interpretation of the legal and institutional jurisdictions makes clear the Concertación government's commitment to major industrial projects.[12] Social and environmental impacts are considered secondary. A news article published at this time quoted unnamed "official sources" as stating flatly that, "contrary to what some environmentalists believe, the CONAMA does not have the legal power to stop the Ralco project. Compensation and mitigation have been sought. That is what the law demands. But the government cannot prohibit investment projects...The indigenous law should not

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[10] Namuncura 1999, 112-113.

[11] See Namuncura 1999, 25; 38-40; and 110-116.

[12] Cf. the statement by the Minister of Finance of President Ricardo Lagos, Nicolás Eyzaguirre, who stated that the environment and economic development were complementary in the long run, but in the short run one had to find a balance, and that Chile had to protect the environment in accordance with its gross economic product of five thousand dollars per capita, rather than as if it had a product of 28 thousand per capita..."it's necessary to sacrifice something when economic growth is at stake" El Mercurio 28 March 2000.

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be an exception to the electricity law, which is a special and specific legal norm."[13] The Electricity Law stipulates that industrial projects for the generation and transmission of energy benefit the entire society, and therefore should have priority over the rights of individual property owners.[14]

This interpretation of institutional jurisdictions justifies trampling on both the environmental and the indigenous laws. In the case of the 1993 indigenous law, Article 13 expressly prohibits land trades or sales involving indigenous homes and subsistence

[13] La Tercera, 19 April 1997, p. 18. The electricity law referred to is the military regime's Decree law N°1 of 1982 of the Mining Code, "Ley General de Servicios Eléctricos. For a general discussion of eminent domain and the Mining Code and Water Code in Chile, see Alejandro Vergara Blanco, "Teoría del Dominio Público y Afectación Minera," Revista Chilena de Derecho 17 (January- April 1990): 135-159; idem, "Contribución a la Historia del Derechos de Aguas III: Fuentes y Principios del Derechos de Aguas Indiano," Revista Chilena de Derecho 19 (January-April 1992): 311-329.

[14] The Electricity Law thus conflicts with provisions of the 1993 indigenous law, and ultimately the courts may rule on which law takes precedence. Article 19, no. 24 of the Chilean constitution allows the state to expropriate private property in the national interest or for reasons of public good ("utilidad pública"). According to the 1993 indigenous law, indigenous lands are protected by reason of national interest, while the Electricity law referred to above allows the state to expropriate private property for projects that generate or transmit electricity for reasons of public good. Ms. Nancy Yañez, a Chilean lawyer consulted about the conflicting laws, stated that state could not expropriate in this case because that would amount to the executive branch interpreting the law (that is, interpreting which law takes precedence), which only the courts can do. She continued that the courts should apply the following criteria to decide: a) the more recent law has precedence over earlier law; b) a special law takes precedence over a general law. In her own legal opinion, Ms Yañez believed that the 1993 indigenous law took precedence, by virtue of being both a special law and the more recent one. Furthermore, she argued that the environmental law in its article 11, no. 4, was obligated to determine whether or not the Ralco project injured the rights of the Mapuche Pewenche communities. She maintained that the project damaged the rights of the communities according to Article 13, no. 4 of the indigenous law (the project needed the consent of all the affected persons before CONAMA's approval); Article 19, no. 10 of the indigenous law (concerning the right of indigenous communities to conduct activities at sacred sites and preserve their cemeteries even when those sites are on public land); Article 28, letter f of the indigenous law (concerning the protection of indigenous archeological patrimony) (note that more than 70 archeological sites will be inundated—pers. communication by Tom Dillehay, anthropologist, to author); Article 29, letter c of the indigenous law (which states that a CONADI report and the prior consent of the communities involved is required before excavating indigenous cemeteries); and Article 34 of the indigenous law, which states that public agencies should consult indigenous organizations when projects affect indigenous communities. In addition, Ms. Yañez elaborated, three international norms were relevant in this case because they have been signed and have constitutional status: the International Pact on Civil and Political Rights, the Convention for the Elimination of all forms of Racial Discrimination, and the Convention against Genocide. It was her opinion, that in view of these international norms accepted by Chile, and the current international norms, there were very good grounds for charging the Chilean state with genocide for approving the Ralco project because of the disastrous cultural effects. Personal communication to the author, May 2001.

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lands. In those cases not involving the homes or subsistence lands, the CONADI is charged with overseeing the fairness of the transaction, which clearly must include an evaluation of "environmental" aspects. Similarly, this interpretation of institutional jurisdiction distorts the environmental law, putting the council of ministers, which can intervene in the final decisions of the CONAMA, in a position of being able to overrule other state agencies.[15]

The environmental law 19.300, however, does not dispense with the previous environmental and health norms that are overseen by other agencies. Any of the state agencies that have legal oversight of aspects of the project can declare a project in violation of the law. Initially, the state Water Agency (DGA) had ruled so with regard to the Pangue dam. Finally, to consider that the CONADI is "out of order" in its rejection of the dam projects, before the environmental certification by CONAMA, is to undermine the process of evaluation by the various appropriate state regulatory agencies. If a particular agency cannot give a negative evaluation of the part of a project in its domain of responsibility until the part of the process of environmental certification gives approval or disapproval, the entire regulatory and review process created by Chilean law is nothing more than a mirage, and no project with the political support of the presidency can be rejected.

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[15] In fact, the Terms of Reference for the Ralco project has a clause which states that once the CONAMA approves the project, it will see that all other state agencies give their approval. This was contested in the lawsuit brought by the Quintreman sisters as illegal. See Comisión Nacional del Medio Ambiente (CONAMA), Dirección Ejecutiva. Documento Consolidado de Acuerdos Entre la Comisión Nacional del Medio Ambiente y La Empresa Nacional de Electricidad, S.A. para el proceso de Evaluación de Impacto Ambiental, Los Términos de Referencia para la Elaboración del Estudio de Impacto Ambiental y La Información y Participación Ciudadana en el Proceso de Evaluación de Impacto Ambiental del Proyecto "Central Hidroeléctrico Ralco" (Santiago: September, 1995) and Quintreman, Nicolasa, et al. Contra CONAMA y ENDESA, S.A. "Acción de Nulidad de Derecho Público" 16 Abril 1997.

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Protest Fails to Stop Approval

Because the first addendum was considered inadequate by various state agencies, the CONAMA required ENDESA to submit a second addendum. In the interim, Mapuche organizations and groups marched in Santiago in protest, and attempted to deliver a letter to President Frei with a list of their criticisms and demands for new policies with respect to indigenous peoples.[16]

Upon their arrival in Temuco, several hundred of the march participants paraded from the train station through the streets until they reached the offices of the CONADI, at which point the marchers decided to enter the offices in order to hold a press conference. Police and armored vehicles were stationed in front of the regional government offices, a couple of blocks away. When the marchers began to enter, some employees tried to prevent their entry, but were unable to, given the numbers of marchers. A few minutes later, however, police squadrons and armored vehicles arrived. Then the police cordoned off the area near the entrance, grabbed and broke poles with the marcher's banners, and charged violently into the building, arresting some fifteen people, including a minor, before the march leaders persuaded the police that they were trying to hold a press conference, not take over the CONADI offices. Those arrested had been already whisked away to the police station, but the rest of the marchers were allowed to continue their march through the streets.[17] The government's use of police marked the breach between

[16] See Carta de las organizaciones e instituciones mapuches y territorios en conflicto al presidente de la República de Chile, Eduardo Frei Ruiz-Tagle, May 1997.

[17] El Mercurio 17 May 1997, El Diario Austral 17 May 1997, A5. The author witnessed the police action.

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the Mapuche movement and the state. A week later, the CONADI, under the new director Namuncura, characterized the second addendum submitted by ENDESA as "insufficient," but did not call the project illegal.

The CONAMA approved the Ralco project on June 6, 1997 after receiving the second addendum from ENDESA, although it stipulated additional requirements regarding the relocation plan and the mitigation of environmental impacts. Environmental groups and indigenous organizations reacted with non-violent, civil disobedience tactics, occupying the Santiago office of the CONAMA and offices of the CONADI throughout the country, respectively.[18] Mapuche organizations and Mapuche members of the national council of the CONADI denounced the approval of the Ralco project, demanding that Namuncura resign, and that the national council of the CONADI meet with them to explain the terms of the CONADI acceptance of the addendum.[19]

The government spokesman, Secretary General of the Government José Joaquín Brunner replied to the protests by declaring that there were legal norms and procedures which protected the environment but which, at the same time, recognized the need for the country to continue developing.[20] In other words, the environment came second, and Brunner did not even mention the rights under law of the indigenous communities.

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[18] El Mercurio 11 June 1997, El Diario Austral 11 June 1997, A4 and B4; La Epoca 11 June 1997 p. 14.

[19] See "Denuncia Pública" Por la Defensa del Territorio y Derechos del Pueblo Mapuche, Coordinadora de Organizaciones e Instituciones Mapuche, 11 June 1997.

[20] El Diario Austral 11 June 1997 B4. Brunner said "it was clear that there existed legal norms and procedures which protected the environment, but which, at the same time, assume responsibility for the need of the country to continue developing"

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Minister of Interior Carlos Figueroa rejected the occupation outright, stating that the debate over projects must occur through the established legal channels.[21]

Mapuche organizations lifted the occupation after representatives of the CONADI agreed to a meeting with organization leaders in Concepción.[22] When Namuncura met with the indigenous leaders, he claimed that no state agency could sue another part of the state, but that the CONADI was obligated to give legal advice to any indigenous community which wished to sue a third party for injuring its rights under the indigenous law.[23] A few weeks after the CONAMA approved the Ralco project, Namuncura announced that, "CONADI functionaries would visit the Upper Bíobío in order to meet with the Mapuche Pewenche and hear their opinions directly, rather than through those who said they were their representatives."[24] He also ordered a legal review of each petition for land trade, including personal interviews with those who had signed contracts.

This answer was all the organizations could get. The wheels of the institutional process continued turning, grinding into dust the legal norms established to defend indigenous lands and the environment. Individual congressmen could object, Mapuche organizations could march, protest, and bring lawsuits to the courts, but the CONAMA

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[21] Ibid.

[22] "Cumbre indígena revisará plan Ralco" La Epoca 14 June 1997, p. 17; "Protocolo de Acuerdo. Dirección Nacional CONADI con Organizaciones Mapuches" 11 June 1997 .

[23] Radio Bío Bío broadcast.

[24] El Mercurio 12 June 1997.

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gave permission to begin "preliminary" construction. The continuing construction threatened to make moot any favorable legal decision, even as it acted as further pressure on those families opposed to relocation. Some sectors of the Mapuche movement, not linked to parties of the Concertación, denounced the actions of the government with respect to Ralco, and other large industrial projects, and rejected the CONADI as an instrument of the government and powerful interests.[25] These sectors, in contrast to those organizations aligned with the Concertación, criticized government indigenous policy as subservient to the major economic interests that benefit from the neoliberal economic model, and called for the recognition of collective political rights, including self-determination.[26]

ENDESA, meanwhile, appealed the additional mitigation and compensation measures required by the CONAMA, objecting in particular to the mandated follow-up support for the relocated families and the water flow requirement.[27] A commission of representatives from thirteen government agencies reviewed the appeal, and agreed to reduce the mitigation requirements concerning the nature reserve (meant to replace the lost native forest and fauna), and reduce the minimum level of water required (a higher volume would mean higher costs to ENDESA, but a higher volume of flow provided downstream users with more assurance that their water rights would be respected), but

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[25] See for example "Declaración Pública en We Tripantu 24 June 1997" of the Coordinadora Mapuche Región Metropolitana, in the web page of Fundación Rehue).

[26] See the pamphlet "Por el Derecho de Pueblos y la Defensa del Territorio Mapuche" Coordinadora de Organizaciones e Instituciones Mapuche, IX Región, October 1997.

[27] La Tercera 12 June 1997. Downstream users include agricultural irrigation associations, various cities, and industries. The Bíobío River is one of the largest rivers in Chile and flows through a populous region of the country.

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maintained the requirement of a ten year technical assistance program for the relocated families. ENDESA had proposed four years. The final environmental approval was given in September 1997.[28]

The Government's Defense of the Ralco Project and Its Development Policies

After the CONAMA approved the Ralco project, a special parliamentary session on the project was held.[29] In response to the charges of Deputy Juan Pablo Letelier (PS) of illegal executive pressure to approve the Ralco project, then Minister Secretary General of the Presidency, Juan Villarzu (PDC) defended the process, and elaborated upon the government's strategy of "sustainable development:" "The concept of development which inspires us is founded upon three objectives which we wish to achieve simultaneously,...maintenance of the highest rate of growth possible; [maintenance of our] commitment to equality and equal opportunities; and the protection of the environment."[30] Villarzu declared that an equilibrium in the three objectives was essential and a duty of the government, although individuals and groups may prefer to

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[28] El Mercurio, 24 September 1997, C7; Fernando Vega, "Ralco: Consejo de ministros flexibilizó sus exigencias tras reunión de dos horas en el Palacio de la Moneda" La Tercera 24 September 1997. The water flow required reflects the Water Agency's decision regarding water use rights. A higher volume of water gives greater assurance of adequate water suppliers of downstream users, such as the association of estates using water for irrigation and the cities along the Bíobío River.

[29] Deputy Juan Pablo Letelier denounced that pressure from the executive branch postponed the special session twice, finally allowing the session after the approval of the Ralco project by the CONAMA. See his testimony, pp.7-8, official records (Actas) of the Eighth session of the Chamber of Deputies, 12 June 1997.

[30] "el concepto de desarrollo que nos inspira está estructurado sobre la base de tres objetivos que queremos alcanzar simultáneamente,...sostener la tasa de crecimiento económico más alto posible; un compromiso con la equidad y la igualdad de oportunidades; y la protección del medio ambiente." 12 June 1997, Eighth session of the Chamber of Deputies, Actas, p.12-15. See also the news articles en La Tercera, 13 June 1997, p. 25 and El Mercurio 13 June 1997, C5.

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emphasize one or another. Growth was essential, he declared, if poverty were to be reduced and if sustainability were to be achieved. New technologies permitted the achievement of all three goals simultaneously.

Yet critics observed that the CONAMA's approval of the dam project put a priority upon growth, to the detriment of the other goals of equality and environmental protection.[31] These latter two goals were only to be met in so far as they did not interfere with economic growth. Despite the fact that the impact studies concerned with the Mapuche Pewenche predicted severe economic consequences for affected families, as well as the dismantling of their culture, the project was described as providing benefits to the nation as a whole, and in particular to the Mapuche Pewenche, through the compensations.

In the same parliamentary session, the director of the CONAMA, Vivianne Blanlot, defended the environmental evaluation process, and denied that the CONAMA had jurisdiction over the question of the indigenous land trades or the impact upon indigenous cemeteries. At the same time, however, she stated that agreements to accept relocation were valid, and judged the compensation for the Mapuche Pewenche families to be sufficient--after additional requirements. In this defense, the director carefully avoided the question of those families who refused to move, and also ignored the problems of uninformed and/or forced consent of the Mapuche Pewenche who had signed

[31] See, for example, Morales et al. 1998; Echaurren 1997; Molina 1997; José Marimán, "Centrales Hidroeléctricas en el Río Bíobío: Etnocidio mapuche-pewenche" (web page of Fundación Rehue, www.xs4all.nl/~rehue, April 1997); Elicura Chihuailaf, Recado Confidencial a los Chilenos (Santiago: LOM Ediciones, 1999). Grupo de Acción por el Bíobío 1992a and 1992b.

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contracts to move.[32] The CONAMA's approval added to the pressure on the CONADI to authorize the land trades--and to leave the defense of the families who refused to move to their (not CONADI's) lawyers. The rights of the Mapuche Pewenche to decide freely, and to refuse to move, fell in the "lacuna" between the jurisdictions of the CONADI and the CONAMA, as neither agency had sufficient institutional autonomy to defend the indigenous and environmental laws in the face of executive branch pressure and the political influence of ENDESA.

Echoing the national security premise of President Frei with respect to hydroelectric power, far right deputy Jorge Ulloa, UDI, declared that "if we don't develop hydroelectric plants, with the arrival of natural gas (piped in from Argentina) we will come to depend heavily on Argentina."[33] Reflecting the position of the Socialist Party leadership, Socialist Jaime Estevez declared that the country needed to continue developing, but that projects should submit to strict environmental impact studies.[34]

In late 1998 and early 1999, however, a severe drought made clear the Chile did not control its energy resource, water for hydroelectric generation. Levels of major reservoirs reached historic lows and thermoelectric generation became crucial.[35] National

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[32] See Actas of the Eighth session of the Chamber of Deputies, 12 June 1997, pp.21-3 and p.29.

[33] Ibid, pp. 46-48; also El Mercurio 13 June 1997 C5 and La Tercera 13 June 1997, p.25.

[34] See La Tercera 13 June 1997 p. 25.

[35] An article in El Mercurio 16 August 2000 quotes unnamed experts estimating that it would take two to four more years of at least normal precipitation to fill the major reservoir Laguna del Laja to its historic levels because of the drought that lasted from 1998 until June 1999. The reservoir is just to the north of the Biobío river.

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energy supplies were dependent on exogenous events and external supplies, and could not be assured, as President Frei and others had sustained, simply by building more hydroelectric plants.

Divide and Conquer: Wearing down the Communities' Resistance to Relocation

In October 1997 at a meeting with government officials, six of seven indigenous community leaders from the Upper Bíobío indigenous communities voted against accepting the relocation.[36] Two Mapuche Pewenche of the Upper Bíobío expressed their rejection of the dam project in this way:

Antolin Curriao of Quepuca Ralco stated, "The earth is a mother for us. If the communities disappear, our tradition and our culture will disappear, and that is what we don't want." Nicolasa Quintreman of Ralco Lepoy said, "We will not leave the land, because in the land we have our own rights."[37] She added that the Mapuche families who had agreed to leave were "cheated, and signed agreements to accept lands elsewhere, but do not want the project either. They want jobs and better living conditions. All of us want that...but that has nothing to do with ENDESA or with hydroelectric projects. We want an Indigenous Development Area without hydroelectric dams and which does not keep destroying nature and dividing our communities and families."

[36] Ibid.

[37] El Mercurio 9 October 1997 C5.

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In May 1998 in the technical report of the CONAMA, forty-one persons of Ralco Lepoy and fifty-five of Quepuca Ralco rejected relocation. Months later, many of them would sign agreements to move due to coercion, fraud, and various economic incentives.[38]

Over the next two years, Nicolasa Quintreman and her sister Berta, as well as members of twelve other families continued to refuse to move. In an interview given in September 1999, Nicolasa stated, "we are not going to leave here, because the Bíobío River, the mountain, the culture, and the cemetery are ours. We don't have to leave them. We are not afraid; we are angry about this project. ENDESA came to deceive us, and found weak people who accepted working with them. They sold themselves to be cheated, without realizing it." She added, "Free water, free air, all of us live free, peacefully. This is how we Pewenche live. If ENDESA wants to help us, why do they have to shove us aside?"[39]

Another member of the Mapuche Pewenche communities, José Miguel Maripe, who had signed a contract to relocate, expressed fatalistic resignation and sadness: "Since I was born and raised in Ralco Lepoy, I don't want to go somewhere else. But since the dam project has begun, we have to move, because we can't walk under the water like crayfish...I'm seventy-one years old and my folks are all buried in the cemetery. I am sad to have to leave this land, but since ENDESA is pressuring us, we have to go." Nelson

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[38] Namuncura 1999 cites their statements on pp. 128-9. The CONAMA report is the "Informe Técnico del EIA del Proyecto "Central Hidroeléctrica Ralco" 28 May 1998.

[39] La Tercera, 12 September 1999, p. 15.

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Quintreman complained that ENDESA "always comes here telling lies, because they told us that the government had already approved the dam and that there was nothing more we could do." Francisco Calpan lamented that ENDESA "pressured us, and one has to go, that's it. Since one is ignorant...They brought us to the notary and I had to sign."[40]

Some of those who signed expressed satisfaction, believing that they would receive better land, or that the minimum wage job they now had in the construction of the dam was a significant benefit.[41] Pedro Huechucal stated that "ENDESA gave us jobs and brought us progress." Another person who accepted relocation said that the move suited him because he had more land to work.[42] Gabriel Felino Veroíza expressed satisfaction with his manual labor job in the road construction for the Ralco project. Before, he did not have enough money to pay for basic needs, such as shoes for his children. He defended the move, stating that "we are getting much more land than we had..." He denied that the move would cause him and his family to lose their culture. "[Our] culture will never disappear. Wherever we go, we will be Mapuche, even if we go to Santiago, Viña del Mar, or the United States. Those who say that we are going to lose our culture and who are against the Ralco dam are manipulated by others."[43]

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[40] El Metropolitano, 10 July 1999, pp. 10-11. These comments are taken from the interviews with the Mapuche Pewenche conducted by the CONADI officials. See also La Tercera 12 September 1999 p.15.

[41] El Metropolitano, 10 July 1999, pp.10-11 and Namuncura, 1999, pp.182-3.

[42] La Tercera, 12 September 1999, p. 15.

[43] Ibid.

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Nevertheless, of the sixty-four persons interviewed by CONADI's legal team between 13 November 1997 and 29 May 1998, forty-five stated that they could not read or write, and/or did not fully understand what they were signing. Many Pewenche had signed without wanting to, because they felt that they had no other option. Still others agreed to move on the basis of compensations offered verbally which then did not appear in the written contract, which, nevertheless, they unwittingly signed.[44]

Liberal Principles, Neoliberal Development Models, and the Evisceration of the 1993 Indigenous Law

One of the fundamental weaknesses of the indigenous law lies in the contradiction between "lands" and "territory." The 1993 indigenous law does not recognize indigenous peoples, endowed with collective rights. The law recognizes individual indigenous properties and indigenous communities but not the entire collectivity. Under the law, indigenous lands should be protected (such protection being "in the national interest" according to the text of article 13). The law allows for land trades, however, if the homes and subsistence lands are not touched, with the approval of the CONADI, which reviews the petition of each individual indigenous property owner, to ensure that there is no fraud in the exchange. In this way, the law leaves aside considerations of collective interest, such as impacts upon the community as a whole, or the protection of the rights of peoples. The review of requests for land trades focuses on the transaction of an individual owner.

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[44] Ibid, and see Namuncura, 1999, pp. 169-234, who cites the interviews textually. Also see La Tercera 8 August 1998, p. 4.

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Negative impacts on culture, due to the piecemeal splitting of indigenous communities, the loss of commons areas used for cultural rites, and the concept of the community as an integral social unit, are not expressly a concern of the revision process, which focuses on economic considerations. The full scale of the social and cultural implications are only considered to the extent that the state bureaucrats take the initiative to include them in their evaluation, and that the government authorities give these considerations hearing and weight. In the case of the conflict over the dam projects, when government officials took into account the social and cultural impacts, their negative evaluations were censored, ignored, or led the President to demand their resignation.

What the Ralco case demonstrates is that the protection of the collective rights requires a different approach from that indicated by the current law, which is based upon individual petitions and individual rights. This new approach, increasingly cited by Mapuche activists who felt their rights and interests were trampled in the Ralco approval process and in the neoliberal political economy more generally, would protect and insure the collective reproduction of the culture, not only in its material aspects but also in those activities and relationships which are by nature collective, as distinguished from individual, isolated, or non related acts or creations. Collective rights are not respected, unless political powers of the collective subjects are guaranteed.

While CONADI continued to review each request for the authorization of the land exchanges, ENDESA began construction. ENDESA supervisors actively pressured the

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people to sign petitions for the exchange of land, even as the heavy machinery that could be seen working on the road, and the existing Pangue dam itself, "spoke" eloquently that the Ralco dam was inevitable. The tactics of ENDESA recall those used by the late nineteenth- and early twentieth-century land speculators, notaries, and government officials--forcing illiterate persons to sign documents, oral promises which are not included in the written agreement, offering infirm and elderly some type of assistance in exchange for a signature of a legal document not entirely understood by the signer, overt pressure on individuals to accept relocation, and the like. Indeed, community members complained that company workers said the project was inevitable and already had government approval. Some people agreed to accept the company's offer, fearing that a refusal would mean that they would be denied any compensation.[45]

Others who had agreed to relocate later expressed their demand to be released from that agreement, explaining that they had been forced to sign. In a notarized document, they stated that "many negotiators sent by ENDESA have come to make clear to us that our ancestral presence in the Upper Bíobío is no longer sustainable, because now the government of Chile has resolved to build a great dam.... [B]ecause of our scarce resources and means of defense, we agreed to sign papers [accepting relocation].... [B]ut lawyers who have assumed our cases have convinced us that all those letters are null and void, and lack all value and effect...under the (1993) indigenous law."[46]

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[45] This had indeed happened to some families who refused to move for the first dam project, Pangue. See Johnston and Turner's summary of Downing's report and the report by the Federación Internacional de las Ligas de Derechos Humanos, (1998).

[46] La Tercera 19 May 1998 p.23

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For some, the power relationship made resistance suicidal; in the words of one Mapuche Pewenche who agreed to move, "I don't want to go, but I am not a fish."[47] In the case of another person who signed a notarized agreement to solicit a land exchange, company workers offered to take her to a doctor in the nearest town, some two hours away in a vehicle. On the way, however, she was taken to the notary where she signed a document without realizing what it meant.[48]

The Ralco hydroelectric project directly affects ninety-six Mapuche Pewenche families. Fourteen of the eighty-eight families who signed agreements to move declared afterwards that they wish to retract from those agreements, on the grounds of fraud and/or uninformed consent.[49] More than half of the sixty-four interviews conducted by the CONADI between November 1997 and May 1998 indicate that ENDESA used deception and fraud to get families to agree to move, and that many of them would prefer not to be relocated.[50] The families have denounced various types of pressure and deceit by company officials. One such case involved the rental for five years of some land of a

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[47] La Tercera 8 August 1998, p.4. See also El Metropolitano, 10 July 1999, pp. 10-11, and Namucura 1999.

[48] This case is related by Namuncura, 1999, 15. As Mapuche organizations began to make independent visits (without the CONADI) to the Mapuche Pewenche families, the families were told that they could contest the contracts, and contact was established with lawyers. Some of those who signed took the legal steps to be released from their agreements, although once signed, establishing fraud is quite difficult legally (personal comment of lawyer Rodrigo Lillo, who has defended Mapuche in a number of cases. He stated that the number of families unwilling to move was fourteen. Government officials generally give a vague number ("five or six"; "a few") that is much lower. Interviewed in Temuco by the author, April 2000.) See also the account in Namuncura 1999, 169-234, which contains statements of those who signed contracts with ENDESA. The statements make explicit the fraud.

[49] La Nación 3 and 4 July 1997.

[50] El Metropolitano, pp. 10-11, 11 July 1999. See also Namuncura 1999, 169-240, for excerpts from interviews conducted by the CONADI in its review of the petitions for transfers.

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Mapuche Pewenche, supposedly to conduct a study, but not to alter the land in any significant way. Instead of conducting a study, the construction company built a road to the site where ENDESA plans to build the dam's wall.[51]

In some cases, the money and other compensation offered by ENDESA have convinced members of these extremely poor communities to accept relocation. The construction of the Pangue dam and Ralco dams has provided unskilled, minimum wage jobs to approximately sixty-nine Mapuche Pewenche. Despite the fact that these jobs end when the construction is over, the prospect of salaries convinced some of the men to support the projects. In turn, men have pressured their wives to agree to relocation. The indigenous law requires that both husband and wife agree to land exchange in the case of family property. Frequently, however, the women members of the household continue to oppose relocation. In some cases, domestic violence has erupted as a consequence of the proposed dam project. In other cases, the violence arises among relatives or neighbors who differ over how to respond to the forces imposing the project.[52]

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[51] See Las Ultimas Noticias, 20 May 1998 p. 11. On a visit to the Upper Bíobío in August 1998, the author saw the road which at the time led to the base of the area where the dam wall is planned. This particular case was cited by the legal consultant, René Abeliuk, as a case of fraud--using a rental contract when the transaction constitutes a cession (*servidumbre*). Namuncura 1999, p. 26-38, cites Abeliuk's conclusions. He was hired by the CONADI to provide an outside legal opinion on the land transfer contracts, after CONADI's legal team found evidence of fraud.

[52] On a visit to the Upper Bíobío in early 1997, the tensions and divisions within the indigenous communities and families were evident to the members of the Committee of Natural Resources, Environment and National Patrimony of the Chamber of Deputies. See testimony in Congress of Deputy Letelier, 3 April, 1997, 57 Session, Actas and La Tercera 12 September 1999 p. 15.

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Those who have agreed to move have also brought protests against the "outsiders" who have come to the Upper Bíobío in support of the families opposed to the dam.[53] This criticism of "outsiders" as seeking their own gain, material and/or political, in the conflict over the dam projects was echoed by some of the Mapuche Pewenche. Some eventually came to accept relocation, as ENDESA offered more compensation.[54]

Those employed by ENDESA's contractors protested against the Quintreman sisters and their supporters, when construction was brought to a halt by a court ruling in September 1999.[55] The project has so divided the communities that ENDESA is not the target of the protests and complaints, but rather members of the Mapuche Pewenche communities blame each other, creating severe divisions among them. According to members of Mapuche institutions in contact with the Quintreman sisters, their Mapuche neighbors now threaten the sisters (aged 69 and 70) if they attempt to use the public bus that reaches the communities, making it essential that they be driven in a private vehicle if they need to enter or leave the area.[56]

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[53] See for example the open letter "Get out of the Upper Bíobío" published in La Tercera 7 August 1998, p.3, and the article by Pablo Solís and Mario Aravena, "Pehuenches piden en Santiago acelerar construcción de Ralco" in La Tercera 18 November 1998, p. 11 in which a group of Mapuche Pewenche deliver a letter to the Minister of Interior, deploring the delay in the approval of the land trades and the work stoppage because of the protests by those opposed. This distrust of outsiders reflects both consciousness of class and ethnic differences, and a historic memory of being victims of deceit. Those who favor the dam project tend to view outsiders who support the families opposed to the project as rich, meddling, and self-interested, rather than as altruistically motivated.

[54] One person who had first opposed relocation changed his mind, reportedly after receiving a new pickup truck, an item of great value in these isolated communities. Previously he had been able to use a vehicle of one of the environmentalists, but when he no longer had access to the vehicle, because the owner needed it, he became disenchanted and readily supported ENDESA upon receiving a new truck. Personal commentary from one of the environmentalists.

[55] See "Protestas por Despido Masivo" La Tercera 12 September 1999 p. 15.

[56] Personal commentary of one of the Mapuche professionals to the author in 1999.

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Yet despite the individualized review process of the offers of compensation, the fairness of the compensation is not the principal legal obstacle to the project. The principal legal obstacle is that Article 13 prohibits exchanges that involve the homes or subsistence lands of indigenous persons.[57] This article creates a legal conflict between the 1982 Electricity Law and the 1993 indigenous law. Similar to eminent domain, the Electricity Law argues that industrial projects for the production and transmission of energy create benefits for the entire society, and therefore should have priority over particular interests (with just compensation for relocation). The courts may have to rule on which law takes precedence, the military regime's 1982 Decree Law on Electricity or the 1993 indigenous law.[58]

These legal barriers, coupled with the fierce determination of a few families to fight the dam project, have caused various members of the government, as well as the leading members of several political parties, to consider changing the indigenous law. In the context of the controversy over other large industrial and infrastructure projects, in addition to the Bíobío hydroelectric projects, the CONADI had proven to be ineffective in channeling demands or controlling protests. "Law and order" took priority over the

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[57] This point has been passed over, despite the explicit wording of the indigenous law. In fact, not even exchanges are allowed when they involve the homes and subsistence lands of indigeous persons. Article 13: "The lands referred to in the preceeding article, by requirements of national interest, will enjoy the protection of this law and can not be alienated, impounded, taxed, nor adquired by legal order, except between indigenous communities or persons of the same ethnie. Nevertheless, they may be exchanged with the authorization of the Corporation of Indigenous Development. This exchange can not include the home of an indigenous family or the land needed for the family's subsistence." This was noted, however, by then national director of the CONADI, Mauricio Huenchulaf, when he announced the CONADI's decision to recommend that the CONAMA reject the environmental impact statement submitted by ENDESA. See news article in El Mercurio, 1 April, 1997. Deputy Juan Pablo Letelier also noted the clause in his testimony in Congress on June 12 1997, op cit., pp.7-8.

[58] This law is the military regime's Decree Law n° 1 of 1982, "Ley General de Servicios Eléctricos" of the Mining Code.

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1993 indigenous law. Claudio Huepe, then Secretary General of the Government, stated that "it is necessary to evaluate the indigenous law and the CONADI, whose function has been distorted. The objective of the CONADI is to act as a development agency, not as the representation of the indigenous world."[59]

The 1993 indigenous law had become an embarrassment to the Concertación government. The President deemed it necessary to thwart it and to stack the votes of the CONADI national council. Government spokespersons and ENDESA launched a media campaign stressing the importance of the dam project for the "common good and development of the country." They emphasized that only a few families refuse to move or were not satisfied with proposed compensations. Legal advisors of the Concertación also prepared for an eventual court battle that would pit the 1982 electricity decree law against the 1993 indigenous law. In the opinion of some, the 1993 indigenous law is not constitutional.

