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Lost Lands and Targeted Policy: Reaction to Mapuche Activism in Twenty-First Century Chile

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Lost Lands and Targeted Policy: Reaction to Mapuche Activism in Twenty-First
Century Chile

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Department of International and Area Studies

University of California, Berkeley

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Introduction

I met Sofía Huenchumilla Marilao, an Indigenous Mapuche activist, for the first time in Temuco during a research trip to Chile in January 2022. She currently works to protect Indigenous language and cultural rights with the organization Mapuzuguletuaiñ, but activism in her family, and in the Mapuche community at large, has a long history and reaction to it by the Chilean government has not historically been sympathetic. While we spoke, she told me about how twenty years ago, when she was a young girl, her brother attended a protest for educational reform. Following the protest, he was arrested by the police for having Molotov cocktails in his backpack. Although he was not a community leader, prosecutors invoked Chile's Anti-Terrorism Law against him and judges refused to release him before the trial. Because her family was poor, "there was not even money for transport to get to Temuco, so my parents walked... [several] kilometers from my house, and [from] there they took a bus because it was cheaper to get to the prison in Temuco where my brother was... They spent approximately twenty-one days, every day making their trips, walking, walking and walking. They were very sad because he was probably going to be sentenced to 40 years in prison." Fortunately, her brother was released after about a month thanks to the support of their community and a talented lawyer. However, this experience caused a lot of pain for her family and she noted that "many of our people have not had the same luck, they have not had the same fate."¹

The exoneration did not reverse the time Huenchumilla's brother had been incarcerated, lift the monetary burden it had placed on her parents, or nullify the psychological pain. However, this experience, one all too common for Mapuche families, did not deter her own activism.² Her perseverance in the face of the application of anti-terrorism legislation against her family has

¹ Sofía Huenchumilla Marilao, interview by Boyce Buchanan, Temuco, January 6, 2022.

² Huenchumilla Marilao, interview.

been reflected in the work of other Mapuche leaders as well. One of the most recent high profile examples of this has occurred in Chile's current Constitutional Convention, which met for the first time on July 4th, 2021.

Chile's Constitutional Convention was born out of massive social protest that began in the fall of 2019, against the vestiges of Augusto Pinochet's military regime: the Constitution and the country's neoliberal economic model.³ The convention is currently in the final stages of drafting this new document, and a plebiscite will soon be held to determine whether or not to enact the proposed constitution. Elisa Loncon, a member of the Mapuche people, Chile's largest Indigenous group, was the President of the Constitutional Convention during the first half of the process, an achievement that, given the tense relations between the Mapuche people and the Chilean State over the past two decades, was celebrated by many as a step forward for Indigenous recognition in the country.⁴ As a candidate for that position Loncon wrote, "although it is a difficult road, we want to open that door to dialogue and interweave, as a people, the key debates that concern us Mapuche. We know that we are joined by various demands that are much older than the social explosion; decades of fights in which generations of Mapuche have contributed and given their best efforts."⁵

The platform that she ran on was reflective of common goals held by members of the Mapuche community, including establishing a plurinational state, creating rights to autonomy and self-determination for Indigenous peoples, and establishing the right to their traditional

³ In the plebiscite leading to the creation of this convention, seventy-eight percent of the voters affirmed their desire to create a new constitution. See: Pascale Bonnefoy, "'An End to the Chapter of Dictatorship': Chileans Vote to Draft a New Constitution," *New York Times*, October 25, 2020, <https://www.nytimes.com/2020/10/25/world/americas/chile-constitution-plebiscite.html>.

⁴ The Mapuche make up roughly 80 percent of the Indigenous population, which itself represents almost 13 percent of the country's population. See Instituto Nacional de Estadísticas de Chile, *Síntesis de Resultados: Censo 2017* (June, 2018), 16.

⁵ Elisa Loncon Antileo, "Una Propuesta para el Buen Vivir," Elisa Loncon: Constituyente Mapuche, accessed Dec. 1, 2021, <https://elisoncon.cl/wp-content/uploads/2021/01/Una-propuesta-para-el-Buen-Vivir-OFICIAL-Elisa-Loncon-Constituyente.pdf>.

lands—including the creation of a new development model based on Indigenous world-views rather than extractivist policies.⁶ A sustained wave of Mapuche activism has called for these policy changes since the 1990s. However, these ideals, at least in part, have existed since the Chilean State militarily defeated the Mapuche people—who had formerly been recognized as an autonomous people by the Spanish—and took control of their land in the south of Chile in the later half of the nineteenth century. Throughout this work, I will refer to the area historically considered to be Mapuche territory in the south of Chile as Wallmapu, its Mapudungun name. However, when discussing governmental responses and statistics that relate to specific regions which have been defined by the Chilean government as an administrative block, even though those areas are all part of Wallmapu, I will use their governmental designation for clarity.

Unfortunately, the support that Loncon received in order to reach the presidential position within the Constitutional Convention is, in general, the exception rather than the norm when it comes to Mapuche activism, even in recent years. In April 2021, Mapuche environmental activist Alberto Curamil was severely injured after being shot eighteen times with riot pellets by police while participating in a protest supporting Elena Paine, a Mapuche leader whose house and crops had been burned down in a separate attack by a right-wing group.⁷ Just one month prior to this use of force, members of the Chamber of Deputies approved a resolution to create a Constitutional State of Exception in the Araucanía Region within Wallmapu, which would let the Armed Forces “deal with the firepower and sophistication shown by the violent groups” in the region.⁸ There is a lot at stake in the success of the new constitution for all of Chilean society,

⁶ Loncon Antileo.

⁷ Liam Miller, “Fears for Chilean Indigenous Leader’s Safety After Police Shooting,” *The Guardian*, June 30, 2021, <https://www.theguardian.com/global-development/2021/jun/30/fears-for-chilean-indigenous-leaders-safety-after-police-shooting>.

⁸ Congreso Chileno, Cámara de Diputadas y Diputados, Detalle de Votación: Proyecto Resolución 1448, 140th special sess, March 4, 2021, https://www.camara.cl/legislacion/sala_sesiones/votacion_detalle.aspx?prmIdVotacion=35436.

including the Mapuche, and other Indigenous groups. What is included or excluded from this new document, and the legislation that is to follow from it, will be even more important.

Many international bodies, watchdog organizations, and scholars have commented on the harm caused by police violence in the south of the country and the invocation of Chile's Anti-Terrorism Act against Mapuche protestors in particular.⁹ Papers spanning the fields of sociology to economics have, over the last two decades, proliferated on the topic of Chile's Anti-Terrorism Law. A smaller pool of literature exists on the historical and cultural dimensions that have led some Mapuche activists to more extreme methods of protest and the political and social implications of the state's response. Building on the legacy of these works, this paper seeks to answer two questions that have been at the fringe of this scholarly discussion: How has Mapuche activism been affected by the scope of neoliberal policy in Chile since the mid-1970s and the uneven application of the Anti-Terrorism Law? And, why are the Mapuche defined as a "threat" to the Chilean State in a way that other activists are not? I argue that the neoliberal policies of the military regime, as well as the use of special criminal law, has in fact served to increase and sustain Mapuche activism on the whole, while also isolating activism from non-Indigenous party politics and political discourse. Both of these factors have made the Mapuche movement threatening to the political ideology entangled throughout all levels of the Chilean governmental frame: neoliberalism.

Understanding Neoliberalism: An Economic and Political Model

The theory of neoliberalism stems from economic studies conducted during the mid-twentieth century by the likes of Milton Friedman. However, the extent to which

⁹ See: United Nations General Assembly, *Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Ben Emmerson: Mission to Chile* (Geneva: Human Rights Council, April 14, 2014), 21; Human Rights Watch, "Undue Process: Terrorism Trials, Military Courts, and the Mapuche in Southern Chile," *Human Rights Watch* 16, no. 5 (October 2004), 8.

neoliberalism has shaped many political systems has led to scholarly discussions about the ways in which neoliberal economics has worked as a political ideology that has entrenched itself in many societies, including Chile's. Conceptualizations of this topic as an economic theory have consolidated over the decades. In general, scholarly consensus has formed around the idea that although in neoliberal ideology, "the overall order created by the market is deemed superior in terms of efficiency and equity compared to any deliberate or engineered form of societal organization.... market society and market rules did not evolve naturally or through some process of self-generation."¹⁰ Powerful figures who have supported neoliberalism center their arguments around a limited government that allows private industries to regulate the market, creating an "ideologically neutral" distribution of resources. Neoliberalism effectively works under the assumption that the market itself is a neutral force.¹¹ However, this has proven false. In order to let the markets dictate the distribution of resources for society, governments have to strictly intervene in the market, creating an unequal distribution through their support of investors.¹²

In Chile, the power of elites was concretely challenged by the rise of an activist working class throughout what is known as the Agrarian Reform Period, culminating in the election of Allende in 1970. However, the neoliberalism of the Pinochet military regime that followed—which lasted from 1973 to 1990—has carried through to the present day. The regime in effect established what is known as "accumulation by dispossession," and this dispossession, which is still occurring, is facilitated by governmental policy.¹³ Because of policies like these, some theorists have moved neoliberalism outside of a solely economic lens and defined it as a

¹⁰ Robaldo Munck, "Neoliberalism and Politics, and the Politics of Neoliberalism" in *Neoliberalism: A Critical Reader*, (Pluto Press, 2004), 61.

¹¹ Manuel Prieto and Carl Bauer, "Hydroelectric Power Generation in Chile: An Institutional Critique of the Neutrality of Market Mechanisms," *Water International* 37, no. 2 (2012): 134.

¹² Munck, 61.

¹³ David Harvey, *A Brief History of Neoliberalism*, (Oxford: Oxford University Press, 2007), 106.

regulatory political framework which works to restore power to the traditional elite classes, which in the Chilean context mostly included descendants of white settlers. Some of these theorists describe neoliberalism as a product of “governmental rationality,” which is rooted in Michel Foucault’s work on the concept of governmentality.¹⁴ Foucault states that, “[Government] has to intervene on society so that competitive mechanisms can play a regulatory role at every moment and every point in society and by intervening in this way its objective will become possible, that is to say, a general regulation of society by the market.”¹⁵ Chile, as a neoliberal state, follows this trend. The government has time and again stepped in to defend the interests of corporations in Wallmapu and in Chilean society at large.

National Security Legislation: A Method of Control

Like Chile’s neoliberal policies, its anti-terrorism legislation also stemmed from Pinochet’s military regime, and, like neoliberalism, scholarly discourse around such laws is wide-ranging. Anti-terrorism as a field of study expanded rapidly after the terrorist attacks in the United States on September 11, 2001.¹⁶ The event also triggered a wave of new and amended anti-terrorism laws in countries around the world.¹⁷ Much of the academic literature in this field tries to define what terrorism is. There is vague agreement that terrorism involves “illegitimate violence” as defined by general societal consensus within a nation, that its goal is to create a sense of fear, and that it is motivated by political ideology.¹⁸ However, creating a global definition has so far proved impossible.¹⁹ Because of the lack of clarity, some scholars have

¹⁴ Christopher Byrne, “Neoliberalism as an Object of Political Analysis: An Ideology, a Mode of Regulation or a Governmentality?” *Policy and Politics*, vol 45, no 3 (2017), 343-360.

¹⁵ Foucault, Michel, Michel Senellart, and Graham Burchell. *The Birth of Biopolitics : Lectures at the Collège de France, 1978-79*, (Basingstoke: Palgrave Macmillan, 2008), 145.

¹⁶ Stephen Smith Cody, “Hijacking Counterterrorism: The Rise of National Anti-Terrorism Laws After 9/11,” (PhD diss., University of California, Berkeley, 2012), 10-11.

¹⁷ Cody, 2-3.

¹⁸ Cody, 15-16.

¹⁹ Cody, 13-15.

argued that it would be more productive to analyze the definitions of terrorism that countries themselves have created and stop trying to come up with a universal definition.²⁰ Some researchers have taken on projects to discover larger trends in actual anti-terrorism legislation through comparative analysis and datasets. Stephen Smith Cody's work reveals that most of the laws currently in place use ambiguous language, that the United States and the United Nations "played central roles in cultivating counterterrorism as a global script," that the rationale behind anti-terrorist legislation does not coincide with actual threats of terrorist violence, and that states have used this legislation to maintain power over activist movements and curtail individual rights in the court system.²¹ Carolijn Terwindt contributes an additional reason for the broadened nature of anti-terrorist legislation specifically in the context of civilian protests: pressure from groups who feel threatened by these protest activities and do not see substantial efforts by the state to solve the issue.²² Her point, though it is too overreaching to accurately describe some situations, is relevant in the Chilean case: many of the targets of Mapuche land reclamation campaigns and arson attacks are large companies or landowners who, based on their economic position alone, have political sway.²³

Studies conducted to determine perceptions of the Mapuche by non-Mapuche elite in and around Wallmapu indicate that feelings of fear and resentment—which as Terwindt describes, leads to increased calls for broader anti-terrorism charges—is prevalent in the area. Some researchers argue that negative views of Mapuche activism are tied to their geographic proximity to sites experiencing land conflicts and increased police presence.²⁴ These tensions within

²⁰ Cody, 18.

²¹ Cody, 3-6.

²² Terwindt, Carolijn, "Protesters as Terrorists? An Ethnographic Analysis of the Political Process Behind the Broadening Scope of Anti-Terrorism Legislation," *Crime, Law and Social Change* 62 (2014): 228.

²³ Patricia Richards, *Race and the Chilean Miracle: Neoliberalism, Democracy, and Indigenous Rights* (Pittsburgh, PA: University of Pittsburgh Press, 2013), 138.

²⁴ Richards, 134.

Wallmapu exacerbate the Mapuche experience of marginalization in the local setting, but also make it more difficult to protest on the national stage. Through surveying students in a university in Temuco, a city within Wallmapu, researchers José Saiz and Antonio Mladinic, found that while perceptions of the Mapuche had not changed greatly over the last twenty years, two new stereotypes had entered into popular consciousness by 2008: that of the modern Mapuche as “terrorists” and as “unjustly privileged.”²⁵ Patricia Richards also found these stereotypes to be common among the non-Indigenous Chilean elite and landowners outside of the university context in the Wallmapu area.²⁶ While the government has begun to push a neoliberal multicultural narrative, Richards argues that non-Indigenous people in the Wallmapu region still see the Mapuche through a racist lens, and this viewpoint holds influence at the state level; Sebastian Piñera, President of Chile from 2010 to 2014 and 2018 to 2022, during a trip to the region in 2009 said, “I am convinced that in the Araucanía, the principle of authority is lost. The rule of law is broken.”²⁷ However, while racism plays a role in this conflict, boiling the construction of Mapuche activists as a threat to the state solely down to racism, strips away the multiple layers of complexity surrounding this issue.

Two concepts have recently appeared in discussions of national security legislation: Indigenous human security and Rule of Law analysis. The theory of Indigenous human security was introduced by Lauren Marie Balasco and Kelly Bauer in order to highlight the lack of protections for Indigenous populations in traditional national security frameworks.²⁸ National security, they argue, actually creates insecurity for Indigenous populations and their needs are

²⁵ José Saiz and Antonio Mladinic, “Estereotipos Sobre los Mapuches: Su Reciente Evolución,” *Psyche* 17, n. 2 (2008): 30.

²⁶ Richards, 14-19.

²⁷ Richards, 18, 106.

²⁸ Lauren Marie Balasco and Kelly Bauer, “Political Contestation within the Human Security Paradigm: The State and Indigenous Rights in Peru and Chile,” *Canadian Journal of Development Studies* 41, no. 4 (2020): 562.

often considered to be antithetical to their country's security as a whole.²⁹ In the Chilean context, while the concerns of non-Indigenous elite business owners are taken into account and represented in discussions held within the media about Mapuche protests, the security of the Indigenous community and their culture are not addressed as fully. In a similar theoretical frame, Rule of Law analysis is a growing methodological field, which includes determining if laws are enforced equally and if they are consistent with international human rights law, as well as identifying if court rulings are free from bias.³⁰ Noah Bialostozky applies it specifically within the Chilean context. He has argued that while Chile typically is a strong upholder of rule of law principles, in regards to Mapuche activists and the application of the Anti-Terrorism Law against them the rule of law principles break down.³¹ Bialostozky's findings point to the fact that governments often look past fractures in the rule of law when it comes to minority and Indigenous rights.³² Pieces of these two theories in particular can be seen in many scholarly works focused on Chile's Anti-Terrorism Law.

There is a growing body of literature on the application of anti-terrorism legislation against Mapuche leaders. A large portion of the works have been produced from a psychological lens. *Pewmas/Sueños de Justicia: Lonkos y Dirigentes Mapuche versus Chile en la Corte Interamericana*, written by Ruth Vargas, is perhaps one of the most widely read books of this category. Vargas—who wrote psychological reports used by the Inter-American Court to determine the effects of the Anti-Terrorism Law on the individuals who were part of the case analyzed in the book, their families, and their communities at large—describes the multiple levels of trauma that the use of Chile's Anti-Terrorism Law has inflicted on Indigenous Mapuche

²⁹ Balasco and Bauer, 563.

³⁰ Noah Bialostozky, "The Misuse of Terrorism Prosecution in Chile: The Need for Discrete Consideration of Minority and Indigenous Group Treatment in Rule of Law Analysis." *Northwestern Journal of International Human Rights* 6, no. 1 (Fall 2008): 85, 88.

³¹ Bialostozky, 81.

³² Bialostozky, 81.

communities.³³ She argues that the anti-terrorism process was harmful to both the individuals and to their communities, since many of the people in the case were traditional and spiritual leaders and their removal from their communities caused a break in cultural traditions.³⁴ However, while these discussions of psychological harm and generational trauma inform this thesis, I have decided to discuss this issue from a different perspective.

Methodology

In order to address the questions laid out at the beginning of this work, I have chosen to build on the existing literature on Mapuche activism, military regime era neoliberal policy, and Chilean national security legislation. My research is broken up into four distinct sections. In Chapter One, I provide an overview of Mapuche land rights movements and activist organizations during the pre-military regime period spanning from 1910 to 1973. From this overview, I draw out and define overarching trends in Mapuche activist strategy during that period. While this section relies quite heavily on existing scholarship, I also draw on records of congressional proceedings from that time period to solidify my claims in primary source material. The background gained in this section is imperative as it serves as a comparison to the modern Mapuche movement within the same cultural context.

Chapter Two of this work is situated firmly in the policies and legislation of the Pinochet military regime. I discuss the legislative policies that the government of the military regime put in place in order to facilitate a transition to neoliberal economics, the complicity of the judiciary in the upkeep of the neoliberal model, and how those policies directly impacted the Mapuche people. The policies explored in this section deal with Indigenous communal lands, forestry, and hydroelectricity generation.

³³ Ruth Vargas, *Pewmas/sueños de justicia: Lonkos y dirigentes mapuche versus Chile en la Corte Interamericana* (Santiago de Chile: LOM Ediciones, 2017), 29.

³⁴ Vargas, 165.

Chapter Three circles around Chile's state security and anti-terrorism legislation and the effects that these regime-era policies have had on Mapuche activism. In order to do this, I begin by describing Chile's State Security Law, which was used against Mapuche activists before the transition to prosecution under the Anti-Terrorism Law. I also bring in statistics relating to Mapuche activism since 1990, beginning most concretely with the wave of protest that began after two landmark events in 1997: the burning of three logging trucks in Lumaco, and the controversy around the creation of the Ralco Dam. I use MACEDA, or the Mapuche-Chilean State Conflict Events Database, in order to contextualize the frequency and type of protest actions taken by Mapuche community members in the Wallmapu region. MACEDA is the first database to collect micro-data on an Indigenous movement for self-determination.³⁵ These resources will help build a stronger understanding of the scope of anti-terrorism trials in Chile in relation to the larger picture of Mapuche protest. This chapter also focuses on an analysis of Chile's current Constitution and Law 18,314, the Anti-Terrorism Law. In relation to the law I address amendments to the legislation relevant to the Mapuche movement, up until 2015, when it was last modified. I provide commentary on each of the specific changes to the law using the theories of Indigenous human security, as well as those presented in Cody's work and the methodology of rule of law analysis to address areas of weak or vague wording and how this wording has impacted the Mapuche movement.

While the first three sections of this work focus mostly on answering the question of how neoliberal policy and the Anti-Terrorism Law have affected Mapuche activism in the present, in the fourth section of my work, I turn specifically to answering the question of why Mapuche activists are perceived as a threat. I argue that this perception of the Mapuche stems from three

³⁵ Pedro Cayul, Alejandro Corvalan, Dany Jaimovich, and Matteo Pazzona, "Introducing Maceda: New Micro-Data on an Indigenous Self-Determination Conflict," *Journal of Peace Research* 20, no. 10 (April 2022): 1.

key issues that have all been exacerbated by neoliberal politics in the country, including those issues discussed in Chapter 2 and Chapter 3 of this work. The three issues are: the validity of Mapuche land claims, which could affect large corporations working in the region; the sustained nature of their protest within a neoliberal political system that has facilitated the weakening of democratic coalition building; and tensions within the judicial system. In order to do this, I use statistics collected by governmental organizations like the Chilean Public Prosecutor's Office and the National Administrative Archive. I pull from studies on prosecutorial and judiciary relationships with Indigenous community members, like the one conducted by José Manuel Fernández Ruíz, a Chilean lawyer whom I interviewed. I also discuss the landmark case *Norin Catrimán et al. v. Chile*, which was derived from a compilation of three petitions by Mapuche individuals charged with terrorism which were received by the Inter-American Commission on Human Rights in 2003 and 2005.³⁶

Throughout this paper, I draw on interviews that I conducted in Chile with academic experts, lawyers, and leaders of the Mapuche community in both Santiago and Temuco throughout this paper. Although these interviews are not the basis of my claims, they have shaped the trajectory of my research and have added invaluable context and culturally relevant insight into the effects that this disproportionate application of national security policy has had, which has allowed me to delve into the nuances of this issue.

Much of the research that has been conducted on the Mapuche and their current methods of activism exists in the realms of ethnography and identity formation. This work adds to the smaller body of literature on the Anti-Terrorism legislation itself and the effects of its discriminatory application. The citizens of Chile are heading fast towards many pivotal political

³⁶ Inter-American Commission on Human Rights, *Report No. 176/10 on Cases Nos. 12.576, 12.611 and 12.612: Aniceto Norin Catrimán, Juan Patricio Marileo Saravia, Victor Ancalaf Llaupe et al. merits Chile* (Organization of American States, November 5, 2010), 1.

and legislative decisions. With a potential new constitution on the horizon, the trajectory of political discourse in the nation, and Indigenous voices within it, could change drastically and the social system also could see major upheaval. My work cannot provide answers on how Indigenous rights will fare in the coming years, but I hope that it helps provide insight on how these rights have been affected by neoliberal policy anti-terrorism legislation since the end of the military dictatorship—especially since the Lumaco and Ralco events of 1997—and how the formation of the Mapuche “threat” formed so that steps can be taken to not let such harmful discourse surface in the future.

Chapter One: Mapuche Activism before 1973

In order to understand the wave of Mapuche activism that arose after the end of the Pinochet military regime, it is necessary to delve into the variety of ways that Mapuche activists interacted with political parties and pushed back on the Chilean government following the State's occupation of Chilean Wallmapu. This chapter is by no means an exhaustive investigation into this period of Mapuche history. However, it functions to provide a solid overall picture of Mapuche-State relations and Indigenous activist strategies in the twentieth century in order to build a base of understanding for the ensuing chapters. The following is an analysis of influential Mapuche leaders and legislation passed from the beginning of the twentieth century until the fall of Salvador Allende's Popular Unity government on September 11, 1973. What becomes clear, even considering the varied nature of the activist strategies employed by different Mapuche communities, is the long tradition of Mapuche leaders and organizations establishing ties to other Indigenous organizations and to non-Indigenous political parties.

War and Loss

An outlier from the traditional colonial histories in the Americas, Spain never subjugated the Mapuche people. They were recognized as an autonomous people through a series of *parlamentos* that established their borders between the Bío Bío River and the Gulf of Reloncavi in modern day Chile, an area that stretched directly east to the coasts of Argentina and up towards Buenos Aires.³⁷ After Chile's independence in 1810, an uneasy balance continued between Chile and the Mapuche people; however, in 1862 that relationship changed. Chilean forces invaded Mapuche territory on the western side of the Andes.³⁸ While many Mapuche

³⁷ Diane Haughney, *Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile* (Gainesville, FL: University Press of Florida, 2006), 5.

³⁸ The following decade the Argentine government also sent military forces into the south of their country to take control of Mapuche lands. This decision was partially as a response to the threat of Chilean expansion into Patagonia. See Joanna Crow, *The Mapuche in Modern Chile* (Gainesville, FL: University Press of Florida, 2013), 26-41.

leaders and their communities fought against the Chilean government, there were a number who chose to fight alongside its military, making radically oppositional political decisions in order to do what they deemed best for their specific communities.³⁹ The clearly divided political strategies of Mapuche leaders is a theme that will continue throughout this work.⁴⁰ Acts of violence were committed by both the Chileans and the Mapuche; however, ultimately the Chilean forces overwhelmed the Mapuche in 1883 and they were no longer able to protect their territories. Lorenzo Koliman, a Mapuche survivor interviewed in the 1910s, said that, “during this period people killed Mapuche like today they hunt birds.”⁴¹ An editorial from 1881 published in *El Mercurio*, a widely read conservative national paper, demonstrates the desire for the kind of violent action that Koliman described. In it, the author called for a “war of extermination” against the Mapuche people.⁴² Non-Indigenous elites had clearly begun to conceptualize the Mapuche as a potentially dangerous force. Ever since the end of Chile’s military campaign into Wallmapu, these ideas and the injustice of the land dispossession have put continuous strain on the relationships between the state, non-Indigenous Chileans, and the Mapuche population.

³⁹ Crow, 26-41.

⁴⁰ Each Mapuche community has its own authority to make decisions, according to Mapuche scholar Pablo Millalen. Sometimes strategic alliances are formed, especially through *trawün*, a Mapuche meeting that involves the participation of many communities and Indigenous leaders, but there is the tradition of political variation between communities because of the autonomy of each community.

See Pablo Millalen, interview by Boyce Buchanan, Temuco, January 5, 2022.

⁴¹ The Chilean forces on the ground implemented a scorched earth policy at varying times throughout the war, which devastated Mapuche communities and the landscape, according to Crow. See Crow, 32-33.

⁴² Crow, 41.

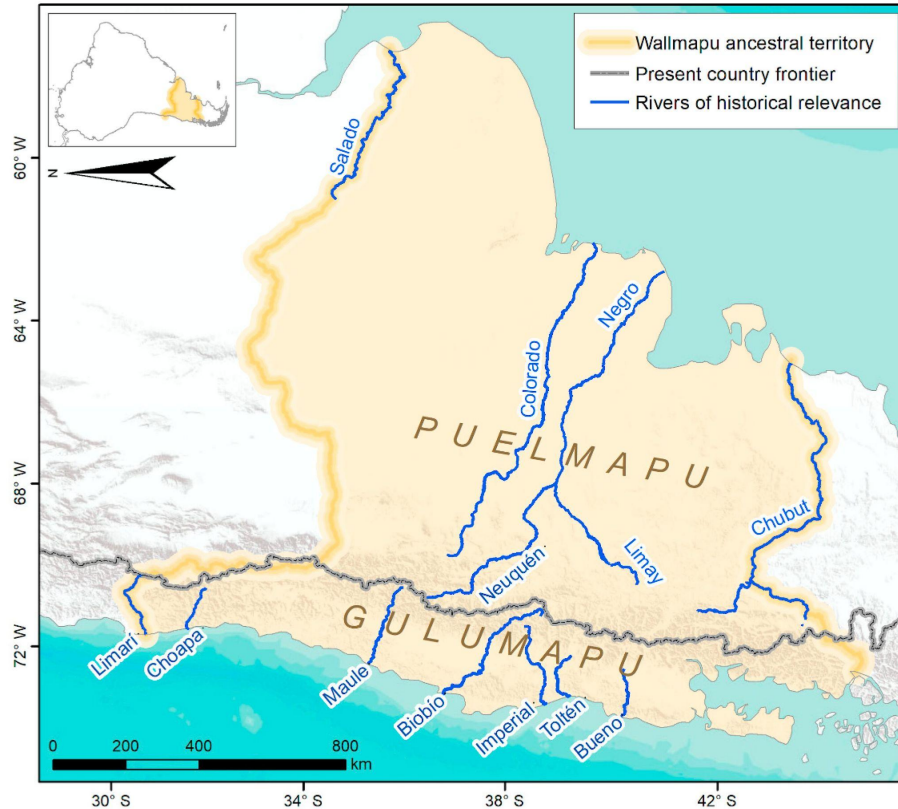


Figure 1: Wallmapu.⁴³

While the Mapuche were not exterminated, they did lose much of their territory. Between 1883 and 1930, the Chilean government forced the Mapuche onto small plots of communally owned land known as *reducciones*, which in total made up only around five percent of their traditional territory.⁴⁴ These *reducciones* were only large enough to provide roughly six hectares per Mapuche community member. In total, approximately 500,000 hectares were left to the Mapuche population, which were kept under *Títulos de Merced*.⁴⁵ Additionally, the authors of the *Historical Truth Commission and New Deal with Indigenous Peoples*, published in 2008, estimate that at least 33,000 Mapuche people did not receive any land from the *Títulos de*

⁴³ Camila Bañales-Seguel, Wladimir Riquelme Maulén, Amaya Álvez, and Evelyn Habit, “Scientific Landscape Related to Mapuche Indigenous Peoples and Wallmapu Territory,” *Sustainability* 12, no. 19 (2020): 7895.

⁴⁴ Bidegain, 102.

⁴⁵ Haughney, 22. The name *Títulos de Merced*, which translates to “Titles of Mercy” is particularly jarring in its blatantly colonial rhetoric, ostensibly implying that it was merciful for Chile to let the Mapuche keep even the small amount of land that they received.

Merced.⁴⁶ The government gave much of the remaining land to foreign colonists and non-Indigenous Chilean families, who rushed into the region.⁴⁷ This drastic reduction of their lands plunged many Mapuche communities into poverty and strained community networks. It also forced the Mapuche to move away from their traditional economic systems. Since there was no longer space for Mapuche communities to continue semi-migratory lifestyles as herders, many transitioned to subsistence farming on what little land that remained.⁴⁸

Undermining the Reducciones

Although it has been estimated that a third or more of the Mapuche population did not receive any land during the first 25 years of the *Radicación*—the process that produced the *reducciones*—those who had land still faced an uphill battle to try to maintain ownership of it.⁴⁹ Non-Indigenous newcomers to the region established very unequal power relations with their Mapuche neighbors, leading to multiple situations in which Mapuche communities were swindled out of their land. In some instances, Mapuche communities were blatantly forced off of their titled land—sometimes through violence—by European and Chilean land owners with the support of members of the judiciary, who willingly transferred the titles to the white elites.⁵⁰ Other times, Mapuche leaders were pressured to sign what they were told were rental contracts to non-Indigenous Chileans, even though in many cases they were illiterate and unable to read the contracts. These “rental contracts” usually turned out to be land sale documents.⁵¹ In this context, the government also began writing legislation with the goal of liquidating existing Mapuche

⁴⁶ The Huilliches, who lived in the far south of the Mapuche territory, and the Pehuenches, who lived in the Cordillera of the Andes between Chile and Argentina, were especially dispossessed. See Comisionado Presidencial para Asuntos Indígenas de Chile, *Informe de la comisión verdad histórica y nuevo trato con los pueblos indígenas. Santiago de Chile* (October 2008), 388.

⁴⁷ Foreign settlers in particular were granted up to 500 hectares per head of family, along with tools and animals. See Haughney, 22-23.

⁴⁸ Crow, 46.

⁴⁹ José Bengoa, *Historia del pueblo mapuche* (Santiago de Chile: Ediciones Sur, 1985), 357.

⁵⁰ Comisionado Presidencial para Asuntos Indígenas, 392-393; Haughney, 23.

⁵¹ Haughney, 23.

lands in the late 1920s and early 1930s. Decree 4111, which was published in July of 1931, was perhaps the most notable of the time period. It officially ended the policy of *Radicación* and established that if one third of the heads of the families within a *reducción* requested that it be divided, one of the five Indian Courts—also created in this legislation—would liquidate the *reducción* and divide it into individually owned plots of land.⁵² Unfortunately, these policies and practices had radical impacts on the distribution of land in the region. By 1966, the Mapuche communities who had been given *Títulos de Merced* only had control of an average of around two hectares per capita, according to the Inter-American Committee on Agricultural Development, a decrease of four hectares since the *reducciones* were founded.⁵³

However, throughout the early 1900s, while many non-Indigenous Chileans continued with these often violent attempts to usurp Mapuche land, Mapuche leaders worked through multiple different channels to defend Mapuche cultural practices, request financial assistance from the government, and force compliance to the boundaries set by the land titles they had initially received.⁵⁴ In general, this last demand became the most unifying of the early twentieth century Mapuche movement. One common strategy that Mapuche activists used—which has been seen again in the current era of Mapuche activism—was to push for the protection of their lands and rights in the judicial system. By 1929, two years before the *Radicación* ended,

⁵² Ley sobre división de comunidades, liquidación de créditos y radicación de indígenas, Decreto 4111. Ministerio de Tierras y Colonización, June 12, 1931. <https://www.bcn.cl/leychile/navegar?idNorma=19412>; See Comisionado Presidencial para Asuntos Indígenas, 396-397, for other examples. Law 4,169 of 1927 created a special court established solely for determining the division of Indigenous communities and Law 4,802 of 1930 abolished the Indigenous Settlement Commission, which therefore stopped the granting of land titles to Indigenous communities.

⁵³ Comisionado Presidencial para Asuntos Indígenas, 409.

⁵⁴ One notable exception to this, whom I discuss in more detail later in this section, was Manuel Manquilef. He believed that if individual Mapuche community members could own the land, instead of holding the land collectively, they could then put up fences and better protect their property from encroaching non-Indigenous neighbors. See Crow, 68.

Mapuche communities had filed 1,219 lawsuits over the usurpation of their titled lands.⁵⁵ Another strategy was the formation of large political and cultural networks.

Alliances Across the Political Spectrum

As mentioned previously, before the State fragmented Mapuche communities and forced them onto *reducciones* the Mapuche societal structure had been segmented and, “functioned around a complex system of alliances,” where local community-based groups would form networks and ties with others around them.⁵⁶ This strategy of forging alliances in order to best suit the interests of specific Mapuche communities continued into the post-invasion period. While many of these ties existed solely between Mapuche communities or organizations, some of these alliances were made with the newly institutionalized workers organizations that formed in the 1910s and 1920s.⁵⁷ Grassroots activists from many Mapuche communities worked alongside members of these ideological parties. However, there were also Mapuche leaders and politicians who worked within right-wing party politics as well.