The Campaign to Discredit Opponents of the Ralco Dam

Given the extreme poverty, years of isolation, and weak internal organization of the Mapuche Pewenche communities of the Upper Bíobío, perhaps neither company executives nor government authorities anticipated such firm opposition from the communities, and that they discounted the staying power of support from other sectors of Mapuche society, environmentalists, and others. One tactic of supporters of the dam has

[59] El Diario Austral 1 April 1999, A23.

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been to emphasize the number of families who have accepted moving, versus the number who refuse.

Numerous government officials have objected that "a few families" cannot stop a large investment project "necessary for the country's development." While the declaration of President Frei during the inauguration of Pangue is the most obvious and politically important, occurring as it did before the first approval of the government environmental agency, other government officials have made similar statements. In 1992, then president of the national energy commission Jaime Toha declared that the government did not have the right to stop such projects as Pangue.[60] He also asserted that the Pangue dam would not cause environmental damage.[61]

In 1998, the executive secretary of the national energy commission, María Isabel González, stated that Ralco could not be paralyzed because of the opposition of five or six families.[62] Then head of the Christian Democratic Party and Minister of Interior under President Aylwin, Enrique Krauss declared that "Man is not at the service of the Environment, but rather Nature is to serve Man," thus discrediting environmentalists' objections to the Concertación's economic policies.[63] Martín Zilic, then head of the regional government of the Eighth Region, where the dam projects are to be constructed,

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[60] El Diario Austral, Temuco 15 November 1992, A5.

[61] El Diario Austral, 18 December 1992, A5.

[62] El Mercurio, 1 October 1998.

[63] Radio Bío Bío news broadcast 22 July 1997. "El hombre no está al servicio del medio ambiente, sino la naturaleza al hombre."

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emphasized the numbers as well: "Of the 91 families, 84 have accepted relocation. Of those 84, 81 of the contracts are clearly legal [....] The President of the Republic has been very clear in stating that the Ralco project has to be built, and we also believe that, but without trampling on the persons who live there. [....] In this region we are on the side of the Pewenches, but that does not mean that I have to accept that, because seven families refuse, we can not have a dam such as Ralco."[64]

By this time, the Mapuche movement was suffering from divisions caused by differences between organizations linked to the Concertación parties and those that were not. Within this basic dividing line, there were also divisions within each group over strategy and tactics to oppose the dam project. Some of those who had expressed their opposition to the project worked in not-for-profit institutions with grant contracts requiring them to carry out development projects in specific Mapuche communities by specific dates. Time taken to visit the Upper Bíobío families and give them support was time sacrificed from their other, contractual, responsibilities. Finally, by this time the Mapuche Pewenche families were themselves so divided that intervention to express solidarity could not heal these divisions. The Mapuche Pewenche communities lacked the strong, legitimated internal leaders needed for a united stance against the government and the energy company. The families who continued to oppose the dam project engaged the sympathies of many Mapuche from other areas, as well as Chileans and foreigners, but they could not muster more support from their neighbors, who were overcome by the efforts of ENDESA to gain agreements to relocation.

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[64] Intendente Martin Zilic is quoted in La Tercera, 7 August 1998, p. 4, "Creemos que Ralco se tiene que hacer."

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CONADI Beheaded Again: The Procrustean Bed of Neoliberal Priorities

Faced with pressures from the government, the CONADI officials tried a delaying tactic, postponing an official pronouncement on the grounds that all the petitions for land exchange had not been reviewed, and that studies of the quality of the land offered by ENDESA had not been completed. After the firing of Mauricio Huenchulaf, the Mapuche national director of the CONADI in April 1997, this was essentially the tactic of the next national director, Domingo Namuncura, also a Mapuche. After the dismissal of Huenchulaf, however, this delaying tactic served the government's strategy of wearing down the opposition. During this period, ENDESA continued construction. CONADI's long drawn-out process to review the offers of compensation simply postponed—or avoided—a potential legal challenge by CONADI to the dam project. As time went on, the government hoped all the families would accept relocation, and thus resolve the conflict. As construction proceeded and more of the dam was completed, contesting the dam would become a moot question.

Namuncura continued in his post as head of the CONADI for a year, until he, too, informed the Ministry of Planning that he could not approve the land exchanges, and that the vote of the national council of the CONADI would be against the dam project.[65] In

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[65] The national council of the CONADI votes to approve or not the requests for land transfers, but not on the industrial project itself. The national council thus does not vote on the main issue. The attention to legal formalism in the interpretation of the law is yet another indication of the subordination of the CONADI functionaries to political goals of the state.

The officials could have chosen to emphasize the recognition of the legitimacy of cultural differences and the "state and societal duty" (Article 1 of the 1993 indigenous law) to promote indigenous development. This would have required an energetic defense not only of individual victims of fraud, but

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his reasons for refusing to approve the requests for land exchange, Namuncura declared that these petitions presented deficiencies both in terms of legal requirements and more profound substantive negative consequences. The formal deficiencies concerned the pressure exerted by ENDESA to obtain consent, which included deception and overt pressure of *fait accompli*, while the substantive problems concerned the enormous, deleterious impact that the project would have over the Mapuche Pewenche form of life, identity, cultural roots, and worldview.[66]

Informed of the refusal of the national director to approve the exchanges, President Frei demanded his resignation (August, 1998). Two days before, Frei had asked two other (non-indigenous, government appointed) members of the national council of the CONADI to resign because of their publicly expressed opposition to the

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also of the Mapuche Pewenche families who refuse to move, rather than letting events accumulate until the "sunk investment" in the construction of the project makes it appear impossible to stop.

The law's recognition of cultural diversity and a need to "protect, promote and defend indigenous development" (Article 1) makes no sense unless there is a formal, legal recognition of a substantive difference in development from the cultural perspective of a specific indigenous people compared to that pursued by the Chilean state. The implementation of the law could stress this recognition of a legitimate difference and even argue that the recognition of a legitimate difference requires assuring that internal capacities (material, political etc.) of indigenous peoples are such as to allow them to pursue development according to their own cultural perspective. Indeed, as Mapuche organizations, institutions and communities pointed out in a public declaration using the text of the law, the defense of indigenous lands is "in the interests of the nation" (Article 13, cited in declaration printed in El Diario Austral 24 March 1997 A8). The judicial staff of the CONADI can--and is-- directed to defend indigenous persons when involved in title disputes, but the institution itself has not acted as an "advocate" of indigenous peoples in the conflicts with private interests and the state over industrial projects.

[66] In an interview following his resignation, Namuncura stated that he replied to the subsecretary of Mideplan that he could not approve the petitions, because the legal report of the CONADI was emphatically negative, and that he would not accept the land exchanges because they suffered from problems of form and substance...concretely, the contracts soliciting the exchanges do not come from the express will of the pewenches, but rather from the imposition of a project which gives no alternative to these ethnies. And this we confirmed in a series of interviews with the indigenous, who gave revealing replies (such as) "I have no alternative, they are going to inundate me; I'm not a fish" When asked if he wanted to move, the answer was direct: "No, but I have to." See La Tercera, 8 August, 1998 p.4. See also Namuncura, 1999.

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Ralco dam project.[67] President Frei dismissed these members of the CONADI national council to guarantee a favorable vote on the land exchanges. In the event that the indigenous members of the CONADI national council refused to attend the meeting to vote on the requests for relocation, as they initially threatened after the removal of Namuncura, the new (non-indigenous, Socialist Party member) national director of the CONADI, Rodrigo González, asserted that their attendance was not necessary, and that there would be a sufficient quorum for a legal vote.

The focus on the vote regarding the land exchanges, however, adroitly sidesteps the real legal barrier to the Ralco project, namely, the refusal of any Mapuche Pewenche to move. By emphasizing the government manipulation of the CONADI, indigenous members of the CONADI national council and some of the Mapuche organizations subtly shifted the protest to matters of formal participation in policy-making in matters in which policy is dictated, not debated. This shift obscures the issue of the protection of indigenous lands, as recognized by Article 13 of the 1993 indigenous law, and that of collective rights. The indigenous members of the CONADI national council stressed the issue of fair compensation, tacitly accepting the project itself as a *fait accompli*, rather than giving defending the strongest clause of the indigenous law and the rights of those who refused to move.

After President Frei fired Domingo Namuncura in August 1998, some time passed before a new national director could be appointed. Given the controversy over the dam project and the firing of two previous directors, the President had difficulty finding a new

[67] El Diario Austral 30 July 1998 A6 and 31 July 1998 A24.

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indigenous director. The PPD, which had been the party of the previous directors, also objected, but the position had to be filled by a member of one of the leftist parties, rather than the Christian Democrats, because of the system of partisan quotas used by the Concertación to fill top government posts.[68] The President finally appointed a non-indigenous, Socialist Party member, lawyer Rodrigo González, to be the new CONADI national director over the national holiday weekend (September 18, 1998) to avoid publicity and protests. Some Mapuche members of the national council objected to the appointment, as well as some of the Mapuche organizations, but they emphasized the fact that González was not indigenous more than the reasons behind Namuncura's dismissal.[69] Unlike the protests against the firing of the first national director, this time only a few of the Mapuche organizations actively protested by barring the entrance to the national office, taking over the Socialist Party headquarters in Santiago for a day, and issuing statements at press conferences.

In an attempt to discredit the support of environmentalist allies of the Mapuche Pewenche families, the new CONADI national director, Rodrigo González, declared that he was "against ecologists...who were a minority and gave no alternative for development" and that he would talk to the indigenous peoples and their leaders[70] rather than the environmentalists. The criticism launched against the environmentalists merely highlights the government's priorities with respect to sustainable development, and its

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[68] Personal commentaries to the author.

[69] See news reports of 17, 18, 19 September 1998.

[70] See La Tercera, 17 Sept. 1998, p.2 González makes similar statements in the article by Claudia Andrea Sánchez, "Nuevo director de CONADI contra ecologistas" in La Tercera 22 September 1998 p. 2.

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willingness to override environmental considerations and legal procedures meant to protect the environment. In addition, it also indicates a consistent effort by the top government officials to discredit allies of the Mapuche Pewenche families who refuse to move. In effect, government spokesmen characterized as illegitimate outsiders any groups who expressed solidarity with the families who refused to move. Coupled with efforts to convince the families to accept relocation, government officials and representatives of ENDESA denounced the allies of those opposed to the project as manipulators pursuing their own "political" agendas.[71]

Maintaining the facade of legality was politically valuable to the Concertación government because the government did not want to appear to undermine its own laws. The indigenous policy reform, from the government's perspective, had to adjust to neoliberal development objectives. Thus the CONADI vote on the land exchanges was delayed until further reports could argue fair compensation, and, for good measure, a new interpretation of the indigenous law. Three more internal government studies served these aims.

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[71] Ibid; also see El Mercurio 8 May 2000 "Investigación Policial: Estrategia con Apoyo Externo en Crisis Ralco" A1, 12 and the editorial of El Mercurio 13 May 2000 "Problemas en Ralco" which complains about foreigners giving support to the families opposed to the Ralco project. The most egregious example was the attempt by the Ministry of Interior to expell two foreigners who were present at a demonstration in the Upper Bíobío in February 1999. Police responded to the peaceful roadblock with tear gas, detaining twenty-five persons, charging the elderly Quintreman sisters with physically obstructing the police action (maltrato de obra de Carabineros, which is an offense treated in the military courts; the connotation includes the concept of physical attacks on police), in addition to ordering the expulsion of the foreigners, which was contested in the courts. Seventeen people were injured (eight were police). The Supreme Court rejected the order of expulsion as unfounded. See press reports of 19 and 20 February 1999, El Sur 8 March 1999 and La Tercera 18 March 1999, p.8.

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The Ministry of Planning (MIDEPLAN) ordered a report on the sociocultural situation, which concluded that the Mapuche Pewenche communities were internally divided, and stated that those who had agreed to move were "psychologically" committed, considering the move "irreversible."[72] The CONADI ordered a new legal analysis of article 13 of the 1993 indigenous law. This report argued that the national director of the CONADI, by himself, could authorize the land trades in his role as representative of the CONADI in administrative acts.[73] The votes of the national council of the CONADI in this perspective became superfluous. The legal report also contended that the evaluation of the land exchanges should only consider the commercial value of the property. The intractable question of cultural value was not to be a deciding factor. Finally, MIDEPLAN and CONADI ordered a study done on the prospects for "ethnodevelopment" and requested that the Ministry of Agriculture form a joint technical committee with MIDEPLAN to evaluate the three properties proposed as compensation. The technical report the concluded that the exchanges were advantageous to the Mapuche Pewenche families.[74]

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[72] The study was undertaken during September and October of 1998, and titled "Informe de Impacto Cultural para el Análisis de las solicitudes de Permutas de las Comunidades Pehuenche de Quepuca Ralco y Ralco Lepoy." See Namuncura 1999, 323-328.

[73] "Informe Jurídico: Doctrina de interpretación del Artículo 13, inciso 4°, de la Ley 19.253," República de Chile, Ministerio de Planificación, CONADI, December 1998, cited in Namuncura 1999, 328-329.

[74] Namuncura 1999, 330-332.

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Laying Siege to Rights: The Government Proposes "Dialogue"

In response to the firing of Namuncura and the two council members, and the threat of a CONADI approval of the Ralco dam, a large number of organizations supporting the families who refused to move gathered in the Upper Bíobío and blocked the access road in August, 1998.[75] This was the first time that construction was halted.[76] In a rainy pre-dawn confrontation, Mapuche Pewenche families opposed to the dam, and their supporters, halted the advance of construction equipment and buses with workers, escorted by police. Confronted with a couple of burning tires as barricades, the defiant beating on the traditional drum of the Mapuche (*kultrun*, used by the shaman, or *machi*), and the aggressive words of Mapuche supporters, as well as the intransigence of elderly Mapuche Pewenche, the police and company workers chose to retreat.[77]

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[75] There was also a mass demonstration during a drenching rainstorm in Temuco, a march of some 1,500 people in Santiago, a spontaneous march of men, women and children on foot, from Santiago to the Congress in Valparaíso (some 120 kilometers); occupations of the CONADI offices in Osorno, in the Tenth Region, and solidarity demonstrations in northern Chile by Aymaras and Atacameños. See press reports of August 5, 6, and 7, 1998.

[76] Construction was also halted for a few weeks in September 1999 by court order, as the Sixth Court of Santiago ruled that the construction consisted of major parts of the project, and not preliminary works, as authorized by CONAMA. A few weeks later, an appeal by ENDESA and the Concertación government overturned the lower court ruling and construction continued. In March, 2000, ENDESA halted construction as it waited for final authorization from the outgoing Frei administration. Then President Frei signed the last authorization on the last day of his government. In the first days of the third adminstration of the Concertación, under President Ricardo Lagos (PPD), the Controlaría approved this last authorization.

[77] Press accounts of the protest can be found in La Tercera, 1998, p.2 and 4 August 1998, p.6, 6 August 1998 pp.4-5; La Tercera, 7 August 1998, pp.2-4 and 6;La Tercera, 8 August, 1998, p.2 and p.4; La Tercera, 10 August, 1998, p.2-3; El Diario Austral, 2 August 1998, p. B5 and 6 August 1998, A12, A23 and B3; 7 August 1998, B4, A6;El Mercurio 5 August 1998 C7. There was also coverage by Chilean national television and news reports and communiqués carried on Internet by various news services and specialized web pages.

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The considerable social pressure, wide publicity by national and international media, and a degree of uncertainty about the strength of the movement opposed to the dam project made the Concertación officials and ENDESA adopt a "siege" strategy,[78] playing for time: They encouraged meetings for "conversation" between government officials and the indigenous families, ENDESA temporarily ceased preliminary construction, and the government sent in more officials to seek information about how to "improve" compensations, dispatched intelligence officials to monitor protest activities, and waited for the energies of the supporters to wane as time dragged on.

In a further effort to divide and isolate the families opposed to relocation, the government initiated conversations with the Mapuche Pewenche communities who would be indirectly affected, offering them material compensation. After several weeks, construction quietly began again, while the communities continued to be divided, feeling pressured even more to accept transfer, and media coverage died down. The presence of Mapuche and non-Mapuche supporters also dwindled, as work, classes, or other responsibilities called them back. The symbolic resonance of the Bíobío and the bravery

[78] Another indication of the coincidence of the interests of the government and of ENDESA, in this case, and of the transnational logging companies, to be discussed later, is the use of state intelligence officials to investigate the protest movements, Mapuche organizations, and non-Mapuche allies. Police road blocks are set up in areas of conflict, to check credentials and control movements. Police officials decide who enters or leaves a particular area. Undercover agents sometimes accompany media reporters, or approach indigenous communities under the guise of "students" or supporters of the protest movement. (One such agent visited the Upper Bíobío a few days after the takeover of the bridge, in August 1998, and was recognized by a Mapuche who had seen him before, and told the people present after the "student" left that he recognized the visitor as an agent; the author was present). In 1999, Mapuche organizations presented lawsuits claiming that former, or current government intelligence officials work with the companies to gather information about those involved in protests, both against the logging companies and the Ralco project, and to implicate Mapuche organizations in criminal acts. See La Tercera 22 July 1999, p. 10; 23 July 1999, p. 11; and 25 July 1999, p. 17

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of the families who continue to oppose the dam, however, periodically sparks mass demonstrations of support.

In public declarations, the appointed governor of the province where the dam project is to be built stated that Ralco is necessary, but that its effects should be mitigated, especially with regard to the situation of the Mapuche Pewenche families.[79] By this expression of concern, the governor called for humane and just compensations from ENDESA to the families.

When the opposition to the dam became more militant, including the blocking of the road through the communities to the construction site (August 1998), the governor called for an end to the conflict and conversations to find a solution. The solution, according to the governor, and echoed in September 1998 by the new director of the CONADI, would involve better compensations. Sharing the neoliberal perspective of other government officials, (except those who were forced to resign) however, he did not include among the terms to be negotiated the recognition of the rights of the families to refuse to move. As has occurred in the conflicts between Mapuche communities and logging companies, the call for "dialogue" invites the indigenous to conversations whose terms are set by the state, not to a negotiation that involves a willingness to consider indigenous demands for collective rights.

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[79] La Tercera 20 May 1998. The governor, Juan Carlos Coronata, declared himself a "humanist, not an ecologist", and said that "man is the most important component of the environment." With respect to the relocation plan, Coronata declared that "we hope for a humane and just treatment for the families who...today, for reasons of progress, development and economic growth, under many modern arguments, are obliged to abandon their home." (ibid) The reader is reminded that regional government executives and provincial governors are appointed by the President of the Republic. Also, the Eighth Region is called the Region of the Bíobío, and within the Eighth Region, there are four provinces, one of which is the province of the Bíobío.

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The announced "boycott" by the indigenous members of the national council of the CONADI, immediately after the dismissal of Namuncura and the appointment of Rodrigo González as its new national director of the CONADI, failed to deter the CONADI from voting on the land trades. In January of 1999, the first set of requests for land exchanges were approved with a minimum quorum, which included the national director and the government-appointed members. Mapuche council members did not attend, and some days later one presented a lawsuit in an effort to annul the approval. The CONADI stipulated additional measures of compensation in some cases, but eventually approved all the exchanges that had been submitted.

Even though interviews conducted by officials of the CONADI indicated fraudulent procedures and lack of free, informed consent by many of the families, and despite the fact that internal and external lawyers concluded that ENDESA had violated the indigenous law, the CONADI, once purged of its members who insisted on the rights written into the indigenous law, did not pursue legal action against ENDESA. Rather than defend the indigenous law, or the rights of the Mapuche Pewenche, the CONADI has attempted to carry out government policies that give priority to the interests of transnational corporations. After the president had declared his position, therefore, all of the institutional safeguards were overridden.

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Partisan Loyalties versus Indigenous Participation: The Concertación and the Limits to Reform

By approving the land exchanges, the CONADI revealed itself to be unequivocally an agency of the *state* in cases where state priorities clashed with the interests and rights of the indigenous peoples. Any gesture of political independence by CONADI officials received disciplinary action from the state. The heralded "Agreement of Nueva Imperial" signed by then presidential candidate Patricio Aylwin had committed the Concertación to promote a new relationship between the indigenous peoples and the Chilean state, on the basis of respect for the rights of indigenous peoples. In return, Mapuche organizations had agreed to make demands through institutional channels. After the firing of Namuncura, calls for a new agreement, which *would* guarantee indigenous rights, were made by nearly all sectors of the Mapuche movement. The "Agreement of Nueva Imperial" between Mapuche organizations and the Concertación, however, simply could not be defended. It had ceased to exist.

The acquiescence of the indigenous members of the national council of the CONADI to the blatant violations of the indigenous law and collective rights can be explained by their partisan allegiances. They are recognized loyal members of political parties (the Socialist Party; the Party for Democracy, PPD; and the Christian Democratic Party). Some had been leading Mapuche activists who had bravely defended indigenous rights against the military dictatorship. Since the creation of the CONADI, however, they have become state functionaries, who accept the government's agenda and its

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consequences even when it is obviously detrimental to the collective rights of indigenous peoples.

Namuncura, himself, for example, described the assessment of the conflict by the political parties of the Concertación as a "problem of the state" that required a legal solution allowing the project to go forward, without seeming to eliminate the indigenous law. The Concertación government's imposed neoliberal development projects, not, primarily, because of the political prerogatives enjoyed by the Right or the military, but because the Center-Left party coalition accepted those neoliberal priorities concerning development. Party militants, then, might express privately their reservations, while publicly, as a matter of policy, they gave support to the project.[80]

The political parties of the governing Concertación never questioned the project itself. Relatively late in the conflict over Ralco (April 1997), the Socialist Party made a public declaration which neither rejected nor approved the project, but called for a decision that would serve the goal of social welfare, arrived at on the basis of "technical" criteria, rather than based on prejudice and dogmatic beliefs. The fact that later, after the dismissal of two directors who refused to support the land transfers, a Socialist Party activist assumed the position of national director of the CONADI and ratified the transfers, indicates the Socialist Party's unambiguous support of the neoliberal development model and the government's policies with respect to Ralco. The Party for Democracy (PPD) made a public declaration (May 1997) expressing concern that the

[80] Namuncura (PPD), 1999, 274-282.

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controversy might have to be settled in the courts, evidently fearing that the indigenous law would be overruled, and recommending piously that environmental policy and indigenous policy should be better coordinated so that economic growth would not damage the environment, nor environmental considerations inhibit investment and development. Again, the position of this leftist party makes clear its support for the dam project.[81]

The political parties exert control over their indigenous militants who have chosen to become members of the state "establishment," so that their criticisms of state policies, when they occur, are transitory. The protests of these indigenous members of the CONADI national council, and of some other indigenous movement activists who are loyal members of political parties, have emphasized the violation of *some* of the legal procedures, but not all—not, for example, the violation of Article 13 of the 1993 indigenous law which directly challenges the power of large national and transnational corporations to impose their private sector industrial projects on indigenous persons and communities in the name of national interest.

The tactic of "working within the system" has not yielded fruits for Chile's indigenous peoples, other than to make clear the ineffectiveness and powerlessness of state functionaries, indigenous or non-indigenous, to oppose the overall state policy when it denies the collective rights of indigenous peoples. Thus, after the firing of the second national director of the CONADI, these indigenous party militants decried the dismissal,

[81] Namuncura quotes the party declarations, (1999), p. 274-5.

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and the appointment of a non-indigenous person as head of the CONADI, rather than defending the position of the Mapuche Pewenche families of the Upper Bíobío who refused to move.

The emphasis on formal, rather than substantive, criticisms, diverts attention from the heart of the issue--the violation of the protection of indigenous lands under Article 13 of the 1993 indigenous law by powerful private sector actors. The Concertación's continued support of these actors upholds this specific case of the violation of the collective rights of indigenous peoples. By not emphasizing the objection to the Ralco dam project, these indigenous leaders tacitly accepted the project, the violations of the rights of the families and, in consequence, the violation of the institutional rules (the indigenous law) they purported to uphold. Those same Mapuche members of the CONADI national council who had decried the approval of the land exchanges, eventually returned to the council sessions, and ran for reelection.[82]

The protection of indigenous lands under Article 13 proved vulnerable in a context of the Concertación's ideological support for neoliberal development. The entire indigenous policy reform embodied in the 1993 law, however, is vulnerable to further trespass, because the reform is subordinated to the constitutional principles of a unitary

[82] The indigenous council members of the CONADI are elected by the legally established indigenous communities and associations (the latter accomodates urban residing indigenous people) for four year terms. The election is not direct. The President chooses which indigenous persons will be on the CONADI council from among the top runners. The CONADI council elections have not aroused much interest. Of the 83, 350 indigenous persons in Chile eligible to vote, only 22,430 participated in the November 19, 1999 CONADI election (15,994 from the traditional Mapuche regions). In the first such election in May 1995, approximately 28,000 indigenous persons participated. José Aylwin 2000, citing El Metropolitano, 21 November, 1999 and the CONADI publication, Pueblos Indígenas: Nueva Era, Año 1, n° 2, p.2.

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state and a homogeneous nation. The current demands of the Mapuche movement for collective rights reject the notion of a homogeneous nation as in itself a violation of their collective right of self-affirmation as peoples.[83] These demands also directly challenge the premise that there is only one viable development path—the neoliberal one.

Concertación government officials have used the CONADI to implement state development priorities that sacrifice indigenous rights. Even when conscientious professionals document grievances and patterns of injury to legally recognized rights, the CONADI lacks the political autonomy necessary for defending the interests and rights of the affected indigenous persons. That political autonomy makes public regulatory agencies instruments of popular, democratic oversight and participation. Without such institutional autonomy, public agencies that are legally endowed with regulatory powers are politically subordinated to the development priorities of the government and the transnational and national conglomerates.

The support for state policies by former leaders of the Mapuche movement, can be understood by recalling the influence of partisan affiliations among many indigenous movement leaders and activists. The inability of the Mapuche movement to stop the division of the communities, or to interpret the concerns and demands of its peasant base for land security, in the face of the military regime's power to impose subdivision of the

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[83] José A. de Obieta Chalbaud, El derecho de autodeterminación de los pueblos. Un estudio interdisciplinario de derechos humanos (Bilbao: Universidad de Deusto, 1980/ Madrid : Editorial Tecnos, 1989); Pierre Maugue, Contra el Estado-Nación (Madrid: De la Torre, 1981); Víctor Naguil, "Desarrollo Mapuche y Derecho de Autodeterminación" Liwen, no. 4 (June 1997): 8 - 35 (Temuco: Centro de Estudios y Documentación Mapuche Liwen); Víctor Toledo, "Derechos y Territorios: Bases para las políticas públicas y ciudadanía del Pueblo Mapuche" (ms.) Temuco, August 1998.

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Mapuche lands, led to the many political divisions. The divisions, along with the military regime's tactic of responding to some concrete needs and making threats, eroded the grassroots support for the Mapuche organizations.[84] These former leaders, and their organizations, no longer exert significant influence within the Mapuche movement, among activists, nor among the different key sectors of Mapuche society--rural communities, urban organizations, university students, or other sectors.

The political passivity of the Mapuche political organizations and leaders tied to the Concertación contrasts with the emergence of new organizations that emphasize their independence from the Concertación parties and government. In the case of the conflict over the Bíobío projects, however, the Concertación government and ENDESA preempted efforts to generate strong locally rooted opposition to the dam. The continued opposition stems not from established activists within Chile's revived party system, but rather from a principled stand of a core group of families and the solidarity of external groups.

This weakening of Mapuche political organizations linked to the Concertación parties brings to light the question of the quality of democracy raised by Roberts (1998). Traditionally strong links between social movements and political parties in Chile yielded significant reforms.[85] The ideological hegemony of neoliberalism within the parties of the

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[84] José Marimán, "Transición a la Democracia. ¿nuevo ciclo reivindicativo mapuche?" (Temuco: Centro de Estudios y Documentación Mapuche Liwen, 1994).

[85] J.S. Valenzuela, Democratización Vía Reforma: La Expansión del Sufragio en Chile (Buenos Aires, Argentina: Ediciones del IDES, 1985); idem, "Democratic Consolidation in Post-Transitional Settings: Notions, Processes, and Facilitating Conditions" Working Paper no. 150 (Notre Dame, Indiana: Kellogg Institute, University of Notre Dame, December, 1990).

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Concertación means that such links do not easily translate into substantive policy reforms that run counter to neoliberal policies and norms.

Indeed, the political process has failed the Mapuche as a people, despite the presence of Mapuche activists in the parties, in government offices, and in movement organizations. While the Concertación has attempted to use Mapuche organizations and the CONADI to construct clientelistic ties, or at least to undermine organizing efforts of the independent Mapuche organizations that have emerged since the mid 1980s, it has not succeeded in creating strong grassroots support, nor a "tame" or "loyal" social base. The election results, for example, of Mapuche candidates to municipal or parliamentary posts, with very few exceptions to date, indicate that neither the candidates as individuals, nor the organizations and parties they represent, nor their ethnic identity, elicit much electoral support even in the electoral districts with a high percentage of Mapuche population.[86] Efforts to construct clientelistic ties are undermined, moreover, by neoliberal policies limiting government social spending and favoring programs for small entrepreneurs. More concrete benefits, such as distribution of land, are restricted by the CONADI's limited budget and rising prices in the rural land market. Those Mapuche organizations that are independent of the Concertación or Rightist parties, however, also have narrow social bases of support.

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[86] See Pedro Marimán 1990, for this point. The municipal government elections of 2000 represent a change. Two Mapuche, both allied with the Concertación, were elected mayor in municipalities of the Ninth Region, and several Mapuche, also allied with the Concertación, were elected to municipal councils. Two Mapuche who were backed by rightist parties were elected to municipal councils in the Ninth Region. None of the Mapuche who ran on the Communist party ticket, or those running as independents, were elected to a local government post. Adolfo Millabur, Mapuche mayor of Tirúa in the Eighth Region, running as independent on the Socialist party ticket, was elected to a third term.

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At the same time, the public, political position of government officials and the declarations of the government parties, make it evident that the parties do not provide a channel of representation for indigenous peoples as collective holders of rights. The Concertación's acceptance of cultural diversity still places indigenous peoples in a situation of political subordination, because the Concertación party elites, as well as the Right, consider indigenous peoples to be part of the Chilean nation, not distinctive peoples. The issue of collective rights and cultural diversity is rejected outright by the right wing parties, the armed forces, and continually attacked in conservative media.[87]

In the center left Concertación also, demands for collective rights and recognition of a multinational society are perceived as dangerous. The Socialist Party leader, Camilo Escalona, speaking to a diverse group of Mapuche professionals in Mapuche nongovernmental organizations, academics, some members of parties and others not, asserted that:

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[87] A survey of articles in El Mercurio, La Tercera, El Diario Austral, La Estrategia give repeated examples of right-wing interpretation of events as well as conservative editorial commentary. See, for a few examples, 4 April 1998, El Mercurio, editorial "Acuerdo con Mapuches" criticizing a government agreement with Mapuche communities who had staged a land take over; 24 May, 1999 Editorial in El Mercurio which argues that the Concertación has erred in its indigenous policies from the beginning, and claiming that the Mapuche movement threatens "national unity" (i.e., is separatist)—explicitly criticizing a proposal to establish ethnically recognized territories in the coastal province of Arauco, Eighth Region; El Diario Austral, 11 May 1998, which summarized a report written in 1993 by an army officer, in which the Mapuche conflict is labeled a risk to national security and criticizes legislation protecting indigenous lands; opinions of right wing senator for the Ninth Region, Sergio Diez in El Diario Austral 19 August 1999, in which he criticizes "positive discrimination", the indigenous law, and characterizes the Mapuche culture as irrelevant to modern times; El Mercurio 20 August 1999, in which logging company executive expresses concern that Mapuche protests are discouraging investment, and national director of the CONADI, Rodrigo González characterizes the more militant Mapuche organizations as not representative of most Mapuche; La Estrategia, 7 August 1998 editorializes that the CONADI constitutes an obstacle to the interests of the Executive branch and on 10 August 1998, the same journal argues that the opposition to Ralco is detrimental to the progress of the country.

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> Chilean society is founded upon a model of national security as that of a homogeneous society and a unitary state. Some sectors of society [environmentalists, women's organizations, indigenous organizations] have put forth an alternative model, a "cultural" one, which questions the national security model. To the extent that we [the Concertación, progressive political elite] begin to defeat the national security model, the Mapuche people will have more possibilities. But at the present time, the National Security State is reacting, the Armed Forces, and the judicial powers are reacting. At some moment, [they] may not allow the cultural model to be projected. If the Mapuche movement does not have alliances with intellectuals, with the more progressive political sectors, the struggle will be difficult. [....] This state that we have now is not so bad...just a little while ago we had a different state, a worse one, which wanted to exterminate....[88]

For Escalona, as for many other members of the political leadership of the Concertación, as well as the Right and the military, any demands for collective rights, such as a respect for territory, for control over the natural resources in indigenous lands, or the right to impede a large investment project risked "stability" of the democratic regime. In order to avoid reaction by authoritarian sectors, according to this perspective, the Mapuche movement should work in alliance with the "progressive" political sectors, and let those political allies determine the scope and pace of indigenous demands.