In fact, one of the most well known Mapuche figures of the early twentieth century, Manuel Manquilef, aligned himself with the Liberal Party, which was considered right-wing at the time. However, even though he rose to prominence because of his ties to ideological party politics, he used his platform to center the protection of Mapuche rights. In 1910, he helped found the Caupolicán Society, the first Mapuche organization that was not built around traditional community ties and family relationships. It advocated for the return of usurped lands and facilitated the practice of many Mapuche customs, claiming that the Mapuche could integrate into Chilean society while still being able to practice their traditional ceremonies and

⁵⁵ Rolf Foerster and Sonia Montecino, *Organizaciones, líderes y contiendas mapuches (1900-1970)* (Santiago de Chile: Centro Estudios de la Mujer Ediciones, 1988), 13.

⁵⁶ Crow, 39; Millalen, interview.

⁵⁷ Many of these organizations were supported by the Chilean Socialist Workers Party, which formed in 1912, and the Communist Party, which formed in 1922. See Crow, 51.

beliefs.⁵⁸ Manquilef criticized the brutality of the government's actions in Wallmapu during the previous century and when he joined Congress as a member of the Liberal Party in 1925, he continued to advocate for the cultural rights of the Mapuche people and for an increase in educational resources in the south. His more conservative ideology made itself clear in his advocacy for the subdivision of the *reducciones*, which he even introduced a bill into Congress for.⁵⁹ According to Crow, this stemmed from his belief that if Mapuche families owned the land individually and were therefore able to put up fences, it would stop white settlers illegally moving onto their property.⁶⁰ However, while the rights of his people were ostensibly behind his advocacy for the liquidation of collective lands, this differed from the viewpoints of many of his colleagues at the time, as well as the activists of following generations, and he eventually lost influence. In 1926, the *Caupolicán Society*, which he had helped establish, stated that they were against the division of the *reducciones*.⁶¹

Manuel Aburto Panguilef stood on the opposite end of the political spectrum from Manquilef, so much so that at one point he called Manquilef a "traitor" for his opinions on land division.⁶² However, while his vision for the Mapuche people was very different from Manquilef's, Aburto too chose to foster political and cultural networks which he used to his advantage, although Aburto's were more concentrated within the Mapuche population. Taken together, these two individuals stand out as examples of the wide array of goals and political strategies that have existed throughout decades of Mapuche activism. Aburto founded the *Mapuche Mutual Protection Society of Loncoche* in 1916 in an attempt to address the poor socioeconomic conditions of the Mapuche in that region and to rally against the violent actions

⁵⁸ Crow, 57.

⁵⁹ Crow, 62-63.

⁶⁰ Crow, 68; *Comisionado Presidencial para Asuntos Indígenas*, 393.

⁶¹ *Comisionado Presidencial para Asuntos Indígenas*, 296.

⁶² Crow, 73.

of white landowners who wanted their lands.⁶³ Throughout this process, he became more involved with the political left, who supported his calls for land reclamation. He then established the Araucanía Federation in 1922, which fought against the integrationist ideas of some of his contemporaries, including Manquilef. Shortly after he established the Araucanía Federation, the organization began hosting annual Araucanía Congresses. These congresses allowed for Mapuche people from a variety of different areas and organizations, and with a range of different viewpoints, to express their concerns for their people.⁶⁴ The Caupolicán Society took part in these congresses in the late 1920s and together with the other organizations present, they determined to express support for land division only under the conditions that all of the usurped land be recovered first.⁶⁵ These actions demonstrate the coalition building between Mapuche communities that was so prevalent throughout the 1900s up until the military coup. The Araucanía Congresses gave Mapuche leaders a formidable platform and the opportunity to consolidate some main goals of a larger Mapuche movement.

One of Aburto's most notable actions was his proposal for an Indigenous Republic in the Araucanía Region, and events surrounding this proposal also provide insight into coalition building in early twentieth century Mapuche activist spheres. Radical for its time, this 1931 proposal argued for both the reclamation of Mapuche lands that had been stolen from the *reducciones* and for Mapuche control over all of the lands that had been a part of Mapuche

⁶³ This in turn birthed the Araucanía Theater Company, which traveled around promoting Mapuche cultural practices and spread his Aburto's activist ideology. See Crow, 71.

⁶⁴ It was following Aburto's creation of these congresses that the State got involved to stop his subversive behavior. He was held in prison during three of the congresses, and in each case he was confined in areas of the country far away from where the congress was being held. During the 1929 congress he was imprisoned in Santiago, in 1930 he was held in Caldera, and in 1935 he was sent to Quellón. This governmental response to Aburto's actions is of particular note because it is a historical example of a trend that has continued to occur in the present day. As I discuss in following chapters, over the past few decades, multiple Mapuche activists and community leaders have been imprisoned away from their communities. This practice became so prevalent that international organizations, including the Inter-American Court of Human Rights, have commented on its negative effects and urged the Chilean government to stop its use. See Crow, 73; *Norín Catrimán et al. (Members and Activist of the Mapuche Indigenous People) v. Chile*. Inter-American Court of Human Rights, May 29, 2014.

⁶⁵ Comisionado Presidencial para Asuntos Indígenas, 396.

territory before the Chilean State invaded the region.⁶⁶ For this, he was criticized by other Mapuche leaders of the era as “unpatriotic,” and they referred to him as a “communist.”⁶⁷ These reactions echo his own disapproval of Manquilef and demonstrates the variety of activist thought at the time. Aburto’s coalition building with left-wing political parties helped him to share his message with a wide group of people and their support of the Araucanian Federation’s land reclamation demands helped legitimize Mapuche demands in non-Indigenous society. At the same time, however, his willingness to cut ties with organizations like the Communist Party after he realized that they were not actively supportive of his goal to create an Indigenous Republic also demonstrates the fluidity of these networks.⁶⁸ Leaders like Aburto used Chilean political networks to their advantage in promoting Mapuche interests; however, they were clearly not beholden to the parties that they had relations with.

A shift in the ideological sphere of Mapuche activism, which became distinctly visible in the 1930s, also highlighted the increasingly large presence of Mapuche voices on the national stage. During this time divisions between Mapuche youth who had migrated to the cities in search of work and the older generation of leaders started to form. The 1938 election was a big contributor to the increase in tensions between these two groups, as younger Mapuche activists supported Pedro Aguirre Cerda, while leaders like Aburto supported Carlos Ibáñez del Campo.⁶⁹ Additionally, earlier that year the Caupolicán Society and the Araucanian Federation signed a pact of alliance and merged to form the Araucanian Corporation.⁷⁰ Even though there was clearly a split in the overall political orientation of each of the organizations’ founders, the members

⁶⁶ Crow, 76. Interestingly, Aburto’s demand is strikingly similar to the demands of many Mapuche organizations today.

⁶⁷ Haughney, 36.

⁶⁸ Crow, 77.

⁶⁹ Crow, 79. Ibáñez himself had previously exercised dictatorial powers during his presidency from 1927-1931.

⁷⁰ However, the Araucanian Federation also continued to exist for a while after it, although its power in the Mapuche community heavily dwindled. See Crow, 79.

agreed that working together would better protect Mapuche interests; the organizations had shared many of the same goals, including increasing access to Indigenous education and protecting Indigenous lands.⁷¹ Still, the merger and the political divisions displayed in the run-up to the election, indicate that the power of both the Caupolicán Society and the Araucanía Federation had begun to dwindle and faced increasing backlash from the urban sector. Aguirre won the election and it is clear that his government wanted to acknowledge Mapuche voices and was influenced by the demands of the Mapuche activists who supported his campaign. Though his policies were not widely implemented, they were notable first steps in the broader integration of Indigenous people into the governmental structure. For example, in 1939 Aguirre's government passed Law 6,382, which established small farmer's cooperatives. Mapuche benefitted from this program.⁷² He also created the Commission on Indigenous Issues, which hired Mapuche employees and proposed ways to protect Mapuche land rights.⁷³ However, in general, Aguirre's Popular Front did not create the change that many Mapuche people wanted and he died without completing his term as the nation's president.

However, the Araucanía Corporation still maintained a large amount of influence and its leaders continued the trend of using their influence as a voting block to exert some power over national politics. Venancio Coñuepán, who became the head of the Araucanía Corporation, rose to fame as an Indigenous leader in the 1940s and 1950s. He was elected to the National Congress as a member of the Conservative Party in 1949.⁷⁴ After his election, he consistently spoke out against the unwillingness of his congressional colleagues to protect Mapuche lands established in

⁷¹ Crow, 79.

⁷² Establece las cooperativas de pequeños agricultores, Ley 6382, Ministerio de Agricultura (August 5, 1939), <https://www.bcn.cl/leychile/navegar?i=136264>.

⁷³ Crow, 86.

⁷⁴ He had previously ran for the National Congress unsuccessfully as an independent. His decision to later run as a Conservative, and his success in doing so, demonstrates yet again the ability of Mapuche leaders before the coup to forge ties with existing political parties and use them to their advantage in advancing Mapuche demands. See Haughney, 39.

the *Títulos de Merced*.⁷⁵ Crow argues that it was his power and the substantial base of the Araucanía Corporation that in large part contributed to the success of Ibáñez's renewed campaign for the presidency, which he won in 1952.⁷⁶ The Mapuche population had established themselves as an important voting block. Coñuepán became the Minister of Lands and Colonization during Ibáñez's presidency and the Department of Indigenous Affairs within the Ministry of Lands and Colonization was created in 1953.⁷⁷ Additionally, during Ibáñez's presidency Coñuepán was given control of the "Indian Courts," which oversaw the dissolution of Mapuche *reducciones*. Because of this, he was able to slow their liquidation.⁷⁸ However, after Ibáñez's presidency, the Araucanía Corporation began to dwindle in influence and the Mapuche movement began to splinter into smaller organizations again.

At the same time, smaller Mapuche organizations, intent on land reclamation, continued to organize at the grassroots level. The diversity of activist strategies was still present in Mapuche communities and many of these grassroots groups participated in land-takeovers, a strategy of land reclamation that has continued to remain prevalent in the current Mapuche movement. Though these actions were not supported by groups like the Araucanía Corporation, they were often supported by leftist political parties.⁷⁹ In 1953 some leftist Mapuche organizations held a congress in Temuco, where they established the National Indigenous Association of Chile. This organization had ties to the Communist Party. Haughney notes that,

In a declaration of principles, the Asociación called for all Mapuche organizations to unite to fight against all forms of racial discrimination; to achieve total emancipation as a national minority; to preserve their culture, language, and art; to reconquer their lands; and to improve their social, economic, and political

⁷⁵ Many of his remarks on the congressional floor have been recorded in the official records. See Congreso Chileno, Cámara de Diputados, Sesiones Extraordinarias (Nov. 25, 1947), 1189; Congreso Chileno, Cámara de Diputados, Sesiones Extraordinarias (Dec. 17, 1947), 862.

⁷⁶ Crow, 90.

⁷⁷ See Crow, 90; Haughney, 39; Comisionado Presidencial para Asuntos Indígenas, 400.

⁷⁸ Comisionado Presidencial para Asuntos Indígenas, 399.

⁷⁹ Haughney, 39.

situation. The founding 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.⁸⁰

The content of the declaration illustrates the importance of maintaining networks and building unity between Mapuche organizations internally, but also externally with the political left in order to demonstrate a unified front recognizable to the national government.

Agrarian Reform

The period from the mid 1960s into the early 1970s brought some relief to Mapuche communities who had suffered from land theft. By 1949 around 25% of the land granted to Mapuche communities through the *Títulos de Merced* had been divided, according to information provided in a report published by the Historical Truth Commission.⁸¹ The Agrarian Reform period which began in the 1960s took some steps to address this issue; however, change occurred slowly and, after the fall of the Allende government, much of the progress that had been made in terms of land reclamation was undone by the military regime. Still, this period remains important because of the success of land reclamation efforts, which activists following the transition to neoliberal democracy have been able to harken back to.

Although the first Agrarian Reform legislation of this period was implemented under the government of Jorge Alessandri, it was during the presidency of Eduardo Frei that Agrarian Reform laws began to hold real weight. The most important to this conversation were the Agrarian Reform of 1967, which expropriated large estates. The Agrarian Reform Law benefitted the Mapuche in the Chilean portion of Wallmapu, but it was not explicitly related to them, which caused complications. Any property owned by a single individual that exceeded 80 hectares of land that required basic irrigation—a term established in the law—or the equivalent if

⁸⁰ Haughney, 42.

⁸¹ Comisionado Presidencial para Asuntos Indígenas, 401.

the land was not as desirable, could be expropriated.⁸² Additionally, smaller estates that were deemed to not be used productively could be expropriated as well. These lands were transferred to the peasant workers who lived on the estates.⁸³ Because of this legislation, around 1,400 agricultural estates totaling about 3.5 million hectares were expropriated.⁸⁴ Some of this land went to the Mapuche populations who had been affected by the illegal land seizures conducted by non-Indigenous elites. However, there was not a distinction made in terms of how much of the expropriated lands would go to Mapuche workers and how much would go to non-Indigenous peasants in the region. On top of this, most of the Mapuche population that worked on large estates were seasonal workers and did not live on them permanently, meaning that these Mapuche workers did not gain land from the dissolution of these estates. Following this, some Mapuche leaders began taking land reclamation into their own hands.

As the 1960s drew to a close, land takeovers, known as *tomas*, and public protests became much more common in response to reforms which were viewed as too slow moving.⁸⁵ The report from the Historical Truth Commission indicates that from the start of the grassroots protest movement in 1969 to the end of 1970, over 100,000 hectares were taken over by activists.⁸⁶ Where governmental strategies were seen as ineffective and slow-acting, the grassroots movement was largely successful for a time.⁸⁷ These land reclamations were a reversal of the trend of land usurpation that had existed since the *Títulos de Merced* were first distributed. While Frei's government responded to these protest activities and land takeovers with state

⁸² Reforma Agraria, Ley 16640, Ministerio de Agricultura (July 16, 1967), <https://www.bcn.cl/leychile/navegar?idNorma=28596&idVersion=1967-07-28>.

⁸³ Reforma Agraria, Ley 16640.

⁸⁴ Memoria Chilena, "La Reforma Agraria (1962-1973)," Biblioteca Nacional de Chile, accessed February 2, 2022. <http://www.memoriachilena.gob.cl/602/w3-article-3536.html>.

⁸⁵ Haughney, 36.

⁸⁶ Comisionado Presidencial para Asuntos Indígenas, 407.

⁸⁷ It is important to note that Mapuche activists were not the only members of society who used land takeovers as a method of protest during this transitional period. Non-Indigenous factory and farm workers also participated in these actions. See Haughney, 36.

repression—an image that is strikingly similar to those in the twenty-first century—when Salvador Allende rose to power in 1970 he did not evict many of the occupiers and in some cases officially expropriated the occupied land from the estates. During Allende’s government 574 farms were expropriated in the Araucanía Region and 138 of them, equaling 132,115.78 hectares, were given to Mapuche communities, some directly due to Mapuche land takeovers.⁸⁸ By 1973 almost all of the estates more than 80 hectares of basic irrigation in Chile had been expropriated by the government, and even a substantial amount of smaller farms.⁸⁹ Alliances between Mapuche communities and the Movement of the Revolutionary Left, known as MIR, were fundamental during this time. The MIR, whose members were mainly middle-class university students inspired by the Cuban Revolution, supported many Mapuche communities in the Wallmapu region through organizing and the provision of resources.⁹⁰ Additionally, they promoted the tactic of land occupation in order to force the hand of the government to officially dissolve the occupied estates, which worked to an extent under Allende. This occurred mostly through a branch of the MIR known as the Revolutionary Peasant Movement, or MCR.⁹¹

On top of the continuation of the Agrarian Reform policies during the Allende government and the links formed with the MIR, the early 1970s was also a time of increased networking between Mapuche organizations as activists pushed for a new Indigenous Law. Although there were diverse political ideologies associated with the different Mapuche organizations, and many focused on different aspects of cultural and land preservation, two national Mapuche congresses were held in 1969 and 1970 in which a proposal for an Indigenous Law was created.⁹² The proposed Indigenous Law terminated the Indian Courts and stated that

⁸⁸ Comisionado Presidencial para Asuntos Indígenas, 411.

⁸⁹ Crow, 117.

⁹⁰ Hugo Andres Rojas Corral, virtual interview by Boyce Buchanan, Berkeley, April 15, 2022.

⁹¹ Rojas Corral, interview.

⁹² Haughney, 42.

150,000 hectares had been usurped from Mapuche occupants.⁹³ Some of the other demands made in the proposal included assured protection of the land given by the *Títulos de Merced*, bilingual education, and the creation of an Indigenous development agency.⁹⁴ This proposal was eventually submitted to the National Congress. Law 17,729, the Indigenous Law based on this proposal, passed in 1972 and put in place mechanisms for the restitution of Indigenous lands that had been usurped by non-Indigenous landowners.⁹⁵

The variety of activist strategies and demands made by Mapuche leaders during this time period from the 1910s to the 1970s demonstrates a tradition of difference that is reflected in the current Mapuche movement. Many of the same goals established by these organizations have expressed themselves in the present, while others have become more extreme and less integrationist, which will be addressed in Chapter Four. However, there are some distinct differences between the activism of Mapuche leaders described here and the leaders of most of the present-day Mapuche organizations. The ties that Mapuche leaders forged with non-Indigenous political parties in the first half of the twentieth century helped them to gain seats in the National Congress and pushed their politics on land reclamation onto the national stage at the highest levels of government, even if there was reluctance to implement policies to protect their lands. While these connections to non-Indigenous political parties were strong during the pre-military regime period, this was not reestablished after the transition to neoliberal democracy in 1990. The following chapters of this paper delve into why this break between Mapuche organizations and non-Indigenous political networks occurred, as well as why this is important to understanding the current conflict.

⁹³ Comisionado Presidencial para Asuntos Indígenas, 409.

⁹⁴ Haughney, 42-43.

⁹⁵ Piergiorgio Di Giminiani, *Sentient Lands: Indigeneity, Propriety, and Political Imagination in Neoliberal Chile* (Tucson, AZ: University of Arizona Press, 2018), 143.

Chapter Two: Pinochet's Military Regime and the Detriment of Neoliberal Policy to Traditional Mapuche Communities

After the military took power on September 11, 1973, Chile went through a period of large-scale state sponsored violence. The brunt of this violence fell on members of left-wing parties and guerrilla groups that attempted to undermine the military regime, including the MIR, who were targeted and killed.⁹⁶ Mapuche activists also faced harsh repression. Some Mapuche activists went into exile, laying the groundwork for the internationalization of the Mapuche movement, according to scholar Pablo Millalen, who focuses on Mapuche issues.⁹⁷ Additionally, when the MIR attempted to establish a base for guerrilla resistance in the area around Neltume, in the Los Ríos Region, some Mapuche activists joined them in the resistance before they were discovered by military forces. Many of them were killed.⁹⁸ The National Truth and Reconciliation Commission, which took place after the transition to neoliberal democracy, reported that the regime killed or disappeared 136 Mapuche people.⁹⁹

However, Pinochet's military regime affected Mapuche communities in many ways outside of direct physical and emotional violence, and the major overhaul in policy that occurred during this time had lasting impacts on Mapuche communities. The neoliberal policies established during the regime opened the Chilean economy to international corporations, led to the privatization of many industries, and dissolved many communally held lands. Following suggestions made by a group of Chilean neoliberal economists educated under Milton Friedman, the regime initially tried to give society up to the will of the "free market," believing that the market would self-regulate; however, this was not the case. To combat this, Pinochet used the

⁹⁶ Rojas Corral, interview.

⁹⁷ Millalen, interview.

⁹⁸ Rojas Corral, interview.

⁹⁹ Comisionado Presidencial para Asuntos Indígenas, 414.

state apparatus to prop up failing companies, which supported the economic well-being of investors and the elite at the expense of overall social welfare.¹⁰⁰ Thus, these policies created an ever-widening gap between those at the top of the economic scale and everyone else. Yet, as established in the broader scholarly literature, neoliberalism is not solely an economic model; it is a political one as well.¹⁰¹ Chile's neoliberal policies—which amplified the voice of elites at the expense of the rest of society—coupled with the repressive forces of the regime, effectively broke the political networks that had flourished in Chile since the end of the previous century and squashed political debate. Once known for the active participation of the working classes in the political sphere, Chile was left with a depoliticized society and a government beholden to monied interests and the whims of the market. Some of these policies, many of which continued into the period of neoliberal democracy, had lasting impacts on Mapuche populations. However, the policies were also paradoxically contributing factors to the rise of Mapuche activism seen after the end of the regime, as well as its sustained presence. While they may have impacted the ability of Mapuche organizations to organize with other sectors of society, there was a demonstrated effort of organizing within the larger Mapuche community. Three of these legislative changes, as well as the impact of the judiciary, are discussed below.

Decree Law 2,568: Liquidizing Mapuche Communities

One law implemented by the regime had a particularly harmful impact on Mapuche communities. The regime completely upended the Allende's Indigenous Law of the Allende government through the institutionalization of Decree Law 2,568 in 1979. This law had the express intention of dividing Indigenous communities. It stated that the procedures for the

¹⁰⁰ For an example, see Aprueba modificaciones al D.F.L. N° 4, de 1959, Ley general de servicios eléctricos, en materia de energía eléctrica, Decreto con fuerza de ley 1, Ministerio de Minería (September 13, 1982), https://www.cne.cl/archivos_bajar/DFL_N1.pdf.

¹⁰¹ See Munck; Byrne; and Harvey.

division of a communal Indigenous land title would begin at the request of any one “occupant” of that land, a lower threshold than in previous legislation.¹⁰² Additionally, the use of “occupant” was strategic. As defined in the law, an occupant was anyone who lived on the *reducción*, even if they were a non-Indigenous person who had moved onto the *reducción* illegally.¹⁰³ Once the land was divided up into privately owned *hijuelas*, the law also stipulated that the privately owned plots could enter the market after twenty years and anyone, regardless of ethnicity, could buy the property.¹⁰⁴ This established a way for corporations to buy up what had once been protected Mapuche land if an individual landowner of the once communal property wanted to sell. The law accelerated the dissolution of Indigenous Mapuche communal property at a break-neck pace. Between 1927 and 1978 around 600 Mapuche communities were divided into private holdings through the legal processes that existed in that era. Comparatively, in one fifth of that time, between 1979 and 1988, the regime divided 2,918 Mapuche communities.¹⁰⁵ Haughney notes that by 1986, 60% of the *reducciones* had been subdivided.¹⁰⁶ This constituted a major setback for the Mapuche land reclamation movement and reclaiming the territory lost during the regime period because of this law became a primary concern of the Mapuche activists in post-military regime Chile. It also negatively impacted the economic situation of many Mapuche families.

The report of the Historical Truth Commission and notable scholars in the field have argued that the form of organizing used by the Mapuche population following the implementation of this particular law was one of the main reasons why the Mapuche movement of post-regime Chile has been so isolated from party politics as compared to pre-dictatorship

¹⁰² Ley 2568: Modifica Ley N° 17.729, sobre Protección de Indígenas, y Radica Funciones del Instituto de Desarrollo Indígena en el Instituto de Desarrollo Agropecuario, Article 10, Ministerio de Agricultura, March 28, 1979.

¹⁰³ Ley 2568, Article 3.

¹⁰⁴ Ley 2568, Article 26.

¹⁰⁵ Comisionado Presidencial para Asuntos Indígenas, 416, 418.

¹⁰⁶ Haughney, 56.

Mapuche movements.¹⁰⁷ The Mapuche Cultural Centers were the first Mapuche organizations formed after the coup that functioned autonomously from the state apparatus and they responded to the effects of Law 2,568. These centers helped to create a “long-lasting ethnic movement” whose discourse revolved around reaffirming the Mapuche Indigenous identity as different from that of non-Indigenous Chilean society.¹⁰⁸ These centers eventually changed their name to the Association of Small Farmers and Mapuche Artisans Ad Mapu, or Ad Mapu for short. In describing the shift of Ad Mapu’s focus away from that of previous Mapuche organizations, the report of the Historical Truth Commission reads:

In this way, and contrary to what had happened throughout the 20th century, when Mapuche society had been permanently seeking ways of communication with Chilean society, a "respectful integration," in which alliances had been established between the indigenous movement and other social movements... from the eighties, the Mapuches will show their difference and distance with the other social movements, forming autonomous associations and claims, "... the ethnic issue will be separated from the social issue in general, and they will even increasingly criticize the intermediation of political parties."¹⁰⁹

However, this is a simplified understanding of the transition between pre-regime and post-regime Mapuche activist strategies. While Ad Mapu may have made proactive decisions about turning inward and did not establish as many contacts with non-Indigenous parties, this reading of the situation dissolves the Chilean state from its role in isolating Mapuche activism from larger political discourse, especially after the transition to neoliberal democracy. The next two chapters of this paper delve more deeply into the effects of Chile’s policies on Mapuche activism and how the notion of the post-regime “Mapuche threat” came to be.

¹⁰⁷ Comisionado Presidencial para Asuntos Indígenas, 420.

¹⁰⁸ Comisionado Presidencial para Asuntos Indígenas, 420.

¹⁰⁹ Comisionado Presidencial para Asuntos Indígenas, 420. The last line of the block quote is a quote incorporated into the text from Bengoa’s *Historia de Un Conflicto*.

The Push for Increased Forestry and Hydroelectric Power in the South

Negative impacts on Mapuche communities created by legislation put into force under Pinochet's regime did not end with the new Indigenous Law. Forestry plantations in the Chilean Wallmapu have been major figures in the current conflict in the southern regions, and it was the policies instituted by the military regime which facilitated the rise to power of these industries. The regime heavily incentivized forestry primarily through the codification of Decree Law 701 in 1974. Among other subsidies that the law provided for, it established that land that was used for forestry would be exempted from the taxes put on agricultural land and would not be considered in determining presumed income or calculating income tax.¹¹⁰ The law also established that for a ten year period, the government would discount 75% of the costs of afforestation and land management for new forestry plantations. This discount would be given to both individuals and to corporations.¹¹¹ In effect, it subsidized and gave tax credits to companies that created timber monocultures.¹¹² This highly incentivized the increase of forestry plantations in the Wallmapu region. Between 1980 and 1995, for example, Chile's industrial productions of roundwood nearly tripled.¹¹³ Exporting this timber became a major part of the Chilean market structure.¹¹⁴ Currently, most industrial forest plantations are in the regions of Maule, Bío Bío, Araucanía, and Los Ríos. Bío Bío, in particular, is the primary location of the forestry industry, with almost half of the plantations in the country.

¹¹⁰ Fija régimen legal de los terrenos forestales o preferentemente aptos para la forestación, y establece normas de fomento sobre la materia, Decreto Ley 701, Ministerio de Agricultura (October 28, 1974), <https://www.bcn.cl/leychile/navegar/imprimir?idNorma=6294&idParte=0>.

¹¹¹ Fija régimen legal de los terrenos forestales, Decreto Ley 701.

¹¹² The forestry legislation also made it so that certain native forests could be categorized as "degraded," such as in the case of selectively logged old growth forests, and their clearing was also subsidized. These monocultures have primarily been eucalyptus and Monterey pine, both of which are not native to the region. This is important as these monocultures have the potential to disrupt native forests and create imbalances in the soil. See Haughney, 57; Millalen, interview.

¹¹³ Roundwood in this case being timber which is left as small logs. See "Chile Wood Markets Overview," Hancock Timber Resource Group (June 23, 2014), 12.

¹¹⁴ "Chile Wood Markets Overview," 17.

Today, of the roughly 16 million hectares of forestland in Chile, most of the land is privately owned.¹¹⁵ Arauco and CMPC—both Chilean-based forestry companies that have expanded into other countries—together own 74% of all privately held forestland in Chile.¹¹⁶ In the Wallmapu region of Chile in particular, forestry companies are the main owners of land.¹¹⁷ Since 1974, planted forests have expanded from 400,000 hectares in the south of Chile to around three million hectares as of 2019.¹¹⁸ This is due unequivocally to the subsidies granted under Decree Law 701. According to researchers Héctor Nahuelpán, Edgars Martínez, Alvaro Hofflinger, and Pablo Millalén, between 1974 and 2013, the Chilean state distributed \$875 million through the law, which was kept in place after the end of the military regime. Seventy percent of that amount went to ARAUCO and Mininco—which is a branch of CMPC.¹¹⁹ These policies have let non-Indigenous individuals hoard wealth made through the consolidation and exploitation of Indigenous land at the expense of those very same Indigenous communities.¹²⁰

As these forestry companies grow more powerful in the region, migration away from traditional Mapuche communities has increased. Studies have found that instead of bringing in jobs and helping to combat poverty, like the forestry companies claim, the increased amount of forest monoculture in traditional Mapuche lands has led to higher levels of inequality, the displacement of native species, the contamination of the soil because of the use of pesticides, and water scarcity. Because of this, Mapuche life and livelihoods cannot be guaranteed, since they

¹¹⁵ Of all of the forestland in Chile, 14% is privately owned plantation land, another 14% is privately owned protected land, and 38% is privately owned native forest. See “Chile Wood Markets Overview,” 11.

¹¹⁶ “Chile Wood Markets Overview,” 12.

¹¹⁷ Lindsey Carte, Álvaro Hofflinger, and Molly H. Polk, “Expanding Exotic Forest Plantations and Declining Rural Populations in La Araucanía, Chile,” *Land* 10 (2021), 283.

¹¹⁸ Carte et al., 283.

¹¹⁹ Héctor Nahuelpán, Edgars Martínez, Alvaro Hofflinger, and Pablo Millalén, “In Wallmapu, Colonial Capitalism Realigns,” *North American Congress on Latin America: Report on the Americas* 53, no. 3, (2021): 298.

¹²⁰ The Angelini family, who owns ARAUCO, has benefited greatly from their holdings, with both Roberto Angelini Rossi and Patricia Angelini Rossi making appearances on the list of Chile’s top ten wealthiest people. See: Mindy Wright, “Chile’s nine richest people worth a combined \$28.4 billion,” *CEOWorld Magazine*, December 5, 2019, <https://ceoworld.biz/2019/12/05/chiles-nine-richest-people-worth-a-combined-28-4-billion>.

are linked to the natural environment in Wallmapu, according to Millalén.¹²¹ Additionally, employment numbers have not increased, nor have pay raises or household incomes.¹²² In general this has led to depopulation of the area, especially in regards to Indigenous community members. The economic hardship caused by large-scale forestry monocultures and their negative impacts on native environments has directly contributed to the rising tensions between Mapuche communities and the Chilean government over the last thirty years. This is evidenced by the fact that many of the land reclamation campaigns after the transition to neoliberal democracy have occurred on forestry plantations and arson of forestry equipment has become common.¹²³

Another point of contention in the current Mapuche movement, especially in the Bío Bío Region, is hydroelectric energy and its relation to water rights policy as established during the military regime. One of the most prominent examples of this tension will be discussed in Chapter Three. For this reason, a brief explanation of the neoliberal changes which converted the water and electricity sectors into market-based, private systems is necessary. The Water Code of 1981 created exclusive rights to water use, the rights of which could be traded separately from land.¹²⁴ The code also distinguished between consumptive water rights and non-consumptive water rights, meaning use rights for water that would not be returned to the water source and use rights for water that would eventually be returned to the water source. Nearly all non-consumptive water rights are owned by electricity generating companies.¹²⁵ Manuel Prieto and Carl Bauer argue that because the code only recognizes extractive uses of water for non-consumptive water rights and because the General Directorate of Water has “refused to grant applications for

¹²¹ Millalén, interview.

¹²² Carte et al., 295.

¹²³ Pedro Cayul, Alejandro Corvalán, Dany Jaimovich, and Matteo Pazzona, “Mapuche–Chilean State Conflict Event Database: 1990-2016,” *Harvard Dataverse* 1 (December 21, 2021).

¹²⁴ Manuel Prieto and Carl Bauer, “Hydroelectric Power Generation in Chile: An Institutional Critique of the Neutrality of Market Mechanisms,” *Water International* 37, no. 2 (2012): 134.

¹²⁵ Prieto and Bauer, 135.

non-consumptive water rights for non-extractive water users,” water rights for cultural uses and conservation are “discriminated against.”¹²⁶ These processes of corporate favoritism written into the regime-era Water Code did not actually achieve fair usage of water resources. In fact, ENDESA Chile, which has since changed its name to Enel Generación, owned 55% of Chile's non-consumptive water rights as of 2012.¹²⁷ This corporation was created in 1943 as a state enterprise; however, like many other state-run programs, it was privatized during Pinochet's regime.¹²⁸ In 2005, the government passed Law 20,017, which established a tax that owners of water rights would have to pay for not using those rights.¹²⁹ However, Prieto and Bauer have noted that this continues to put an undue burden on owners of these rights who use them for cultural activities because they are not “using” the water in an extractive way or capturing said water.¹³⁰ This restrictive idea of what constitutes “use” invariably puts Mapuche peoples living along waterways at a disadvantage and indicates the prioritization of companies over Chilean Indigenous populations.

The General Law of Electricity Services of 1982—which allowed for hydropower stations to be installed without any form of special approval—also directly impacted post-regime Indigenous populations.¹³¹ Through this legislation, electricity companies that ran hydroelectric power plants could also request an easement that would allow them to “occupy and close the land necessary for reservoirs, landfills, clarifiers, water accumulation ponds, pressure chambers, pipes, hydroelectric plants with their dependencies, rooms for security personnel, access roads,

¹²⁶ Prieto and Bauer, 135.

¹²⁷ Prieto and Bauer, 136-137.

¹²⁸ Michael Nelson, “Fifty Years of Hydroelectric Development in Chile: A History of Unlearned Lessons,” *Water Alternatives* 6, no. 2 (2013): 195.

¹²⁹ Modifica el Código de Aguas, Ley 20017, Ministerio de Obras Públicas (June 16, 2005), <https://www.bcn.cl/leychile/navegar?idNorma=239221&idVersion=2009-12-29&idParte=8131089>.

¹³⁰ Prieto and Bauer, 137-137.

¹³¹ Aprueba modificaciones al D.F.L. N° 4, de 1959, Decreto con Fuerza de Ley 1.

material deposits and, in general, all the works required for hydroelectric installations.”¹³² This provision stayed within the law until it was reformulated in 2007. Once the National Corporation for Indigenous Development, known as CONADI, was created through the 1993 Indigenous Law, it was established that if any construction on Indigenous land were to take place, it would first have to be approved by the director of CONADI.¹³³ However, before the 1993 Indigenous Law, the policies established in the Electricity Services Law placed Mapuche lands and communities in jeopardy.