The Concertación had apparently recognized cultural diversity, as well as conservation of the environment, as positive values in the new indigenous and environmental laws. In its implementation of these laws and of development policy, however, the Concertación has construed the protection of indigenous communities offered under the law an obstacle to economic growth and, therefore, to the welfare of the

[88] Camilo Escalona's comments were related to the author by one of the Mapuche invited to the meeting which took place in June, 2000 in Santiago.

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country as a whole. The Concertación government, just as the Right, perceived the conflict over Ralco not as a struggle to gain recognition of certain basic rights of peoples, but as a threat to the prosperity and security of the nation. Indigenous demands are considered sectorial claims, not inalienable collective rights, and, as demands of a sector of society, they are subordinated to what is construed by political elites as the "common good."

This situation puts the Mapuche movement in a position in which the historical channel of political demands, the parties, do not act as intermediaries articulating their complaints in public arenas. As a result of these experiences, the dynamics of the contradictions between the Concertación's promises of reform and its commitment to neoliberal growth have helped promote the renewal of the Mapuche movement, discussed in the following case study.

The protests, in particular the demonstration of resolve by poor indigenous communities confronted with powerful transnational corporations backed up by the executive branch, have also led to a degree of questioning within Chilean society of the notion of a homogeneous nation and the inevitable, supposedly beneficial, effects of cultural assimilation. This questioning is only occasionally apparent, as the media give much more prominence to the conservative perspective.[89] In particular, university

[89] A notable exception was the publication in El Mercurio of a series of letters criticizing an opinion piece by the conservative Chilean historian Sergio Villalobos. See Villalobos' letter on May 14, 2000; Daniel Salcedo's reply on 31 May 2000; Villalobos' response on June 9, 2000; the contribution of Rolf Foerster and Jorge Iván Vergara on 26 August, 2000; and Villalobos' response on September 3, 20000. Other contributions by José Marimán and Marcos Valdés to the debate were posted by the Fundación Rehue (xs4all.nl/~rehue) on the internet.

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students express a readiness to acknowledge cultural diversity in private conversations, and at times, large numbers of non-indigenous university students participated in demonstrations against the Ralco project. For that matter, the youth sections of the left leaning parties have criticized the Ralco project.[90] An opinion poll asking also indicates that perhaps Chilean society is much less resistant to the recognition of collective rights than are the political or economic elites. [91]

ENDESA has used CONADI approval of the land exchanges to begin the relocation of the families, regardless of their desires to be released from the contracts or to protest unfulfilled promises. The approval of these requests, however, does not resolve the situation of the families who refuse to be moved, and who continue to demand their right to stay. Their situation, however, has been downplayed. Government officials no longer refer to those who refuse to move, having focused on the process of approving the requests for relocation. Unless there is some type of protest, the media ignore these families.

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[90] See Namuncura 1999.

[91] See La Tercera, 18 April 1999, p. 18. The survey was conducted by the Fundación Futuro. It found that 87.5% of those surveyed thought that the lands claimed by the Mapuche now in the hands of the logging companies belonged to the Mapuche communities; 68% thought that the Mapuche communities mobilization was legitimate; 71% thought that the Mapuche had not been integrated into Chilean society becaus they had not been given suficient opportunities; 79% did not believe that Mapuche were "lazy" and 70% did not believe they were "alcoholics" (typical stereotypes); 50% thought that government policy was inadequate. With respect to "law and order," 50% did not agree that the government should have applied the full force of the law against the Mapuche engaged in land take-overs (see following chapter) at the outset, while 43.7% did. Only 12%, however, thought that the solution for the conflicts between Mapuche communities and logging companies depended on a police crackdown on land take-overs. The survey was conducted by telephone on the 15 and 16 of April, 1999. Ten percent of those surveyed belonged to the upper income levels, 41% to middle sectors, and 49% to lower income brackets.

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The Concertación strategy combining social subsidies with all-out support for major investment projects that infringe upon indigenous rights, however, failed to coopt or dampen all the opposition to the Ralco dam, although it succeeded in undermining much of the opposition among the Mapuche Pewenche families. A non-violent demonstration in the Upper Bíobío during February 1999 brought harsh police repression, arrests of twenty-five persons, the imprisonment of foreign supporters who participated in the demonstration, and orders for their deportation. The newspapers reported seventeen people injured. Eight were police. The two elderly Quintreman sisters, prominent local leaders of the opposition to the dam (69 and 70 years old, respectively) were charged with physically abusing the police, which is a crime that must be judged in the military courts.[92] The Concertación's tactic of silence and repression, however, backfired. The Chilean Supreme Court eventually rejected the Interior Ministry's charges against the foreigners and its order to deport them.[93] The international coverage of the incident led to renewed support for the movement against the dam project, and for the human rights movement of the indigenous peoples in Chile in general.[94]

On September 8, 1999, the Sixth Judicial Court of Santiago ruled against CONAMA and ENDESA and in favor of a suit brought by Quintreman sisters, initiated

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[92] See Las Ultimas Noticias 20 February 1999, p.9 and other press reports of 19 and 20 February, 1999.

[93] El Sur, 8 March, 1999; La Tercera, 18 March 1999, p. 8.

[94] The Mapuche movement has created a network of communication and solidarity with support groups both in Chile and other countries by Internet. Several different pages focus on the Mapuche, and offer a compilation of news articles generated by print media and radio, as well as press releases of Mapuche organizations and groups, articles by Mapuche and others, background on the Mapuche culture, etc. Representative pages are the Rehue Foundation (xs4all.nl/~rehue)and Ñuke Mapu Documentation Project (soc.uu.se/mapuche), both produced by Mapuche who live in Europe.

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in June of 1997. The court ordered the construction of the project to cease, on the grounds that the approval of the environmental impact statement gave permission for preliminary construction, but not the construction of definitive elements of the hydroelectric plant, because all the permissions and concessions had not been granted. Although the ruling did not speak to the issue of the dam project itself, it constituted a judicial censure of both the company and the executive branch, and was hailed by opponents of the dam. Mapuche Pewenche complained that the construction continued despite the court order, and declared that they would take action. A group of Mapuche Pewenche announced that they had notified the directors of ENDESA ESPAÑA (majority stockholder of ENERSIS, the holding company that controls ENDESA), that they would present a criminal lawsuit against them in Spanish courts if they tried to build the dam, on the grounds of genocide, as defined in the Spanish penal code--the killing and/or forced relocation of members of a people.[95]

In reaction to the court ruling in Chile, the Minister of Interior, Raúl Troncoso stated that the Frei government regretted the judge's decision, calling it detrimental to energy development in Chile, and declared that the government was studying what action to take. CONAMA announced that it would appeal the ruling (as ENDESA also did). Right-wing but "green" deputy Arturo Longton (RN) hailed the judge's ruling and declared that the actions of the Concertación government and the minister's statements indicated that the government was attempting to impose the dam regardless of legality,

[95] See open letter written to Roldolfo Martín Villa, president of ENDESA ESPAÑA, 10 September 1999 by Nicolasa Quintreman, Ilda Riquelme Huenteao, Augustín Correa Naupa, and the Mapuche Pewenche organización Mapu Domoche Nehuén del Alto Bíobío.

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and that the administration and ENDESA were both willing to act unethically. He rejected the position that development projects could be imposed at any cost, even, for example, against the wishes of the indigenous peoples.[96] A few weeks later, the appeal by CONAMA and ENDESA was upheld, allowing construction to continue.[97]

The indigenous policy reform promised by the Concertación in 1989, and by the passage of the new indigenous law in 1993, proved to be illusory. The real state politics of development continue to follow the ethnocentric lines, typical of past policies. On the last day of his administration, President Eduardo Frei Ruiz-Tagle (PDC) signed the authorization for the concession to build the hydroelectric dam. The approval granted by the Superintendency of Electricity and Fuels marked the last approval needed by a state agency.

The new president of the third Concertación government, Ricardo Lagos (PPD), defended the Ralco project on the same day that he announced sixteen proposals aimed to answer the demands raised by Mapuche communities and organizations. "We can not hinder the development of Chile because of very small groups, but neither can we impose on them unacceptable conditions. For that reason, large projects which affect indigenous lands will be discussed with the indigenous peoples..." Lagos stated that he hoped that situations like that of Ralco are not repeated during his administration.[98] Years earlier in

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[96] Radio and press releases, 8-10 Sept. 1999, El Mercurio, La Tercera, Radio Bío Bío; Alejandra Muñoz, "Las Contradicciones de CONAMA en el caso Ralco" in La Tercera, 11 September 1999; "ENDESA y CONAMA apelaron por Ralco" in El Mercurio 15 September 1999 C7.

[97] Press reports of Radio Biobío, 4 and 5 October 1999.

[98] El Diario Austral 1 June 2000 B5.

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1992, Lagos had indicated his opinion that respect for cultural diversity did not imply a recognition of a collective political rights for indigenous peoples. "It's one thing to establish mechanisms so that they develop their cultures, languages and roots, but it's another to make a sort of state within a state. That is unacceptable. In Chile, we are thirteen million Chileans."[99]

The Lagos administration demonstrated its intention to maintain good economic relations with Spain (a major source of foreign investment, particularly in the financial and energy sectors) by honoring the president of ENDESA ESPAÑA, Roldofo Martín Villa, with the Bernardo O'Higgins medal.[100] The new Concertación government, under the leadership of Ricardo Lagos, was not about to reevaluate government support for the Ralco hydroelectric project. The families who still refuse to move can only wait as the courts review their lawsuits and watch the construction of the dam continue. The defense of their homes, lands and the 1993 indigenous law is left to the decision of the individual families. The role assigned to the state by the 1993 indigenous law, to "protect and promote" indigenous cultures, continued to be subordinated to neoliberal economic

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[99] 6 November 1992, El Mercurio, interview in Temuco of Ricardo Lagos when he was the PPD's precandidate for president for the Concertación for the December 1993 elections. Cited in José Mariman, "Transición a la Democracia en Chile: ¿Nuevo ciclo reivinicativo?" (Temuco: Centro de Estudios y Documentación Mapuche, 1994). "Una cosa es que se generan los mecanismos para que ellos desarrollen su cultura, su lengua y sus raíces, pero otra es esa suerte de hacer un Estado dentro de otro Estado. Eso es inacceptable. En Chile somos trece millones de chilenos."

[100] La Tercera 17 May 2000 p. 24. Bernardo O'Higgins is a hero of the struggle for independence of Chile from Spain. According to the news report, the medal is a recognition of the government's appreciation of ENDESA ESPAÑA's almost five billion dollar investment in Chile, and a gesture meant to patch up relations between Chile and Spain, in the wake of the efforts by Spanish Judge Baltazar Garzón to bring General Augusto Pinochet to trial for crimes against humanity. Before General Pinochet's release from England, Martín Villa had offered to speak with the Spanish government authorities to try to persuade them to cease extradition proceedings.

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priorities. The following case study on the logging industry supports these generalizations.

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Chapter 10. The Neoliberal Logging Industry versus the Defense of Territory and Culture

The Concertación government has defined sustainable growth as the coincidence of three goals: 1)achieving the highest rate of growth possible, 2) providing equal opportunities, and equitable development, and 3) protection of the environment.[1] Although stated as simultaneous goals, government policies have favored the goal of high growth over the other two. The rapid, deregulated, industrial exploitation of natural resources has led to the collapse of natural species, the depletion of natural resources, and the degradation of the environment.[2] Chile's dynamic growth is also based upon a highly concentrated ownership, contributing to

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[1] See the testimony by then Secretary General of the Presidency, Juan Villarzu (DC) in the Chamber of Deputies, 12 June 1997. The exact quotation, taken from the text of the official Congressional records (*Actas*) is given in the section on the institutional processes and environmental impact studies in the case of the Ralco hydroelectric project. Note that this definition of "sustainable development" includes the goal of *achieving the highest growth rate possible*. This emphasis on rapid growth as crucial to solving problems of poverty is far different than the definition of "sustainable development" given in 1980 by the United Nations Environmental Program, the International Union for the Conservation of Nature (IUCN) and the World Wide Fund for Nature (WWF), which together recommended that governments undertake programs to maintain essential ecological processes and life support systems, preserve genetic diversity and ensure the sustainable use of natural resources, fish and other wildlife, forests, grasslands, etc. This concern for conservation and development was taken up in 1987 by the World Commission on Environment and Development, sponsored by the United Nations, and popularly known as the Brundtland Commission. The report issued by the Commission, "Our Common Future," defined sustainable development as meeting the needs of the present generation without compromising the ability of future generations to meet their own needs. See R.B. Primack, A Primer of Conservation Biology (Sunderland, Mass.: Sinauer Associates, 1995).

[2] See Marcel Claude, Una Vez Más la Miseria: ¿Es Chile un País Sustentable? (Santiago: LOM Ediciones, 1997), 83-87; Franz Arnold, Sustitución de Bosque Nativo en Chile. Destrucción de un valioso patrimonio natural (Santiago: CODEFF and Amigos de la Tierra - Chile, 1998); CODEFF, El Futuro del Bosque Nativo Chileno: Un Desafío de Hoy (Santiago: CODEFF, 1992).

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the tendency in the neoliberal model for aggravating existing inequalities of income and wealth.[3]

Although government data indicate that absolute levels of poverty diminished between 1987 and 1996, the degree of income inequality remained high and constant. The Interamerican Development Bank and the Economic Comission for Latin America and the Caribbean of the United Nations both concluded that Chile had one of the most highly concentrated income distribution in Latin America.[4] A government survey in 1996 found that the richest fifth of Chilean households received 57.1 percent of the total autonomous income, while the poorest fifth received only 3.9 percent--that is, the richest quintile received almost 14.6 times as much income as the poorest.[5]

The highly concentrated private ownership of natural resources also brings to light a key characteristic of the neoliberal political economy: the negation of social

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[3] Fernando Dahse, El Mapa de la Extrema Riqueza. Los Grupos Económicos y el Proceso de Concentración de Capitales (Santiago: Editorial Aconcagua, 1979); Patricio Rozas and Gustavo Marín, 1988: El Mapa de la Extrema Riqueza: 10 Años Después (Santiago, Cesoc-Pries-Cono Sur, 1989); Hugo Fazio, Mapa Actual de la Extrema Riqueza en Chile (Santiago: LOM Ediciones, 1997).

[4] Gacitúa and de la Maza La Pobreza en Chile, Informe del Consejo Nacional para la Superación de la Pobreza (Santiago: Mideplan, August 1996), 55. See also the article by economist Jacobo Schatan in La Epoca 6 October 1994, p.10 and the article discussing income distribution and poverty levels in La Epoca 3 September 1995, p. 18. Roberts (1998), p. 149, states that a 1996 World Bank report characterized the income distribution in Chile as one of the worst in the world, ranking 59th out of 65 countries. Chile's Gini index of income inequality ranked better only than Panama, Kenya, Zimbabwe, Guatemala, South Africa, and Brazil.

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claims and rights to resources vital to life and the functioning of natural ecosystems. In a context of deregulation, the neoliberal growth model encourages environmental damage and contamination. Finally, social considerations, such as those concerning indigenous peoples and their rights to pursue their own development model, conflict with the tendencies of the large capitalist enterprises to exert control over factors of production: land, resources, labor, investment decisions and capital.

Rather than a coincidence of these three goals of maximum growth, equity, and environmental protection, the neoliberal policy regime is founded upon the primacy of growth to the detriment of the other stated goals of equity and environmental protection. State support for the neoliberal policy regime as a whole, and the transnational logging industry in particular, makes clear that the goals of reducing inequality, improving environmental protection and recognizing indigenous peoples rights are being sacrificed in favor of the protagonists of neoliberal growth.

Origins and Characteristics of the Neoliberal Logging Industry

The forestry sector constitutes a prime example of the neoliberal model because 1) it exemplifies the model's dramatic reduction of state ownership and

[5] CASEN (National Socio-Economic Survey) 1996. See Mideplan, "Pobreza y Distribución del Ingreso. Resultados CASEN 1996" (Santiago: Mideplan, 1997).

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regulation of industry, with deleterious social and environmental consequences and increased vulnerability to external shocks; 2) the sectorial expansion reversed the process of Agrarian Reform in the late 1960s and early 1970s, reconcentrating land tenure; 3) the sectorial expansion reversed efforts to restore lands usurped from the Mapuche communities, by returning expropriated estates to former owners; 4) it exemplifies the state subsidization of transnational and large national corporate exploitation of natural resources for export, to the detriment of local social and economic interests and in flagrant contradiction with the neoliberal rhetoric that says that economic decisions should be guided by market factors; 5) the expansion of non-native single-species tree plantations leads to various negative effects on native ecosystems and a loss of biodiversity; 6) the destruction of native forests eliminates resources used by Mapuche, threatening cultural practices and knowledge based upon biodiversity resources, and increasing economic hardship for rural Mapuche communities.

The military regime's support of the industrial forestry sector reflected a basic development goal of the dictatorship: to assert the rule of capital and reverse the economic, social and political gains that the working and popular sectors had made in the 1960s and early 1970s.[6] The military regime's return of estates that had been

[6] For an analysis of the political and economic goals of the military regime, see Petras and Leiva 1994; and Manuel Antonio Garretón, The Chilean Political Process (Boston: Unwin Hyman, 1988).

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expropriated as a result of pressure by Mapuche communities was a fundamental part of this regime goal of reorganization of social relations. In addition, the military regime's decree law to subdivide the Mapuche communities aimed to remove what it saw as an anachronistic legal protection of community lands that was in direct contradiction with the free market policies the dictatorship espoused.[7] "Rationalizing" property ownership in Mapuche communities had the dual objective of promoting economic growth and of eliminating by *fiat* legal recognition of indigenous lands as well as any claims to lands lost from the original *Títulos de Merced*.[8]

The promotion of industrial forestry and the expansion of tree plantations, however, remained part of the democratic government's economic policies. The Concertación government continued to promote industrial forestry, just as had the military regime, as an alternative to the stagnation of the traditional agricultural sector.[9] The Concertación government acknowledged the protests of the Mapuche

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[7] The elimination of the prohibition on the sale of indigenous community lands was to have occurred twenty years after the subdivision, not immediately.

[8] It should be recalled that the original text of Decree Law 2568 also stated that, once the indigenous communities were subdivided, and the resulting individual properties listed in property registers, there would be no more indigenous in Chile. See discussion in Chapter 5 Neoliberal Ideology and Institutionalization.

[9] See, for example, the development plans of the Ninth Region, Intendencia, Estrategia de Desarrollo (Temuco: Secretaria Regional de Planificación, 1991) and Estrategia de Desarrollo 1995-2000 (Temuco: Gobierno Regional, 1995).

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movement against D.L. 2568 and incorporated the legal protection of indigenous lands in the 1993 indigenous law, but it did not attempt a comprehensive review of Mapuche land claims, although studies had calculated the loss of at least some 150,000 hectares from the original *Títulos de Merced.*[10] Rather than attempt an "indigenous agrarian reform," the government established a fund to subsidize the purchase of land and offered legal assistance to indigenous individuals and communities who wished to pursue land claims.

The Concertación's support of industrial forestry placed the government's development policies in contradiction with the land claims of Mapuche communities, and with emerging demands from some sectors of the Mapuche movement for territorial rights. These sectors have linked claims to lands usurped from *Títulos de Merced* to demands for the right to political autonomy on the grounds of collective rights as a people. These sectors argue that recognition of cultural diversity is not sufficient, and that, material resources and territory are necessary in order to be able to develop according to their own cultural values. They thus raise challenges to the neoliberal economic policies and to the unitary character of the Chilean state.

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[10] See Babarovic et al., Campesinado Mapuche y Procesos Socio-Económicos Regionales (Santiago: Grupo de Investigaciones Agrarias (GIA), 1987) and citation of report by the Grupo de Investigaciones Agrarias in the 44th session of the Chamber of Deputies on 21 January, 1993. Steenland (1977: 206-7) calculates 277,000 hectares were expropriated in the province of Cautín by 1973; Bengoa states that Mapuche communities took over 300,000 hectares (about 100 properties) in a single month in 1970, the

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Industrial forestry has been a protagonist of neoliberal growth, while the traditional agricultural sector (cereal grains, meat, dairy products, legumes destined for the domestic market), has been a dramatic loser because of the neoliberal regime of low tariffs. The expansion of industrialized tree plantations has had a profound regional impact on land tenure and prices, labor markets, the provision of social services at the municipal level, the quality of the environment, and on politics at all government levels.

The dynamic growth of wood pulp industry has stimulated the rapid expansion of tree plantations in the Ninth Region, and a rise in land prices, to the extent that good agricultural land (flat, close to the Pan American highway) has been sold and planted with non-native fast growing tree species, varieties of pine and eucalyptus.[11] The expansion of pine and eucalyptus plantations, however, has not reduced poverty levels, unemployment, or rural emigration in the region.

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peak of the mobilization of Mapuche communities during the Popular Unity government. See "Entrevista a José Bengoa en torno al plebiscito" Nütram Año IV, no. 4 (1988): 7-23.

[11] Unda and Stuarda (1995) state that the Ninth Region had the highest rate of plantation of pine and eucalyptus of Chile at the time of the publication of their study. The rate of establishment of new plantations in Chile tapered off after 1994, when new land available for planting became more costly than similar quality land in Argentina. See Alfredo Unda and Alejandro Stuarda, Expansión Forestal en la Novena Región y Desarrollo Sustentable (Santiago de Chile: Instituto Forestal, Divsión de Estudios Ambientales, December 1995). This study was conducted in conjunction with the International Labor Organization, which published a final version, Chile: Expansión Forestal en la Novena Región y Desarrollo Sustentable (Santiago: OIT, Oficina para Latinoamerica, 1996).

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The forestry sector is the third most important source of foreign exchange, after the mining sector, export agriculture. Exports from the production of wood products, principally wood pulp, wood chips for pulp, and sawn wood, account for more than ten percent of Chile's export revenues. Forestry sector exports recently surpassed the earnings from the export of fishmeal and salmon.[12] Initially much of the boom in forestry exports stemmed from the export of wood chips and logs, but since the mid 1980s, wood pulp, industrially processed in Chile, has become the most important export of the sector, accounting for approximately 40 percent of the sector's returns.[13]

The growth of the forestry sector since the mid 1970s has been rapid. Between 1964 and 1968, the value of the industrial forestry sector exports was $17.8 million dollars, rising to $339.7 million dollars during the period between 1979 and 1983.[14] Unda and Stuarda calculate that the value of forestry exports increased by 171 percent between 1970 and 1993. By 1991, forestry exports earned $913 million dollars, reaching US$1,207 million dollars in 1996.[15]

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[12] Instituto Forestal (INFOR), El Sector Forestal en Chile (Santiago: INFOR, 1992),10; INFOR, Estadísticas Forestales, IX Región (Santiago: INFOR, 1997); Banco Central, Boletín Mensual, 2000.

[13] Ibid.

[14] José I. Leyton, "El fomento de la actividad forestal y su impacto sobre el desarrollo rural en Chile," El Desarrollo Frutícola y Forestal en Chile y sus Derivaciones Sociales Estudios e Informes de la CEPAL no. 57 (Santiago de Chile: CEPAL, 1986), 47.

[15] Instituto Forestal, op cit. p. 10; Chile Forestal Año xxii, no. 247 (May 1997); Unda and Stuarda 1995.

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Although the forestry sector experienced a dynamic growth in exports, it is vulnerable to fluctuations in the world economy. The limited number of forestry sector exports and markets makes the sector vulnerable to market fluctuations in price and demand. This became strikingly clear when major foreign markets of Chile's forestry exports entered a recession in 1998.

Forestry exports are concentrated in a few products, produced by a small number of corporations which, in turn, are owned by a few large investment groups combining Chilean and foreign capital. Forestry exports are exported to a limited number of markets. The United States and Japan buy more than half of all Chilean forestry exports, and Japan imports most of Chile's wood chips exports (used for paper pulp). After the United States and Japan, the major destinations for Chilean forestry exports are China, Belgium, Italy, Taiwan, South Korea, Argentina and Peru.[16]

Although Chile's forestry sector is oligopolistic with respect to the domestic market, the sector's principal products are "price-takers," that is, the volume of

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[16] Instituto Forestal, El Sector Forestal en Chile (Santiago: INFOR, 1992); René Reyes Gallardo and Alex Sánchez Fabre, "Diagnóstico crítico y propuestas para la sustentabilidad en el sector forestal chileno" preparado para el Programa Chile Sustentable: Propuesta ciudadana para el cambio (Santiago: LOM Ediciones, 1999).

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Chilean production does not significantly influence world market prices. Wood pulp is Chile's principal forestry sector export (averaging over 40 percent), and two economic conglomerates (Angelini and Matte) are responsible for virtually all the Chilean wood pulp production; yet Chile only produces one percent of the world's wood pulp and three percent of the world's wood pulp exports. One analyst in Chile Forestal argues that world wood pulp production suffers from a chronic tendency of oversupply which leads to sharp price fluctuations. Wood pulp prices dropped dramatically in 1993, 1996 and again in 1998.[17] Other forestry products represent even less of world production, except for wood chips. After Australia and the United States, Chile is the third largest exporter of wood chips in the world. The source of wood chips for producing pulp used to make quality paper in Chile continues to be primarily native forest, although eucalyptus trees also serve to produce short fiber pulp used in fine paper. The demand for short fiber pulp has meant a dramatic increase in the clear cutting of native forests.[18]

[17] Chile Forestal, Año xxii, no. 247(May 1997). In 1996, Wood pulp (then 43 percent of forestry exports) dropped 49.6 percent in earnings with respect to 1995; prices dropped 45 percent, from US$ 810/ton (FOB) in 1995 to $417/ ton at the end of 1996, recovered somewhat in 1997, and then dropped again to US$388/ton in 1998 with the Asian recession, rising again in 1999 to US$ 522/ton, reaching US$662/ton in October, 2000. Ibid and El Mercurio, 12 October 2000, p. B13.

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Clearing the Way for Profits: The Destruction of Native Forests

A government study conducted by a team of professionals contracted by the Banco Central documented the rapid rate of destruction of native forest and its substitution with pine and eucalyptus tree plantations. As natural resource exploitation forms the basis for Chile's recent economic growth, the government wanted to generate data on resource use, "environmental cost accounts" ("*cuentas ambientales*"). The report on the exploitation of native forest found that between 1985 and 1994, industrial consumption of native forest, used as raw material for the wood pulp industry, expanded five times, from 780,000 cubic meters in 1985 to 4.3 million cubic meters in 1994. Firewood from native forest, a common source for heat in homes, industries (especially bread factories), and public agencies, such as hospitals and schools, grew 60 percent, from 3.5 million cubic meters to 5.8 million cubic meters during the same period. To satisfy industrial demand in 1994, the study estimated that between 53,000 and 60,000 hectares would be harvested (estimating that one hectare yields between 60 to 80 cubic meters, on average). Government data, however, registered the harvest of only 25,000 hectares. The team conducting the Banco Central study concluded that those 25,000 hectares of native forest were clear cut, and the rest of the industrial demand was met by the harvest of pine and eucalyptus tree

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[18] Statistics are from Infor, El Sector Forestal en Chile (Santiago: INFOR, 1992). CODEFF 1992, Claude 1997, and Arnold 1998 give data on the clearing of native forests.

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plantations, which often have been planted on land that once had old growth native forest. Decree Law 701 of 1974, in effect, subsidized the destruction of native forest and its substitution with non-native tree plantations.[19]

The clearcutting occurs in the temperate rain forests, transitional zones and the far southern Patagonian zone of the Eighth, Ninth, Tenth, Eleventh, and Twelfth regions (southern half of Chile). These forest types are unique in the world, containing several tree species endemic to Chile. The forests of the Eighth, Ninth, and Tenth regions, where the clearcutting is concentrated, also are characterized by a high degree of biodiversity because they occur in a transitional zone between the warm, relatively dry climate zone of Central Chile and the cooler, more humid climate zones of Southern Chile, yet many of the species contained within them are underrepresented in the national system of protected areas.[20] The rate of clear-cutting of native forest, and its subsitution for exotic tree species, led some analysts to predict the near extinction of native forests in Chile before mid twenty-first century, if the current rate of

[19] See letter to the editor by Rodrigo Pizarro, a member of the team conducting the study, in El Mercurio, 16 November 1999, A2.

[20] See Arnold 1998, op cit. Roger A. J. Clapp notes the environmental and ecological losses caused by the cutting down of Chile's native forests. See his article "Waiting for the Forest Law: Resource-Led Development and Environmental Politics in Chile," Latin American Research Review 33, no. 2 (1998): 3-36.

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substitution continued.[21] The lack of regulation and oversight capacity in government agencies promoted an aggressive exploitation of native forest, a system of natural resources and climate conditions which cannot be replenished to balance the rate at which they are lost.

The oligopolistic industry structure makes production of wood chips very profitable for the controllers of the pulp industry. Although the mining and fish products sectors also have very unequal distribution of returns among remunerations, fixed capital investment and profits, the ratio of the wood chips industry is even more skewed toward profits. The ratio of remunerations, fixed capital investment, and profits for the extraction of wood chips from native forest is one of the most unequal among the industrial sectors using primary products in Chile. Marcel Claude calculates that, for wood chips, remunerations constitute 23 percent, fixed capital investment 11

[21] See Marcel Claude, Una vez más la miseria: ¿Es Chile un país sustentable?(Santiago: LOM Ediciones, 1997). Marcel Claude directed the investigation on the exploitation of natural resources, including native forests, for Chile's Central Bank. His drastic and dramatic conclusions as to the rapid rate of exploitation of these non-renewable natural resources caused a polemical debate, despite the fact that a team of respected scientists gathered the data and formed the conclusions. Clapp states that the study's projections of the clearing of native forests were based upon conservative estimates of the growth rate of the logging industry—5 percent—rather than the industry's own estimates of 8 percent growth. The rate of exploitation of native forests has been documented and denounced by environmental organizations for some time. The letter by Rodrigo Pizarro, cited above, notes that the same warning was made by a team of French forestry engineers, who conducted a study of the forestry sector in conjunction with the Chilean forestry agency, CONAF and the government development agency, CORFO. According to Pizarro, the team stated that "(the corporations) do not realize that, by exploiting the (forests) at the current rate, they are consuming the forestry patrimony at an excessive rate, and that this patrimony will be exhausted in a period of twenty to thirty years, not that long a time. This type and rate of exploitation does not allow the lenga forest (a native tree species) to recover sufficiently enough (to again) be exploited profitably, after this type of harvest."

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percent, and profits 65 percent of the value added. In contrast, he estimates that salaries for copper to be 30 percent, fixed capital investment 24 percent and profits 30 percent.[22] In the forestry sector, land and labor costs are relatively low, while the percentage of costs due to freight and transportation represents the greatest component of production costs.[23]

Neoliberal Subsidization of a Transnational Industry

The incentives created by the military regime under Decree Law 701 (1974) stimulated the rapid increase in the establishment of plantations of non-native tree species on land designated apt for silviculture, as well as the selling of state-controlled industries and lands after the military coup. The foundation for the forestry sector's expansion, however, lies in the state industries and incentives established prior to the military regime.[24] Between 1965 and 1973, the Chilean state promoted the planting of pine trees through agreements between landowners and the Corporación Nacional Forestal (CONAF). Other government agencies, the Instituto Forestal (INFOR) and the

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[22] Claude 1997, 116-117. The figures he gives for fish products are 34 percent salaries, 17 percent fixed capital investment, and 47 percent profits. The fishing industry is threatened by the collapse of several species.

[23] Infor, El Sector Forestal en Chile (Santiago: INFOR,1992).

[24] Leyton 1986.

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state agency to promote industrial development, Corporación de Fomento (CORFO), promoted industrial-oriented research and industrial growth. CORFO was in charge of the wood pulp plant in Nacimiento (Eighth Region), inaugurating two more plants, Arauco, in 1970 and Celulosa Constitución, in 1975 (also in the Eighth Region). In addition to these plants, the Compañía Manufacturera de Papeles y Cartones, CMPC, operated the wood pulp and paper products factory in Laja (Eighth Region). The production of these plants was largely oriented towards the domestic market.[25]

Following the military coup, many of the state controlled industries were privatized, generally at prices far below their true market value.[26] Not only industries, but also estates and lands which had been in state hands, under CONAF or as a result of expropriations under the Agrarian Reform, were also transferred to the private sector.[27] This process of property transfers spurred the expansion of the investment

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[25] Leyton 1986, op cit. and Jorge Morales Gamboni, El Desarrollo Forestal en Concepción (Santiago: GEA and UAHC, 1989).

[26] See Hugo Fazio, Mapa Actual de la Extrema Riqueza en Chile (Santiago: LOM Ediciones, 1997), 181-3 who mentions the case of the auctioning of the Inforsa plant in 1986 to the Matte economic group, which at the time caused a "scandal." For accounts of the privatization in general, see Mario Marcel, "La privatización de empresas públicas en Chile, 1985-1988," Notas Técnicas no. 125 (Santiago: CIEPLAN, 1989); Fernando Dahse, El Mapa de la Extrema Riqueza. Los grupos económicos y el proceso de concentración de capitales (Santiago: Editorial Aconcagua, 1979); Patricio Rozas and Gustavo Marín, 1988: El Mapa de la Extrema Riqueza 10 años después (Santiago: Cesoc-Pries-Cono Sur, 1989), 49-68 and 289; Manuel Delano and Hugo Traslaviño, La Herencia de los Chicago Boys (Santiago: Ediciones del Ornitorrinco, 1989).

[27] For a concise account of the return of estates claimed by Mapuche communities by the military dictatorship, see Matín Correa Cabrera, Catastro de Conflictos y Demandas de Tierras Mapuches en la

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conglomerates; however, the growth of the conglomerates was also a function of speculative financial practices, which were not subject to oversight or regulation by the neoliberal economists of the military dictatorship nor by international banks. The debt crisis of the early 1980s hit Chile with particular force, as economic output dropped 14 percent, most of the banking sector collapsed, and approximately one third of the labor force became unemployed.[28]

The forestry sector, however, continued to grow, although the investment conglomerates controlling the sector changed over time. As a whole, the sector reflects the neoliberal trend towards concentration in land, capital, and the transnationalization of property ownership. As a result of the economic crisis in the early 1980s, there was a shift in the most important economic groups of the forestry sector, and the new conglomerates have ties to foreign capital, which returned to the Chilean economy after the military coup, attracted by the investment prospects, the controlled labor force, and the relatively low prices for investments. Those enterprises which had gone bankrupt in the economic crisis of the early 1980s, and had been taken over by the

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Provincia de Malleco (Temuco: Corporación Nacional de Desarrollo Indígena, Dirección Nacional, January, 1995). (draft).

[28] Accounts of the economic crisis can be found in Alejandro Foxley, Latin American Experiments in Neoconservative Economics (Berkeley, Ca.: University of California Press, 1983); Arturo Valenzuela, and J.S. Valenzuela, Military Rule in Chile (Baltimore, Md.: Johns Hopkins University Press, 1986), and Ricardo Ffrench-Davis, "El experimento monetarista en Chile: una síntesis crítica." Colección Estudios CIEPLAN (Santiago, CIEPLAN, 1982).

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Chilean state, were sold to other private investors, both national and foreign, who took advantage of Chapter Nineteen, by which foreign investors bought Chilean private sector debt at reduced values in return for receiving capital in local industries.[29]

This process of transnationalization can be illustrated by the example of Copec. Copec is today a conglomerate owned by the Chilean economic group Angelini, in asociation with transnational capital until late December, 1999. Copec currently has investments in 50 businesses, including the distribution of petroleum products and other fuels, forestry and fishing industries, electricity, mining, and a major department store chain. Copec's investments in mining, fuels, and forestry are in association with transnational corporations. In 1976, during the first wave of privatization following the military coup, Copec, at that time property of the Chilean economic group Cruzat-Larraín, acquired the paper pulp plants Celulosa Arauco and Constitución. As a result of the economic crash of the early 1980s, the economic group Cruzat-Larraín went bankrupt, and Copec became state property. In 1985, during a new wave of privatizations, the economic group Angelini acquired a controlling share of Copec, and then formed an investment consortium for Copec with the New Zealand conglomerate, Carter Holt Harvey. Angelini maintained control over investment in Copec under the

[29] See Andrea Butelmann, "Deuda externa y negociaciones financieras" in Chile: Evolución Macroecónmica, financiación externa y cambio político, Patricio Meller, Pilar Romaguerra, Andrea Butelmann, Rodrigo Baño and Manuel Canales (Madrid: Cedeal, 1992), 59-94; Rozas and Marín 1989; Delano and Traslaviño 1989.

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contract signed with Carter Holt Harvey. In 1992, the New Zealand partner sold its shares of Copec to the U.S. transnational corporation, International Paper, which operated in 31 countries and ranked 44th in the Fortune 500 in 1996.[30] The association between Angelini and International Paper in the cellulose and wood products industry has not been harmonious, as International Paper has tried to obtain control of the forestry investments in Copec through litigation.[31]

CELCO (as Celulosa Arauco and Constitución are now called, having merged) was the largest producer of wood pulp in Chile until December, 1997, when its competitor, CMPC overtook it. In 1996, CELCO owned 470,000 hectares of pine and eucalyptus in Chile and 54,000 in Argentina.[32] It also owns the Alto Paraná wood pulp plant in Argentina. At that time, CELCO was Chile's leading exporter of wood pulp, with 24.5 percent, although closely followed by CMPC, owned by the Chilean economic group, Matte, which had 20 percent. CELCO has plans to build another

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[30] Hugo Fazio, Mapa Actual de la Extrema Riqueza en Chile (Santiago: LOM Ediciones, 1997), 113. La Tercera 20 December 1999, p. 30-31, gives the annual returns of International Paper as $20 billion dollars, with operations in 50 countries and exports to 130.

[31] In late December, 1999, the investment conglomerate controlled by Angelini came to an amicable settlement with International Paper/Carter Holt Harvey, by buying the foreign conglomerates' shares of Copec (for the largest sum of money ever for a Chilean conglomerate (US$1.2 billion dollars). The head of the Angelini economic group, the 85 year old Italian immigrant Anacleto Angelini is the richest man in Chile with a personal fortune estimated at 1.6 billion dollars. (La Tercera, pp. 30-32, 20 December, 1999). La Tercera reports that the international counterpart has opted to concentrate in packaging, because the returns are higher and more stable than forestry commodities.

[32] Ibid 115.

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wood pulp plant in Valdivia, in the Tenth Región, which would be the largest such plant in South America, and whose construction has been opposed by environmentalists and small fishermen, who fear the effects of contamination in the coastal area of the Ninth and Tenth Regions and in the Nature Sanctuary Las Cruces (Tenth Region) near the location of the proposed plant. CELCO also has plans to build a wood pulp plant near the Itata river in the Eighth Region.

The wood pulp industry in Chile is marked by fierce competition between the two leading Chilean economic groups, the Angelini group, through CELCO, and the Matte group, through CMPC.[33] Two types of wood pulp are produced in Chile--long fiber pulp, made from pine trees, which is used to produce rough paper for packaging and newsprint, and short fiber pulp, made from native woods or eucalyptus, used for fine quality paper products, such as that used by computers, fax, and other office paper documents. CMPC made clear its intentions to take precedence by increasing its shares in the wood pulp plant Celpac (Mininco, Ninth Region) to 93 percent, acquiring the stocks of the U.S. corporation, Simpson Paper. It thus became the leading wood pulp producer, (950 thousand tons per year), by virtue of its control of three plants, Laja (Eighth Region), Santa Fe (Eighth Region) and Celpac (Ninth Region). CMPC has announced plans to build a new wood pulp plant to produce between 800 and 900

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[33] see Fazio 1997 for a description of the leading economic groups in Chile in the 1990s.

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thousand tons annually of short fiber wood pulp (using either native wood or eucalyptus) in the near future, either in the Eighth or Ninth Region. As of late 1997, CMPC owned 251,000 hectares of pine and 55,000 of eucalyptus in the Eighth and Ninth Regions, plus 18,000 of pine and 4,000 of eucalyptus in Argentina.[34] This competition between national and foreign investors is the context framing the conflict between Mapuche communities and the logging company conglomerates. The military regime not only promoted the expansion of the forestry sector through its policies of privatization of state property and the return of expropriated estates, but also through a set of special subsidies and tax breaks under Decree Law 701 (1974).

One of the basic premises of neoliberalism is that the free market operates at optimal efficiency when the state does not distort the market by applying tariffs, import quotas, or subsidies for particular industries. Competition in a free,

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[34] CMPC bought the shares of Simpson Paper in Celpac, increasing its control to roughly 93 percent , as well as buying Simpson paper's shares of Forestal Angol, thus assuming 100 percent control of Forestal Angol, and finally, CMPC increased its shares in the Santa Fe plant to 80 percent. El Mercurio, 3 December 1997, B 3. El Mercurio reported that Mininco, owned by CMPC, administered 500,000 hectares in Chile, of which 350,000 were plantations, in 1000 estates between the Fifth and Tenth Regions (September 27, 1999, C6). In recent years, the industrial forestry conglomerates have expanded their operations in neighboring Argentina. By mid 1999, Celco owned 150,000 hectares in Argentina, 70,000 of which were planted with pine and eucalyptus, in addition to other industrial investments, making a total of 800 million dollars; CMPC had increased its hectares in Argentina to 70,000, of which 35,000 were planted, and its total investments in Argentina reached 200 millon dollars. The third next important Chilean logging conglomerate in Argentina, Masisa, has 38,500 hectares in Argentina, 25,000 of which are plantations, for a total of 260 million dollars in investments. Land prices tend to be considerably less in Argentina, and it is easier to find very large tracts of land for sale, according to logging company executives, but distances between these plantations and ports tend to be much greater. El Mercurio, B 10, 3 October 1999.

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deregulated market, according to liberal economic theory, will stimulate the expansion of the most efficent sectors and producers, and eliminate the inefficient ones. Guided by the principle that "technical" criteria rather than "political" considerations should govern national economic policies, neoliberal economists of the military regime drastically reduced tariffs on most imports in the mid-1970s, thus forcing into bankruptcy much of the manufacturing sector and the traditional agricultural sector. Neoliberal economists justified the economic recession and economic and social costs of restructuring as necessary to direct investment into the national economic sectors with the most comparative advantage with respect to corresponding sectors in other countries.[35]

The logging industry, however, benefited from enormous state support, in direct contradiction with these principles of free market competition. The neoliberal economists of the military dictatorship rewarded the forestry sector with heavy state subsidies for the establishment and maintenance of tree plantations. The subsidies are given to owners who establish or replant lands which are "technically" best suited for silviculture or watershed protection, as opposed to agriculture. In practice, however, the subsidies have not been used to protect against soil erosion or to maintain the

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[35] Alejadro Foxley, Latin American Experiments in Neoconservative Economics (Berkeley, Ca.: University of California Press, 1983); Joseph Ramos, Neoconservative Economics in the Southern Cone of Latin America. 1973-83 (Baltimore, Md.: Johns Hopkins University Press, 1986).

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natural patrimony of native forests, but to expand the hectares of single species, industrial tree plantations.

Under Decree Law 701, the investment conglomerates gained a privileged position in the economy, both nationally and locally. While maintaining the prohibition against the expropriation of lands declared suitable for silviculture contained in the law of Agrarian Reform, D.L. 701 established subsidies which covered 75 percent of the costs of planting, pruning, and administering the plantation. At one point in the 1980s, the subsidies rose to 90 percent.[36] In addition, under the 1930 Forest law (D.S. 4363), tree plantations made on land apt for silviculture are exempt from taxes. These subsidies meant that large scale plantations were virtually cost free for the conglomerates.[37] In conjunction with the transfer of state industries and lands to the economic conglomerates, the incentives for planting fast growing non-native tree species spurred the rapid expansion of the tree plantations, both on agricultural lands and by harvesting native forests for wood chips and substituting the native forest with non-native tree plantations. Estimates by environmentalists, The Chilean National Forestry Corporation and the team hired by Chile's Central Bank

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[36] CODEFF 1992. p. 19 and pp. 38-9.

[37] Catalán L. and Ramos Antiqueo (1999) give the figure of $29 million 586 thousand dollars in subsidies under D.L. 701 for the Ninth Region alone, between 1976 and 1992, and $110 million dollars for the country as a whole, based upon information from CONAF.

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arrived at varying estimates of hectares of native forest lost to non-native tree plantations, ranging from approximately 140,000 hectares to 585,276 hectares.[38]

The variation in the estimation of native forest lost to tree plantations is due to the difference in methodology and to the definition of "forest." Some old growth forest is classified as mixed shrub after it has been heavily cut and few trees of large diameter remain. The definition is not merely technical, because the definition governs the eligibility for subsidies. This legal regime has led to the excessive harvesting of the larger, more marketable trees. The practice of cutting down the largest trees eliminates those which are more genetically valuable for the retention of the health and diversity of the forest ecosystem. After the culling of the mature trees, the remaining forest can be classified as so "degraded" that its subsitution with a tree plantation is subsidized as "reforestation."

Burdened with debts and falling profits because of the drop in grain prices under the neoliberal open economic regime, many large landowners sold their estates to logging companies, who were often willing to pay cash in order to assure their

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[38] Arnold 1998, 12-15. It is not necessary to replant with the same mix of native species. One may receive subsidies for planting any tree species, thus leading to the substitution of old growth forest with the non-native single species tree plantations. See CODEFF 1992, 37-41.

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industries a supply of raw materials.[39] Official statistics report that between 1986 and 1996, the number of hectares sown with grains dropped by 17 percent while the number of hectares planted with pine or eucalyptus increased by 49 percent.[40] Less fertile soils simply could not produce enough to compensate for the low grain prices caused by a drop in tariffs and the competition from imports. Most large landowners did not attempt to shift from grains or livestock raising to fruit and vegetable production, even though in parts of the Ninth Region (including areas now planted with pine and eucalyptus trees, the climate favors such production). Intensive garden vegetable production, and fruit and flower cultivation for export continue to be recommended as alternatives both for small farmers and large grain producers.

In contrast to the state support of the logging industry, the state offers little help for the comprehensive changes in production, technology and markets, required to shift to non-traditional exports, other than feasibility studies and small scale subsidy programs. In many cases, unable to make such changes, small, non-Mapuche landowners on poor land sold their properties to the logging corporations, while any

[39] Leyton calculates that the Laja plant needs a harvest of 3,000 hectares annually for its production of 320,000 tons of long fiber wood pulp. Leyton 1986, 166.

[40] Comité Interministerial de Desarrollo Productivo, "Política de Desarrollo Productivo" ms. March 1997.

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small landowner with patches of native forest had market incentives to cut down native woods and sell logs as "*metro ruma*"--raw material for the wood pulp plants.[41]

Small landowners earned precious cash income for subsistence needs by selling *metro ruma* even though prices tend to be low, particularly the more distant from the wood pulp plant, and due to the fact that the small landowner sells the logs to a middle man. An agronomist in the highland municipality of Lonquimay told the author (interview, 1993) that she was concerned that the small Mapuche and non-Mapuche landowners were harvesting too much of their trees as *metro ruma*, and putting in danger their properties' winter wood supplies. These small farmers had very few alternatives for earning cash, but harvesting trees for *metro ruma* meant cutting down many more trees than what might be cut for winter heating and cooking, which could use fallen branches and dead trees as well as whole logs. Extreme poverty threatened to shorten the cost/benefit horizon of the small landowners to the point of slightly longer term irrationality, especially given their disadvantage in price bargaining with the merchant middle man.

Particularly in the Eighth and Ninth Regions, the transfer of ownership of property controlled by the state after the military coup resulted in an increased

[41] *Metro ruma* refers to two cubic meters of logs.

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concentration of land ownership. Two economic conglomerates, Angelini (whose forest-sector enterprises, until late 1999, were owned jointly with Carter Holt Harvey of New Zealand and the U.S. transnational, International Paper, Inc.); and Matte, through their affiliated companies, own most of the country's tree plantations: CELCO and Forestal Cholguan (both belonging to Angelini) have 470,000 hectares and 54,925 hectares of plantations, respectively. According to Fazio's calculations (1997), CELCO alone owns one third of the plantations in Chile; CMPC owns 338,606 hectares of plantations; the third largest owner of industrial tree plantations is Forestal Terranova owned by Swiss capital, which has 79,906 hectares.[42]

Consequences of Industrial Plantation Forestry: A Question of Sustainability and Territorial Rights

The expansion of industrial tree plantations has transformed the landscape in much of the Eighth and Ninth Regions, creating vast zones where ranks of pine or eucalyptus trees have replaced native forests, small farm settlements, and agricultural estates. Extensive areas have become virtual appendages of wood pulp plants. In the Eighth Region, in particular, plantations of pine and eucalyptus have replaced native

[42] Fazio 1997, 107. El Mercurio, in an article on September 27, 1999, p. C6 lists Mininco, owned by CMPC, as administering 500,000 hectares (of which 350,000 are plantations) in 1,000 estates between the Fifth and the Tenth Regions.

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forests. Where the trees have been harvested, acres of barren, land with debris from the cut trees gives the impression of the ravages of a catastrophic forest fire.[43]

Under D.L. 701, logging companies could earn subsidies for establishing plantations made on lands declared "without current use." Typically, such plantations were established on native forests that had been logged over the years of their largest trees, and thus had become mixed stands of shrub and second growth forest. These types of native forests were declared "without current use" because the remaining trees were not as valuable for wood products.

Such forests, however, provide many other uses, such as soil protection, replenishment, and protection of water tables and springs and streams, habitat for native species, and supplies of wood or other forest products for neighboring small farmers. These multiple uses cannot be provided by the single species tree plantations, not only because the single species nature of the plantation means the loss of floral and faunal species, but also because the applications of pesticides and herbicides contaminate the soil, plants and water sources in and near the plantations. The environmental organization, CODEFF, has calculated that as many as 400,000 hectares

[43] The tree plantations are highly combustible, and in the dry summers, forest fires are a constant possibility from carelessness. The recent conflicts have also led to deliberate fires. Logging companies blame Mapuche groups, while Mapuche groups claim that logging companies sometimes deliberately set fires in order to make insurance claims, and recover losses due to falling pulp prices.

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of native forest were cut down and substituted with large scale plantations of pine or eucalyptus between 1973 and 1984. The Banco Central, in its study of Chile's native forests, calculated a loss of between 400,000 and 900,000 hectares of native forests between 1985 and 1994.[44]

The logging companies assert property ownership on lands that have been claimed for years by the Mapuche communities. Many, though not all, communities that have lost land continue to press land claims in courts and through the CONADI. Although the conflict takes the form of separate disputes between specific Mapuche communities and logging companies, in the 1990s some Mapuche groups expressed their demands for lands in terms of collective rights to territory, as a fundamental prerequisite for their development as a distinct people.

Not all Mapuche communities make demands for resource rights, nor explicitly link their demands to those of other communities to assert a territorial claim, but each community's conflict is understood as stemming from a common problem--the usurpation of territory. The memory of past political autonomy, won by an

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[44] Codeff, Informe sobre el Bosque Nativo, (Santiago: CODEFF,1992); Banco Central, Cuentas Ambientales; Marcel Claude 1997; Arnold 1998, 12-15. Differences can be attributed to the variation in the definition of forest as opposed to shrub cover and to a lack of field validated data. Before the Agricultural and Livestock Census of 1997, and the satellite based government survey of vegetation, the studies had to rely upon Agricultural census data dating from 1976 or earlier.

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overwhelming victory against the Spaniards in the seventeeth century, which forced the Spanish crown to recognize the jurisdiction of the Mapuche over part of the present-day Eighth and Tenth Regions and all of the Ninth Region, is kept alive, and continually referred to today in demands voiced by different Mapuche sectors and organizations.[45]

The military defeat of the Mapuche by the Chilean army in 1883 did not induce them to accept passively the new status quo. The conflicts over land, property titles, and territorial dominion have been a constant since that time. Sometimes Mapuche community leaders brought their complaints to Chilean courts at the time of *Radicación*, arguing that the property lines did not include some lands their community had used traditionally for subsistence, and/or that topographers had committed errors.[46] In most instances, the suits were not settled, but continued to linger in courts for decades. In the meantime, neighboring landowners often asserted their property ownership by force. There have also been cases in which the courts

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[45] Examples of these demands can be found in the documents of the Identidad Lafkenche of the Eighth Region, "De la Deuda Histórica al Reconocimiento de Nuestros Derechos Territoriales" (1999), the document of the Coordinadora de Arauco y Malleco, "Informe de Derechos Humanos en las Comunidades en Conflicto Arauco-Malleco" (1999); or in the testimony compiled in Informe de la Comisión de Observadores de la Comunidad "Temulemu" (1999).

[46] See historical introduction in Martín Correa C., Catastro de Conflictos y Demandas de Tierras Mapuches en la Provincia de Malleco (Temuco: Corporación Nacional de Desarrollo Indígena, 1995) (draft).

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upheld the claims of the Mapuche community against the Chilean landowner, but the court ruling to return the land was never enforced or carried out.[47] On rare occasions, a Mapuche community would respond by taking over the land claimed, but for the most part, they opted for legal suits, and kept alive the memory of their territorial rights.[48] The study on land tenure in Chile for the Agrarian Reform in the mid 1960s, for example, noted that some of the lawsuits had been in Chilean courts for 80 years.[49] The demand for restitution of lands usurped from the *reducciones* and for ancestrally occupied lands was the root cause for the wave of take-overs at the end of the 1960s and the beginning of the 1970s.

During the era of the Agrarian Reform and the Popular Unity government of Salvador Allende, the pressure of Mapuche communities led to the restitution of approximately 70,000 hectares in the Eighth, Ninth, and Tenth Regions to Mapuche communities.[50] Although the land take-overs during the time of the Popular Unity

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[47] See Correa 1995 for some of these situations. The case of Temulemu is one such instance. See Informe de la Comisión de Observadores de Temulemu 1999.

[48] Newspapers report take overs in the 1930s in the municipalities of Toltén and area of Lake Budi; there were some take-overs in the early 1960s in the province of Malleco, Ninth Region and in the province of Arauco (Eighth Region), besides the exceptional period of the late 1960s and early 1970s, when many Mapuche communities engaged in land takeovers. See Foerster and Montecino 1988; Steenland 1977 and Bengoa 1999.

[49] Comité Interamericano de Desarrollo Agrícola (CIDA) Chile: Tenencia de la Tierra y Desarrollo Socio-Economico del Sector Agrícola (Santiago: CIDA, 1966), p. 313 and 91.

[50] See figures given in Babarovic, et al. 1987, 60-64. According to their figures, the amount of hectares would be 53 percent of those lands usurped from the lands recognized as indigenous by the state. This

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government often served to precipitate bureaucratic action to expropriate an estate under the provisions of the Agrarian Reform Law (1967), legal title usually was not transferred to the peasants despite their claims to ownership because of state granted *Títulos de Merced*, or in some cases, ancestral use. The Agrarian Reform Law allowed the state to maintain ownership during a transition period of a couple of years, after which the peasants could decide if they preferred a private cooperative or individual ownership.

After the military coup in 1973, the military regime returned these properties to the large landowners, not to Mapuche peasants despite their claim via *Título de*

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study was cited by Deputy Mario Palestro in the 44th Session of the Chamber of Deputies on 21 January, 1993. Steenland, citing a 1973 mimeographed report by the government land reform agency, CORA (1977 p. 206-7), states that by September 1973, 277,000 hectares had been expropriated in the province of Cautín. This was 38 percent of the land in private hands. Not all expropriated estates were turned over to Mapuche communities; CORA often retained control for a time. Bengoa states that Mapuche communities took over 300,000 hectares (about 100 properties) in a single month in 1970, the peak of the mobilization of Mapuche communities during the Popular Unity government. See "Entrevista a José Bengoa en torno al plebiscito" Nütram Año IV, no. 4 (1988): 7-23.
According to the report cited by Babarovic et al., mentioned in the Congressional discussion, in the province of Malleco (Ninth Region), the government agency DASIN documented the restitution of 17, 775 hectares in 1971, while in the province of Cautín (Ninth Region), only 7,190 hectares were recovered, in part because many of the lands claimed by Mapuche communities in this province were, at that time, already part of the reformed sector. Babarovic et al. (1987), p. 62-3, estimate that 131,292 hectares were usurped from the Mapuche *reducciones* of the original 526,285 hectares. Bengoa (1999) gives a total of 475,194 hectares in *Títulos de Merced*, explaining the difference as due to differences in the topographical instruments used to measure properties. This figure does not include those indigenous lands under "*Títulos de Comisario*" (given to Mapuche in the Tenth Region), nor the public lands ceded to indigenous families not under either *Título de Merced* or *Comisario*. Bengoa calculates that 168 Mapuche communities, once recognized in state-granted titles as indigenous lands, disappeared legally because of property title conflicts, "fence running" by Chilean landowners, fraud, and other illicit means. See Bengoa 1999, pp. 58-9.

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Merced or ancestral use.[51] In the province of Arauco (Eighth Region, with a high percentage of Mapuche population) and Malleco (Ninth Region), many of these estates were later sold to logging companies, as traditional agriculture became less profitable and the economic crisis of the 1980s brought heavy debt burdens to capitalist farmers. This area is located relatively close to the paper and pulp industrial plants established in the 1970s in the Eighth Region. In addition, left-wing parties traditionally had strong bases of support in the province of Arauco, in particular, but also in some parts of Malleco, because many Mapuche had emigrated from rural communities to work in the coal mines in Arauco, and became leftist militants as a result of the experience of union organizing.[52] Left-wing parties had supported Mapuche land take-overs in the 1960s and 1970s, and the repression in this area after the military coup was aimed at eliminating leftist support as well as returning the estates to former owners.

By 1990, the area in legally recognized Mapuche communities had been reduced to 300,000 hectares (thus, approximately a 40 percent loss with respect to that of the original 526,285 hectares in *reducciones*), while the neighbor of the Mapuche

[51] The process of return of estates that had been expropriated during the era of Agrarian Reform was violent, in which Mapuche community leaders and both Mapuche and non-Mapuche leaders of the cooperatives, as well as others who were not political activists, were detained, tortured, and assasinated or "disappeared" in order to prevent any future manifestations of protest or opposition. See Steenland 1977; Morales Urra 1991/2; "De la deuda histórica al reconocimiento de nuestros derechos territoriales" 1999; Informe de Derechos Humanos en las Comunidades Mapuches de Arauco y Malleco April 1999.

[52] Bengoa 1999.

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community was likely to be a transnational logging company, which had planted thousands of pine trees or eucalyptus, rather than a large estate for the cultivation of grains and raising of livestock. The property rights of the large estate owners and the logging companies were defended by the military regime as the law and as a right. Indeed, the official *Declaración de Principios*...(1974) of the regime defines private property as the "natural" form of tenancy, despite the claims of Mapuche communities on the grounds both of prior state-recognized property rights under the *Títulos de Merced* and by virtue of ancestral use.

With the transition from the military regime, the new democratic government hoped to resolve the most contentious land conflicts by negotiation with the private landowners and the transfer of some state lands in other situations. Under the 1993 indigenous law, the Fund for Lands would subsidize the purchase of additional lands both for the cases of conflicting property claims and for those individuals and families who applied for assistance in purchasing more land. The first government (1990-1994) of the Concertación was not willing to make an overall review of land claims or return usurped lands on a comprehensive basis, not even to return to the situation of the original properties recognized by the state in the *Títulos de Merced*.[53] The

[53] The campaign promises of Ricardo Lagos, elected president under the third Concertación government in January 2000, referred to the eventual restitution of 150,000 hectares--supposedly to arrive at the original number of hectares in Títulos de Merced. (Temuco, 7 November 1999). At the start of his administration, Lagos announced the creation of a governmental commission to treat the indigenous

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Concertación government preferred to emphasize its respect for the "rule of law" and property rights, distancing itself from the efforts of the era of Agrarian Reform to recognize a history of usurpation and the imposition of structural inequities in land tenure. This policy framework left unanswered the current claims of Mapuche communities, with the exception of case-by-case revisions. By not addressing the issue in comprehensive terms, the Concertación upheld a structure of inequality imposed by violence, as if it were representative of the "rule of law" and therefore meriting defense as a sacred bulwark against the lawlessness seen as characteristic of both the Popular Unity period and the military dictatorship. The recognition of usurpations, or of the historically rooted structural injustice, remained rhetorical, and did not figure in

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question and to propose solutions in a period of 50 days, referred to as a "nuevo trato" or "new deal." (El Mercurio, 14 March 2000) The committee arrived at 16 proposals (El Mercurio A1, A35 June 1 2000, El Diario Austral B5 June 1 2000). The proposals were: 50,000 hectares before December 2001; Give 100,000 pesos (approx. US$200) to 10,000 peasant families of the Ninth Region; Conadi devise a plan for the Yamana and Kawaskar indigenous peoples of the far south; State agency for Water create a training plan for indigenous communities of northern Chile on water use rights and speed up the process of community application for water rights; government funds for proposals of projects to irrigate 1150 hectares in 2000; Conadi and the Ministry of Agriculture create management training programs for productive activities; strengthen bilingual education programs, 290 million pesos for teaching training and support for indigenous schools; incorporate indigenous cultures into the national education curriculum; create an intercultural model of health and 10 family health centers; improve infrastructure in roads, ports, irrigation and create new cultural spaces; 80 million dollars from the Interamerican Development Bank for indigenous development; propose the constitutional recognition of indigenous peoples and their rights to language and respect for their traditions; declare the 24 of June as indigenous peoples day (former President Frei Ruiz-Tagle had already done this in 1999); the new coins of 50 and 100 pesos are to have images of indigenous women; support for a permanent forum in the United Nations for indigenous peoples; 4 billion pesos for progams of cultural development.
After his administration began in March 2000, in a June 2000 meeting between Socialist party leaders and some Mapuche professionals, party officials said there was not enough money to keep the promise of 50,000 hectares in the course of the first two years. Interview by the author of a Mapuche professional present at the meeting in Temuco, June, 2000.

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the express overall policy objectives.[54] Instead, the Concertación governments have consistently characterized the land conflicts as a problem between specific indigenous communities and private landowners.

The Growth of Industrial Forestry

The first extensive plantations of Monterrey pine (*pino insigne or radiata*), planted in the 1880s, were meant to be used to shore up the Lota coal mine tunnels (in the Eighth Region, on the coast south of Concepción), but the lumber proved to be too flexible.[55] In the 1930s, the Chilean state began a program promoting the establishment of pine plantations, using funds from state pension plans, the national health service, and social security, and offering affiliated contributors a hectare of "southern forest" as a long term investment. The rate of establishment of plantations

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[54] See statements of government officials, logging company executives and Mapuche leaders in the media. Some illustrative comments appear in the interview with the Mapuche mayor of Tirúa in El Mercurio, 4 April 1999, the statement by the Mapuche organization Consejo de Todas las Tierras in El Diario Austral 20 January 1999, comments by Mapuche leader José Huenchunao in El Diario Austral 7 July 1998, comments in El Diario Austral 19 January 1999, made by government officials, logging company executives, such as that of the head of the Logging Industy's Association (CORMA) that the corporations were subjected to "ecological terrorism," and those of Mapuche leaders in La Tercera 19 January 1999 p. 9, from the communities of Temulemu, Pantano, and Didaico, who charged in a lawsuit that guards employed by the logging companies harrased Mapuche community members on community lands and local buses, even threatening some with death, news article summarizing the report of an Army official in El Diario Austral 11 May 1999, B4-5, the document "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales" by the organización Identidad Lafkenche, May 1999, and the document presented to the United Nations, "Derechos Humanos en las Comunidades Mapuches en Conflicto de Arauco y Malleco" (April, 1999).

[55] See Leyton 1986, pp. 151 and ff.; Morales Gaboni 1989, 33-8.

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averaged several thousand hectares a year. In the 1950s, the rate of plantations dropped as the internal demand for lumber and other wood products fell, due to the monopsonistic practices of the domestic paper industries.[56]

Once again, in the 1960s, the state stimulated the expansion of pine plantations, by fostering the expansion of the wood pulp and paper products industries, most of which were state-controlled, state support for research, and agreements with medium sized and small landowners, including the cooperatives established under the Agrarian Reform, to establish tree plantations on part of their properties, with the aid of state subsidies and technical assistance.

During the period of the Agrarian Reform, the rate of establishment of tree plantations rose to roughly 30,000 hectares per year. Internal consumption of various wood products also rose to historically high levels. One reason the agreements with landowners to plant trees proved to be popular was the stipulation in the Agrarian Reform law that land considered apt for silviculture (and therefore not apt for more intensive agricultural use) was exempt from expropriation.

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[56] Ibid.

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Not infrequently, one family owned several medium sized estates, but listed the properties under the names of different family members in the tax roles. Under certain circumstances, such estates could be expropriated.[57] The rate of plantations, however, rose dramatically after 1974, due to the extensive system of subsidies for establishing and maintaining tree plantations and the transfer of many state-controlled properties to the private sector. The rate in the late 1970s reached approximately 70,000 hectares per year and continued high until the late 1990s.[58]

In 1965, the country had 418,800 hectares of tree plantations (1.4 percent of the sown land); by 1976, before the sharp rise in rate of establishment of tree plantations, there were 627,500 hectares of tree plantations (2.2 percent of Chile's sown land). Under the military regime's neoliberal protection of the export oriented logging industry, state subsidies and market forces induced further concentration of landholdings. By 1997, there were 1,098,500 hectares of tree plantations (4.1 percent).[59]

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[57] See Steenland 1977.

[58] Leyton 1986 and INFOR 1997.

[59] VI Censo Agropecuario 1997 (Santiago: INE, 1998).

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This increase is more dramatic if the change is analyzed at a local level. In Malleco province of the Ninth Region, the 1997 Agricultural and Livestock Census revealed that several municipalities had extremely high concentrations of tree plantations. As a percentage of "sown land," the municipality of Lumaco registered the highest (87 percent) of the Ninth Region, followed closely by Angol (83 percent), Collipulli (76.1 percent), Purén (73.9 percent), Los Sauces (72.7 percent), Ercilla (68.6 percent) and Melipeuco (57.3 percent), all in the province of Malleco. In Cautín, as well, the tree plantations have increased, despite its better agricultural land. The expansion of plantations in Cautín has been spurred by the plans of CELCO to build another wood pulp plant just to the south near Valdivia, and the construction of the coastal highway which would facilitate extraction of the logs and their delivery to the wood pulp plants. Pine and eucalyptus plantations are evident along the road heading west from Temuco to the Pacific coast on land that a short time ago was used for wheat or cattle. Toltén, a municipality on the coast and located near a proposed wood pulp plant, has 67.7 percent of its arable land in tree plantations. Another coastal municipality, Carahue, has 64.3 percent in tree plantations.