Because of these processes established during the military regime, forestry and hydroelectric industries have become huge sectors of the Chilean economy and play an integral role in the everyday lives of Chilean citizens. This inherently complicates the current situation in the Chilean south. Industry power, especially in Wallmapu, has put a lot of strain on small Mapuche communities, a fact which has demonstrably led to the persistence of Mapuche activism in that region. The governments following the military regime have been put in a precarious position. Even if they had the overall goal of supporting Indigenous Mapuche demands, they are faced with questions of how to expand Indigenous land rights without damaging the Chilean economy. Perceived inaction on this issue and the state’s deferrals to corporate interests over those of Indigenous populations have contributed to beliefs that the non-Indigenous political sphere is unwilling to address Mapuche concerns.¹³⁴

¹³² Aprueba modificaciones al D.F.L. N° 4, de 1959, Decreto con Fuerza de Ley 1.

¹³³ Establece normas sobre protección, fomento y desarrollo de los indígenas, y crea la Corporación Nacional de Desarrollo Indígena, Ley 19253, Ministerio de Planificación y Cooperación (October 5, 1993), <https://www.bcn.cl/leychile/navegar?idLey=19253>.

¹³⁴ In an interview with Don José Painequeo, he shared with me his belief that the Chilean state is afraid of the Mapuche people organizing and taking back territory because of the economic interests in the south of the country, as well as the wealth of “Big Forestry,” which leaves nothing for the Mapuche people. See José Francisco Painequeo Paillan, interview by Boyce Buchanan, Santiago de Chile, January 12, 2022.

The Judicial System: Protecting Private Interests

The judicial system, especially at the level of the Supreme Court, worked alongside the military government to protect private interests during the 1970s and 1980s. This became another factor that led to the dispossession of the Mapuche during this period. During Allende's presidency, he took advantage of executive orders in order to create a more socialized system. His actions were controversial, with large sectors of society opposing his policies. Members of the Supreme Court were part of this group and openly critiqued Allende's actions, stating that Allende was facilitating a "breakdown of the legal order in the country."¹³⁵ When the military, backed by the United States, conducted its coup against the Allende government, the judiciary readily upheld Pinochet's neoliberal policies and the protection of corporate interests.¹³⁶ Additionally, when the National Commission for Truth and Reconciliation released the Rettig Commission's Report documenting the thousands of executions and disappearances during the military dictatorship, the judiciary was named as an actor in the perpetration of human rights abuses.¹³⁷ The conclusions within this document further establish the connections between the military government and the judiciary during this time period. However, the Supreme Court responded with a fourteen page document denying the allegations and claiming that:

This Court considers that the Commission, exceeding its powers, formulates a passionate, reckless and biased judgment against the Courts of Justice, the product of an irregular investigation and probable political prejudice, which ends up placing the judges on a level of responsibility almost on a par with the perpetrators of the human rights abuses themselves.¹³⁸

¹³⁵ Edward Snyder, "The Dirty Legal War: Human Rights and the Rule of Law in Chile 1973-1995," *Tulsa Journal of Comparative & International Law* 2 (1995): 258.

¹³⁶ Snyder, 258.

¹³⁷ One example that the document gives to prove this was a speech given by the President of the Supreme Court in 1975. In it he denied disappearances of detainees and said that appeals for court protection were "denying the Superior courts... the opportunity to deal with urgent matters." See Comisión Nacional de Verdad y Reconciliación de Chile, *Informe de la Comisión Nacional de Verdad y Reconciliación*, vol. 1 (Santiago de Chile: Corporación Nacional de Reparación y Reconciliación, 1996), 96.

¹³⁸ "Respuesta de la Corte Suprema al Informe de la Comisión Nacional de Verdad y Reconciliación," *Estudios Públicos* no. 42 (1991): 237-250.

Throughout much of Chile's history, the judiciary worked through an inquisitorial system in which the judiciary maintained control over investigations, prosecutions, and judgements.¹³⁹ This gave judges and clerks a wide range of control over criminal proceedings. While other countries in the region began to transition away from an inquisitorial system at the end of the last century, according to Rafael Blanco, Richard Hutt, and Hugo Rojas, the military dictatorship stalled this transition in Chile.¹⁴⁰ A judiciary system in favor of the neoliberal policies of the military regime put the collective rights of Mapuche communities at risk and only compounded concerns that they had based on the laws discussed in the previous sections of this chapter.

For many years Mapuche activists have attempted to create change in the context of a political system that has been unwilling to disturb the current social order. The policies of Pinochet's military regime deeply ingrained neoliberalism as both an economic model and a political philosophy in Chilean social structures. It has led to multinational forestry and electric companies in the south of Chile gaining a firm grip on power in the region, in part due to its liquidation of communal Mapuche lands. The accumulation of wealth into the hands of a few through the installation of the neoliberal economic model in Chile has also spread the influence of these corporations as their owners and high level staffers gain more money and become more capable of exerting pressure on politics and media corporations. What has come of this is the dissolution of political discourse in modern-day Chile and a strain against efforts of coalition building. For Mapuche activists following the regime, these obstacles to building ties outside of Indigenous communities have been particularly difficult to overcome.¹⁴¹

¹³⁹ Rafael Blanco, Richard Hutt, and Hugo Rojas, "Reform to the Criminal Justice System in Chile: Evaluation and Challenges," *Loyola University Chicago International Law Review* 1, no. 2 (Spring/Summer 2004): 254.

¹⁴⁰ Blanco et al, 255.

¹⁴¹ Huenchumilla, for example, shared with me that she does not believe that political parties and powerful non-Indigenous figures have had the intention of improving issues in Wallmapu because their economic interests are not aligned with Mapuche interests. See Huenchumilla Marilao, interview.

Chapter Three: Anti-Terror Legislation and Mapuche Perseverance

Since the end of the military regime and the transition to neoliberal democracy in Chile, Mapuche activism has changed drastically in its forms and a shift in the response to that activism by the non-Indigenous population has occurred as well. The dispossession of communal lands and the increased power of corporations within Wallmapu, which were facilitated by the military regimes' neoliberal policies addressed in the last chapter, spurred resistance within the Mapuche population in the 1990s and into the twenty-first century. However, the application of special legislation like Chile's Anti-Terrorism Law against Mapuche leaders and activists has also left a lasting impact on Mapuche organizing, compounding the impacts of the neoliberal legislation. Mapuche leaders historically have used a multitude of different strategies when interacting with the Chilean state, which has continued throughout the last thirty years; however, the growth of non-Indigenous backlash to radical grassroots activism has highlighted the existence of that particular strain of activism within the wider Mapuche movement for land restitution and autonomy. This Chapter will address how special legislation has affected Mapuche activism, delving slightly into how activism by Mapuche people has influenced state response to Mapuche demands as well. Though at points over the last thirty years legislative repression by the state has quelled Mapuche activism, for the majority of this period, the disproportionate way in which the government has invoked the Anti-Terrorism Law and other special legislation against Mapuche activists has greatly increased the prevalence of social protest within the Mapuche community and isolated it, leading to more extreme forms of protest especially within the last decade.

Neoliberal Democratic Transition: Insider Strategies and the State Security Law

Directly after the transition to neoliberal democracy, the Chilean government took some steps to address the concerns of the Indigenous population. The 1993 Indigenous Law promoted

the preservation of Indigenous cultures, claiming that “it is the duty of society in general and of the State in particular, through its institutions, to respect, protect and promote the development of indigenous people, their cultures, families and communities, adopting the appropriate measures for such purposes and to protect indigenous lands, ensure for its adequate exploitation, for its ecological balance and tending to its expansion.”¹⁴² One of this law’s most notable achievements was the creation of the National Corporation for Indigenous Development, or CONADI. Through the creation of CONADI the government committed to buying land in areas that had traditionally belonged to Indigenous nations, including the Mapuche, specifically to give back to those Indigenous communities.¹⁴³ CONADI also provided Indigenous people with a way to directly participate in the Chilean government and have a direct say in decisions affecting the development of traditional lands.

These positive steps toward gaining Indigenous recognition in the country were reflected in the relatively small number of mobilizations that occurred in the Mapuche community during the early 1990s. Data presented by the MACEDA database demonstrates that grassroots protest actions by Mapuche activists, as well as negative reactions to grassroots protest, were relatively infrequent in the earlier half of the 1990s. From the beginning of 1990 to the end of 1997, the number of events documented within the database fluctuated between three (1990) and 57 (1992). Outside of 1992, no year saw more than 28 events classified as a conflict relating to autonomous activism, according to MACEDA.¹⁴⁴ Although this information by itself is not enough to make an irrefutable claim about the factors affecting Mapuche activism during this time, it is reasonable to speculate that the relatively small amount of grassroots activism in the

¹⁴² Establece normas sobre protección, fomento y desarrollo de los indígenas, y crea la Corporación Nacional de Desarrollo Indígena, Ley 19253, Ministerio de Planificación y Cooperación (October 5, 1993), <https://www.bcn.cl/leychile/navegar?idLey=19253>.

¹⁴³ Establece normas sobre desarrollo de los indígenas, Ley 19253.

¹⁴⁴ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

early 1990s was tied to the creation of the Indigenous Law, CONADI, and explicit spaces for Indigenous people within the central government. Mapuche grassroots activism did exist, but the creation of CONADI also allowed for the use of insider political strategies by many community leaders. However, trust in the ability of CONADI to adequately support Indigenous demands and for the government to listen to Indigenous concerns fell dramatically in the late 1990s.

While working through governmental infrastructure was utilized during this era, Mapuche community activists who did choose to rally for autonomy and land rights through protest actions during this time were, in some circumstances, met with special criminal charges. These charges were largely in relation to Law 12,927, the State Security Law. Much of the scholarly work conducted on the criminalization of Mapuche protest focuses on the Anti-Terrorism Law; however, the invocation of the State Security Law by public prosecutors in the 1990s and early 2000s should not be overlooked. While the invocation of the Anti-Terrorism Law against Mapuche leaders was a tactic that began during the administration of Ricardo Lagos, who gained office on 2000, from 1990 until the very early 2000's the dominant national security legislation that was used against Mapuche activists was the State Security Law.¹⁴⁵ Mapuche grassroots activists throughout most of the 1990s relied predominantly on land take-overs and peaceful demonstrations. Yet, many eventually had to face the State Security Law, which had much higher penalties than those that befall individuals when they are tried under the regular criminal code.

One of the dangers of the State Security Law to Mapuche activists was that what constituted a “crime against public order” was very wide-reaching in scope. This allowed for

¹⁴⁵ Multiple United Nations Rapporteurs have visited and penned reports criticizing the disproportionate application of the Anti-Terrorism Law against Mapuche leaders and the Inter-American Court of Human Rights has found Chile guilty of this as well. See Sebastián Saavedra, interview by Boyce Buchanan, Temuco, January 4, 2022; Rodrigo Lillo interview by Boyce Buchanan, Santiago, January 12, 2022; United Nations General Assembly, *Fundamental freedoms while countering terrorism*, Ben Emmerson.

prosecutors to use it liberally against activists who fomented dissent, which included Mapuche leaders. Under the law, persons who have committed a crime against public order are “those who provoke disorders or any other act of violence intended to alter public tranquility.”¹⁴⁶ These persons could face imprisonment and even banishment from the country for longer sentences than if they were sentenced for the same crimes under the regular criminal code.¹⁴⁷ The language within even this one portion of text, especially “disorders” and “alter[ing] public tranquility,” is very vague. This ostensibly lowers the burden of proof for prosecutors. In effect, this language made it easier for prosecutors to argue that someone tried under the State Security Law should be convicted with the attached higher sentence. Additionally, the law states that “those who incite, promote or encourage, or in fact and by any means, destroy, disable, paralyze, interrupt or damage the facilities, means or elements used for the operation of public services or public utility or industrial activities, mining, agricultural, commercial communication, transportation or distribution,” could face anywhere from the maximum penalties of minor prison time to life imprisonment depending on the circumstances of the crime.¹⁴⁸ This provision elevates the private property of corporations above those of the general populace and unambiguously ties corporate property to that of state property. This passage proves that the Chilean state was more interested in protecting the interests of corporations than those of the general population, including Indigenous people. It demonstrates how deep neoliberal concepts had ingrained themselves into the structure of the country. While the full impact of the application of the State Security Law on Mapuche activists is not clear due to a relatively little academic research conducted about this law, it could have been another reason, on top of the creation of the Indigenous Law and

¹⁴⁶ Fija texto actualizado y refundido de la Ley 12.927, sobre seguridad del estado, Decreto 890, Ministerio del Interior (May 31, 2002), <https://www.bcn.cl/leychile/navegar?idNorma=16080&idVersion=2002-05-31>.

¹⁴⁷ Refundido de la Ley 12.927, Decreto 890.

¹⁴⁸ Refundido de la Ley 12.927, Decreto 890.

CONADI, for why protest as a form of activism within Mapuche communities in the early 1990s was not as prevalent as it later became.

The End of the 1990s and the Change in Mapuche-State Relations

Although there are many historical factors that have led to the current protest movement in the Wallmapu region, there is general scholarly consensus that two events in the late 1990s set off the wave of protest that has continued into the present day. These events were the burning of three logging trucks in Lumaco in 1997 and the conflicts over the construction of the Ralco Dam on the Bío Bío river, which was completed in 2004.¹⁴⁹ These incidents were tied directly to the increased power of logging and hydroelectric companies who rose to prominence in the region precisely because of the policies discussed in the last chapter. While changes in special criminal legislation did not spark these events, the influence that they had on the larger Mapuche movement and the application of criminal legislation against Mapuche activists was stark. The Lumaco events stand out as the igniting spark for the rise of the Coordinadora Arauco Malleco, or CAM—arguably the most well known Mapuche activist organization—whose members have tended to use disruptive tactics in order to reclaim land, including arson.

The significance of the Lumaco events as a transitional moment in terms of the forms that Mapuche activism took is backed up by information provided in the MACEDA database. Initially community members attempted to work through CONADI to reclaim pieces of land owned by the logging companies, but that strategy did not last.¹⁵⁰ The first use of arson by Mapuche activists since the transition to neoliberal democracy, as documented by MACEDA, occurred on November 25, 1997, with an incendiary attack on a forestry company in Lumaco. Six days later, around fifteen Mapuche activists stopped four trucks driving from the forestry

¹⁴⁹ Haughney, 110-112, 195; Bidegain, 107-110.

¹⁵⁰ Bidegain, 108.

company grounds, made the drivers exit the vehicles, and then burned three of the trucks. Twelve people were subsequently arrested, two of whom were minors. Eleven of the arrested activists began a hunger strike in order to pressure the government to withdraw its charges against them, and their family members occupied the Temuco CONADI headquarters in support. Additionally, on December 17th there was another arson attack on a bridge that connected the forestry company with a major road.¹⁵¹ The events following the arson on December 1, 1997 indicate the importance of that moment for Mapuche activists at large, as people began to rally for the arrested individuals. Additionally, after the events at Lumaco, the number of instances where arson was used in protest by Mapuche activists increased markedly, as seen in the graph below.

Conflict Events per Year

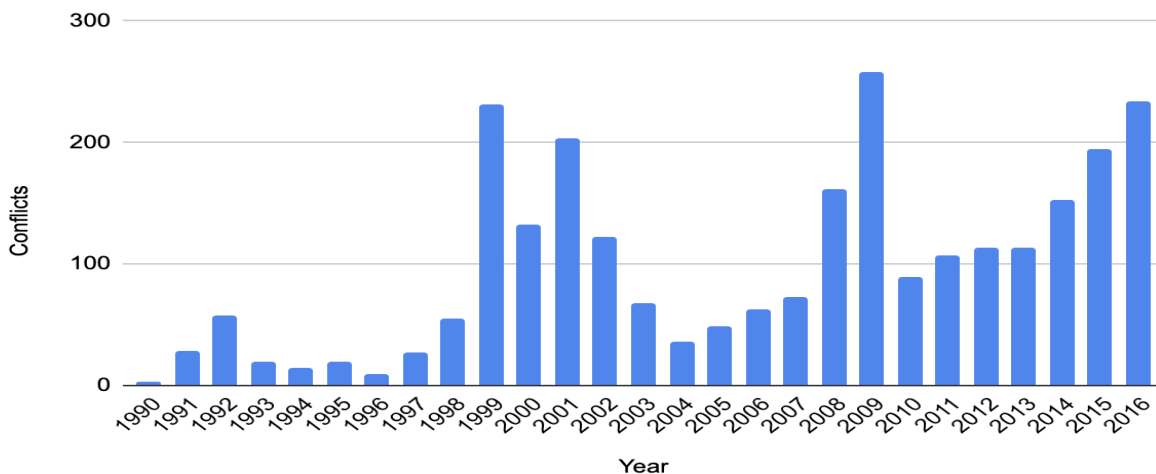


Figure 2.¹⁵²

The creation of the Ralco Dam also stands out as a pivotal moment in the creation of the current Mapuche movement. According to the 1993 Indigenous Law, in order to construct a large-scale project like a dam on Indigenous land, the director of CONADI has to first approve the plan of construction. The creation of the Ralco Dam would have forced many Indigenous

¹⁵¹ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁵² Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

Mapuche-Huilliche to relocate away from their ancestral lands, and because of this, the director of CONADI opposed the project when it was first brought forward. Shortly after, the director of CONADI was fired. The director who replaced him in 1997 also opposed the construction of the dam, and was also fired in 1998. For the first time, a non-Indigenous person was appointed as director of CONADI, and the dam was approved.¹⁵³ In the construction process, ENDESA—a multinational electric company—flooded traditionally occupied Mapuche land and many families were forced to relocate.¹⁵⁴ Germán Bidegain has argued that the national government’s refusal to listen to the recommendations of two CONADI directors and their replacement for a sympathetic head was a landmark moment in which the dominant method of interaction between Mapuche leaders and the national government changed and grassroots activism increased.¹⁵⁵ I have found this to be corroborated by information within the MACEDA database. 1999 saw a large spike in acts both promoting and retaliating against Mapuche self-determination, the number of conflicts jumping up to 231 from only 55 the year before. After that, the number of events stayed above 100 until 2003, where MACEDA shows a drop down to 68.¹⁵⁶ The high number of conflict events between 1999 and 2002 corresponds with the construction of the Ralco Dam and the replacement of CONADI directors, as discussed above. This concrete evidence confirms that the construction of the Ralco Dam, as well as the Lumaco events, led to an increase in Mapuche grassroots activism and a skepticism about the effectiveness of CONADI. These sentiments were expressed by Millalen, who stated that while CONADI was supposed to help promote Indigenous cultural practices and facilitate the reclamation of land, “until now, it has not been sufficiently useful for the demand for Mapuche rights because it has not guaranteed the

¹⁵³ Bidegain, 109.