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Social Impact of the Expansion of Industrial Tree Plantations

The expansion of tree plantations has brought about a greater concentration of land ownership than before the era of Agrarian Reform. Since the tree plantations are owned by autonomous subsidiaries of the large economic conglomerates, the degree of concentration is not fully captured by the government property registries. Neverthless, the 1997 Agricultural and Livestock Census yields some evidence. In 1997 in Lumaco, for example, 71.18 percent of the agricultural properties (which include tree plantations) had 18.13 percent of the arable land. These 1,035 different farms had less than 30 hectares. The "midpoint" of size of the agricultural properties in Lumaco was much less, with 524 agricultural properties having only 5 hectares or less, while 511 properties were greater than 5 hectares. At the top end of the scale of property size, 34 properties, or 2.33 percent, had 47.89 percent of the arable land. These estates are farms greater than 130 hectares. Five farms (0.3 percent of the properties, those with 500 hectares or more) had 34.79 percent of the silvo-agricultural properties; two (of 2,000 hectares or more) owned 31 percent of the farmland. The situation was very similar in other municipalities of Malleco.[60]

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[60] A study conducted of Collipulli found that the economic crisis of the early 1980s led to the sale of many rural properties and the emigration of some 600 families to urban areas between the two census years, 1982 and 1992. The logging companies, after buying many of the larger, no longer profitable estates which had deteriorated soils, began to offer cash for properties with good, flat soils, paying up to US$ 1000 the hectare. These properties were relatively close to the wood pulp plant of CELPAC, in the

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In contrast to the tree plantations, most Mapuche farms are very small, ranging from less than one to five hectares; when they are slightly larger than the average for Mapuche peasants, the land is usually poorer--nonarable or severely eroded soil. Frequently, the farms also have more than one nuclear family, as some of the grown children remain with their parents on the farms. In some cases, the adult children may work in urban areas, or migrate seasonally to work in the fruit harvest, while the grandparents help by caring for the young grandchildren. Thus, in addition to the inequalities in size, the highly concentrated pattern of land ownership means poverty for a significant amount of people.[61]

The shift from agriculture and livestock raising to industrial tree plantations not only meant the legal consolidation of a loss of desperately needed subsistence land, but also a predatory relationship of the large logging corporations toward the Mapuche communities, one more aggressive than that of the previous large landowners. As has

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town of Mininco, in the municipality of Collipulli, which opened in 1992. See Diagnóstico Comunal de Collipulli 1992.

[61] A leader of the Mapuche community Temulemu estimated that 50 percent of the adult members of the community lived and worked in urban areas while maintaining ties to the community, and that with the economic crisis of 1998-99, many of them had to return after losing jobs. He also stated that almost all the community members (with property title) were down to less than one hectare--to support entire extended families. The soil was so eroded that there was virtually no topsoil, and the nearby tree plantations had dried up water sources used by the families. Children had only one set of clothes, and so often had to miss school in the winter because after walking long distances in the rain to get to school, they would have no spare dry clothes to put on. Sometimes the families did not have anything to eat. See Informe de la Comisión de Observadores de la Comunidad "Temulemu" July 1999.

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been described earlier, the *radicación* onto small plots of land meant the immediate impoverishment of the Mapuche, forcing them to use intensively the available natural resources, leading to the degradation and depletion of those resources. In Malleco province, in particular, the Mapuche communities were confined to hilly areas unsuitable for intensive agriculture. Heavy winter rains falling on newly plowed, bare soil, aggravated the problem. Today, Malleco soils are classified as either very or severely eroded.[62] In some cases, deep gullies scar the landscape, while other areas have poor, clay soil with few nutrients.

Poverty, usurpation of lands from the *reducciones* over the years, and demographic pressures forced the intensification of the subsistence agriculture, without assuring subsistence security. More family members had to emigrate, either permanently or seasonally. Wages from seasonal jobs and small state transfer payments (old-age pensions), provide an essential, but insufficient, contribution to family income for rural communities. School-aged children skip classes in order to

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[62] See Luis Peralta, Katherine Bragg, and María Angélica Celis, Diagnóstico Propuesta de Programas y Proyectos Ambientales Campesinos para Malleco, IX Región. (Temuco, Sept. 1992) and CODEFF 1992, pp. 27-8. The practice of clearing the native forest as a "scorched earth" war tactic and by Chilean and foreign immigrant settlers began in the mid nineteenth century. These practices resulted in much loss of native species. As much of the cleared hilly land in Malleco province was only marginal in terms of agricultural, soil fertility was reduced quickly by the large estates. The problems of soil erosion and loss of biodiversity begin with the colonization and conquest, and worsened because of the production practices of the small Mapuche farmer on the reduccion, the large agricultural estate, and more recently, the logging companies. See Bengoa 1985; Guevara 1989; Leyton 1986; Unda and Stuarda 1995.

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contribute to the family income by harvesting *rosa mosqueta* (The fruit, or rose hip of the wild rose, which flourishes on the degraded pastures,[63] is harvested).

With the depletion of the resources on their small plots of land, rural peasant families produced less and consumed more, and in less variety, falling into deeper and deeper poverty.[64] Reduction of forest patches and thus, of wood supplies and other forest products, and the usurpation of land from the reducciones, meant that family diets shifted from foods once produced by the families (such as legumes) that require relatively long cooking, to food which is bought, (such as noodles) which can be cooked in much less time with less fuel. The growing scarcity of water because nearby, fast growing, non-native tree plantations deplete streams and underground water tables, have made family vegetable gardens difficult, if not impossible, and thus the quality of family diets deteriorates.

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[63] The fruit of the rosa mosqueta is rich in vitamin C; it is used in making jams and in cosmetic products.

[64] See Sandra Huenchuán, "Mujeres rurales e indígenas en la Araucanía: huellas demográficas y aspectos de sus condiciones de vida" Liwen no. 4 (June 1997): 80-103 (Temuco: Centro de Estudios y Documentación Mapuche Liwen) for a case study of the consequences of the depletion of natural resources and land loss for Mapuche women in the countryside in three municipalities of the Ninth Region.

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Two Mapuche communities in Lumaco, for example, are illustrative of the level of poverty typical of Mapuche communities.[65] The Mapuche community of Rucayeco no longer has any native forest. Families have an average of 6.8 hectares (families average five persons per household), one third of the families did not have a pair of oxen for agricultural work, and one third had only enough water for human consumption. Wheat yields are poor (13 quintals or hundredweights per hectare), giving the families just enough to cover basic family consumption for a year, leaving a small amount for next year's production and animal feed. The community of Chanco is so poor that the traditional religious ceremony, the *nguillatun*, was no longer held, at least in part because the ceremony requires a considerable expense (in terms of food for the communal feast and for offerings). Almost two-thirds of the families do not have the pair of oxen needed for agricultural work, almost one-third only have water for human consumption, and wheat yields are less even than those of Rucayeco--9 quintals per hectare, giving the families an average of 12.6 quintals (family farms are smaller than those of Rucayeco), far less than the 18 quintals needed for yearly family consumption.

These precarious conditions are common throughout the Mapuche communities, and have forced rural families to supplement farm income with seasonal

[65] See Diagnóstico Participativo de la Realidad de los sectores rurales campesinos de la comuna de Lumaco, provincia de Malleco, IX Región, Chile (Temuco: Cooperación con el Gobierno de Holanda

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or sporadic wage labor, government transfer payments, or the small scale, occasional marketing of produce (i.e., eggs, small livestock). Temporary work away from the family farms depends on whether the specific economic sector, such as the export fruit sector or construction, is booming or suffering a recession. These seasonal jobs do not provide sufficient supplemental income to offer subsistence security. The precarious nature of these various activities means that they are merely short-term measures to solve the immediate material existence problem, rather than a long-term strategic plan to generate income security or savings, or serve to rise out of poverty.

Consequences of Changes in Production in the Countryside

The succession of changes in production on the large estates, from grains to livestock raising to logging estates have reduced local seasonal jobs for Mapuche peasants. Beginning in 1930s and 1940s, the agricultural estates became mechanized, and thus required far fewer seasonal laborers. The estates also increased their amount of pasture and reduced their cultivated area, further diminishing the need for seasonal workers. The loss of seasonal jobs meant economic hardship for Mapuche peasants, who needed to supplement their subsistence agriculture with some form of cash income. Along with the small size of the Mapuche *reducciones*, and the natural

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con el sector agrario de Chile. Departamento de Acción Social del Obispado de Temuco, 1992).

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demographic increase, the loss of nearby job opportunities induced high rates of emigration from the Mapuche communities to large urban areas, such as Santiago, Temuco, or Concepción. The social and economic relations between Mapuche communities and neighboring large landowners, thus, were generally conflictual.[66]

The expansion of industrial tree plantations after 1974 brought a number of interrelated problems in addition to the familiar ones of conflicts over ownership, usurpation of lands, economic subordination, and social discrimination. It created a territorial conflict between the Mapuche communities and the logging companies. The logging companies exercise a "quasi-territorial control" over large areas, within the area of influence of the wood pulp plants. A veritable "invasion" of pine or eucalyptus plantations makes living conditions for the small farmer even more difficult, particularly when the small farmer's land is already poor quality farmland.[67]

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[66] One Mapuche peasant makes clear the distinction between relations with the agricultural estate owners and those with the logging companies, recognizing the economic exploitation exerted by the estate owners of their Mapuche workers, that, nevertheless, provided sorely needed cash income: "We made the others rich. We were poorly paid. Many of them [the estate owners] became rich at our expense, from the work of the Mapuche, but at least there was work...." Informe de la Comisión de Observadores de Temulemu (July, 1999).

[67] With irony, Mapuche activists have characterized the expansion of industrial pine tree plantations as the "*pinificación*" of the Araucanía--a pun on the term "*pacificación*" used by historians to refer to the war of Chilean Republic to conquer the Araucanía [Mapuche autonomous territory] in the late nineteenth century.

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The logging companies, and the investment conglomerates which own them, have a profound effect on local land prices, reduce local job offerings, and deteriorate the local environment with the pesticides and herbicides. The companies also enforce their control over the area by closing roads which cross plantations even when they are public use roads (to limit access to the plantations). The heavy trucks loaded with logs are too heavy for local roads and bridges, leading to the deterioration of local road systems, but the logging companies do not contribute to the local or regional tax base, due to the system of tax exemptions and subsidies for plantation forestry. Local and regional government tax bases are too limited to maintain services damaged by the logging industries.[68]

Some Mapuche organizations have described the conflict between the logging companies and small Mapuche and non Mapuche farmers as "occupation by stages" backed up by forceful measures taken by the companies and litigation in the courts.[69] A logging company claims ownership, or buys land historically claimed by Mapuche. The company then notifies the families that they must leave under threat of eviction by court order. The logging company then proceeds to close access roads and lock them, preventing free entrance and exit from nearby Mapuche communities or non-Mapuche

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[68] See Unda and Stuarda 1995; Peralta et al. 1992.

[69] See "De la deuda histórica al reconocimiento nacional de nuestros derechos territoriales" (May 1999); Informe de Derechos Humanos en las Comunidades Mapuches de Arauco y Malleco (April 1999).

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settlements. Afterwards the logging company establishes tree plantations over the entire estate, covering the land used previously for cultivation or pasture with pine or eucalyptus--at times, up to the edge of the families' houses. The plantations are guarded by employees of the logging company who do not let the Mapuche (or non-Mapuche) small farmer graze his cattle or harvest wood. These measures have led Mapuche communities to organize and assert their claims in courts and through direct action. The logging companies solicit the use of police to back up their property rights, organize their own system of vigilance, and counter the legal suits of the Mapuche communities with their own lawsuits.[70]

The emigration of families out of the countryside, and often out of the local area, means a reduction in the provision of basic social services at the local level. When rural population dwindles because of the rural emigration, local governments choose to close down elementary schools and reduce health facilities and services. The

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[70] See Leyton 1986 and "De la deuda histórica al reconocimiento nacional de nuestros derechos territoriales" (May 1999); Informe de Derechos Humanos en las Comunidades Mapuches de Arauco y Malleco (April 1999); Informe de la Comisión de Observadores de la Comunidad de Temulemu (July 1999). Non-Mapuche small farmers also face threats and measures designed to make them leave their properties from logging companies. These non-Mapuche are often tenants, rather than owners, hence have little recourse except to submit. Sometimes, however, a small owner may remain and suffer the same type of aggression--locking of public roads which go through plantations, confiscation of animals which may enter plantations, etc. (The author has heard similar complaints from local residents and seen similar situations in the Ñuble province of the Eighth Region as well).

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remaining population experiences further difficulty in gaining access to basic services, tending to induce more emigration from the countryside.[71]

Municipal governments must provide local public health care and basic education, these rural municipalities have limited funds because their tax revenues are very low. Real estate taxes in Chile are low in general, and both the impoverished Mapuche communities and tree plantations of the transnational logging corporations are exempt. Access to the Common Municipal Fund and the National Regional Development Fund, two central government funds that direct tax earnings to poor communities, is meant to make up in part for the local and regional government income gap, but the needs exceed the supply. The Mayor of Lumaco, where there has been a number of conflicts between Mapuche communities and logging companies, complained that in his municipality, some 70 percent of the population was poor, and 40 percent of those poor was indigent.[72] The lack of employment opportunities in Lumaco, a municipality dominated by tree plantations, had led to a 20 percent open unemployment rate, well before the Asian recession brought lay offs and dismissals to Chile. The logging companies that exert so powerful a presence in the region do not pay local or regional taxes--such taxes that they pay go to the central government or to

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[71] Unda and Stuarda 1995.

[72] El Diario Austral 29 December 1997, pp.6-8.

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the port authorities in the Eighth or Tenth Regions. Although the municipality of Lumaco in 1997 received the largest percentage of funds allotted to a municipality in the Ninth Region under the National Fund for Regional Development, it could scarcely cover costs of basic education and health.[73]

The tree plantations require few workers during the long period of growth, because planting, pruning, and harvesting are now highly mechanized, requiring training and experience with machines which the poor Mapuche peasants who live close to the tree farms do not have.[74] In addition, the logging companies subcontract the various maintenance jobs of planting, harvesting, vigilance, etc., to private enterprises, and these subcontracters tend to hire workers from other regions, rather than local help.[75] Thus, although in a few cases the companies may have used local labor for the first tasks of planting, the advance of the industrial tree plantations has meant a further reduction in local sources of supplemental seasonal income. The leader of Mapuche community Temulemu complained that, "When the logging companies first arrived, they hired us to do the planting, but the work lasted only a few

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[73] El Diario Austral 29 December, 1997, pp. 6-8.

[74] Unda and Stuarda 1995.

[75] The practice of hiring workers from outside the local area occurs in non-Mapuche areas as well. The practice allows the subcontracter to find low cost workers, hire them for a particular job, control them by offering workers barrack style living quarters in camps inside the tree plantations, as well as avoiding local workers who may not be docile. In the Eighth Region, in Ñuble province, the author witnessed the same practice. See also Leyton 1986 and Unda and Stuarda 1995.

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days. After about four years, the companies applied pesticides by plane, and then our animals died, our cattle were poisoned....Then we were left without water....Now we don't even have firewood. The guards don't let us onto the logging plantations....Now the plantation guards are armed with rifles. They threaten even the children...."[76]

On a regional level, the net job loss due to the expansion of the tree plantations in the Ninth Region can be seen in the steady rise in the rate of unemployment during the 1990s--despite the positive national economic growth over most of the same period.[77] Traditionally, the Ninth Region "exports" its unemployment through its high rate of emigration. The low rate of job creation remains typical of both the forestry sector and of the regional economy, despite the dynamic expansion of the forestry sector. From the perspective of the logging companies, the rural population near a tree plantation constitutes a potential hazard, even discounting mobilization and land take-overs: livestock may eat or trample seedlings, rural residents are blamed for fires

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[76] Informe de la Comisión de Observadores de Temulemu (July 1999). These complaints are reiterated constantly by members of Mapuche communities.

[77] In the trimester October-December, 1994, the regional unemployment rate was 3.1 percent. In 1995, the rate rose to 3.9 percent, in 1996 the rate was 4.1 percent and in 1997 it had risen to 5.06 percent. El Diario Austral, 7 February 1998, A5. This was before the impact of the Asian economic crisis. In late 1998, when the Asian crisis had provoked a recession in the Chilean economy, the Ninth Region's unemployment rate rose to 9.8 percent. The regional economic secretary explained the steady rise as a reflection of the fact that, traditionally the low rate of regional unemployment was a result of the relatively high rate of emigration out of the region. When other regions experienced recessive phenomena, the rate of emigration from the Ninth Region slowed, and regional unemployment rose. He argued that regional development had to be oriented to the municipalities, and not concentrated in Temuco as it currently occurs.

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which damage plantations, and the very existence of the family farms creates an obstacle for the expansion of the plantations in a competitive industry. At the same time, it is obvious to the Mapuche peasants that the logging companies will reap a lucrative investment on land that they, the Mapuche, claim.

Environmental Impacts of Industrial Tree Plantations

In addition to not providing a solution to unemployment and poverty, the logging companies have created a number of environmental problems which extend beyond the borders of their estates, degrading the quality of the natural resources, and threatening the health of the neighboring communities. In order to inhibit rodents (such as rabbits) from eating the seedlings, the logging companies apply pesticides. These toxins have caused deaths of the natural predators of rabbits (such as foxes), and have reportedly caused sickness or deaths in animals and people.[78] Ramos Antiqueo relates the effects of one fumigation on his community: "...Planes came to fumigate. But only a little of the pesticide fell on the pine trees. The stench of that pesticide reached up to here although the planes dropped it from over there. The water was also

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[78] See Peralta et al. 1992; Grupo de Investigaciones Agrarias, "Transformación forestal y medio ambiente," Agricultura y Sociedad no. 4 (1986): 42-4.

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affected because most of the springs rise here and then flow down there where more families live...."[79]

Since the pesticides are usually applied by plane, their application is indiscriminate, and can fall on lands next to the plantations. Aerial application makes establishing the exact cause and effect relation between applications and pesticide poisoning more difficult. The government often does not apply punitive sanctions for the use of prohibited toxins or their abuse because it is difficult to prove responsibilities, except in the case of massive poisonings, which sometimes occur, when pesticides or herbicides are dumped in large quantities in streams. The toxins used in the treating of cut lumber and in paper and pulp production have contaminated streams and water sources, with little response from government authorities. During the military regime, many of the controls on pesticide use were removed. The use of 1080 was prohibited, for example, but the law was not enforced because its specific regulations had not been enacted.[80] Logging companies seek high growth rates in their

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[79] Rodrigo Catalán Labarías and Ramos Antiqueo, Pueblo Mapuche, Bosque Nativo y Plantaciones Forestales. Las causas subyacentes de la deforestación en el Sur de Chile (Temuco: Ediciones Universidad Católica de Temuco, 1999), 40. Another case was reported by Mapuche peasants of Temulemu: "After about four years, the companies fumigated the plantations and then our animals died and our cattle were poisoned....later we were left without any water....We don't have water even for the animals, the gardens have finished [for lack of water]...now they don't even let us have access to firewood." See Informe de la Comisión de Observadores de la Comunidad de Temulemu (July 1999).

[80] Laws are sometimes passed, but then specific, more precise regulations must be written and approved before a law can be enforced or implemented. In the case of the new environmental law, (19.300), the delay between its congressional passage in 1994 and the establishment of the necessary regulations, was

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tree plantations in order to compete with the productivity of the logging industry in other countries. This competition is one of the factors stimulating the demand for the flat, relatively good agricultural soil as land for tree plantations.[81]

This competition with producers in other countries make logging companies prefer non-native tree species because they grow particularly fast. Commercial harvest can take place as early as ten or fifteen years, although optimal harvest occurs after about twenty years.[82] Their fast rate of growth, however, also means they require large amounts of water. Local farmers, Mapuche communities, and even nearby towns and cities such as Puren and Angol in Malleco have complained that their springs and streams have dried up. A study conducted by international experts and the Chilean state agency, the Corporación Nacional Forestal, estimated that the town of Puren

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approximately two years (3 March, 1996). An example of a toxic substance commonly used in the treatment of lumber and logs to prevent the growth of fungi is a salt of pentachlorophenol. Pentachlorophenol, according to the World Health Service, can damage the liver, kidneys, nervous and circulatory systems if absorbed by the skin or consumed. Among the pesticides and herbicides reportedly used in industrial plantation forestry are 2,4,5 T ("agent orange"), substances containing dioxin, (a highly toxic carcinogin and mutagenic substance), Tribulon S., Velpar, Simazina, Atrazina, H-1 Super, and 1080. See Grupo de Investigaciones Agrarias, "Transformación forestal y medio ambiente" Agricultura y Sociedad no. 4 (1986): 42-4.; Rigoberta Rivera and María Elena Cruz, Pobladores Rurales (Santiago: Grupo de Investigaciones Agrarias, 1984).

[81] Andrés Duarte, Corporación Nacional Forestal, personal comment.

[82] Certain valuable native woods (raulí) also can be harvested in approximately twenty years, but the industry concentrates on wood pulp production rather than furniture, housing construction, furniture parts, etc. based upon native hard woods. For a summary of studies comparing economic trade-offs between the managed harvest of native forests and industrial tree plantations, see Arnold 1998, pp. 22-28.

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needed a water flow of 125 liters per second, but only had 15 liters per second because of the pine and eucalyptus plantations nearby.[83] It recommended the elimination of the plantations and the reforestation of the area with native trees. The city of Angol (capital of Malleco Province in the Ninth Region) has also experienced water shortages, because of the expansion of the tree plantations.[84] CODEFF surveys of local residents near pine and eucalyptus plantations registered the complaints of small farmers of water sources drying up. Field monitoring by CODEFF documented that in many cases the small farmers were forced to leave because there was no longer sufficient water.[85]

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[83] Rafael Bahamondes, et al. "Economía Ambiental y su Aplicación en la Gestión de Cuencas Hidrográficas: 5 estudios de caso," 1996. See also article in El Mercurio, 3 July 1997.

[84] See Diario Austral, 14 August 1999 A 19 for a report that the municipal government decided to submit a lawsuit against a logging company that had drained a nearby lake in order to expand its tree plantations. The municipal government claimed that the local water table had been depleted because of the tree plantations and that native flora and fauna decreased. See also Catalán Labarías and Ramos Antiqueo 1999. Ramos Antiqueo gives an account of the problems for lack of water : "We have a plantation which is not more than three kilometers from our community, right close by. Now the people in the community don't have any water....The stream below no longer flows, not even enough for the pigs. It began to dry up upstream, and the eucalyptus trees come within a meter of the stream bank. It used to be a deep stream, with fish, now there aren't even worms, just rocks. We used to wash our dishes there, it was a beautiful stream....There was a family that had a pretty garden in the valley below. They just worked their garden and had a nice house and educated all their kids. Now they don't even have water for the garden." p.29. Again, from the study of Temulemu, a resident complains, "The pines take all the water. Before, the stream would rise so much it would carry livestock downstream. Now, it doesn't, the women can't even use it to wash, the children don't have any place to swim in the summer...." Informe de la Comisión de Observadores de Temulemu 1999.

[85] Arnold 1998, 27 and CODEFF 1992, 29.

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Unlike the native forest with its diversity of plant, animal, and microbiotic organisms, the single species nature of the tree plantations creates a severe imbalance in the local ecosystem. Water and certain nutrients and minerals are quickly exhausted by the fast-growing pine and eucalyptus, while the loss of ground cover, humus soil, and varied undergrowth of shrubs and low vegetation, and the type of leaf and upper story structure typical of pine and eucalyptus plantations mean that rainfall is not captured, and "saved" in the soil and vegetation. The exotic trees quickly deplete the ground water supplies, but the local water table is not replenished at the rate at which it is used. Even the air within the one crop tree plantations is noticeably drier than that of a native forest.[86] In the context of the drought caused by the "El Ñino" effect on ocean currents during the 1990s, this depletion of above ground water sources and reduction in water tables created a severe water crisis for the rural areas of

[86] A striking contrast in local humidity was continually noticed by the author, as she ran up the hill park in Temuco (the Natural Monument, Cerro Ñielol), which has old growth native forest, but on the surrounding hillsides outside the park boundary, where pine and eucalyptus trees have been planted for commercial exploitation, the atmosphere was noticeably drier. The native forest would "breathe" mists on many days, while mist would shroud the tree plantations only on the mornings or days when mists hung over the entire area, including the urban zone, park and neighboring farmland. The author also noted the difference in ambient humidity between the pine and eucalyptus plantations and old growth, nearly undisturbed native forests during field work on the huemul mountain deer in the Andes mountain range near Chillán in the Eighth Region, from 1993 through 2000. Tomás Guervara (1898, p. 170) declared that, "the clearing of native forests had noticeably modified the regional climate. He stated that places which earlier records describe as being covered with great forests no longer had a single tree. From this he concluded that in past centuries, and even in this one, the temperature was lower, the air more humid, and the rains more frequent. The transition from the warm to rainy seasons used to be less abrupt." "La tala de bosques ha modificado sensiblemente el clima de la frontera....Lugares de que hablan los cronistas como poblado de grandes bosques, no tienen hoy ni un solo árbol. De aquí se desprende que en los siglos anteriores al presente i (sic) aun en este mismo, la temperatura era más baja, el aire más húmedo i las lluvias más frecuentes. La sucesión de las estaciones opuestas, de calor i de lluvias, no se operaba de un modo bastante brusco."

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the Ninth Region. During the summers of 1998-99, many rural families depended for all their needs on a few gallons of water distributed weekly by municipal trucks, as their springs or wells dried up.

The monocrop nature of the tree plantations not only means loss of valuable native biodiversity, and negative environmental effects. It also means the single species plantations are vulnerable to pests.[87] Although Chile's geographic barriers initially provide some protection, these barriers are eventually broached. The logging industry counteracts these threats with fumigations, as well as research on genetically altered varities. Pests may come from small land owner's properties located near industrial plantations. A recent article in the Eighth Region newspaper El Sur reported that, according to the Chilean National Forest Corporation, 30 percent of the pine plantations were infected with *polilla de brote*, and that the majority of the infected trees were on small properties.[88]

The practice of establishing plantations over an entire estate means the loss of patches of native ecosystems, including native forest in ravines, alone watercourses and between cultivated fields, that had remained on land after clearing it for

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[87] Arnold 1998, 21.

[88] El Sur 19 October 2000 A4.

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agriculture and livestock pasture. The loss of these patches of forest and corridors of native vegetation eliminates key habitat areas for native species, imposing cumulative environmental consequences on ground water, predator/prey species relationships, and biodiversity.

The loss of biodiversity is, moreover, a cultural loss. Mapuche communities and organizations stress that the expansion of the industrial tree plantations not only causes a problem of lack of water and usurped land, but also a loss of culturally specific values, practices and knowledge. Indigenous cultural knowledge linked to native plants, and cultural practices associated with native ecosystems are threatened as native species disappear or become rare. Although the loss of biodiversity and cultural resources began with the clearing of forests for colonial settlement, the rate and extent of the substitution of native forest by tree plantations intensifies the depletion of these resources. The loss of native plants, for example, means the loss of knowledge of medicinal and subsistence uses of those plants. Members of the Mapuche community of Temulemu complained that the apprentice *machi* (religious leader) could not learn where to find native medicinal plants, since the plants no longer existed nearby. She had to ask for samples to be sent from communities far away.[89]

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[89] Informe de la Comisión de Observadores de Temulemu (July 1999).

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The Mapuche religious ceremony, the *nguillatun*, reminds community members of their relationship and mutual responsibilities with other human communities and with the surrounding natural environment. The demand for control of natural resources in indigenous lands[90] is, thus, associated with a call for a non-exploitative use of these resources, and voiced as a recovery of cultural values and a rejection of exploitative use for private benefit.

In contrast to the Mapuche, who suffered usurpation of lands from their communities but in many cases could contest legal ownership because of their *Títulos de Merced*, the non-Mapuche tenant farmers have been evicted by the logging companies, leading to a population shift out of rural areas and a growth of some of the medium sized cities in the last twenty years. These farmers usually had no recourse other than to move, because they were renters or sharecroppers. Since they had little education or training, many moved to urban shantytowns, working as unskilled labor or as seasonal workers in the agricultural sector.[91] Both increasing mechanization, and the need for far fewer workers between the planting and the harvest (15 - 20 years after

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[90] See De la deuda histórica...1999 and the ILOs's Convention 169.

[91] Rivera and Cruz 1984; Jorge Morales Gaboni, El Desarrollo Forestal en Concepción (Santiago de Chile: GEA and UAHC, 1989); Ana María Salamé in El Diario Austral, 22 April 1995, A 12; Diagnóstico Comunal de Collipulli 1992.

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planting), meant that the expansion of industrial plantations has meant a net job loss for the region.[92]

In the municipality of Collipulli, Ninth Region, for example, a study found that the economic crisis of the early 1980s precipitated the sale of rural properties and the abandonment of the countryside by some 600 families between 1982 and 1992. During the same period, the urban population of the municipality grew at a rate far above that of Malleco province or the Ninth Region as a whole. The demographic growth rate of Collipulli was surpassed only by Temuco, which has experienced a relatively rapid rate of demographic growth, well above 2 percent annually since 1960.[93] Collipulli, however, remains a poor, depressed town. Its significance lies mainly in its proximity to the country's main highway, and thus from there, it is easy to reach other parts of the country for seasonal employment. Between 1970 and 1982, the demographic growth rate of the municipality of Collipulli was 1.44, in contrast to 0.81 for Malleco province as a whole. In the period preceding the next national census, the difference in rates of demographic growth is even more dramatic. Between 1982 and 1992, the rate for Collipulli rose to 1.54, while that of Malleco dropped to 0.60;

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[92] Diagnóstico Comunal de Collipulli 1992; Peralta et al. 1992; Unda and Stuarda 1995.

[93] Between 1970 and 1982, Collipulli grew at a rate of 1.44 and from 1982 to 1992, Collipulli grew at a rate of 1.54. Temuco outdistanced the regional, provincial and local rates: from 1960 to 1970, Temuco grew at a rate of 2.93, between 1970 and 1982, 2.56, and between 1982 and 1992, 2.36. INE, 1992.

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the Ninth Region registered 1.20, and the municipality of Temuco, the regional capital, led at 2.36.[94] During the same period (1982 to 1992) only Angol, the provincial capital of Malleco experienced similar demographic growth (1.50) and the tourist center, Pucon, in Cautin province (1.34). Similar patterns of migration ocurred in the Eighth Region, in the areas of expansion of tree plantations in the provinces of Arauco and Bíobío.[95]

Natural resources, neoliberal property regimes, and indigenous rights.

Part of the neoliberal legal framework instituted by the military regime included the modification of laws regarding the use of water and subsoil resources. As a legacy of Hispanic law, Latin American states are the owners of all subsoil resources, regardless of the owner of the surface land. During Allende's Popular Unity government, state ownership of the copper industry was unanimously approved by the Chilean Congress. At the time, even the right wing believed that the practices of foreign owned copper companies deprived Chile of income.[96] The military regime retained control of the CODELCO, and stipulated that the armed forces would be

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[94] Instituto Nacional de Estadísticas (INE).

[95] Rivera and Cruz 1984; Morales Gamboni 1989.

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guaranteed 10 percent of its earnings. The 1980 constitution continues to recognize the state as the owner of subsoil resources.[97] According to law, the rights to explore for and exploit these resources, as well as others, such as water, are sold by the state to private interests, who generally do not have to respond either to the state or society as a whole with respect to their use.

The shift under neoliberal policies to a "subsidiary role" for the state makes the constitutional provision of the state as owner of subsoil resources a mere rhetorical declaration. The Mining Code and the Water Code in fact promote private sector exploitation of natural resources, and private appropriation of the benefits from these social goods. Modifications in the Mining and Water Codes eliminated provisions giving the state regulatory and supervisory powers. In the case of mining concessions, it is a judge, not the executive branch or the state mining agency, which grants concessions. The changes established by the 1981 Water Code removed the state's power to verify the use of solicited water rights, to set use priorities, or to recognize non-commercial and non-conventional uses (e.g., ecological uses) as grounds for requesting water rights.[98]

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[96] See Theodore Moran, Multinational Corporations and the Politics of Dependence: Copper in Chile (Princeton: Princeton University Press, 1974).

[97] Article 19, n° 24.

[98] Toledo 1997.

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In essence, neoliberal policies regarding natural resources accentuate the power of the state to divert social goods and future prosperity and well being to private, partial interests. The "social" is lost, as under neoliberal policies, goods and benefits to the society as a whole are considered fortunate side effects, derivatives of the free market. According to neoliberal ideology, such goods cannot be determined by state authorities, or declared *a priori* by legal norms if market efficiency is to be maximized.[99] Yet this principle was ignored by the military dictatorship when it gave subsidies to logging companies.

Subsoil resources may be exploited by private interests, who receive state-granted concessions. In the case of mineral resources, private enterprises may buy the rights to explore for minerals and obtain the right to make excavations in the land of any property owner. These permissions are often bought as a speculative investment, or to protect investment plans for a major industrial project. The purchasers of these mining concessions thus acquire the ability to impose industrial projects regardless of

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[99] See Friedman, Milton and Rose Friedman, Free to Choose: A Personal Statement (New York: Harcourt Brace, Jovanovich, 1980); Friedrick Hayek, The Road to Serfdom (London: Routledge, Kegan Paul, 1944); James Buchanan and Gordon Tullock, The Calculus of Consent: Logical Foundations of Constitutional Democracy (Ann Arbor, Michigan: University of Michigan Press, 1962); Jim Tomlinson, Hayek and the Market (London: Pluto Press, 1990). See Adam Przeworski, "The Neoliberal Fallacy," Journal of Democracy (July 1992): 45-59, for a critique of the premise of superior efficiency of the market. Przeworski argues that distortions in information create inefficencies.

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the "surface" property rights of landowners, usually invoking a "social" benefit for the industrial project as justification for eviction of the current residents. Toledo (1997) gives the example of a Mapuche community of the Tenth Region which had claimed lands of a neighboring estate.[100] The estate owner sold his surface title to the CONADI, but at the same time arranged to obtain the mining concessions in a relative's name, thus profiting doubly and retaining control over the estate. The rights to mining concessions which permit the exploitation of known mineral resources are subject to a yearly fee, which is not a deterrent to large companies. The fees, however, do act as a disincentive to small (surface) property owners who might otherwise protect their property rights by purchasing mining concessions.

The legal regulations concerning the use of water were modified in 1981 to allow private sector interests to apply for use rights of rivers, streams, etc. Unlike mining concessions, it is not necessary to pay for water use rights, merely to follow the bureaucratic process of application and publication in the official government bulletin and a regional newspaper of the request for water rights. It is not necessary to verify that landowners who might be affected know of the solicitation. This process has allowed the major electric power consortium, ENDESA, to acquire the rights to

[100] See discussion in Víctor Toledo, "Todas las aguas. El subsuelo, las riberas, las tierras. Notas sobre las (des)protección de los derechos indígenas sobre sus recursos naturales y contribución a una política de defensa," Liwen no. 4 (June 1997) (Temuco: Centro de Estudios y Documentación Mapuche Liwen), p.44, fn. 8.

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virtually all the potential sources of hydroelectric power in central and south central Chile.[101]

Most Mapuche communities, and those of the other indigenous peoples in Chile, do not have any type of subsoil resource concession, and lag far behind in the process of solicitation of water use rights. Despite the fact that the Mapuche communities were forced into accepting individualized land title, the indigenous landowners were not counselled on the opportunities for investors' acquiring control over the natural resources. Thus, in addition to being in a highly unequal relationship with other (surface) landowners, the indigenous communities found themselves in an extremely inequitable relationship with the owners of the subsoil resources or water sources. The veil of legality over the transfer to private control of these natural resources does not disguise the bias of the state in favor of the transnational or large national economic interests. Justified in the name of economic productivity, the commodification of these social goods threatens long term ecological sustainability and, in the immediate term, the rights of the rural indigenous communities.

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[101] La Tercera 15 November 1997 states that ENDESA controls 67 percent of the water with hydroelectric potential of the area covered by the SIC (Interconnected System).

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Disputes between mining companies and indigenous communities in northern Chile under the military regime, as a result of the contamination and depletion of water sources by mining operations, alerted politicians and members of the incoming Concertación government of the need to specify water use rights for indigenous peoples in the North. Their efforts to protect access to water, however, did not result in a profound modification of the Water Code or of other natural resource regulations, although the modifications protected the aquifers of wetlands. In addition, the indigenous law did not have any special provisions concerning water rights for indigenous peoples in other areas, despite the comments by Congressmen and indigenous leaders on the need to recognize the rights to control over the natural resources within indigenous lands, (as is recognized by the International Labor Organization Convention 169, introduced into the Chilean Congress in 1990 and to date not ratified).[102]

With the recent long droughts (two periods in the 1990s), the water crisis has become an issue throughout the country. Many Mapuche communities in the "rainy" Ninth Region had to depend on water trucks for a few gallons per family once a week during the drought of 1998-9. Earlier droughts during the 1990s in the Eighth and Ninth Regions made clear that there was a water crisis, but no comprehensive steps

[102] See Senate 10th Session 1993, annexed documents p. 1319 of "Historia de la ley indígena."

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were taken to avoid the return of shortages. Despite government programs subsidizing the digging of wells, installation of water towers and pumps, and rural potable water systems, local governments did not have the funds or the equipment to meet the basic water needs of the Mapuche communities, or any regulatory instrument to conserve water use. One consequence has been that Mapuche communities and organizations have taken up the demand for water and control over the natural resources in their lands, not only in terms of basic subsistence needs, but also in terms of a critique of the neoliberal property rights regime.

Chilean law commodifies and separates the subsoil resources and water resources from land ownership, leaving a legal gap in which the overexploitation of natural resources and the usurpation of land can occur with the acquiescence of the law. Indigenous organizations and others have demanded recognition of the linkage of natural resources with the land.[103] Their demand for territorial rights includes this notion of the integrity of the natural ecosystem, and refers to the right to the historical territory of a particular people. The demand for territorial rights invokes respect for

[103] For example, "De la Deuda Histórica al Reconocimiento de Nuestros Derechos Territoriales" Identidad Mapuche Lafkenche de la Provincia de Arauco, Eighth Region of Chile, 1999. The demand for the right to control the natural resources in indigenous territories was one of the demands of the draft law elaborated by the national Congress of Indigenous Peoples in 1991; control over the natural resources and access to the benefits from the exploitation of their use is listed as one of the necessary attributes of a proposed constitutional level statute recognizing an ethnic character for the regional government, José Marimán, "Cuestión Mapuche, Descentralización del Estado y Autonomía Regional" Tópicos 90 no. 1 (Santiago: Centro Ecuménico Diego de Medellín, 1990).

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the integrated relationship of natural resources with a particular territory, as opposed to the possibility of the dismemberment of the natural ecosystem and its sale as separate commodities.[104] Some indigenous organizations also emphasize the notion of rights as relationships, involving mutual responsibilities, rather than exclusive private possesion or dominion.

Under this notion of mutual responsibilities, or *reciprocidad* (reciprocity), the use of natural resources must be guided by non-exploitative, sustainable criteria, recognizing responsibilities towards other current or potential users, future generations, and to the natural resources (nature itself), rather than oriented towards market profits.[105] Given the tendency to overexploit natural resources in the neoliberal model, merely acquiring water rights or having the capacity to pay yearly mining concessions, would not be sufficient to guarantee either the integrity of the natural resources or their replenishment.[106] Under the current legal system, the rights to natural resources are subject to the pressures of oligopolistic market forces, with little

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[104] See Carta al Presidente... Ad-Mapu, 6 August 1982; "De la Deuda Histórica... 1999.

[105] See De la Deuda histórica... 1999.

[106] Claude 1997; Donald Ludwig, Ray Hilborn, and Carl Waters, in their article "Uncertainty, Resource Exploitation and Conservation: Lessons from History" Science vol. 260, (2 April 1993):13 and 36 make a strong argument that natural resources (particularly marine resources) tend to be overexploited, despite attempts at regulation, because the limits on, for example, fish catches, cannot sufficiently forsee the deleterious impacts both on the harvested species and other species in its ecological community. See also R.B. Primack, A Primer of Conservation Biology (Sunderland, Mass.: Sinauer Associates, Inc., 1995).

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or no state regulation. Neither indigenous communities nor their organizations have the financial capacity to compete with the transnational economic conglomerates or even large landowners.

The critique raised by some indigenous leaders and organizations of the neoliberal view of ownership, especially concerning land and natural resources, leads to a basic critique of the notion of rights in the neoliberal regime in Chile today. The military regime stressed rights as property rights, in particular the right of the private, individual owner (whether a person or a corporation) to use that property as the owner saw fit. It will be recalled that the military regime declared private property as the "natural" form of ownership in official documents.[107] The regime, however, defended the property rights of large capitalists, not those of the Mapuche peasants. Rights became reduced to a question of private property, and private property ownership with "exclusive possession." Therein was the "freedom" which the owner would exercise, and in that pursuit of self-interest, the market was supposed to deliver efficiently the "greatest good for the greatest number." All social responsibilities concerning the use of property goods, let alone a revision of ownership claims, were disregarded. Both the unwillingness of the Mapuche communities to relinquish claims to their lands, and the environmental damages which cross property lines, have begun to challenge the notion

[107] See the "Declaración de Principios, Objetivo Nacional y Políticas Generales" (1974), discussed in Chapter 5.

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of private property as a right to exclusive possession, raising the issue of collective rights to territory and common rights and responsibilities to natural resources. This critique of neoliberal concepts and philosophy calls into question the claim that there is only one route to modernization, made by proponents of the neoliberal model. The following chapter describes the emergence of this critique in Mapuche organizations, and the response of the Concertación.

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Chapter 11. The Logging Industry, The Concertación Government, and Demands for Collective Rights

The expansion of the logging industry caused negative environmental, economic, and social impacts on the Mapuche communities. As a consequence of the neoliberal economic policies of the military regime, the logging companies acquired many estates that had lands claimed for years by the Mapuche communities. With the installation of the democratic regime in 1990, Mapuche communities hoped that the provisions of the 1993 indigenous law would help them recover their lands. The case-by-case review process established under the law, however, proved to be too slow and cumbersome, while land prices to acquire additional lands rose beyond the reach of the CONADI budget.

New Mapuche organizations working in the communities promoted a shift in demands, from claims against specific estate owners to broader, more political demands for territory, control over natural resources on indigenous lands, and for collective political rights. These more comprehensive demands marked a departure from past movement claims, and they outpaced the reforms offered by the Concertaión government. When some Mapuche organizations and communities resorted to more militant actions to assert land claims and territorial rights, the government responded by a combination of repression of the more radical organizations and offers of subsidies to rural communities. This chapter describes the ideological innovations in

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the demands raised by some Mapuche organizations and the reaction of the Concertación government and logging companies. Both the government and the companies labeled the demands for territory and political participation as "peoples" as threats to national unity, security, and prosperity.

Challenges to the Neoliberal Concept of Modernization: The Demand for Rights

The current demands of the Mapuche movement are not for integration into the neoliberal growth model, but to the right to pursue alternative development paths. In contrast to the demands expressed by Mapuche organizations in the 1960s and early 1970s, and in the case of those organizations linked to the Concertación, which emphasized state-centric solutions (a state development agency for indigenous peoples, state technical and financial assistance to indigenous peasants, state expropriation of lands for indigenous peoples, etc.), current demands call for autonomous political control of territories and resources. Many Mapuche activists criticize the provisions for Indigenous Development Areas contained in the 1993 indigenous law as paternalistic, or even, assimilationist in its end results.[1] Earlier generations of Mapuche organizations had demanded access to education, credit and

[1] See, for example, Identidad Territorial Lafkenche, "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales" Provincia de Arauco, VIII Región de Chile, Tirúa, VIII Región de Chile, (May 1999) or Víctor Naguil, "Desarrollo Mapuche y Derecho de Autodeterminación," Liwen, no. 4 (June 1997): 8 - 35 (Temuco: Centro de Estudios y Documentación Mapuche Liwen).

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the recovery of lands usurped from the original *Títulos de Merced.* Currently, Mapuche organizations and groups demand the right to devise their own education, control their own territories and to have political participation as Mapuche, not as Chilean, citizens.[2]

Many Mapuche organizations call for the right of Mapuche communities to stop development projects that affect them, and to benefit from the commercial exploitation that occurs on indigenous lands.[3] Cantoni, writing in the period of the Popular Unity government, criticized the demands of Mapuche organizations for social and economic benefits as based upon "equal rights" as individuals, and therefore insufficient to overturn structural inequalities based on class.[4] Today, Mapuche organizations base their claims to rights on the grounds of collective rights as a people, rather than as rights due to them as equal, individual citizens. Their claim to national difference and rights as a people is attacked by defenders of the neoliberal model and of the interests of large Chilean capital and transnational capital as dangerous to the integrity of the legal institutional order. The neoliberal Instituto de Libertad y Desarrollo (Freedom and Development Institute) criticized the recognition of ethnic

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[2] See Identidad Lafkenche 1999. No consensus exists within the Mapuche movement as to the specific content of Mapuche education, or concerning development policies, but most organizations and activists demand the right to define them through debate among Mapuche.

[3] The International Labor Organization's Convention 169 calls for these rights.

[4] Wilson Cantoni, "Fundamentos para una política cultural mapuche," Cuadernos de la Realidad Nacional (October, 1972): 74-95.

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difference, and the granting of special benefits to indigenous persons under the 1993 indigenous law, as "dangerous" and as a threat to the nation's unitary state.[5] Spokespersons for the Center-Left Concertación may accept cultural diversity, and state that virtually all Chileans are *mestizo* (of indigenous and European ancestry), but they reject the claim of national differences.

Neoliberal ideology claims to defend the liberty of citizens against encroachments by the state. In practice, as the case studies here make clear, neoliberal institutions and laws protect capitalist conglomerates. Neoliberal institutions legally separate the economic sphere from the political sphere, restricting the scope of public oversight and decisionmaking and enlarging the freedom of economic activities. This definition of the "public" and "private" is one of the fundamental sources of the erosion of social and economic rights.

The recognition of cultural diversity by the Concertación government in the 1993 indigenous law represents an attempt to insert an acknowledgement of diversity within this neoliberal separation of the economic and the political. Under the 1993 indigenous law, ethnic and cultural diversity is subsumed within a larger whole, the nation. Culture is, therefore, part of the superstructure, and thus, the 1993 indigenous law's recognition of different cultural heritages within the Chilean nation does not

[5] Instituto Libertad y Desarrollo, "El Conflicto Indígena y la Influencia Internacional" Temas Públicos, no. 517, February 2, 2001.

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imply economic or political rights to collective subjects. In contrast to this stance, Mapuche claims to subsoil resources in indigenous lands and demands for territorial political autonomy directly challenge the separation of economics and culture from politics. Mapuche activists argue that the right to preserve Mapuche culture is also the political right to have economic resources.

With the expansion of the logging plantations, the Mapuche communities lost land, possibilities of local, seasonal work, and access to natural resources associated with the remaining stands of native forest. They suffered from the contamination of land and water, the drying up of water tables and sources, and isolation caused by the closing of rural roads through forestry plantations. In sum, the expansion of industrial forestry made life extremely difficult for Mapuche communities that are surrounded by plantations. Yet these material threats are not the only ones identified by the Mapuche communities and grassroots leaders. They have often summarized their demands by the term "land," and occasionally "territory and culture," but even when merely the term "land" is invoked, the concept does not refer merely to the hectares usurped.

Collective political rights are ideologically linked to material subsistence needs and to cultural rights. Because the indigenous communities offer a space where the indigenous population can *collectively* participate in cultural activities, the loss of land and extreme poverty signify more than a threat to material subsistence. It means the

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loss of a space where culture can be renewed collectively, rather than recalled in an individual's memory.

The following statements by movement activists reveal the new emphasis on linking cultural, economic, and political demands:

> Land is no more than a single element in a series of failings and historical debts towards our people...(Adolfo Millabur, Mapuche mayor of Tirúa, Eighth Region)
>
> Debt of the government or the state?
>
> It seems to me the state in its entirety has been the most to blame...There is a structure of the state which impedes any type of participation by our people...the CONADI...is no more than one more branch of the state apparatus which denies participation to the ethnies. The Mapuche are a people of Chile, we are a distinct nationality and not an Indian minority...[6]

> Our people are becoming more conscious of the root of the problem, which is the territoriality of the Mapuche communities....Here it must be acknowledged that we continue to be a different people and culture, that we, in our collective memory, continue to have consciousness that we were and are a first nation.(José Huenchunao, Coordinadora Arauco-Malleco, 1989)[7]

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[6] Adolfo Millabur in an interview by Rodrigo Barria in "Rey de la Araucania" El Mercurio, 4 April 1999, D4: "La Tierra no es más que un elemento dentro de una serie de falencias y deudas históricas hacia nuestro pueblo...

-Deuda del Gobierno o del Estado?

-Me parece que el Estado en su conjunto ha sido el gran culpable...Hay una estructura del Estado que impide cualquier participación de nuestro pueblo...la CONADI...no es más que un brazo más dentro del aparato estatal que niega participación a las etnias. Los Mapuche son un pueblo de Chile, somos una nacionalidad distinta y no una minoría india..."

[7] José Huenchunao, La Segunda 18 March 1999. "Nuestra gente está tomando más conciencia del fondo del problema, que es la territorialidad de las comunidades Mapuches....Aquí hay que reconocer que

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> Since 1996, Mapuche organizations and communities have initiated various processes of mobilization, with the aim of recovering our collective political rights, which stem from our condition of being a nation. In particular, we have promoted the recovery of lands, which we consider to be a basic step in order to think about and speak of Mapuche development in a serious and dignified manner. (Public Statement, Territorio de Xuf-Xuf-Identidad Wenteche; Asociación Ñankucheo-Identidad Nagche; Territorio Makewe-Identidad Wenteche, March 2000).[8]

> In order to overcome poverty, it is essential to increase territory....Without that, one is not Mapuche. That is where it is possible to recreate our culture, religion, sport, medicine and our primordial relationship with nature. Our struggle is for that....(Alfonso and Galvarino Reimán, December 1997).[9]

While there is no consensus within the Mapuche movement as to a particular mode of development, nor is there a unified organization challenging the state, the logging companies, or ENDESA, there are common claims to collective rights and to key values among the militant organizations. Reciprocity, solidarity, and recognition of the intrinsic dignity and equality of all peoples are continually referred to and

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nosotros seguimos siendo un pueblo y una cultura diferente, que seguimos teniendo en nuestra memoria colectiva la conciencia que éramos y somos una nación originaria."

[8] Declaración Pública, Territorio de Xuf-Xuf-Identidad Wenteche, Asociación Ñankucheo-Identidad Nagche,Territorio Makewe-Identidad Wenteche, Temuko, Territorio Mapuche,Walüg March 2000, published in web page Ñuke Mapu (soc.uu.se/mapu). "Desde 1996 organizaciones y comunidades mapuche hemos iniciado diversos procesos de movilización con el objetivo de restituir nuestros derechos políticos, los cuales emanan de nuestra condición de nación, en particular, hemos impulsado la recuperación de tierras, lo que consideramos un paso básico para pensar y hablar de desarrollo mpauche de manera cierta y digna."

[9] Alfonso and Galvarino Reimán in an interview in Las Ultimas Noticias, 7 December 1997, p. 3 "Para superar la pobreza es fundamental la ampliación del territorio....Sin ella [la tierra] no se es mapuche. Allí es donde se puede recrear la cultura, la religión, el deporte, la medicina y nuestra relación primordial con la naturaleza. Nuestra lucha es por eso."

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regarded as core values governing social relations in Mapuche society.[10] In every day life, individuals may not consistently uphold these values, but they nevertheless form the basis for a call for justice and the recognition of the dignity of the Mapuche people. These Mapuche groups blame the neoliberal model for increasing levels of poverty, inequality and fostering a competitive individualism as a means to advancement. They criticize the neoliberal model as justifying inequality as due to individual problems rather than to structural constraints and a lack of social responsibility.

The active defense of the lands is not automatic--many Mapuche communities do not carry out land take-overs, and many tire of pursuing claims in courts, which prove expensive in money, time and effort.[11] Some Mapuche communities are divided internally, inhibiting efforts to act together or to link problems and demands among various communities. The difficult task of providing daily subsistence saps energy that might be expended in political mobilization. The memory of violent repression continues to inhibit open protest. Finally, the emigration of many of the younger adults

[10] "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales", Identidad Mapuche Lafkenche de la Provincia de Arauco, VIII Región de Chile, Tirúa, VIII Región de Chile (May 1999).

[11] Although the media tend to give a sensationalist coverage of Mapuche conflicts, the number of land take-overs in the 1990s is much lower than it was under the Popular Unity government. In 1998, the author found reference in the press to 8 take-overs, and in 1999, in the months preceeding the presidential election, there were the most of the decade, approximately 30. The police often used a great deal of force (helicopters, busloads of police, armored vehicles, and violent force to detain anyone in the communities) to break up a take-over.

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deprives the rural communities of important human resources.[12] Simply getting community members together is not easy, because of the need to carry out daily, essential tasks, the physical distances between families who usually lack motorized transportation, and the difficulty of communicating arrangements. These different types of obstacles to political mobilization must be addressed in the efforts to create a movement--as opposed to an ephemeral reaction to a specific incident.[13]

The innovation of the current cycle of mobilization lies in the steady efforts to (re)build a "political will" to raise claims to rights as well as lands--to bridge the gap between the immediate, single community's plight, its concrete needs, and a demand in terms of a collective subject of rights--a people. Building this link, and (re)constructing the movement, for a sector of the movement, means fostering the participation of the grass roots, both community members and grass roots leaders, and

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[12] Just as had occurred during the late 1960s, Mapuche university student organizations have become involved in the current mobilization, thus overcoming the "human resource drain" caused by emigration. Some of these students are the children of emigrants, who were born and raised in large cities--thus they often are not familiar with many of the cultural traditions or the Mapuche language, but, nevertheless, their own interest has led them to learn and reflect critically on the situation of their people.

[13] Cf. Gonzalo de la Maza and Mario Garcés, La Explosión de las mayorías. Protesta nacional 1983-84 (Santiago: Educación y Comunicaciones, 1985), 126: "Para construir sujetos sociales y políticos, tenían que usar la protesta como instrumento de superar la desarticulación, pero la protesta era expresiva, no instrumental.... [la construcción de sujetos sociales y políticos] implica construir instrumentos políticos, orgánicos y simbólicos que hacen posible sostener una lucha autónoma, producto de la propia iniciativa y de los propios intereses...." To construct political and social subjects, they had to use protest as an instrument to overcome the disarticulation, but the protest was expressive, rather than instrumental.... [the construction of political and social subjects] implies the construction of political, organic and symbolic instruments which make it possible to sustain an autonomous struggle, product of [the actor's] own initiative and [the actor's] own interests...."

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bridging the sociological divisions within Mapuche society, between rural communities in one area and those in another, between urban and rural sectors of the Mapuche population, and between groups divided by ideologies and life experiences. Coordinating organizations have emerged which link rural communities and urban groups. Discussion of a particular problem or situation occurs in assemblies, but even in organizations that group various communities, the communities separately decide what action they wish to take. The political reconstruction of a people is seen as beginning with political participation at the grass roots.[14]

The current mobilization by Mapuche communities against the logging companies involves the action of men and women of all ages, neighbors and relatives, local communities, and sometimes urban Mapuche allies, who demonstrate not only the support for the specific land claims, but also the reconstitution of a national community. A land take-over often is accompanied by the Mapuche religious ceremony. This cultural act is not a superficial touch, meant only to emphasize cultural difference. It is the revitalization of the culture, the assertion of its contemporary vitality and dignity, as well as a criticism of the neoliberal exploitation of natural

[14] Cf. the words of movement leader José Huenchunao, who defended a land take over in which the community members planned to harvest the trees: "After more than twenty years in litigation, without any solution and not having any means of subsistence, the communities have decided to exercise their legititmate right to make use of our lands." El Diario Austral B3 7 July 1998.

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resources. It is a recovery of culture, its rescue from folkloric status, its critical use in forging a unity to serve as a basis for political mobilization.

More recently, "productive" takeovers have occurred, in which the Mapuche sow wheat as a sign of their determination to assert ownership.[15] Another action by some communities may include the harvest and sale of logs from trees on lands that they claim. These actions demonstrate claims to the lands, charging a *de facto* indemnification by depriving the logging companies of the profits from harvesting those trees, and they generate employment and income for the impoverished members of the indigenous communities. They also directly defy the property rights as the state currently enforces them. In some cases, this type of productive take-over has occurred on land where courts have ruled in favor of the Mapuche communities, but where the rulings have never been recognized and carried out.[16]

Another novel aspect of the current Mapuche movement is the (re)organization around "territorial identities," that is, in areas of historic settlement, Mapuche cultural practices and values are recovered. The reorganization is aimed at gaining a strong

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[15] See, for example, 7 July 1998, El Diario Austral B3; 26 April 1999 La Tercera p.14; La Tercera 3 and 4 May 1999 p. 17; 10 July 1999 La Tercera p. 14; 24 August 1999 El Mercurio A1, C1, C4; 24 Novemeber 1999 El Diario Austral.

[16] This is the case of the community Temulemu. See 26 January 1999 La Tercera p. 10 and Milka Castro, Debbie Guerra, Roberto Morales, Eduardo Parry, Rodrigo Sepúlvedra, Informe de la Comisión de Observadores de la Comunidad "Temulemu" (Santiago: Colegio de Antropólogos de Chile, A.G., July, 1999).

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local base for the demand for collective political rights, including control over local natural resources and the right of self-management in territorial spaces. Examples are the association of Mapuche communities in Arauco, who have organized themselves as Identidad Mapuche Lafkenche (Mapuche of the sea), the communities organized in the Territory Xuf - Xuf (pronounced, roughly, truf-truf) - Identidad Wenteche; the association of Mapuche communities of Lumaco, Asociación Ñankucheo - Identidad Nagche, and the communities organized in Territorio Makewe - Identidad Wenteche. These groups of communities are conducting a process of cultural renewal and innovation--which is not a return to a past utopia, but rather an effort to define specifically Mapuche answers to the current social, economic and political situation of the communities. The grassroots nature of the organizational process respects the pace of local discussion and searching, and attempts to confront both concrete material needs and the broader political obstacles, without relying on elite negotiation or vanguard party strategies.

Another aspect of the current political mobilization has been the coordinated action of organizations from not only the rural communities, but also from Santiago and other urban areas. The process tends towards a reconstitution of a manifest national political mobilization, rather than "communitarian" demands,[17] overcoming

[17] See Pedro Marimán's distinction between territorial and communitarian demands (that is, the demand for territorial political autonomy versus demands of a particular Mapuche community for the return of

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the geographic dispersal and sociological variation in interests, perspectives, and motivations among Mapuche.

Demands for political rights with respect to a territory, control over the use of natural resources within such a territory, the official status for the Mapuche language, a bilingual, bicultural public education program, political participation as Mapuche in the various levels of government—all raise issues beyond the claims of separate Mapuche communities, asserting a right to political influence and power that challenges the centralist, unitary state. These issues--territory, control over the resources on indigenous lands, collective political rights--bring the movement into direct confrontation with transnational companies, on the one hand, and, on the other hand, with the historical ideology of Chile as a homogenous nation. The incipient nationalistic mobilization directly challenges the distribution of economic and political power, upheld as the foundation of the success of the Chilean neoliberal restructuring and accepted by the Concertación as the only path to modernization.

Government proposals to solve the conflicts continue to address Mapuche demands as discrete economic and social matters, involving specific communities, which could be met by integration into the neoliberal economic model. The

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its usurped hectares) in the interview conducted by Alejandro Saavedra Parra, in Modernización o sabiduría en tierra mapuche (Santiago: CERC, 1995), 171-197.

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government has responded with harsh judicial action, police and intelligence surveillance of those Mapuche groups that rejected piece-meal solutions, and police patrols for logging companies' operations.[18]

During the 1990s, Mapuche groups worked quietly at the grassroots to build support and to shift the conception of the problem from one community's lost hectares to their people's rights. At the same time, communities continued to press land claims through the CONADI and with logging companies. This process of organization-building and demand-making was interrupted by the burning of three logging trucks, which triggered an immediate harsh reaction by the government, that, nonetheless, did not quell efforts to organize or prevent the escalation of Mapuche mobilization. This incident, and the government's reaction is described below. Government attempts to channel Mapuche demands were unsuccessful. The contradiction between the indigenous policies of the Concertación and the Mapuche organizations' political and territorial claims came to a head in 1997, and in the following two years.

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[18] The case of the commmunity in Cuyinco (Eighth Region) appears in 27 January 1998 Las Ultimas Noticias p.14; 16 October 1998 La Tercera p. 10; 18 October 1998 El Mercurio C1, C10; and 28 October 1998 El Diario Austral A 22. Mapuche organizations charges that an estate owner hired a former intelligence officer of the Concertación government appear in an article on 23 July 1999 in La Tercera p.11. Articles containing complaints from community members and Congressmen that logging company employees carry firearms and make illegal searches can be found in La Tercera 19 January 1999, p. 9; 18 January 1999 El Diario Austral A5; 19 January 1999 El Diario Austral A9; 20 January 1999 El Diario Austral A14; 30 January 1999 El Diario Austral A 27; 31 January 1999 A7; 20 February 1999 ; and 4 March 1999 La Tercera. The case of the violent raid by police at 3: a.m. of the community Temulemu is reported in the articles carried on 20 February 1999 La Tercera p. 8 and 20 February 1999 Las Ultimas Noticias p. 9. Another denunciation by Mapuche communities of police violence is reported in an article on 19 March 1999 La Tercera p. 7.

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Threats to State Security or to Corporate Profits? The Case of the Mapuche Communities of Pichiloncoyan and Pililmapu

The approximately 3,000 hectares of the Pidenco estate claimed by the Mapuche communities of Pichiloncoyan and Pililmapu correspond to lands traditionally under the jurisdiction of the nineteenth century Mapuche leader known as Huinca Pinolevi (or Pinoleo).[19] In 1868, these lands were occupied by the Chilean Republican army, and declared state property. The lands were then auctioned to Chilean settlers, and later, Mapuche communities were assigned lands under *Títulos de Merced.* In 1885, 356 hectares were assigned to Juan Cañuleo Pinoleo and 40 other Mapuche in the area called Pichiloncoyan, and in 1905, 180 hectares were assigned to Pedro Huinca Pinoleo and 26 other Mapuche in the area called Pililmapu.[20] The Mapuche *reducciones* were located on forested hills. The forested hillsides were cleared by the Mapuche families for cultivation, and due to the slopes and heavy winter rains, erosion became severe. As families grew, they were forced to farm more intensively, further exhausting the soil, and clearing more forest for firewood and for

[19] This account is taken from "Informe de la Comisión Especial de Observadores de la Sociedad Civil para conocer de los Hechos Ocurridos en las comunidades Mapuche de Lumaco" (December 1997).

[20] Ibid. Similar complaints of assignment of Mapuche to land ill-suited for agriculture, subsequent ursurpation of land from the original reducciones can be found in the report for the Agrarian Reform, Comité de Desarrollo Agrícola (CIDA), Chile: Tenencia de la tierra y desarrollo socioeconómico del sector agrícola (Santiago: CIDA, 1966); Babarovic et al. 1987; José Bengoa and Eduardo Valenzuela, Economía Mapuche: Pobreza y subsistencia en la sociedad mapuche contemporánea (Santiago de Chile: PAS 1984); Bengoa 1999.

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cultivation space. The families were extremely poor, and some members of later generations had to emigrate, either for seasonal jobs or permanently.

Recalling past lands and prosperity, however, the communities kept alive their claims to lands.[21] During the period of the Popular Unity government under Salvador Allende, in 1971, part of the Pidenco estate was expropriated by the state land reform agency, CORA, and the Mapuche who were beneficiaries formed a cooperative, according to the provisions of the 1967 Agrarian Reform law.[22] After the military coup, in January 1975, the CORA revoked the expropriation and returned the land to the former estate owner. Subsequently, the property was sold several times, and finally in 1990, it was purchased for 391 million pesos by Bosques Arauco, part of the conglomerate COPEC, a subsidiary of the Angelini economic group.[23]

By the 1990s, the Mapuche communities of Pichiloncoyan and Pililmapu had an average of three and a half hectares per family of infertile, highly eroded soil.[24] In recent years, the situation of the Mapuche families grew more precarious as the

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[21] See José Bengoa 1999 for a discussion of the memory of relative wealth and "abundance" among members of Mapuche communities, and its role in continuing to promote claims to lost lands.

[22] Rodrigo Lillo, "Aspectos Jurídicos: El Rol del Estado en el Conflicto del Pueblo Mapuche," in Pueblo Mapuche y Expansión Forestal (Santiago: Programa Chile Sustentable), 13-17.

[23] Ibid.

[24] Informe...Lumaco 1997.

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surrounding pine and eucalyptus plantations dried up springs and streams.[25] The logging company's use of pesticides caused more problems by killing local fauna, such as rabbits and hare that provided meat to the families' diets, and the aerial applications of chemicals contaminated Mapuche communities' crops.

During the 1990s, the local Mapuche communities began a process of reorganization, bringing complaints to the CONADI and to other government officials. Through the Fund for Lands established under the 1993 indigenous law, communities could apply for subsidies to purchase land. Alternatively, they could try to assert their claim and win land through litigation or via negotiated out-of-court settlements, either with the assistance of CONADI lawyers or their own. The process is slow and the outcome uncertain. Market prices of land, particularly land with trees near harvest size, make purchase difficult. In the case of Pichiloncoyan and Pililmapu, the delays led them to resort to pressure tactics--peaceful occupations of nearby logging company estates.[26] Members of the Mapuche communities, of all ages, moved onto the disputed land, either for the day, returning at night to their homes, or camping overnight.

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[25] In an interview with a news reporter, members of the Mapuche community of Pililmapu explained their poverty and pointed to their well: "They planted eucalyptus right next to us and our well, and are leaving us without water....("Nos plantaron, justo al lado, unos eucalyptus que nos están dejando sin agua.") Las Ultimas Noticias 7 December 1997 p. 3.