¹⁵⁴ Bidegain, 109.

¹⁵⁵ Bidegain, 108; César Enrique Pineda Ramírez, *Arde el Wallmapu: Autonomía, Insubordinación y Movimiento Radical Mapuche en Chile* (Ciudad de México: Bajo Tierra Ediciones, 2018), 124-126.

¹⁵⁶ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

collective rights of access to territory. And, [the reasons behind] why a large part of the conflicts was caused, CONADI has not been able to resolve and neither has the Indigenous Law.”¹⁵⁷

A Brief Background on the Anti-Terrorism Law

The rest of this section focuses on Law 18,314, Chile’s Anti-Terrorism Law. Its invocation against Mapuche activists has been widely criticized by local scholars and the international community alike. It is this law, coupled with the over-policing of Mapuche communities, that has, more than anything else, frayed relations between the Mapuche and the Chilean State. Since the transition to neoliberal democracy it has gone through multiple modifications. Activism by segments of the Mapuche population has both impacted and been impacted by the disproportionate application of this law against the Mapuche community since the early 2000s.

However, before diving more thoroughly into the Anti-Terrorism law and the multitude of ways in which Mapuche activism has been criminalized since the transition from military regime to neoliberal democracy, it is necessary to address the 1980 Constitution and its relation to terrorism. Chile’s current Constitution, penned during the Pinochet regime, contains an article directly relevant to the subject of this chapter. Article 9 of the Constitution, within the document’s “Bases of Institutionality” section, is entirely focussed on the concept of terrorism.¹⁵⁸ The article does not define terrorism; however, it does note that individuals charged with the crime will not be able to work in a public capacity—including teaching, running for office, or directing a union—for fifteen years.¹⁵⁹ In other articles within the Constitution it is noted that suffrage will be suspended if a person is charged with terrorism and that citizenship will be

¹⁵⁷ Millalen, interview.

¹⁵⁸ Constitución Política de la República de Chile.

¹⁵⁹ Constitución Política de la República de Chile, art. 9.

revoked if they are sentenced with that crime.¹⁶⁰ As Chile is currently holding their Constitutional Convention and a plebiscite is scheduled to be held during the summer of 2022 in order to affirm it, the consequences of terrorist activities as defined in the Constitution may soon change. However, these passages shed light on the penalties that Mapuche activists have faced over the last twenty years. Additionally, given that Article 9 is included in the first chapter of the Constitution, and that it remained a part of the Constitution even after the document went through major reform in 2005, it can be inferred that the military government, as well as the neoliberal democratic governments that followed, held and continues to hold a deep-seated fear of dissidents and activist groups, a fear that has led to the disproportionate application of this law against the Mapuche.

Chile's Anti-Terrorism Law, was, like the Constitution, originally written during the military regime in 1984 and further defines terrorism and its punishments. While it has been substantially amended since the end of the Pinochet regime, some background on the events leading up to its initial installation is beneficial. The atrocities committed under Pinochet, especially against left-wing political activists, allowed the military to strengthen their power by eliminating opposition; however, their acts of violence also caused some members of the population, especially young people and students, to combat the regime, both through more common acts of protest and also through the use of explosives and firearms. Pinochet urged the creation of the Anti-Terrorism Law in order to justify the repression of all of these activists. The law soon took shape, suppressing dissenting thought by painting political opponents as "terrorists." While armed guerrilla groups did exist during this time, people generally do not take up arms unless they feel that there is absolutely no other way for their voices to be heard. Any amount of violence that the guerrilla groups committed was greatly overshadowed by the power

¹⁶⁰ Constitución Política de la República de Chile., art. 16, art. 17.

and terror of the military regime itself. The original Anti-Terrorism Law was not written to stop an actual threat of terrorism in Chile, as the State itself was the major producer of terror. It was written to give the government a way to crack down on dissent and to legally detain people before trial for long periods of time. It is this concept of using the Anti-Terrorism Law as a weapon against dissent that has continued through to the present day, regardless of the modifications that have been made to it. Now, however, instead of state forces using the legislation against the political left, they are using it against members of the Mapuche people.

In the south of the country since the end of the military regime the Anti-Terrorism Law has “almost exclusively” applied in cases where Mapuche people were the defendants, according to human rights lawyer Sebastián Saavedra.¹⁶¹ The concentration of terrorism trials in areas like Temuco, with large Indigenous Mapuche populations, as documented by Chile’s National Statistics Institute, substantiate this perception. In 2020, for instance, of the 325 terrorism cases initiated in the country, 100 took place in Temuco and the surrounding area. The metropolitan area with the second highest number of cases was Santiago—a city 96% larger in terms of population. It only had 68 cases.¹⁶²

There have been many modifications of the anti-terrorism legislation since 1990, making it a relatively fluid document. Some of the modifications immediately proceed or directly follow major events in the current Mapuche movement, while others do not. The legislative changes that come in response to, or at least are timed near, moments of increased tension between Mapuche activists and the Chilean government are highlighted within the discussion. In all cases, when the specified crimes, all of which are also defined in the Penal Code, are found to have been conducted with a terrorist intent, the sentences and penalties increase by large quantities.

¹⁶¹ Saavedra, who is based in Temuco, has worked on multiple cases in defense of Mapuche activists charged with terrorism. See: Saavedra, interview.

¹⁶² Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos Estadísticas Judiciales 2020* (2020).

One aspect of the law which has remained relatively consistent throughout all of its iterations and has been consistently critiqued by national and international activists and human rights defenders in relation to the Mapuche: its broad definition of terrorism.¹⁶³ The vagueness in defining what constitutes a terrorist crime is particularly striking. Although Article 1 has been amended over time, even in its current formulation, there is still room for ample amounts of interpretation:

The crimes listed in Article 2 shall constitute terrorist crimes when the act is committed with the purpose of producing in the population or in a part of it the justified fear of being a victim of crimes of the same kind, either by the nature and effects of the means used, or by the evidence that it obeys a premeditated plan to attack a specific category or group of persons, or because it is committed to remove or inhibit resolutions of the authority or to impose demands on it.¹⁶⁴

Because of this open-ended discussion of intent, the Anti-Terrorism Law could theoretically be used against multiple dissident groups that are either nonviolent, or at least do not cause direct bodily harm to other people. Because of this, the overwhelming invocation of the law against Mapuche activists in particular raises concern. Saavedra explained his own concerns with the this aspect of the law, saying that “the [legal] definition of [terrorism] is so broad that it can be applied to anything and that, in turn, has allowed it to be applied to the Mapuches without any restraint, any type of limit.... [This is perhaps] the main problem because it is like the entry key for [law enforcement], and if that concept is not fully defined today, there is no legal security for it to be applicable only to extremely serious cases.”¹⁶⁵

¹⁶³ See United Nations Economic and Social Council, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, Mr. Rodolfo Stavenhagen*, (Geneva: Commission on Human Rights, November 17, 2003); United Nations General Assembly, *Report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, James Anaya: The situation of indigenous peoples in Chile*, (Geneva: Human Rights Council, October 5, 2009); United National General Assembly, *Fundamental freedoms while countering terrorism, Ben Emmerson*.

¹⁶⁴ Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (October 22, 2015), <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2015-10-22>.

¹⁶⁵ Saavedra, interview.

The 2002 Anti-Terrorism Law and its Fallout

Reforms to the law took place in 1990, 1991, and 1993 as major updates to the penal code were put in place after the termination of the military regime. However, the first modification to the law that appears to have substantially affected Mapuche activists is the 2002 Anti-Terrorism Law. This modification occurred around the same time as both the increase in radical grassroots Mapuche activism and the transition between the use of the State Security Law against Mapuche leaders to the application of the Anti-Terrorism Law itself. When speaking with Mapuche academics and leaders, the two main crimes they identified within the anti-terrorism legislation that they found were most commonly used against Mapuche activists were both appear in the 2002 version of this law: arson and illicit association.¹⁶⁶

In academic and international human rights discussions about Chile's Anti-Terrorism Law, one of the main concerns frequently addressed was the addition of arson to the list of potential terrorist offenses in 2002.¹⁶⁷ Following Article 1, the current version of which is quoted above, Article 2 goes on to list acts that, coupled with the intent established in Article 1, would be considered "terrorist" in nature.¹⁶⁸ These acts include homicide, bodily injury, kidnapping, the retention of hostages, the abduction of minors, the sending of explosive devices, offenses against public health, derailment of trains, and that of "fire and damage."¹⁶⁹ The law lists the articles within the penal code that "fire and damage" corresponds to, including articles 474, 475, 476, and 480, all of which have to do with arson.

The crimes relating to "fire and damage" referenced in the Penal Code are varied in scope and it is this wide variation that has raised alarm over the years. Articles 474 and 475 relate to

¹⁶⁶ Millalen, interview.

¹⁶⁷ Human Rights Watch, 22.

¹⁶⁸ Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (May 31, 2002), <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2002-05-31>.

¹⁶⁹ Determina conductas terroristas, Ley 18314 (2002).

arson that has either ended in the deaths or injury of other persons in events which could have been foreseen and avoided.¹⁷⁰ This scope of damage fits in with the other crimes listed. However, Article 476 includes burning currently uninhabited buildings or vehicles and burning forests and plantations.¹⁷¹ Although there are different sentences associated with these crimes in relation to their level of severity, the fact that arson of property is included in a list of terrorist crimes, the rest of which directly harm the bodies of specific individuals, has been repeatedly criticized.¹⁷²

In the years directly following 2001, many countries around the globe either instituted anti-terrorism legislation for the first time or strengthened existing legislation in response to the attacks in the United States.¹⁷³ However, in the Chilean case, this reform was also made in the context of increased grassroots Mapuche activism and the creation of CAM. While much of the 2002 reform may well have been spurred on by the events of September 11, 2001, the decision to add arson to the list of potential terrorist crimes appears to be specifically in response to changes in Mapuche activism. Between November 25, 1997 and the publication of Chile's modified Anti-Terrorism Law on May 31, 2002, the number of protest events where arson occurred rose at a marked rate. As previously mentioned, according to MACEDA, no arson was committed between 1990 and the fall of 1997, when the Lumaco protests occurred. However, over the next three-and-a-half years Mapuche activists committed eighty-five arson attacks.¹⁷⁴ Particularly of note, the largest proportion of these attacks occurred in 2001, just before the Anti-Terrorism Law's modification.¹⁷⁵ Although this statement relies on correlation, given that arson of property was not considered a potential terrorist act before 2002, it can be assumed that the increase in

¹⁷⁰ Código Penal de Chile. Ministerio de Justicia de Chile. April 9, 2022. <https://www.bcn.cl/leychile/navegar?idNorma=1984&idVersion=2022-04-09>.

¹⁷¹ Código Penal de Chile.

¹⁷² Human Rights Watch, 1-63.

¹⁷³ Cody, 5.

¹⁷⁴ Pedro Cayul et al., "Mapuche–Chilean State Conflict Event Database."

¹⁷⁵ Pedro Cayul et al., "Mapuche–Chilean State Conflict Event Database."

arson committed by Mapuche activists in their attempts to regain their traditional territories played a role in the decision to add arson of property as a potential terrorist crime. This is corroborated by the fact that there was not any precedent set by international organizations for the inclusion of arson of property as a terrorist offense.¹⁷⁶

Number of Arson Reports per Year

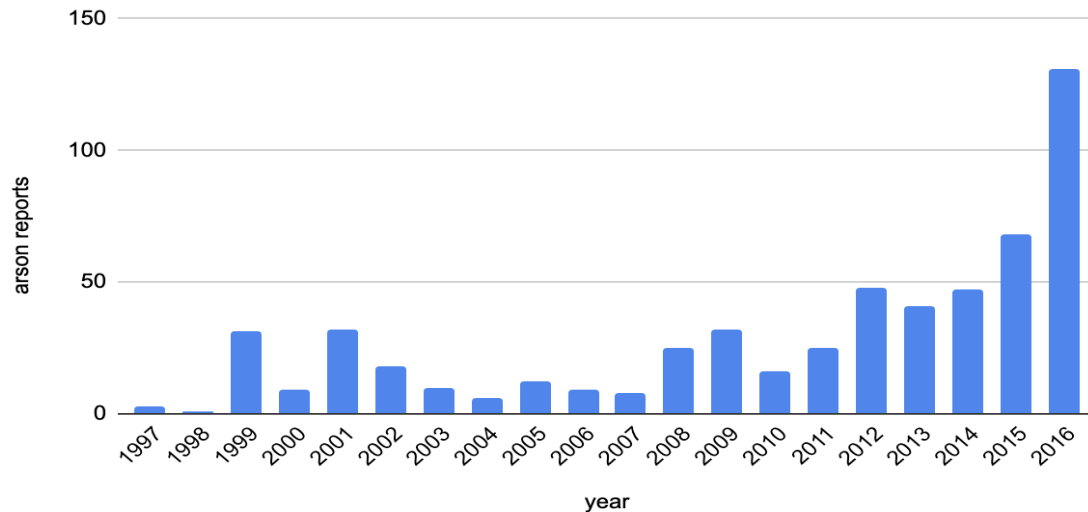


Figure 3.¹⁷⁷

The other portion of the Anti-Terrorist Law which was highlighted as a continuing issue by my informants, was also made more prominent in the 2002 modification. The crime of “illicit association” in the context of the Anti-Terrorism Law has been continuously used against Mapuche activists and leaders. “Illicit association”, as defined in the law, is the crime of collaboration with the object of perpetrating the crimes already demarcated as “terrorist.”¹⁷⁸ This crime, because of how widely it could be applied, was of particular worry to the members of the

¹⁷⁶ Even the Patriot Act of the United States, notorious for its stringent definition of terrorism, only notes that arson of property could be defined as a terrorist act if that property is specifically used in interstate commerce. See United National General Assembly, *Fundamental freedoms while countering terrorism*, Ben Emmerson, 11; Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act) Act of 2001, Public Law 107-56 (October 26, 2001).

¹⁷⁷ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁷⁸ Determina conductas terroristas, Ley 18314 (2002).

Mapuche community whom I spoke with. Yet, while the charge of “illicit association” has been used many times to justify the invocation of the Anti-Terrorist Law, in the long run, a Mapuche person has never been sentenced under that charge, according to Saavedra.¹⁷⁹ While there may not have been any solid evidence to convict a Mapuche activist of this crime, its invocation is still harmful, due to many of the restrictions that it imposes on an individual during trial and the typically longer court process.

The 2002 version of the Anti-Terrorist Law also demonstrates the much larger burden placed on those against whom the legislation has been invoked than those tried under the normal criminal code in the early days of the current Mapuche conflict. Under this version of the law, prosecutors were allowed to use anonymous witnesses, the identity of whom is not revealed to the accused or their defendants.¹⁸⁰ Prosecutors were also given larger powers to record and tap the accused’s communication in this modification.¹⁸¹ Additionally, it established that the accused could be detained for ten days before first appearing in court.¹⁸² For context, in cases where the Anti-Terrorism Law is not invoked, defendants can only be detained for a one day period.¹⁸³ The Public Ministry could also request evidence to be withheld from the defense for up to six months, a period which is more than six times the legal length of 28 days for non-terrorism cases.¹⁸⁴ These policies appear in later versions of the law as well. All of this has negatively affected the outcomes of Mapuche people against whom the Anti-Terrorism Law has been invoked. Even if they are eventually found not to be guilty, they may have already spent months in prison if they were not granted pretrial release. Additionally, they are at a disadvantage in arguing their case because of withheld information and the use of anonymous witnesses.

¹⁷⁹ Saavedra, interview.

¹⁸⁰ Determina conductas terroristas, Ley 18314 (2002).

¹⁸¹ Determina conductas terroristas, Ley 18314 (2002).

¹⁸² Determina conductas terroristas, Ley 18314 (2002).

¹⁸³ Determina conductas terroristas, Ley 18314 (2002).

¹⁸⁴ Determina conductas terroristas, Ley 18314 (2002).

The changes made in 2002 seem to have directly stunted the growth that Mapuche grassroots activism had experienced in the previous few years. The number of conflicts tracked by the MACEDA database fell at the end of 2002, even given the murder of 17-year-old Alex Lemun Saavedra, a Mapuche activist who was participating in a peaceful land-takeover when carabineros arrived with tear gas and anti-riot bullets. Lemun was shot in the head and died in the hospital. This was the first death tied to the current Mapuche Movement.¹⁸⁵ After falling at the end of 2002, the number of conflicts stemming from Mapuche self-determination protests roughly stabilized for a time, although at levels higher than those of the previous decade. The number of arson attacks fell as well.¹⁸⁶ It is reasonable to assume that the targeted language within the 2002 Anti-Terrorism Law contributed to this.¹⁸⁷ Grassroots activism in the form of land takeovers and arson did not increase in 2005 either, even after the disappearance of sixteen-year-old José Huenante.¹⁸⁸ Huenante disappeared after he was detained by a Carabinero radio patrol.¹⁸⁹

2005: Subtle Change

The modification of 2005 is also of note in the Mapuche context, even though it was relatively small.¹⁹⁰ In previous versions of the Anti Terrorism Law, Article 14 had established that during or after the hearing to formalize the investigation of a potential terrorist offense, the Public Prosecutor's Office would first need to make a request to the guarantee judge to classify

¹⁸⁵ “Edmundo Alex Lemun Saavedra and Others vs. Chile,” *Cejil*, March 12, 2021, <https://cejil.org/en/case/edmundo-alex-lemun-saavedra-and-others-vs-chile/>.

¹⁸⁶ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁸⁷ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁸⁸ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁸⁹ María Luisa Cisternas, “¿Dónde está José Huenante?: Dieciséis años del primer caso de desaparición forzada en democracia,” *Diario y Radio Universidad Chile*, September 2, 2021, <https://radio.uchile.cl/2021/09/02/donde-esta-jose-huenante-dieciseis-anos-del-primer-caso-de-desaparicion-forzada-en-democracia/>.

¹⁹⁰ A modification did occur in 2003, but it is relatively unrelated to the relationship between the Mapuche and the Chilean government. I did not include it in this discussion.

the conduct of the defendant as “terrorist” and then, because of this qualification, the Public Prosecutor’s Office could then request the guarantee judge to order procedures only approved under the Anti-Terrorism Law: that the accused be confined, that restrictions be placed on who can visit the accused, and that the prosecutor can “intercept, open, or record” communications between the accused and others as long as it does not affect the communication between the accused and that person’s lawyers.¹⁹¹ However, the 2005 version of the law makes it so that the prosecutor does not have to ask the judge to first declare the conduct to be terrorist before making requesting the actions associated with terrorism trials.¹⁹² This indicates that, due to the modification, an individual could be held in preventive detention, *without* the judge agreeing to consider their activity a terrorist act. The terrorism charge, therefore effectively lies solely in the hands of the prosecutors. This makes it easier to apply the conditions associated with terrorism charges to individuals who would not inevitably be convicted of the crime. The tension born of this policy between the prosecutors and judges is addressed in more depth in Chapter Four.

Death, Hunger Strikes, and Attempts at Reform

While Mapuche protests stabilized after 2002 following the stringent additions made to the Anti-Terrorism Law, this stabilization did not last for very long. According to MACEDA, the number of conflicts began to increase again in 2008, rising to 161 and then to 258 the following year.¹⁹³ This increase in conflict followed the murder of twenty-three-year-old Matías Catrileo who was shot with a submachine gun by police during a peaceful land occupation.¹⁹⁴ One year later, twenty-four-year-old Jaime Mendoza Collío was also shot and killed by a police officer in the context of a land occupation. However, at the time he was shot, Mendoza was over a

¹⁹¹ Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (November 14, 2005), <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2005-11-14>.

¹⁹² Determina conductas terroristas, Ley 18314 (2005).

¹⁹³ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

¹⁹⁴ “Chile: Mapuche Student Killed in Land Conflict,” *Mapuche International Link*, January 7, 2008, <https://www.mapuche-nation.org/english/html/news/n-114.htm>.

kilometer away from the site of the land takeover. The police officer was charged with using unnecessary force that resulted in death.¹⁹⁵ The increase in Mapuche activism and the resulting conflict over the years of 2008 and 2009 make sense following these tragic events. While Mapuche youth were being killed with relatively few consequences, Mapuche activists found themselves increasingly at risk of having the Anti-Terrorism Law invoked against them due to the 2002 and 2005 modifications. The increase in arrests of Mapuche activists and leaders triggered more protests and set the stage for the 2010 hunger strikes and the eventual modification to the Anti-Terrorism Law made in response.

The 2010 modification of the Anti-Terrorism Law, was undertaken in response to hunger strikes conducted by over thirty detained Mapuche activists from within their prison cells, increased international scrutiny, and an upswelling in pressure from below.¹⁹⁶ They conducted the strike as a protest against the invocation of the Anti-Terrorism Law in their trials and in those against other Mapuche leaders, as well as against the undue challenges and hardships that charge caused. They faced longer pre-trial detention and sentences, and some were placed in prisons far from their communities, which put burdens on their families and kept them from performing their roles as leaders in their communities.¹⁹⁷ After three months of striking, the government—at the time under the leadership of right-wing president Sebastián Piñera—agreed to withdraw the lawsuits against the strikers in which the Anti-Terrorism Law had been invoked and try them

¹⁹⁵ “Se Cumplen 12 Años Desde Que Carabineros Mató Al Comunero Mapuche Jaime Mendoza Collio,” *Periódico Resumen*, August 12, 2021, <https://resumen.cl/articulos/se-cumplen-12-anos-desde-que-carabineros-mato-al-comunero-mapuche-jaime-mendoza-collio>.

¹⁹⁶ United National General Assembly, *Fundamental freedoms while countering terrorism*, Ben Emmerson, 10.

¹⁹⁷ Francisco Mardones, “Marchas en distintas ciudades apoyan demandas de mapuches en huelga de hambre hace 53 días,” *Diario UChile*, September 2, 2010, <https://radio.uchile.cl/2010/09/02/marchas-en-distintas-ciudades-apoyan-demandas-de-mapuches-en-huelga-de-hambre-hace-53-dias/>.

instead under the regular criminal code.¹⁹⁸ The 2010 modification includes providing a clarification to the provision that gives defense attorneys the ability to cross-examine anonymous witnesses and introducing an article establishing that if a person decides not to commit a terrorist crime and provides details of the plot to governmental authorities, they will be exempt from criminal liability.¹⁹⁹ However, one of the largest concerns that Mapuche activists wanted to address was ultimately not included in the 2010 version of the law. Although in the original text of Law 20,467—which amended the 2010 version of the Anti-Terrorism Law—excluded minors from the application of the Anti-Terrorism Law, that reform it did not find its way into the final version of that 2010 law as provided by the Chilean National Library of Congress.²⁰⁰

Continued Protest and the 2011 Anti-Terrorism Law

MACEDA documents a decrease in the number of conflicts in relation to Mapuche self-determination campaigns during 2010, the numbers dropping from 258 the year before to just 89 in 2010.²⁰¹ While there is likely multiple factors that led to this decrease, the discussion of potential substantive changes in the 2010 modification to the Anti-Terrorism Law appear to have played a role in quelling some of the concerns that Mapuche activists had about the legislation. However, the following year, the overall number of protests increased again. Statistics from October 8, 2010—when the terrorism statute was modified—until June 21, 2011—when the law was modified again—indicate that Mapuche protesters felt that there was a major failing in the 2010 version of the law.²⁰² As discussed above, while there had been plans to make the law no longer applicable to minors, that change was never made and prosecutors continued to invoke the

¹⁹⁸ Veronica Smink, “Chile: Termina la Huelga de Hambre de los Mapuches,” *BBC*, October 3, 2010, https://www.bbc.com/mundo/noticias/2010/10/101013_chile_mapuches_termina_huelga_hambre_az.

¹⁹⁹ Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (October 8, 2010), <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2010-10-08>.

²⁰⁰ Modifica disposiciones de la Ley No. 18.314, que determina conductas terroristas y fija su penalidad, Ley 20467, Ministerio del Interior (October 8, 2010), <https://www.bcn.cl/leychile/navegar?idNorma=1017644>.

²⁰¹ Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

²⁰² Pedro Cayul et al., “Mapuche–Chilean State Conflict Event Database.”

legislation against individuals under the age of eighteen.²⁰³ There were at least four cases like this alone in between the modifications of 2010 and 2011.²⁰⁴ In the case of L.H.M.C., for example, a high school student was arrested at his school for terrorism in the form of illicit association, frustrated homicide, and arson. Both the Court of Appeals of Temuco and the Supreme Court refused to modify his provisional internment.²⁰⁵ Paradoxically, while the Anti-Terrorism Law had been invoked to stop Mapuche protesters, this failure to put an end to the practice of invoking the Anti-Terrorism Law against children and keeping them in prison without being sentenced very likely led to the increase in conflict in late 2010 and early 2011, which in turn led to the decision to modify the legislation again.

The 2011 law only added three lines, but they had a major impact on how the law could be applied. The change, which was included in Article 1, made it so that the Anti-Terrorism Law unequivocally could not be invoked against people under the age of eighteen, stating clearly that “this law shall not apply to behaviors executed by persons under 18 years of age.”²⁰⁶ In many respects, for a country whose age of maturity is eighteen, it is shocking that this exception was not previously written into the law. While this did address one of the fundamental concerns about the law, grassroots activists have continued to protest for autonomy and land rights and to raise concerns about the disproportionate use of the Anti-Terrorism Law against them.²⁰⁷

²⁰³ Gonzalo Berríos Díaz, “Los adolescentes mapuche y las reformas a la Ley No. 18.314 sobre Conductas Terroristas.” *Anuario de Derechos Humanos (Universidad de Chile)* 8 (2012): 149-150.

²⁰⁴ United National General Assembly, *Fundamental freedoms while countering terrorism*, Ben Emmerson, 10.

²⁰⁵ Berríos Díaz, 150.

²⁰⁶ Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (June 12, 2011). <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2011-06-21>.

²⁰⁷ The last modification to date, made in 2015, added a detail in Article 15. As of the 2015 amendment, anonymous witnesses can be used in anti-terrorism cases when a risk to the life or integrity of the “civil partner” of the witness exists, in addition to the risks to other persons in the witnesses life, which had already been addressed. See Determina conductas terroristas y fija su penalidad, Ley 18314, Ministerio del Interior (October 22, 2015), <https://www.bcn.cl/leychile/navegar?idNorma=29731&idVersion=2015-10-22>.

2012 to 2022: A Decade of Increasing Tensions

Tensions between some Mapuche organizations and national forces have continued to mount, even while more Mapuche and Indigenous leaders have stepped into the governmental sphere. The majority of Mapuche activist organizations have remained less extreme in both their actions and goals, following in the historical Mapuche political tradition of diverse political ideology and thought. While the ideological landscape has shifted away from integration and assimilation since the last century and there are calls for autonomous judicial systems and for the framing of Chile as a plurinational state by large swaths of the Mapuche and non-Mapuche Indigenous population, most organizations who participate in public demonstrations and other methods of activism are not radical. These organizations either work within the political system of Chile or function as non-violent grassroots organizations. In fact, because of the increased access to direct involvement in governmental decision making facilitated by the Constitutional Convention, Mapuche leaders have been able to utilize insider activist strategies to a larger extent than they have at most times over the past thirty years. Yet, Mapuche activism is still, on the whole, conceptualized as a threat.

While initially, the invocation of Anti-Terrorism Legislation may have quelled Mapuche activism, the fact that so many Mapuche leaders have been accused of terrorism over the past two decades seems to have, on the whole, only increased tensions and sowed seeds of distrust. In effect, the disproportionate use of anti-terrorism legislation against Mapuche leaders, coupled with the fact that neoliberal policies have deprived Mapuche communities of access to their lands and economic resources, has served to increase incidences of grassroots activism and has also isolated Mapuche activism from party politics, making some organizations more radical. The mistreatment of Mapuche activists who have faced the Anti-Terrorism Law has become a

rallying point for increased extreme action, not less. Stemming from this, in recent years some Mapuche organizations have called for complete separatism and have accumulated firearms. While these represent a minority of Mapuche organizations, these groups tend to get the most attention on the national stage and their manifestations appear to have grown. Additionally, even while activism on the part of Mapuche leaders has led to modifications of the Anti-Terrorism Law, which has ostensibly made it less targeted, prosecutors continue to invoke the law during trials, creating a cycle that does not necessarily seem to be slowing.

There was some curtailment in the invocation of the Anti-Terrorism Law after international backlash in the form of the Inter-American court of Human Rights ruling in *Norín Catrín et al. v. Chile*, which is discussed in greater detail in Chapter Four of this paper. In fact, invocation of the law did drop substantially, at least for a while. In 2014, only six cases that invoked the Anti-Terrorism Law were started in the country.²⁰⁸ However, by 2020, the number of cases in which anti-terrorism legislation had been invoked had risen to 325.²⁰⁹ The reasons for this rise in cases, even after international rebuke, is relatively illusive, especially considering that this is a very new, ongoing trend. However, many of my sources discussed what they have seen as an uptick in more violent protests on the part of some Mapuche organizations over the last five years.²¹⁰ Rojas, expressed the belief that the deaths of young Mapuche activists, high-profile cases in which terrorism charges were brought upon innocent people through nefarious means, and the overall unwillingness of policymakers isolated in Santiago to take events happening in the South of the country seriously, have brought on this increasing radicalization.²¹¹ This is reflective of the circumstances surrounding the mobilizations in the 2000s as discussed above.

²⁰⁸ Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos Informe Anual de Justicia 2014* (2014).

²⁰⁹ Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos Estadísticas Judiciales 2020* (2020).

²¹⁰ José Aylwin, interview by Boyce Buchanan, Temuco, January 5, 2022; José Manuel Fernández Ruíz, virtual interview by Boyce Buchanan, Los Angeles, March 10, 2022; Anonymous defense lawyer, virtual interview by Boyce Buchanan, Los Angeles, February, 2022.

²¹¹ Rojas Corral, interview.

Statements provided by the leaders of groups like CAM and the Weichan Auka Mapu, or WAM, have explicitly expressed this trend toward more radical action. After the tragic death of Pablo Marchant in July of 2021, CAM put out a statement which read, in part, “We want to be clear and precise: in the context of the frontal struggle against capitalist investments in our territory and for Mapuche national liberation, Pablo Marchant leaves behind a legacy of militant commitment and irreducible dedication.”²¹² This statement comes in the context of CAM’s declaration of “war” on the Chilean state in 2009, in which they claimed that the Wallmapu territory should have complete independence from the country based on the Treaty of Taphue of 1825 made between the Republic of Chile and the Mapuche people.²¹³ WAM is an example of another radical group that diverged from CAM a few years ago, and falls even more to the left of CAM in terms of their separatist goals.²¹⁴ Both CAM and WAM have equipped themselves with firearms. In early 2021 the government extended their Constitutional State of Exception in the Araucanía Region, which kept military forces in Mapuche communities and escalated tensions.²¹⁵ While in some respects the accumulation of weapons by these groups may be argued as a valid reason to apply the Anti-Terrorism Law, this view ignores the fact that the Anti-Terrorism Law had been continually used against Mapuche activists, and especially against members of CAM, for many years when these land activists did not have weapons and were more focused on creating dialogue. It can be concluded that the more radical nature of the current CAM and the emergence of WAM stem from the lack of governmental willingness to address Mapuche

²¹² “Coordinadora Arauco-Malleco. Declaración Pública.” *El Sudamericano*, 16 July 2021,

<https://elsudamericano.wordpress.com/2021/07/16/declaracion-publica-coordinadora-arauco-malleco/>.

²¹³ “Coordinadora Arauco Malleco Le Acaba De Declarar La Guerra Al Estado Chileno.” *The Clinic*, 25 Jan. 2011, <https://www.theclinic.cl/2009/10/20/coordinadora-arauco-malleco-le-acaba-de-declarar-la-guerra-al-estado-chileno/>.

²¹⁴ “¿Qué Es La Organización Weichan Auka Mapu? Los Autores Del Video Exhibiendo Armamento.” *La Tercera*, 4 Nov. 2021, <https://www.latercera.com/la-tercera-pm/noticia/que-es-la-organizacion-weichan-auka-mapu-los-autores-del-video-exhibiendo-armamento/S5AO7Y6NRVCVRNTKDas6Z3CEHI/>.

²¹⁵ Congreso Chileno, Detalle de Votación: Proyecto Resolución 1448.

concerns and a racialized application of this legislation. Generalizing discourses that paint Mapuche activists as “terrorists” have only succeeded in isolating Mapuche organizations, which in turn increases the radicalization of these groups and creates trauma in Mapuche communities.

Interestingly, throughout this whole twenty year period, there has been a key discrepancy between the number of cases where the anti-terrorism legislation has been invoked and the number of people who have been convicted of terrorism. In 2018, only three individuals were in prison after being condemned of terrorist related crimes. However, 145 terrorism cases were started in that year and 107 were terminated.²¹⁶ Similar numbers appear on statistics sheets kept by the National Statistics Institute throughout the past two decades.²¹⁷ These numbers indicate that although the Anti-Terrorism Law has been invoked against Mapuche activists many times, the final terrorism charge rarely gets applied. While this does not keep Mapuche activists away from their communities for the decades that a terrorism conviction could hold, the invocation of this law still works to keep Mapuche leaders away from their people and out of the public eye for what could be months or years. This discrepancy in the numbers between how often the Anti-Terrorism Law is invoked against Mapuche leaders and how many actually are charged with terrorism has not gone unnoticed by the Mapuche community. Don José Francisco Painequeo Paillan, a Mapuche community leader in Santiago, said that “[the Anti-Terrorism Law] affects [us] in a very cruel way, because the Anti-Terrorist Law... was not created to repress the demands of the Mapuche in principle. According to the dictator, the anti-terrorist law was created to combat the internal enemies of the country. [Now] the state has created and idealized... the Mapuche people as the internal enemy.”²¹⁸ The Anti-Terrorism Law, in effect, is

²¹⁶ Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos Informe Anual de Justicia 2018* (2018).

²¹⁷ Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos 2020*; Instituto Nacional de Estadísticas de Chile, *Cuadros Estadísticos 2014*.