[26] 16 October, A 17 and 17 October, A4 1996, El Diario Austral.

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Frequently, the Mapuche involved informed government authorities, police, and estate owners beforehand.

In October 1997, acting under judicial orders, police violently broke up an occupation, arresting leaders.[27] In November 1997, a group of Mapuche communities, including Pichiloncoyan and Pililmapu, reached an agreement with CONADI and regional government officials to meet to address problems of land and poverty, to propose comprehensive solutions and to discuss community demands that logging companies cease local operations. Mapuche communities occupied estates of logging companies Forestal Millalemu and Forestal Arauco, and police broke up the occupations again under court orders. Leaders of a local association of Mapuche communities denounced harassment and threats by police. For two days in mid November, local Mapuche leaders occupied the head offices of the CONADI in Temuco to demand the purchase of land. These leaders also denounced the Mapuche Congress held simultaneously in Temuco as a mere forum for government appeasement of Mapuche community demands.[28] CONADI officials agreed to meet with Mapuche community leaders to discuss land claims of the communities, ways to

[27] 15 October 1997 A6 El Diario Austral and 20 October 1997 El Diario Austral; Informe de Derechos Humanos en las Comunidades Mapuches en Conflicto de Arauco y Malleco (April 1999).

[28] 17 November 1997 El Diario Austral; 22 November 1997 A8 El Diario Austral and Radio Bíobío news reports.

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stop logging company operations on disputed land, and the possible creation of an "Indigenous Development Area" according to the 1993 law.

On December 1, 1997, in the municipality of Lumaco, near estates owned by the logging company Bosques Arauco[29] that are claimed by some Mapuche communities, three logging trucks were forced to stop, their drivers ordered to get out of their cabs, and the trucks were set afire.[30]

On the same day as the burning of the three logging trucks, the head of the regional government for the Ninth Region, Oscar Eltit, received a fax from the logging company involved, in which the company requested police protection and the invocation of the Law of Internal Security of the State, characterizing the incident as a direct national security threat.[31] The following day, Eltit invoked the law, asserting that

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[29] Bosques Arauco is an affiliate of CELCO, part of the holdings of the Angelini economic conglomerate in association with International Paper.

[30] "Informe de la Comisión Especial de Observadores de la Sociedad Civil para conocer de los Hechos Ocurridos en las comunidades Mapuche de Lumaco" December 1997. According to accounts given to the Commission by those arrested, the burning of the trucks was in some degree, spontaneous, that the truck drivers had said "Burn the trucks, after all, they're insured." For news accounts, see El Diario Austral, 2 December 1997 A1, A8; 3 December 1997 A1, A9; 4 December 1997 A4-5; El Mercurio 3 December 1997 C1, C14; La Tercera 5 December 1997, p. 2 and 6 December, p. 2; La Epoca 6 December 1997 A1, A14. Las Ultimas Noticias 6 December 1997, p.4 and 7 December 1997, p. 3 and p.17 (editorial). This list of news articles is not exhaustive, although it includes the stories printed by the regional paper (El Diario Austral, owned by El Mercurio) and major national papers.

[31] See speech given by the lawyer Rodrigo Lillo, in the seminar "Pueblo Mapuche y Expansión Forestal" (Temuco, 1998) reprinted by el Programa Chile Sustentable in Pueblo Mapuche y Expansión Forestal October, 1999, pp. 13-17.

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the burning of the trucks constituted a terrorist act, and that political extremists were behind the incidents instigating the Mapuche community members to use violence, as logging company executives had charged.[32] The Minister of Interior reiterated the claim that there were subversive groups involved, and also characterized the truck burning as terrorist.[33]

The local newspaper was sensationalist in its reporting: large type, banner headlines in red on the front page declaring the perpetrators "terrorists." Other media were only slightly more constrained in their portrayal of events.[34] A few days later, the regional government head stated that there were probably no extremists involved, contrary to his earlier statements.[35] Nevertheless, the Law of Internal Security of the State was never rescinded. The police chief of the Ninth Region, General Jaime Castro, also stated that there was no evidence to date of terrorist involvement,[36] while right wing politicians, some government officials and logging company representatives declared that the action was atypical of Mapuche mobilization and indicated the

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[32] See the news articles of 2 and 3 December 1997, cited above.

[33] La Epoca, 6 December 1997, p.14.

[34] See articles listed above of December 2 – December 7 1997.

[35] 2 December 1997 El Diario Austral A8 and El Diario Austral, 13 December 1997.

[36] El Diario Austral 7 December 1997, A 32 and Las Ultimas Noticias 7 December 1997, p. 4.

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involvement of "outside, extremist agitators."[37] In their statements, government officials characterized the incident as criminal and as a threat to public order, ignoring all underlying causes of the current conflict over land.

Mapuche organizations set up an *ad hoc* citizen's group to put the incident in an historical and contemporary social context that the sensationalist connotation did not provide. This group conducted a series of interviews with Mapuche communities, organizations, government officials, and logging company representatives.[38] The Commission's work brought to light a number of--at least irregular--if not illegal, actions by the police, which if true would constitute violations of human rights and due process.[39]

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[37] 2 December 1997 El Diario Austral A 8; 3 December 1997 El Mercurio C1, C14; "Analysts state that there are non-Mapuche involved, as identified by their tall stature and "non-indigenous" dress." 7 December 1997 El Diario Austral A 32; "Minister of Interior declares that there are subversive groups involved", La Epoca 6 December, p.14.

[38] El Diario Austral 19 December 1997, A4; La Tercera 19 December 1997 p.5; El Diario Austral 20 December 1997, A5 and El Diario Austral 24 December 1997, A5. The members of the committee included both Chilean and Mapuche academics, the president of the Journalists' Guild, two noted human rights lawyers, the two university rectors, specialists in environmental issues, and a representative of the main trade union federation, the Central Unitaria de Trabajadores (CUT).

[39] See the "Informe de la Comisión Especial de Observadores de la Sociedad Civil para conocer de los hechos ocurridos en las comunidades Mapuche de Lumaco", December 1997. Given the integrity of the persons in the Commision, which included a noted human rights lawyer, there is no reason to suppose exaggeration or falsehood in the charges the police forced illiterate detainees to incriminate other individuals and sign statements under pressure that they could not read, without the presence of defense attorneys; or to question the fact that they were held incommunicado longer than even the Law of Internal Security of the State allows. The intimidation of the accused was such that some admitted involvement, when in fact they were not involved, believing that they had little recourse other than to submit to condemnation. This treatment was also cited to the author by the lawyer Rodrigo Lillo as examples of discriminatory and politically motivated intimidation and use of force by the police, investigative agencies, and judges, in an interview with the author in Temuco in April, 2000. (In Chile,

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During the days following the truck burning, twelve members of local Mapuche communities were arrested, held incommunicado for more than the five days as permitted by the Internal Security law, and eventually (May, 1998) charged under letters c and d of article 6 of the law as having committed "actions contravening normal activity of private business and transport." According to the testimony of the Mapuche to the *ad hoc* Civil Commission, and to press reports, Police Intelligence officers made the arrests in some cases in civilian dress, identifying themselves as officials of the CONADI, and that court arrest orders were not presented. During their interrogation, the Mapuche were pressured to recognize individuals in photographs whom they said (to the Commission) they had never seen and to denounce other members of the Mapuche communities. They also were subjected to discriminatory treatment on the basis of their ethnic identity by the police.[40]

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judges investigate the charges and conduct interrogations of witnesses, suspects, and victims and then decide whether to bring charges against the suspects. This process may take months. In the case mentioned here, the judge questioned the Mapuche on jail premises, rather than in the courthouse in violation of required procedures. The context was such as to doubt, in Lillo's estimation, any respect for due process. Moreover, the statements of the Mapuche recorded in the judge's report were, word for word, the same as the statements they had made under police interrogation. By law, the statements made by suspects during police interrogation is not valid as legal proof. The new legal reforms will introduce an investigating lawyer, or prosecutor, who will assume the task of investigation, and then make either a written or an oral argument to the judges.)

[40] Informe, op cit.

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Rather than take statements of the accused personally, the investigating judge used the statements made by the Mapuche under police interrogation in violation of required procedures. Correct procedures require the judge to question the detainees and take statements personally outside of jail premises. One of the lawyers who assumed the defense of the Mapuche related that the judge merely read the statements taken under police interrogation to the accused, insulted them, and did not attempt to conduct his own, official interrogation.[41] Only some of the twelve Mapuche, who knew how to read, were able to alter their statements; the majority of the accused stated that they had signed without having read the statements.[42]

The severity and speed of the regional government response to the truck burning, as well as the tenor of the statements of regional government head, Oscar Eltit, Minister of Interior, Raúl Troncoso, and logging company representatives point to a coincidence of interpretation of the incident by Concertación government and industry leaders. The government's decision to apply the Law of Internal Security of the State, bring in reinforcements to local police, set up police check points in the local area, give logging trucks police escort, and conduct search and seizure operations without exhibiting court orders, brought back images and patterns used by the military

[41] Interview by the author with lawyer Rodrigo Lillo, April 2000.

[42] Informe, op cit.

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dictatorship.[43] Both government and industry spokesmen characterized community demands and the incident itself as prompted by outside extremists with ulterior political motives, and the communities as manipulated by these extremists.[44] Both government and logging interests moved to quell the mobilization of the Mapuche communities and to break ties of Mapuche organizations to communities.

What was threatening in the view of government officials and logging company executives was the success of the Mapuche groups in their efforts to organize local communities. This political mobilization centered on demands for collective rights as a people, while rejecting ethnic antagonisms and manipulation for either partisan political or clientelistic purposes.[45] Such grassroots organization escaped the

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[43] See "Informe de Derechos Humanos en las Comunidades Mapuches en Conflicto en Arauco y Malleco", also, El Diario Austral 20 January 1998, comments by Lumaco municipal councilmen on the police presence after the truck incident; statement of Mapuche Aliwen Antileo in La Tercera, 19 January 1999, p.9

[44] See press reports cited, particularly, El Diario Austral 2 December 1997 A8; 3 December 1997 A1 and A9; 5 December 1997, A4-5; El Mercurio 3 December 1997 C1, C14; La Epoca 6 December 1997, p.14.

[45] See press communique of the Mapuche organization investigated in connection with the truck burning incident, La Tercera, 6 December 1997, p.2: "We are an organization created to take on a role as mediator between the Mapuche and the Occidental worlds, in order that both cultures may interact, respecting their differences; support the reconstruction of the Mapuche world; recover [Mapuche] identity in order to formulate our own future goals as a people. [Our organization's] actions with respect to the Occidental world are oriented towards promoting in the latter a consciousness and sensitivity to the values of the Mapuche people, so that the Occidental world will consider the participation and manner of decisionmaking of the Mapuche world indispensable in the construction of a more just and fraternal society, in harmony with nature....In our organization, there is no room for any ideology other than our own project, the wholistic development of our people." "Somos un organismo creado para asumir un rol de interlocutor entre el mundo mapuche y el occidental para que ambas culturas puedan interactuar respetando sus diferencias, apoyar la reconstrucción del mundo mapuche, el rescate de su identidad en función de la elaboración de un proyecto propio como pueblo. Su acción hacia el mundo

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mechanisms, such as the CONADI Funds for Lands and Development, which the Concertación government had established to channel and limit Mapuche demands. The affirmation of collective rights did not figure in the Concertación government's political agenda.[46]

For logging company executives, the incipient grassroots mobilization represented a direct threat to the logging sector's economic interests. Logging sector heads and spokesmen reiterated in the media that the Mapuche communities' demands and their mobilization posed a national security problem and not merely a problem for the logging sector.[47] Logging companies reinforced their properties with armed guards

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occidental se orienta a que éste se concientice y sensibilice a los valores del pueblo mapuche, que considere indispensable la participación y la forma de decisiones de éste en la construcción de una sociedad más justa, fraterna, y en armonía con la naturaleza....En nuestro organismo no tiene cabida otra ideología que no sea nuestro propio proyecto, el desarrollo integral de nuestro pueblo."

[46] Concertación senator for the Ninth Region, Roberto Muñoz Barra (PPD), for example, warned against adopting a constitutional amendment recognizing the status of peoples for the indigenous peoples of Chile, in an article in El Mercurio 4 April 1999, C3: He stated that the "demands for the status of a people is as dangerous as if there were extremist sectors with terrorist tendencies." Ninth Region Government head Oscar Eltit stated that the police were investigating university students' involvement in the Mapuche communities, in order to ascertain political ties, 27 September 1999, Radio Biobío news report; see comments by Raúl Troncoso, Minister of Interior under President Frei, that extremists, both Mapuche and non-Mapuche infiltrators were involved in the conflicts (Radio Biobío news report, 1 October 1999).

[47] See comments of Fernando Léniz, head of sectorial organization, CORMA, that the truck burning damaged the Rule of Law (capitalization in the original), in 11 December 1997, La Tercera, p.4; El Diario Austral A4 11 December 1997; El Mercurio C1,C8, 11 December 1997; Las Ultimas Noticias, p. 10, 11 December 1997; CORMA demands that the Law of Internal Security of the State be maintained rather than rescinded in the case of the truck burning, to protect the rule of law, in El Diario Austral B1, 31 January 1998; comments by industry leaders in El Diario Austral 17 May 1998, C1 in which logging sector spokesmen say that they want to expand the plantations, but that Mapuche communities block them; similar comments are made by Eliodoro Matte, head of the Chilean economic group Matte which controls the logging sector conglomerate CMPC, in El Mercurio, B1, 20 August 1999.

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who patrolled local roads and intimidated Mapuche community members, including children.[48]

Regime Stability versus Reform

The government and logging sector's framing of the conflict criminalized the assertion of land claims and Mapuche mobilization for political, territorial, and economic collective rights.[49] This perspective reflects the Concertación's commitment to the neoliberal economic model and to the main protagonists of neoliberal growth. Institutional stability and regime security rested on assuring respect for the property of the logging conglomerates. Socialist party leader Camilo Escalona, in a meeting with Mapuche who have divergent political perspectives in Santiago in June 2000, warned against pressing too hard, or mobilizing for reforms, arguing that the "National

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[48] See Comisión de Observadores de la Comunidad de Temulemu," El Diario Austral 19 January 1999; La Tercera 19 January 1999, p. 9; denunciations of threats and harrasment by guards by lawyer for Mapuche communities in Arauco, Jorge Menchaca, La Tercera 16 October 1998, p.10.

[49]Sara Larraín, member of the Civil Commission to look into the truck burning incident, stated that the government "criminalized the demand for human rights" in the press conference given in December 1997 in Temuco. Francisco Caquilpan, head of the Mapuche organization Xeg-Xeg, denounced the government's arrest of key local Mapuche leaders on trumped-up charges, at the same time that the Concertación government was holding dialogues with local Mapuche groups, supposedly to listen to communities' demands: "What dialogue are we talking about?" asked Caquilpan, "With whom does the government suppose it is dealing, if the principal grassroots leaders, who have initiated the mobilization, are in jail? The brothers of the Asociación Ñankucheo are recognized social leaders..." and in reference to the charge that a clandestine organization was selling wood taken from the logging estates, Caquilpan stated that "the government always tried to criminalize the Mapuche struggle." El Diario Austral 7 May 1999.

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Security State," which upheld the principles of a unitary state and a homogeneous nation, was reacting to the Mapuche mobilization, and that so too were the businessmen, and that these sectors threatened the democratic government that had been won so recently. Escalona said that the Mapuche needed allies, progressive allies, and that they should let those allies set the scope and pace of change.[50]

The Concertación rejected a comprehensive revision of property claims, and equated the demands for territorial control over natural resources and the right to territorial self-management, or, autonomy, as contrary to basic state interests. Minister of Mideplan under President Frei Ruiz-Tagle, Germán Quintana, referring to the solutions offered in August 1999 by the Frei administration, said "lands and technical assistance would be offered to Mapuche communities, but not as many hectares as demanded by the Mapuche organizations Consejo de Todas las Tierras or the Coordinadora de Comunidades de Arauco y Malleco, and autonomous territories, nor the creation of a state within a state."[51] The state was the nation, undivided.

For the Mapuche communities and groups, the invocation of the Law for the Internal Security of the State, and the characterization of Mapuche groups as

[50] Escalona's words were related to the author by one of the Mapuche present at the meeting in an interview in June 2000 a few days after the meeting.

[51] El Diario Austral B5, 5 August 1999.

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manipulated by extremists, revealed a lack of political willingness by the Concertación government to accept their demands for rights. Mapuche organizations and members of mobilized communities and sectors, however, defend the demand for territorial and political rights as inherent to their condition as a distinct people. They cite international norms recognizing the equality of all peoples, and demand that their rights as a people, distinct from Chileans, be acknowledged and consolidated in legal institutions and concrete political measures:[52]

> The conflict should be revealed in its true dimension, [that is], its political character, in which two subjects confront each other: The Mapuche Nation and the Chilean State, in which the former has had its rights taken away by force [by the latter] and to this very day is denied [by the Chilean State] the right to recover its sovereignty. This is the root of the problem, the other elements...poverty, marginality, lack of land, etc....are the effects and not the cause of the conflict....[53]

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[52] See "De la Deuda..." 1999 and Informe de Derechos Humanos en las Comunidades Mapuches de Arauco y Malleco 1999. The international norms cited include the ILO's Convention 169, the UN's proposed Declaration of the Rights of Indigenous Peoples, the OEA's Declaration of the Rights of Indigenous Peoples, clause 8Jof the Convention on Biodiversity, the Convention against all forms of discrimination against women, the Convention on the Rights of Children, Agenda 21.

[53] "Los propósitos del diálogo mapuche" Corporación de Desarrollo Mapuche Xeg-Xeg, Francisco Caquilpan L., Presidente, and Centro de Estudios y Documentación Mapuche Liwen, Víctor Naguil, Director, in the web page of Ñuke Mapu (soc.uu.se/mapu), 31 March 2000. "....Se debe exponer el conflicto en su justa dimensión; su carácter político, que confronta a dos sujetos: la Nación Mapuche y el Estado Chileno, donde a la primera se le ha arrebatado sus derechos por la fuerza y se le niega hasta el día de hoy recuperar su soberanía. Este es el problema de fondo, los etros elementos....la pobreza, marginalidad, estrechez de tierra, etc.,....son los efectos de lo anterior y no la causa del conflicto...."

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As Mapuche communities and groups continued to mobilize during 1998 and 1999, the Concertación government struggled to regain the initiative, by repressing the organizations that the government considered dangerous, and holding meetings with Mapuche communities to survey expressed needs. No major policy change was contemplated in indigenous policy; instead, the series of conversations with Mapuche communities acted as a publicity measure to indicate energetic action for the quiescent Mapuche communities, and strict measures "according to the law" for those groups who continued to press for land, as will be discussed in the following chapter.[54]

In the following years (1998-99), mobilizations increased, including land take-overs, marches, road sit-ins, public declarations, and assertions of territorial rights by Mapuche communities in conflict with logging companies. The government responded by sending in busloads of police to remove the Mapuche from those lands, setting up police escorts of logging trucks, and police roadblocks to check identification of local residents as well as others who passed through areas of conflict. The presence of additional squadrons of police in zones of conflict, the use of police roadblocks to check identity papers, and searches of public transport have led both indigenous community members and visitors to complain of a *de facto* state of seige.

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[54] The local level dialogues were conducted between May and July 1999, in the final months of the Frei administration. In August, 1999, in a ceremony in the Presidential palace, Frei announced the plan proposed as a result of the conversations. See supplement of La Tercera 12 November 1999 or the document "Informe de la Comisión Asesora en Temas de Desarrollo Indígena" Santiago: Mideplan,1999. The plan is a restatement of the 1993 indigenous law, including the recommendation to recognize indigenous peoples in the constitution.

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Mapuche leaders denounced the presence of individuals hired by the logging companies to aid in security operations who were members of the armed forces during the military dictatorship or who worked with the intelligence agencies of the military regime. They charged that logging company guards carry firearms and intimidate local Mapuche, and demanded identification of passengers on public transportation, thus assuming police faculties without legal authorization.[55] Mapuche leaders also charged that logging companies contracted former intelligence personnel of the Concertación government to oversee security operations, and forced individuals to make false accusations against Mapuche, accusing them of involvement in the incidents of violence.[56] When the police act, they often resort to violent search and seizure operations, using helicopters, busloads of police, "*guanacos*" (armored vehicles), and tear gas. Mapuche leaders have complained of police beatings upon detention, detention of individuals who are very unlikely to have been involved in the protests, abusive treatment under detention, maintaining some detainees incommunicado, etc.[57]

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[55] La Tercera 19 January 1999, p. 9; El Diario Austral 31 January 1999 A7: El Diario Austral 19 January 1999, pA9; La Tercera 4 March 1999; La Tercera 22 July 1999 p. 10; La Tercera 23 July 1999 p. 11; La Tercera 25 July 1999 p. 17; El Diario Austral 14 September 1999 B6; El Metropolitano 14 September 1999 pp. 1 and 8.

[56] La Tercera, p. 10, 22 July 1999; El Diario Austral, A7, 26 August 1999, La Tercera, p. 13, 26 August 1999.

[57] Accounts of this type of police action are taken from the Report of Human Rights in the Mapuche Communities in conflict in Arauco and Malleco, presented to the United Nations Human Rights Commission in Geneva, Switzerland in 1999 (Informe de Derechos Humanos en las Comunidades Mapuches en Conflicto de Arauco y Malleco 1999); denunciations of police brutality were also made by

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The Concertación government's support for the logging companies, and the Mapuche organizations' defense of their claims to territory and collective political rights creates a stalemate. Periodic efforts at negotiations between specific Mapuche communities and logging companies have not yielded a pattern of solution. Nor has the CONADI been effective as intermediary. Its coffers are limited, so that it cannot buy sufficient alternative lands for communities, while Mapuche organizations do not trust the agency and have raised broader demands. The CONADI cannot respond to these broader political demands, nor has it served to generate proposals to resolve conflicts. Its limited budget means that the agency cannot even stimulate instrumental ties to indigenous communities. The recent political history has led many Mapuche political activists to reject party ties, so the CONADI cannot generate patronage ties either. Nor does the CONADI function as a vehicle for the political participation of indigenous peoples. Just as the government spokesman stated in the Congressional debates over the proposed indigenous law, the CONADI was never intended to be a channel of political participation or representation for indigenous peoples.

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members of the Mapuche community, Temulemu, including the beating of a machi (a religious leader, in this case, an elderly woman), as well as complaints that the CONADI tried to quell the mobilization by reaching an agreement with one part of the community, thus dividing and weakening the movement to recover lands from the logging company, in the report issued by the Comisión de Observadores de Temulemu, July, 1999; also see the reports and denunciations from Mapuche organizations and politicians in the media accounts. The lawyer Rodrigo Lillo called the police raid of Temulemu a "paradigmatic" example of the excessive use of force, not only because of racism inherent in the use of force, but also, most likely, in Lillo's opinion, with the apparent intention of neutralizing militant Mapuche communities. Interview with the author, April 2000.

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More importantly, however, as the cause of the impasse, is the fact that the conflict between specific Mapuche communities and logging companies is only one level of the conflict. The fundamental conflict is that between the Mapuche people and the Chilean state. The Concertación government, despite the 1993 indigenous law, places a priority on the economic interests of the protagonists of the neoliberal model. The parties of the Concertación remain ideologically closed to any exception to the centralized, unitary state and the ideology of a homogeneous nation.

In contrast, the Mapuche movement raises claims for collective rights. Organizational work has begun to link diverse sectors of Mapuche society, in part counteracting the dispersal and disarticulation that is a consequence of their military defeat, political subjugation, dispossession, poverty, and cultural subordination. These ideological innovations are incipient, yet they indicate a firm allegiance to an ethnic identity, distinct from Chileans.

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Chapter 12. Conclusion: Reform of the Reform?

Historically, two basic goals have characterized indigenous policy in Chile: 1) to assimilate the Mapuche, and other indigenous peoples, into the Chilean nation as individual citizens; and 2) free the material resources and indigenous lands to capitalist exploitation. These goals are based upon the premises, frequently articulated by the dictatorship and left unchanged by the democracy that replaced it, that national security requires national homogeneity and capitalist economic development.

Although the Chilean state granted lands to the Mapuche in common title, legally protected from sale to non-indigenous persons, indigenous legislation from 1930 through the 1960s aimed to facilitate the subdivision of the *reducciones* into private individual properties and the integration of these properties into the free market. Policymakers believed that individual property ownership would promote both economic development and cultural assimilation.

Mapuche organizations, linked to a variety of Chilean political parties, blocked the elimination of the protected status of Mapuche *reducciones*, and by 1972 had won a new indigenous law that was never implemented because of the military coup in 1973. Since the 1930s, Mapuche communities pressed their claims for lands in the courts, generally with little success. Occasionally, the communities asserted their claims in land takeovers. During the period of the Agrarian Reform, the communities, supported by radical leftists, engaged in a

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wave of takeovers of estates, recovering much of the land that had been lost through usurpation. The estate owners and the military saw these takeovers as direct threats to national security.

With the explicit intent of shielding policymakers from accountability to the public in any future democratic regime, the military dictatorship imposed neoliberal policies and laws that sharply curtailed the state's regulatory, entrepreneurial, and redistributive roles in economic and social policymaking. The Decree Law to subdivide Mapuche *reducciones* was part of these neoliberal changes, and aimed to remove what the regime perceived as both a national security threat and an obstacle to economic growth: the common title and protected status of Mapuche communities. The protest movement against the subdivision of Mapuche communities failed to stop the implementation of the Decree Law to subdivide the communities but it succeeded in placing indigenous demands on the political agenda of the democratic government.

The 1993 indigenous law combined provisions for the protection of indigenous properties, funds for the purchase of additional lands and water rights, and small-scale development and cultural projects. There was no attempt to review all claims for usurped lands, nor did the proposal for the constitutional recognition of indigenous peoples as "peoples" win Congressional approval.

As the case studies on the controversies over the Bíobío hydroelectric dam projects and the logging companies make clear, the 1993 indigenous law did not

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provide protection against the negative consequences on Mapuche communities of capitalist expansion. The ensuing mobilization of Mapuche groups and new demands for collective rights to natural resources in indigenous lands and political participation led the Concertación government both to employ repression against radical groups and to offer proposals for further reform. This concluding chapter examines the government proposals for indigenous policy reform, and returns to the issues raised in the introductory chapter concerning democratization, demands for collective rights, and neoliberal principles.

In the early 1980s, the political opposition to the Pinochet regime struggled to reach a basic consensus upon tactics and strategies to end the dictatorship, and on the nature of a future democratic regime. Many of these elites began to shift from a rejection to acceptance of neoliberal policies, and to a strategy of gradualism in reforms.[1] The ideological conversion and strategic shift

[1] In 1983, an agreement among representatives of the center (PDC) and moderate socialists explicitly isolated sectors of the left which rejected the neoliberal model and advocated violence in addition to civil disobedience as tactics ("all forms of struggle") to promote regime change. It also reflects a profound division within the opposition over the the concept of a democratic society. The isolation of the left was encouraged by the U.S. government, concerned about the posibilities of "another Nicaragua" in the wake of the wide social protests of the early 1980s, and the emergence of opposition even among social sectors which had supported the regime, as a result of the handling of the economic crisis. Multilateral lending packages coupled with pressures to end the most flagrant human rights violations (the new U.S. embassador appointed during the second Reagan administration was more public in his criticism of human rights violations), were accompanied by the U.S. government's encouragement of centrist elements within the opposition and the pressure to isolate the more radical ones. See the historical discussion in Baño and Canales 1992; Petras and Leiva 1994 and Moulián 1997; Roberts 1998; Fernando I. Leiva and James Petras, "Chile: The Authoritarian Transition to Electoral Politics (A Critique)," Latin American Perspectives Vol. 15, Issue 58, no. 3 (Summer 1988): 97-114; Marc Falcoff, "Chile: The Dilemma for U.S. Policy," Foreign Affairs 64, no. 4 (Spring 1986): 833-848; Edgardo Boeninger, "The Chilean Road to Democracy," Foreign Affairs 64, n° 4 (Spring, 1986): 812-832; Lois Oppenheim, "Democracy and Social Transformation in Chile: The Debate within the Left," Latin American Perspectives, Vol. 12, Issue 46, no. 3 (Summer 1985): 59-76; Peter Bell, "Democracy and Double Standards" World Policy Journal 2, no. 4 (Fall 1985): 711-730; United States House, Hearings Before the Subcommitte on International Development Institutions and Finance of the Committee on Banking, Finance, and Urban Affairs, Human Rights and U.S. Voting Policy in the Development Banks: The Case of Chile 99th Congress, 1st Session, December

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within centrist and leftist parties isolated radical opponents of the military regime. During the transition from the military regime (1988-1992) the Concertación promised to push for gradual social and political reforms while maintaining a commitment to the neoliberal economic model.[2] Concertación political elites accepted the neoliberal model, not merely as a pragmatic strategy, but also because they believed that the neoliberal capitalist model was the only viable development path. Concertación government policymakers chose to make social and political reforms, consistent with the neoliberal model. They were further constrained by the political and legal obstacles to major institutional changes established by the military regime.[3]

Within the limited scope for reform, the 1993 indigenous law seemed to establish an exception to the pattern of neoliberal state-society relations. The new law recognized a state duty to protect indigenous lands and the legitimacy of a degree of cultural diversity within the Chilean nation. Although the failure to gain

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5, 1985 (Washington, D.C.: United States Government Printing Office, 1986); Pamela Constable, "Pinochet's Grip on Chile," Current History 86, no. 516 (January 1987): 17-20; Pamela Constable and Arturo Valenzuela, "Is Chile Next?" Foreign Policy 63 (Summer 1986): 58-75; and "Reply to letter from the Chilean Ambassador" Foreign Policy 65 (Winter 1986-7):176-179.

[2] See Enrique Correa, "De la Concertación a la coalición : Los desafios políticos de la democracia," Edgardo Boeninger, "El marco político general y el marco institucional del próximo gobierno" and Alejandro Foxley, "La política económica para la transición" in Transición a la Democracia: Marco Político y Económico, ed. Oscar Muñoz (Santiago: CIEPLAN, 1990), pp. 15-41; 43-67; 101-136, respectively; Joseph Tulchin and Augusto Varas, eds., From Dictatorship to Democracy. Rebuilding Political Consensus in Chile (Boulder, Co.: Woodrow Wilson Center and Lynner Reiner Publishers, 1991); and Carlos Ruiz, Concepciones de la Democracia en la Transición Chilena (Santiago : PAS, October 1991).

[3] See James Petras and Fernado Leiva, with Henry Veltmeyer, Democracy and Poverty in Chile. The Limits of Electoral Politics (Boulder, Colorado: Westview Press, 1994); Kenneth Roberts, Deepening Democracy? The Modern Left and Social Movements in Chile and Peru (Stanford, Ca.: Stanford University Press, 1998); Juan J. Linz and Alfred Stepan, Problems of Democratic Transition and Consolidation. Southern Europe, South America, and Post-Communist Europe (Baltimore, Md.: Johns Hopkins University Press, 1996); Carlos Ruiz 1991.

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passage of the constitutional amendment to recognize the status of "peoples" for the indigenous peoples of Chile and the watering down of the 1993 law was a disappointment to many Mapuche political activists, the prevailing response was a pragmatic acceptance of the limited reform as a step towards further reform. The 1993 law, however, was not intended to defend the collective rights of indigenous peoples. Informed by the Chilean ideology of a nationally homogenous society, this law was basically an effort to promote the integration of the indigenous peoples, in particular the Mapuche, into the neoliberal model.

Government Proposals to Resolve Mapuche Conflicts

The growing intensity of the conflicts over indigenous lands and collective rights, prompted Concertación officials to follow a two-level strategy as they prepared for the December 1999 presidential elections. They made a gesture of openness to the demands of rural Mapuche communities, while they repressed organizations that challenged large capital interests and raised territorial political demands.

President Eduardo Frei announced the creation of a special commission to formulate a proposal for reform of the 1993 indigenous law and the CONADI.[4] In this context, the government initiated in May 1999 a series of "dialogues" with Mapuche communities, demanding first that Mapuche organizations and

[4] El Diario Austral 7 April 1999, p.18; La Tercera 16 April 1999, p.18.

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communities end the land takeovers and renounce violent tactics.[5] At the same time, police arrested members of Mapuche communities and grassroots Mapuche organization leaders, on various charges, such as theft, damage to stolen property, or involvement in incidents in which logging company employees were injured.[6] Responding to the constant demands from executives of the logging sector, the Concertación government appointed special judges to investigate the incidents, and invoked the Law of Internal Security of the State.

According to the government officials' statements, the objective of the conversations with rural Mapuche communities was to compile a list of their demands and to offer some tangible solutions in the near term.[7] Yet, as Mapuche activists noted, the concrete needs and demands of the communities has been a matter of record for years, both in CONADI documents and in those of other state agencies, as well as in the demands raised by movement organizations and the communities themselves.[8]

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[5] El Diario Austral 7 May 1999; La Tercera 7 May 1999, p.13-14.

[6] Ibid and El Diario Austral 8 May 1999. In a news interview, Francisco Caquilpan, head of the Mapuche organization Xeg-Xeg, criticized the dialogues as a government ploy: "What dialogue are we talking about, with whom do the government authorities plan on talking, if the principal grassroot leaders who have initiated the mobilizations are in jail? The brothers of the Asociación Ñancucheo are recognized social leaders." "De qué diálogo estamos hablando? Con quién se quieren entender las autoridades, si los principales dirigentes de base que han iniciado las movilizaciones están en la cárcel. Los hermanos de la Asociación Ñancucheo son reconocidos dirigentes sociales." The lawyer for the Reimán brothers characterized the charges as groundless in an interview with the author in Temuco, April 2000.

[7] El Diario Austral 7 April 1999, p. 18 and El Mercurio 14 May 1999 C1 and C10.

[8] Professionals were hired by the CONADI to meet with members of Mapuche communities in order to gather information on land conflicts, and other needs, as early as 1993. This research was published in a series of studies. The author had access to a draft version on demands from Mapuche communities in Malleco province by Martín Correa, Catastro de Conflictos y Demandas de Tierras Mapuches en la Provincia de Malleco (Temuco: Corporación Nacional de Desarrollo Indígena, 1995). The authors, Jose Aylwin and Martin Correa gave a summary of their research in

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By the process of "dialogues" with Mapuche communities, the government attempted to exhibit its willingness to hear the demands and complaints of the communities--without acknowledging the legitimacy of grassroots community leaders who led the protest movement. Government officials expressed a willingness to listen to the "real" Mapuche, rather than those they labeled as self-appointed intermediaries.[9] These dialogues were staged affairs between a panel of government officials and members of local Mapuche communities, rather than negotiations with the mobilized communities and their organizations. The Concertación government tried to gain the initiative in the conflicts that had been brought to the surface again by the recent mobilization, and sought to discredit militant organizations that had resorted to land takeovers. Government officials, such as the CONADI national director, the Minister of Interior, the Minister of

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"Tierras Indígenas de Malleco. Antecedentes históricos y estudio de comunidades," Tierra, Territorio y Desarrollo Indígena (Temuco: Instituto de Estudios Indígenas and Universidad de la Frontera, 1995), 55-66. Titles of the published studies include Raúl Molina and Martín Correa, Territorio y Comunidades Pehuenches del Alto Bíobío (Santiago: Corporación Nacional de Desarrollo Indígena, Agencia de Cooperación Internacional and Agencia Española de Cooperación Internacional, 1996); Jorge Vergara, Aldo Mascareño, and Rolf Foerster, La Propiedad Huilliche en la Provincia de Valdivia (Santiago: Corporación de Desarrollo Indígena, Agencia de Cooperación Internacional, Agencia Española de Cooperación Española, 1996); Susana Rochna, La Propiedad de la Tierra en la Isla de Pascua (Santiago: CONADI, 1996); José Aylwin, Comunidades indígenas de los canales australes: antecedentes históricos y situación actual (Santiago: CONADI, 1995). In addition, communities and individuals would approach the CONADI for help in various matters and to apply for the grants for small productive or cultural projects.

[9] El Mercurio 25 March 1999 C7; El Mercurio 14 May 1999 C1 and C10; La Tercera 10 July 1999. The Consejo de Todas las Tierras and its leader Aucan Huilcamán were prominent targets for having promoted a series of peaceful land take-overs. The Consejo also organized a march of approximately 700 kilometers from Temuco to Santiago to present a series of demands to the government, including constitutional recognition of the status of a people. Aldolfo Millabur, Mapuche mayor of Tirúa, in the Eighth Region, and forty representatives of the Mapuche organization, Identidad Lafkenche, were not received by President Frei. They had made a proposal for territorial self-management, "De la Deuda ... 1999." La Tercera 7 May 1999 p. 13-14. Minister of Mideplan (which oversees the CONADI), Germán Quintana demanded that Mapuche communities end take-overs before the government would talk to them.

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Mideplan, and the head of the Ninth Region's government, denounced the more militant actions as "politically motivated," "violent," "terrorist," "criminal," "delinquent," and promoted by "outside extreme left agitators."[10]

Administration officials defined the problem as social and economic marginalization that extremist elements manipulated in order to advance their own political agenda. Raúl Troncoso, Minister of Interior, declared that, "in order to deactivate future conflicts and avoid the political instrumentalization of the indigenous demands, we have to address the problem of marginalization,...[by means of] education, training, and productive development."[11] The minister stated that the government planned on approaching this task by forming special working groups,[12] including representatives of business associations, in order to elaborate proposals on how to assist the Mapuche in shifting production on their tiny farms to tree plantations. Finally, the government planned on evaluating the indigenous law and the CONADI in particular, with the objective of modifying the 1993 law.

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[10] April 29 1999 El Sur in which then Minister of Interior Jorge Arrate said that "government wants to be clear in signalling that the method of land take-overs is not appropriate for resolving the problem and that the government will not accept being pressured, nor allow itself to be pressured by land take-overs"; La Tercera May 6 1999 in which Quintana said that "we will not negotiate with a pistol on the table"; El Mercurio 20 August 99 B1; 26 July 1999 Radio Biobio news broadcast , 24 August 1999 Radio Biobio news broadcast; 1 October 1999 Radio Biobio news broadcast.

[11] Pilar Molina, "Parafina a la Madera"El Mercurio 14 March 1999, D7-9: "para desactivar futuros conflictos y evitar la instrumentalización política de las reivindicaciones propias de los mapuches es que tenemos que abordar el tema de la marginalidad. Para ello, la próxima semana resolveré la constitución de grupos de trabajo, lo más amplios posible, para entrar en temas como el de la capacitación y educación y del desarrollo productivo"

[12] The working group included members of Congress, indigenous representatives chosen from those currently in the CONADI, the head of the business association, Sociedad de Fomento Fabril (SOFOFA), Felipe Lamarca, but it did not include Mapuche from the rural communities or organizations leading protests. Lamarca had publicly suggested that Mapuche peasant farmers shift from subsistence agriculture and the raising of small livestock to establishment and maintenance of tree plantations under contractual arrangements with logging companies.

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In those communities where more militant organizations existed, such tactics were recognized as attempts to divide grass roots leaders from their base of social support in the communities.[13]

The dialogues culminated in a public act in the patio of the Executive building in Santiago (August 5, 1999), during which President Frei announced a series of programs to be distributed to all indigenous peoples in Chile over the next three years, including subsidies for housing, improvement of local roads, and financial assistance to indigenous students, but no reference was made to the lands claimed by Mapuche communities involved in conflicts with the logging companies, the dam project in the Upper Bíobío, or the territorial demands.[14] The financial resources for the benefits would come from funds already assigned to the respective ministries, or from funds assigned in the following years' national budgets, subject to negotiation in the Congress and overall fiscal goals set by the Finance Ministry. The act included the signing of a "Pact for Citizen Respect," although the logging company representatives refused to participate in the signing, declaring that the 1980 constitution was the only relevant and necessary pact for civil peace.[15]

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[13] El Diario Austral 7 July 1999, pp. 13-14. In at least one case, the "dialogue" consisted of government officials making speeches to community members, and then announcing that time did not permit questions from the audience, or speeches from the community members. (pers. comm.)

[14] See Informe de la Comisión Asesora en Temas de Desarrollo Indígena, D.S. nº 122, 14 May 1999, Mideplan. News accounts are given in El Mercurio 1 August 1999 A1, A20; El Diario Austral 5 August 1999 B5; special supplement to La Tercera, "Chile reconoce a sus Pueblos Indígenas" paid for by Mideplan, 12 November 1999.

[15] El Mercurio 1 August 1999 A1, A20; El Diario Austral 5 August 1999 B5; El Diario Austral 6 and 7 August 1999; Radio Bíobío broadcasts.

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Revealing the position of the Concertación government, the "Pact for Citizen Respect" framed the conflict in terms of a violation of public order and social peace by small, violent groups that did not represent the majority of the rural Mapuche communities, rather than as a grassroots mobilization by a variety of organizations, expressing a widely held sentiment of having suffered wrongs.

The Frei administration's proposals ignored the broader political demands for a right to political participation as a people and to territorial control of natural resources, and it failed to address the issue that government agencies and ENDESA had violated the 1993 indigenous law in the case of the Ralco dam project. The Frei administration sent another proposal for the constitutional recognition of peoples, but it was much weaker than the proposal stalled in the Senate since 1991. It recognized ethnic diversity within the Chilean nation, not a multinational society.[16] Instead of recognizing a historical debt to the indigenous peoples (as phrased by the Mapuche communities in the Identidad Territorial Lafkenche),[17] or the need to respect collective rights, the Concertación government insisted on conceiving participation as access to subsidies.

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[16]See the article on 2 June 1999, in El Mercurio p. C7; opinion piece by the Minister of Mideplan, Germán Quintana, "Un Paso Necesario" 12 October 1999, El Mercurio p. A2 , referring to the Frei administration proposal for constitutional recognition of indigenous peoples and its expression of support for the ILO's Convention 169.

[17] See "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales", Identidad Mapuche Lafkenche de la Provincia de Arauco, VIII Región de Chile, Tirúa, VIII Región de Chile, (May 1999).

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Mapuche leaders, Adolfo Millbur, of Identidad Territorial Lafkenche and mayor of Tirúa and Aucan Huilcamán of Consejo de Todas las Tierras criticized the Frei administration's lack of response to demands for degree of territorial and political autonomy. Aucan Huilcamán called for a genuine new relationship between indigenous peoples and the Chilean state, including the establishment of an Autonomous Mapuche Parliament to replace the CONADI, which he faulted for its subordination to the government in office.[18]

The government's proposal was widely criticized, not only by Mapuche leaders, but also by politicians of parties belonging to the Concertación and the opposition parties (right-wing), despite the show of support by the indigenous members of the CONADI national council for the Frei administration proposal.[19] Mapuche movement leaders accused CONADI officials of pressuring indigenous community members to attend the act, and of not responding to the substantive demands of the movement with respect to the conflict between Mapuche

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[18] El Mercurio, 14 October 1999, C4.

[19] In El Diario Austral 7 August 1999, CONADI national council member and Mapuche, José Santos Millao criticized those indigenous organizations which refused to attend the ceremony at the Moneda for the announcement of the administration's proposals. In El Diario Austral, 3 July 1999 A4, Mayor of Temuco René Saffirio (PDC) called the dialogues a farse. Criticisms from Mapuche were reported in Radio Biobio broadcasts on 5 and 6 August 1999. In the same broadcasts, Deputy Eugenio Tuma (PPD) criticized the proposals as public relations ploys ("soluciones efectistas"). Deputy Francisco Huenchumilla (DC) and Eduardo Diaz (Partido del Sur, far right-wing party), denounced the lack of new funds. Cf. José Aylwin, who states in his article "Los Conflictos en el Territorio Mapuche: Antecedentes y Perspectivas" Revista Perspectivas Vol. 3, no. 2 (Santiago: Universidad de Chile, 2000; also on the web page of Fundación Rehue, xs4all.nl/~rehue/art/ay13.html) that, "according to all analysts, [the solutions proposed by President Frei] consist of a summing of all public monies destined to the indigenous, not new funds."

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communities and logging companies, or the conflict over the dam projects in the Upper Bíobío.[20]

The following year, the third Concertación government under President Ricardo Lagos appointed a government commission to devise some proposals in fifty days (by the end of May 2000), and announced that a separate commission would be named at a future date to review the history of the treatment of indigenous peoples by the Chilean state.[21] The first commission recommended 16 proposals.[22] As in the case of the Frei administration, the proposals concentrated on identifying concrete benefits to be given to indigenous persons and communities. The most important source of funding was to come from the International Development Bank.[23] In a June 2000 meeting in Santiago between Socialist party leaders and some Mapuche professionals, however, party officials

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[20] Radio Biobio news broadcast 4 August 1999.

[21] El Mercurio, 14 March 2000, C7. See also "Analizarán Verdad Histórica de los Pueblos Indígenas" in El Mercurio 8 May 2000, C6. The second commission met for its first meeting in March 2001.

[22] El Mercurio A1, A35 June 1 2000;El Diario Austral B5 June 1 2000.

[23] The proposals were: 50,000 hectares before December 2001; Give 100,000 pesos (approx. US$200) to 10,000 peasant families of the Ninth Region; Conadi devise a plan for the Yamana and Kawaskar indigenous peoples of the far south; State agency for Water create a training plan for indigenous communities of northern Chile on water use rights and speed up the process of community application for water rights; government funds for proposals of projects to irrigate 1150 hectares in 2000; Conadi and the Ministry of Agriculture create management training programs for productive activities; strengthen bilingual education programs, 290 million pesos for teaching training and support for indigenous schools; incorporate indigenous cultures into the national education curriculum; create an intercultural model of health and 10 family health centers; improve infrastructure in roads, ports, irrigation and create new cultural spaces; 80 million dollars from the Interamerican Development Bank development; propose the constitutional recognition of indigenous peoples and their rights to language and respect for their traditions; declare the 24 of June as indigenous peoples day (former President Frei Ruiz-Tagle had already done this in 1999); the new coins of 50 and 100 pesos are to have images of indigenous women; support for a permanent forum in the United Nations for indigenous peoples; 4 billion pesos for progams of cultural development.

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said there was not enough money to keep the promise of 50,000 hectares in the course of the first two years.[24]

This set of goals reveals that the government continued to conceive the solution of the conflict in terms functional to the major economic interests. Opinions of some government officials coincided with those of the neoliberal Instituto Libertad y Desarrollo in their criticism of the indigenous law's prohibition of the sale of indigenous lands. The protection of the indigenous lands contained in the 1993 law was meant to prevent fraud, but not to be an obstacle for a "development project" such as the Ralco hydroelectric dam. The Concertación's support for the protagonists of the neoliberal model trampled on the real, effective status of this legal protection. Beginning with the CONADI national director Domingo Namuncura, who differed from the previous national director in interpreting Article 13 of the law as allowing individual indigenous landowners to rent or otherwise dispose of their properties, government officials strove to find legal grounds for circumventing the protection of indigenous lands contained in the 1993 law, in order to permit the implementation of major industrial projects on indigenous lands.

[24] Interview by the author of a Mapuche professional present at the meeting in Temuco, June, 2000.

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Regime Transition, Neoliberal Development, and Indigenous Policy Reform

According to neoliberal principles, the state retreats from the active role in the operation of the market, which had tended to reduce economic inequalities, and allows economic forces to structure the distribution of resources. The market becomes the predominant arbiter of social relations and distributor of economic resources, with minimal state oversight. This division of the domain of public, popular sovereignty and private freedom from government interference reinforces structures of social and economic inequality.

The Chilean opposition leaders who guided the transition accepted the neoliberal pattern of state-society relations and economic growth, while at the same time proposing a piecemeal, incremental strategy for reform of the political system. As preceding chapters make clear, this commitment to the neoliberal policies and institutions reflects a consensus among political elites that stable economic growth policies are essential, both to overcome poverty and to assure a successful transition to a democratic regime.

This strategy of gradualism, within a limited horizon with respect to possible reforms, cannot resolve for the Mapuche the destructive consequences of neoliberal economic growth in Chile. These tendencies include increased inequality in income, land, capital, and other resources, in a context of rapid and unsustainable exploitation of natural resources and regressive labor policies. The

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neoliberal growth model has meant for the rural Mapuche communities, not the lessening of poverty, but rather the worsening of living conditions and a loss of indigenous lands. Neoliberal laws regarding natural resources allow the exploitation of natural resources vital to the subsistence of local communities.

Institutional changes in the Chilean economy and the state, imposed by the military regime, established the political "rules of the game," in terms of both every-day political transactions and the scope of reform. The tutelary elements that restrict processes of democratization include the binomial electoral system with its bias in favor of right-wing parties and against minor parties; the designated senators; the overrepresentation of the armed forces in the National Security Council; and the increased autonomy of the Armed Forces, including their constitutional role as guarantors of the constitutional order, discussed in Chapter Six.[25]

The Mapuche, thus, face a double legacy of authoritarianism--that of a tradition of assimilationist economic and social policies, and that of the neoliberal institutional framework, which puts private property rights of large property owners ahead of the recognition of collective rights, demonstratively supporting the property claims of large economic conglomerates against the claims of Mapuche communities. The legal framework gives the political representatives of the economic elites the instruments to block legal reforms. For the Mapuche who

[25] See Arriagada 1984; Ruiz 1991; Linz and Stepan 1996; Moulián 1997; Roberts 1998.

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challenge neoliberal economic expansion and raise claims to collective rights, the "rule of law" becomes a policy of repressive "law and order."

With the regime transition, however, the new democratic government of the Concertación made a promise to reform state policies towards indigenous peoples. In many ways, the 1993 law recalled the law of 1972. The 1993 law affirmed the protection of indigenous lands, made possible the recognition of corporate status for indigenous communities and associations, and established funds for the subsidized purchase of more land, as well as for small-scale social and economic development projects. Broader demands of the Mapuche movement for the recognition of the status of people, territorial control of natural resource use, and political autonomy were not written into the law.

The reform of indigenous policy continued the historic pattern of liberal citizenship and exceptional status for indigenous (surface) property titles. By ignoring the urban component of Mapuche society and the structural causes of their demographic dispersal, the state continues to encapsulate indigenous policies within a program of subsidies and "integration" of a peasant sector into the overall society. Programs for micro-entrepreneurs or small farmers treat indigenous peoples as individual disadvantaged citizens, rather than as different peoples--collective subjects of rights.

Rather than a reform of the tradition of a unitary, centralized state, which would allow territorial control of natural resources, the law encourages indigenous

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individuals and groups to compete for funds for small-scale development projects which can not alter the structural causes of environmental degradation and economic inequality. Discounting the need for a comprehensive revision of the content of public education with regard to indigenous peoples, the proposal for educational reform is directed to a rural population, to facilitate that sector's integration into the broader society's culture and economy.

The isolation of rural indigenous communities is not equivalent to their autarchy, much less to their retaining a *de facto* autonomous space, but rather a reflection of their political subordination--the rural indigenous communities become of interest to the state, to the degree that their lands acquire value in the eyes of economic elites. The legal corporate status of individual indigenous communities and associations makes it easier for these organizations to win grants, but they still must confront the consequences of transnational corporations' incursions onto their lands. Indigenous peoples are not recognized as collective peoples; they are recognized as part of the Chilean nation. Indigenous peoples are considered part of the ancestral roots of the Chilean nation not as collective holders of rights.

Processes of Democratization and Neoliberal Ideological Hegemony

Terry Lynn Karl and others have argued that pacts between the supporters of authoritarian regimes and democratic opposition pose dilemmas for processes

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of democratization.[26] These pacts, often involving the guarantee of capitalist ownership of the means of production and private property and amnesty for human rights violators, facilitate regime transitions but also pose obstacles for further reforms. In Chile, the opposition faced a very cohesive regime that weathered a severe economic crisis and mass protests. The dictatorship imposed the timetable and rules for regime transition, and, despite losing the 1988 plebiscite and 1989 general elections, supporters of the military regime retain institutional prerogatives that limit reforms. Most of the democratic opposition opted to accept the transition rule. Rather than a pact, the Chilean case is one in which the opposition accepted imposed rules. The military regime structured an exit from government so that the tutelary restraints on political democracy continued.[27]

The principal political parties have moderated their political programs, reflected in the "homogenization" of the campaign programs of the Concertación and the right-wing coalition in the December 1999 presidential elections. Strong partisan allegiance, which formerly was a characteristic of the Chilean party

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[26] See Terry Lynn Karl, "Dilemmas of Democratization in Latin America" Comparative Politics 23, no. 1 (October 1990): 1-21 on the issue of pacts that facilitate transitions from authoritarian rule but then impede further democratization. Frances Hagopian, "Democracy by undemocratic means? Elites, political pacts and regime transition in Brazil," Comparative Political Studies 23, no. 2 (July 1990): 147-170; Adam Przeworski, "Some problems in the Study of the Transition to Democracy" in Transitions....: Comparative Perspectives, eds. O'Donnell, et al. (Baltimore, Md.: The Johns Hopkins Univesity Press, 1986), 46-63; J. S. Valenzuela, "Democratic Consolidation in Post-Transitional Settings: Notions, Processes, and Facilitating Conditions" Working Paper no. 150 (Notre Dame, Indiana: Kellogg Institute, University of Notre Dame, December, 1990) Juan Linz and Alfred Stepan, Problems of Democratic Transition and Consolidation. Southern Europe, South America and Post-Communist Europe (Baltimore, Md. : The Johns Hopkins University Press, 1996).

[27] Moulián 1997; Petras and Leiva 1994; Baño and Canales 1992.

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system, dwindled in the 1990s, and the percentage of citizens of voting age who did not register increased.[28] Such "centering" of Chilean politics, however, does not resolve basic conflicts over distribution, development, and citizenship that cannot be resolved through institutional channels because the "tutelary" democracy imposed by the Pinochet regime remains in place.

Traditionally, Chilean political parties have acted as "brokers" who reach pragmatic compromises, or as channels of demands covering most social sectors.[29] Social organizations without strong partisan alliances failed to win benefits, but those that had ties could hope to make tangible gains within liberal democracy. Although social and economic inequalities persisted, the political dynamic encouraged compromises among the parties that offered substantive rewards through state-run programs to most social sectors.

Under the present neoliberal ideological hegemony, the principal parties no longer serve as vehicles of reform, but rather as agents to diffuse societal

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[28] Linz and Stepan (1996, p. 217), discuss polls showing a decline of satisfaction with democracy in Chile, from 75 percent in August 1990 to 37 percent in August 1993, and in responses to a question on whether or not democracy was fully installed, only 16 percent said yes in October 1993. In Chile, voting is required if one is registered, (the punishment is afine), but registration is not required.

[29] Manuel Antonio Garretón, "The Political Evolution of the Chilean Military Regime" in Transitions from Authoritarian Rule: Latin America, eds.Guillermo O'Donnell, Philippe C. Schmitter, and Laurence Whitehead (Baltimore, Md.: The Johns Hopkins University Press, 1986), 95-122; Rodrigo Baño and Manuel Canales, "De la dictadura a la democracia," in Chile: Evolución Macroeconómica, financiación externa y cambio político, Patricio Meller, Pilar Romaguerra, Andrea Butelaman, Rodrigo Baño and Manuel Canales (Madrid: Cedeal, 1992): 95-185; Timothy Scully, Rethinking the Center. Party Politics in Nineteenth and Twentieth Century Chile (Stanford, Ca.: Stanford University Press, 1992); Tomás Moulián, La Forja de Ilusiones. El Sistema de Partidos 1932-1973 (Santiago: Universidad ARCIS and FLACSO, 1993); Arturo Valenzuela and J.S. Valenzuela, "Chile: The Development, Breakdown, and Recovery of Democracy," in Latin America: Its Problems and Its Promise, ed. Jan K. Black, 3d ed. (Boulder, Co.: Westview Press, 1998), 497-535.

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conflict. Their role as brokers of reform in the Congressional arena has been replaced by negotiation among government and opposition party elites. It is not only the barriers to effective electoral representation (the binomial system, the designated senators), but also the Concertación's acceptance of the ideology that the market, not the state, provides the solution, that has reduced the relevance of political parties as agents of social change.[30] "*Gobernabilidad*" or the stability of the political institutions and the economic regime is the Concertación's priority, rather than popular participation or socio-economic reforms. As the case study on the Bíobío dam projects reveals, institutional processes meant to guarantee legal norms concerning indigenous rights and environmental protection become means of undermining them and evading accountability. Challenges to the unitary character of the state are completely off the agenda. As "nightwatchman," the state defends the interests of those actors who control the economy, to the detriment of those who do not. Thus, the political parties have weakened as instruments for promoting economic redistribution or social reforms.

Given these circumstances, alliances with the principal centrist and leftist parties do not provide the political influence needed to alter the basic conception of national security as linked to national homogeneity and neoliberal capitalist development. The recent ideological innovations in sectors of the Mapuche movement point to efforts to generate the social support and mobilizational capacity to overcome the obstacles to further reform.

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[30] Cf. Petras and Leiva 1994 and Roberts 1998.

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Innovations in Mapuche Demands and Mobilization Processes

The ideological and conceptual innovations of sectors of the Mapuche movement, however, reveal the relevance of social movements in the promotion of alternatives. In neoliberal economies, the reduction in the level of union membership, the decrease in the percentage of permanent workers, and changes in labor codes weaken the bargaining power of labor with employers. The acceptance of neoliberal policies by centrist and leftist parties reduces the political leverage of organized labor on party agendas. The "politics of culture," however, creates a dynamic that partially counteracts the social atomization because subordinated peoples can retain zones of social and cultural control that provide the means for a critique of the relations of domination and a vision of an alternative system.[31]

For some Mapuche activists, the framing of indigenous policy reform within neoliberal principles does not meet their demands for political autonomy and territorial control of natural resources, nor address the threat posed by the protagonists and the beneficiaries of the neoliberal model.[32] The policy

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[31] See Petras and Leiva 1994 and Roberts 1998 for a discussion of the continued weakness of the labor union movement both because of the neoliberal labor code and and the structural changes in the Chilean economy. Less than 10 percent of the work force is unionized. The "politics of culture" is analyzed in Sonia Alvarez, Evelina Dagnino and Arturo Escobar, eds., Culture of Politics, Politics of Culture: Revisioning Latin American Social Movements (Boulder, Co.: Westview Press, 1998).

[32] See José Marimán, "Cuestión Mapuche, Descentralización del Estado y Autonomía Regional" Tópicos 90 no. 1 (Santiago: Centro Ecuménico Diego de Medellín, 1990), 137-150; "De la Deuda Histórica Nacional al Reconocimiento de Nuestros Derechos Territoriales," Identidad Mapuche Lafkenche de la Provincia de Arauco, VIII Región de Chile, Tirúa, VIII Región de Chile (May 1999); Comments made by Mapuche leaders Adolfo Millabur, speaking for the organization Identidad Territorial Lafkenche, and Aucan Huilcamán, for Consejo de Todas las Tierras, in the

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instruments of the 1993 law aim at promoting indigenous development by channeling indigenous demands into neoliberal priorities, rather than establishing the political institutions which would allow alternatives and grant the indigenous peoples, as peoples, decision-making powers.

In response to the threats posed by the neoliberal model and the manifest inadequacies in practice of indigenous policy reform, sectors of the Mapuche movement have questioned the universality of neoliberal growth and raised demands for collective rights. Mapuche demands for collective political rights and territorial control over natural resources within indigenous lands are based upon principles that directly confront neoliberal conceptions of citizenship, liberty, and equality. These sectors claim that liberty, equality, and participation are not rights exclusive to individuals but are inherent in the equality and dignity of all peoples. They also claim that their right to preserve their own culture means the right to material resources that make possible alternative development paths.

The current political mobilization reflects not only the incursion of major investment projects on indigenous community lands, but also a renewal of the Mapuche movement itself, which has involved the efforts to revitalize cultural

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article, "Indígenas Exigen Cambio de Actitud Oficial" in El Mercurio, 14 October, 1999; comments by Francisco Caquilpan of the organization Corporación de Desarrollo Mapuche Xeg-Xeg, and Víctor Naguil of the Centro de Documentación Mapuche Liwen, in "Los Propósitos del Diálogo Mapuche" (web page soc.uu.se//mapu), quoted in preceeding chapter; Informe de Derechos Humanos en las Comunidades Mapuches en Conflicto de Arauco y Malleco, presented at the Human Rights Commission of the United Nations. 55&deg. Session Period, Ginebra, Suiza, Coordinadora de Comunidades en Conflicto Arauco-Malleco, José Huenchunao Mariñan, Aliwen Antileo Navarrete, Pedro Cayuqueo Millaqueo, Arauco, Abril de 1999, VIII Región de Chile; Víctor Toledo, "Derechos y Territorios: Bases para las políticas públicas y ciudadanía del Pueblo Mapuche" (ms.) (Temuco, August 1998).

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practices, and, in the case of part of the Mapuche movement, demands for political rights as a people.

In terms of both goals and tactics, the Mapuche movement remains divided. For a part of the Mapuche movement, self-determination is not only a goal, but conceived as the essence of the process of cultural strengthening. Because cultures are collective, social creations, they cannot flourish and respond creatively to changing contexts unless peoples themselves participate in the revitalization of their cultures. For this sector of the Mapuche movement, the promotion of culture and collective human rights cannot be reduced to a question of political engineering among state and party elites or access to subsidies. The political work to change the level of demands, from the concrete demand for one community's lost hectares, to the comprehensive political demand for collective rights, is viewed as necessarily a collective, participatory process, and as one which, by right, involves the members of that people. This reflection within the Mapuche movement has meant that a part of the movement prefers to distance itself from alliances with political parties, a departure from the earlier pattern of insertion into parties in order to pressure for reform within state institutions. This political mobilization is an attempt to make the collective rights of indigenous peoples part of the conception of a democratic society, and for that democratic society to allow diverse modes of development. It is a challenge to the very conception of nation in Chile, a claim to popular sovereignty as embodied in diverse collective subjects, not just individual citizens, and a critique of the liberal philospohy's separation of culture and economics from politics.

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Mapuche organizations aligned with the parties of the Concertación argue in favor of a strategy of incremental reform according to the priorities and pace set by party elites. These organizations contend that partisan alliances are crucial to be able to influence policy agendas of the major parties and to ensure access to concrete benefits.

Preceding case studies regarding conflicts over the Bíobío dam projects and logging companies have shown, however, these organizations have not been able to change party priorities. The history of the Mapuche movement, however, reveals that political leverage is not merely a function of ties to parties, but of capacity to generate social support for change. The Mapuche organizations linked to the major parties have lost their social roots; they neither influence party agendas nor represent a social segment capable of exerting influence on political elites. The Concertación government has not altered the priority given to neoliberal economic development, even in cases in which its own laws to protect indigenous communities interests and rights have been violated.

O'Donnell and Schmitter and Tarrow have argued that social movements lose their prominence as transitions from authoritarian rule shift to liberal political practices and political parties regain legality and institutional space.[33] They argue that social movements may decline in their importance as political factors to the

[33] Guillermo O'Donnell and Philippe C. Schmitter, Tentative Conclusions about Uncertain Democracies, Vol. 4 of Transitions from Authoritarian Rule (Baltimore, Md.: The Johns Hopkins University Press, 1986); Sidney Tarrow, Power in Movement: Social Movements, Collective Action, and Poltics (New York: Cambridge University Press, 1994).

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extent that parties, and party elites, negotiate the dynamics of regime transition and the institutional rules of the new regime. In particular, social movements lacking organic ties with political parties, it is argued, are left out of the negotiation of agendas and rules[34]

Because of the neoliberal hegemony in the principle parties of the Center and the Left, parties no longer serve as agents of reform, but rather forces of stabilization. The Concertación government seeks to channel rural indigenous communities' demands into the familiar categories of economic and social assistance programs and recognition of cultural diversity within one nation, stressing that the majority of the Mapuche wish to be integrated into the benefits of development, as defined by the government. This characterization of Mapuche

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[34] Elizabeth Q. Hutchinson argues that the human rights movement in Chile, at the time of the regime transition (1988-90), lost political influence within the Concertación party coalition, despite the presence of party militants within human rights organizations. There was also significant social support for the recognition of human rights violations and for the necessity for some type of official reparation. Nevertheless, the Concertación parties did not incorporate the demand for "truth and justice." The Rettig Commission was established to investigate and determine the cases of confirmed human rights violations, ("truth and acknowledgement"), but there was no judgement of those individuals responsible, nor of the military regime, nor of the Armed Forces. Individual cases could be pursued in the courts but were blocked in the great majority of instances by the amnesty law decreed by the military regime in 1978. The issue advanced no further until Pinochet was detained in London, putting the issue once again on the agenda of the Concertación government and party elites. For the human rights movement, the regime transition had not been completed, until an external actor set in motion again the questions of justice, democracy and the transition itself. It was not the lack of party activists which hampered the human rights movement--and made it virtually disappear during the 1990s from the Concertación political agenda and from media attention. as international solidarity funding fell sharply with the installation of the democratic regime. It was the movement's inability to generate social pressure sufficient to influence the political agenda set by the Concertación party elites. See Elizabeth Quay Hutchinson, "El Movimiento de Derchos Humanos en Chile bajo el Régimen Autoritario 1973-1988" in El Movimiento de Derchos Humanos en Chile 1973-1990, Patricio Orellano and Elizabeth Quay Hutchinson (Santiago: Centro de Estudios Políticos Latinoamericanos Simón Bolívar, 1991), 69-142; Alexandra Barahona de Brito, Human Rights and Democratization in Latin America: Uruguay and Chile (New York: Oxford University Press, 1997); and Elizabeth Jelin and Eric Hershberg, Constructing Democracy, Human Rights, Citizenship, and Society in Latin America (Boulder, Colorado: Westview Press, a Division of HarperCollins, 1996) for an analysis of the human rights movement and Moulián 1997 for a general analysis of the dynamics and decisions taken by the different political actors during the military regime and the present Concertación government.

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demands purposefully ignores ethnic-national political claims, and by focusing on the (quiescent) rural communities, continues to separate culture from politics—recognizing cultural diversity, but not collective political rights. Within the principal political parties, no critique has yet emerged of the neoliberal model itself. Both ideologically and institutionally, none of the principal political parties has incorporated the challenge of the current political demands of the Mapuche, which would require a check on the power of transnational corporations and on the principle of a unitary state. It is a situation that promises more conflicts and political mobilization.

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