²¹⁸ Painequeo Paillan, interview.

viewed by some as a strategy of retaliation which is meant to hinder Mapuche activism even when it is not inherently dangerous. Taken from this perspective, the discrepancies between the invocation of the law and convictions for terrorist crimes demonstrate a consistent conceptualization by State officials of the Mapuche as a “threat.”

Chapter Four: The Mapuche as an Internal “Threat”

Over the last three decades, Chile has seen a number of large-scale social movements come and go. Across the country, student protests against the privatization of the education system took place in 2006 and then again from 2011 to 2013. In October of 2019 the massive manifestation, which directly led to the current constitutional reform effort known as the Estallido Social, began and outbursts in Santiago referencing the Estallido have continued to some degree ever since.²¹⁹ However, the lawyers and academics whom I spoke with throughout this process universally agreed that in terms of the application of the Anti-Terrorism Law, this response to protest only occurred against Mapuche activists and, in smaller amounts, to anarchists.²²⁰ According to Saavedra, anarchists have only been tried for terrorism in the north of the country in and around Santiago.²²¹ This is consistent with United Nations Special Rapporteur Ben Emmerson’s findings that in 2010 and 2011, 32 of the 48 people who were charged under the Anti-Terrorism Law were Indigenous activists.²²² What this information clarifies, along with the connected histories of Anti-Terrorism Law’s modifications and Mapuche activism, is that Chile’s anti-terrorism legislation has been used in ways that heavily target Mapuche activists more than any other group. This disproportionate application raises a question: why are Mapuche activists conceived of as a threat to the state when other activists are not?

²¹⁹ In January 2022, during a research trip to Chile, I walked near Santiago’s Plaza Italia—named Plaza de la Dignidad at the height of the protests in 2019—on a Friday night. I could feel tear gas in the air and then came across a group of protesters. Soon after, some of the members stopped a city bus traveling down the street, made its occupants exit the vehicle, and then lit it on fire before armed police with a water cannon came to the scene. Individuals who I questioned mentioned that they believed that the action was taken as a memorialization of the manifestations that began in 2019, and claimed that protests had occurred every Friday night since the Estadillo Social began.

²²⁰ Fernández Ruiz, interview; Rojas Corral, Interview; and Saavedra, interview.

²²¹ Saavedra, interview.

²²² United Nations General Assembly, *Fundamental freedoms while countering terrorism*, Ben Emmerson, 12.

Some common, though simplistic, lines of thought have tried to address this question. One of these narratives ties the disproportionate application of national security legislation against Mapuche activists to entrenched ethnic prejudices and racism.²²³ While these negative stereotypes do exist, and have been more than proven to play roles in the marginalization of Mapuche people throughout Chile, there is more at play in this trend.²²⁴ Another narrative, which is often cited by politicians in Chile, is that many Mapuche activists actually are a threat to national security. Thus, the use of anti-terrorism legislation against these leaders is justified because certain activists have, they argue, committed terrorist crimes that harm landowners and corporations.²²⁵ However, the use of anti-terrorist legislation against Mapuche leaders cannot be tied solely to the radicalization of Mapuche organizations. This is especially true because these Mapuche organizations in question appear to have taken up arms in response to the over-application of anti-terrorism laws against their members and the militarization of their communities by police. Therefore, Mapuche groups have grown radical as a result of the legislation, rather than the other way around. It is clear that more nuance must be added to these discussions. In an effort to do so I argue that, based on how Mapuche activism has been affected by both neoliberal policy and anti-terrorism legislation since the last decade of the twentieth century, the most important factor that has led to the depiction of activists from certain sectors of Mapuche society as threats to the state is their oppositional relationship to Chile's neoliberal model.

²²³ See Richards; Rafael Gaune and Martín Lara, *Historias de racismo y discriminación en Chile* (Santiago de Chile: Uqbar Editores, 2019).

²²⁴ One non-Mapuche source whom I spoke with had gone to school in a small town in the Araucanía region. He explained that although the school he had attended was public, the Church was able to select who attended. Though there were many Mapuche people who lived in and around his town, almost all of his classmates were not Indigenous, as those students went to a trade school. Although my source said he did not understand at the time, he believes that it was due to the administration of his school intentionally not providing places for Mapuche children. He requested not to be named. See Anonymous education worker, virtual interview by Boyce Buchanan, April 19, 2022; Saiz and Mladinic, 27-40.

²²⁵ Richards, 18, 106.

Territory and Neoliberal Isolation

Mapuche activism in relation to non-Indigenous political circles changed drastically from the pre-military regime to the post-military regime world, ultimately putting the Mapuche in opposition with neoliberalism. Once, political campaigns actively sought the support and endorsement of large Mapuche organizations like the Araucanía Corporation. However, this has not on the whole been the case since the transition to neoliberal democracy. Instead, there has been a demonstrated isolation of Mapuche organizations from traditional political parties. This began during Pinochet's regime, which focused on removing access to political discussion and debate through the violent suppression of dissenting political voices, in the wake of which he implemented socioeconomic policies that favored national and international elites and their corporations. This served to disenfranchise the poor and Indigenous communities. It ripped away the power of any groups who opposed a neoliberal framework by cutting them off from economic and political power. The Mapuche traditionally held collective land rights—something oppositional to neoliberal conceptions of society—and this automatically made them in particular a target of neoliberal policies. The dispossession that occurred because of the policies described in Chapter Two functioned to destroy what political power that Mapuche communities in Wallmapu had built up before the coup. They were left with less land, fewer resources, and, because of those setbacks, a decreased ability to advocate on the national stage. In response, Mapuche organizations found other ways outside of working within the government to advocate for the recognition of their lands and their autonomy.

Once the regime moved toward tolerating some amount of political discourse and debate in the 1980s, Mapuche organizations—a few of which had been operating clandestinely earlier in the decade—became very prominent in the south. Ad Mapu, the largest and most influential

organization of the period, was notably much more oriented toward autonomous governance than previous Mapuche organizations and did not engage substantially with the non-Indigenous political organizations present at the time.²²⁶ This was an active choice to turn inward made by leaders of Ad Mapu and the general Mapuche movement at the end of the regime in order to best serve the needs of their communities. However, this decision cannot be separated from the realities of the neoliberal setting which the military regime created and forced onto the Mapuche.

The consolidation of Mapuche land into the hands of a few elites has shaped the current Mapuche struggle for self-determination, which—as my sources explained to me—is intrinsically linked to the reclamation of traditional Mapuche territories.²²⁷ As discussed in the previous chapter, many of the altercations that have taken place between Mapuche activists and the armed forces since the end of the regime have specifically occurred in the context of land reclamation campaigns. These land takeovers actively attempt to undo the consolidation of land that was facilitated by the policies instituted under Pinochet's military regime, especially through Decree Law 701, which promoted the buying up of property that had once been communal. In the south of the country, land was yet again taken from Mapuche communities, leading to the creation of oligopolies in hydroelectricity and forestry. Even today, large corporations and land-owners continue to push out Mapuche communities whose communal property rights had been whipped away under the regime. Additionally, the court system during the Pinochet era, upheld the claims of corporations over smaller interests, allowing for the accumulation of wealth—and by extension, power—in the hands of these business elites. This sapping of political power away from Indigenous communities in Wallmapu because of the overall lack of economic stability within Mapuche communities ended up isolating the regions within Wallmapu from the

²²⁶ Comisionado Presidencial para Asuntos Indígenas de Chile, 420.

²²⁷ Painequeo Paillan, interview; Huenchumilla Marilao, interview; and Millalen, interview.

political infrastructure of Santiago. While no longer a military regime, Chile's government still prioritizes neoliberalism and has not dissolved many of the regime-era policies that were used to take lands away from Mapuche communities in the last century, including, for example, the General Law of Electricity Services. In relation to this, Huenchumilla shared that although political parties have attempted to make treaties and compromises with the Mapuche, "we become a mere instrument so that they can achieve their goals. Then, when they achieve it, we are either forgotten or we are... postponed."²²⁸ The perceived prioritization of corporate interests over those of Indigenous communities did not help in attempts to reestablish ties between Mapuche organizations and non-Indigenous networks. These confrontations with the legacies of Pinochet's neoliberal framework have created isolation, which in turn has made Mapuche demands appear more distant to non-Indigenous Chileans. This distance has, given the disproportionate application of the Anti-Terrorism Legislation, bred fear in the Chilean government.

The lasting legacy of the political restructuring that occurred under the military regime can be seen in the fact that many of the current political parties are still concentrated in Santiago and rarely look into the issues that occur in other areas of the country.²²⁹ From Hugo Rojas' perspective, this was a grave oversight that did not get corrected "until it was too late" and tensions between sectors of Mapuche society and the state had risen beyond a point where dialogue could be easily established.²³⁰ So, while some Mapuche organizations did choose to break from the coalition building of the early twentieth century, the Chilean state is responsible for facilitating the breakdown of networks that would have enabled Mapuche organizations that

²²⁸ See Huenchumilla Marilao, interview.

²²⁹ For information on another example of influential political figures asking for Mapuche support in their bids for political office, see Crow, 120. She discusses the Cautín Pact of 1964 made between Mapuche leaders and Allende, who agreed to fulfill certain Mapuche demands regarding land rights in order for their endorsement.

²³⁰ Rojas Corral, interview. Rojas, a professor at the Universidad Alberto Hurtado, previously worked within the government of Michelle Bachelet.

wanted to work within institutional frames to do so and collaborate with Chile's political parties. Wealth and political power—and therefore political discourse—became concentrated around Santiago because of the breakdown of this coalition building and working-class politics. Due to this, the concerns of the Mapuche population became less relevant to non-Indigenous politicians and to non-Indigenous political discourse as the whole. The belief that spread from this, that the government was not doing enough to address Mapuche concerns, played a major role in pushing some Mapuche organizations to become more radical in their activist approaches. On top of this, as some Mapuche organizations have pushed for more stringent forms of autonomy, partially as a result of the perceived lack of change and interest, the State has been put in an increasingly precarious position. The forestry industry has become a substantial part of the Chilean economy and hydroelectricity is a more ecologically sound alternative to oil. If the government were to support some of the most radical visions of autonomy presented by Mapuche groups, they would have to decrease the amount of land available to corporations, which could negatively impact the Chilean economy. Since the security of Indigenous peoples is often not considered in discussions on state security, as articulated by Balasco and Bauer, elites see the impact on the economy as a net negative.²³¹ Benefits that would come to the Mapuche people from an arrangement that provides them with more of their traditional land are often overlooked. Fears like this from powerful landowners and politicians have facilitated the creation of the threat of the Mapuche activist.

Consistency in Demands Despite Variations in Organizational Strategies

A diversity of Mapuche organizations and networks coexisted after the occupation of Chilean Wallmapu and before Pinochet's regime. However, over this period, certain key players who directed the flow of Mapuche activism, communicated with the government, and often came

²³¹ Balasco and Bauer, 562.

together to facilitate an internal open dialogue within the larger Mapuche community and create a unified message through congresses that were shared with the non-Indigenous state had moments of large influence.²³² These groups, including the Caupolicán Society, Araucanian Federation, and the Araucanian Corporation, were also in large part non-combative, and while they pushed to increase protections on titled Indigenous lands, they did not represent the most radical autonomous strains of the time. In the present movement there is a wider variety of Mapuche organizations, many of which have different protest strategies and demands than the next. While Ad Mapu rose to prominence in the 1980s, since the 1990s, many Mapuche organizations have come in and out of the political spotlight. However, because of their overall inability to connect with sources of non-Indigenous political power, none of these organizations have truly been able to gain traction as the main voice for the current Mapuche population in larger Chilean society. This lack of communication has led, in part, to the perceived threatening nature of many Mapuche organizations.

Even though there are many different voices within the current Mapuche movement, the main demands of Mapuche organizations have moved much more toward a discourse of difference since the last century. Concepts of regional autonomy in the Wallmapu territory and land reclamation are prevalent in many of the more well known organizations, including the Coordinadora Arauco Malleco (CAM), Ad Mapu, and Aukiñ Wallmapu Ngulam (AWNg)—also known as el Consejo de Todas las Tierras. Calls for redistribution of land and power are still present in organizations that use insider strategies of protest. These more radical demands have found their way, to different extents in the rhetoric of organizations like Ad Mapu, la Identidad Territorial Lakkenche, la Red de Mujeres Mapuche, Wallmapuwen (a political party in Chile based on Mapuche demands), and la Plataforma Política Mapuche. All of these groups work

²³² This was previously discussed in Chapter One.

within the political system and have taken part in the elections for the Constitutional Convention. The core demands of the modern movement, especially coming from such a diversity of organizations, upset the discourses of cultural unity and capitalism that Chile has promoted over the last thirty years.

Though not a fully representative voice, the Mapuche organization based in the south of the country that is arguably the most well known to non-Indigenous Chileans is CAM. However, unlike the prominent organizations of the twentieth century that typically promoted central political discourses, in the present, CAM's leaders and message are some of the most radical of the time. Additionally, even more radical groups have splintered off from its message over the past decade.²³³ CAM, led by Héctor Llaitul—a former member of the MIR who had been tortured during the military regime—has executed numerous land-takeovers since the late 1990s. This is inherently threatening to the Chilean state, as CAM's physical opposition to high-profile forestry and electric companies operating in traditional Mapuche territories comes into direct conflict with Chile's current neoliberal model. Since CAM is one of the most notable modern Mapuche organizations, the fears of the state about this group are projected onto other Mapuche organizations that may have wanted to work within state systems or which use less combative methods. These organizations, and especially CAM, represent a radical political tradition that goes against the ideals of neoliberalism, ideals that have entrenched themselves into the Chilean national consciousness since the military regime. Neoliberalism was instituted with the intention of killing politics and the relatively vibrant discourse that had existed in Chile before 1973. Yet, Mapuche activist organizations not only show persistence in the face of this trend, but also continue to push their way further into the national discourse of the country, threatening the established order that had for a time rooted out more radical forms of speech.

²³³ Rojas Corral, interview.

While furthering isolation between Mapuche organizations and traditional political parties, the outsider strategies implemented by many Mapuche organizations, including CAM, during the last twenty years have actually served to create some unity in Mapuche communities. César Enrique Pineda Ramírez claimed in his 2018 work that the profound social mobilization of the late 1990s and early 2000s had a positive impact on the Mapuche community and built stronger internal cohesion, even if it came at the expense of palatability for the rest of Chilean society.²³⁴ There has been some contestation of this claim. Bidegain analyzed the efficacy of the decision by the majority of Mapuche organizations to turn away from working within existing governmental mechanisms. He asserted that in the long run it was an ineffective tactic as it increased negative perceptions of the Mapuche and their autonomous goals.²³⁵ However, from my own research, I believe that the unity fostered in Mapuche communities through these outsider strategies has been very beneficial to the movement. The increase in outsider strategies like the physical occupation of private and state land, the burning of equipment needed for industrial projects, and hunger strikes in response to the prolonged sentences imposed on Mapuche activists through the Anti-Terrorism Law are volatile in nature and have seen backlash from the non-Indigenous population. Because of this, stronger community bonds and a universal understanding of injustice have been forged, even among Mapuche community members that are not involved with subversive action. Therefore, while the Mapuche are isolated from national political dialogue in ways they were not before, and while there is not one organization that works in the way of a spokesperson for the entirety of the Mapuche community, there is still a sense of unity in the face of the injustices of land usurpation and the armed policing of their communities. This is unfortunately a double edged sword, only making Mapuche activism seem

²³⁴ Pineda Ramírez, 22-23.

²³⁵ Bidegain, 99-100.

like a larger threat to the neoliberal model, which tries to dissuade political activism and break political bonds.

Taking Advantage of International Norms and Judiciary Tensions

Mapuche activists have also threatened the structure of the Chilean State through their activism in the justice system. The Mapuche have been very successful, especially over the last decade, at drawing from international rulings and norms to document and push against their land-loss and the mistreatment they have faced from the central government in regards to the disproportionate application of anti-terrorist legislation within the court system. This has forced the Chilean government and judiciary to act against the neoliberal philosophies that it enshrined in the Pinochet-era constitution. Ultimately, these successes against neoliberalism have made Mapuche activists both a perceived threat and a real threat to the established framework.

The Chilean judicial system began a radical transition at the beginning of the twenty-first century, impacting the relationship between the Mapuche and the Chilean government as a consequence. A pilot program of criminal reform began in two of Chile's thirteen regions in 2000, breaking from Chile's previous inquisitorial system and facilitating a transition to an adversarial criminal justice system.²³⁶ One of the most fundamental changes made during this time was the separation of the investigatory, prosecutorial, and decision-making duties that used to belong solely to the judiciary.²³⁷ In response, the Public Ministry was established in 1999 and the Public Defenders' office was established in 2001. In addition to this, the government created two new types of judges: Guarantee Judges, who "guarantee" due process and review submitted evidence, and judges who preside over oral arguments. These judges work in a panel of three

²³⁶ Blanco et al., 253.

²³⁷ Blanco et al., 255.

judges. This process does not incorporate a jury.²³⁸ This separation of power within the judicial system has had substantial impacts on the way that Mapuche leaders have interacted with the justice system during the current Mapuche movement.

Public prosecutors in particular have a large amount of control over the treatment of Mapuche activists. Within Chile local constituents do not vote on who becomes the national public prosecutor or who is appointed to regional leadership positions of the public prosecutor's office.²³⁹ The head of the Public Prosecutor's office is selected by the executive from a list of five nominees prepared by the Supreme Court. The President's choice then needs to be approved by two-thirds of the senate. The appointment of regional heads is done internally by the organization.²⁴⁰ This means that there is very little public oversight of the Public Prosecutor's office. For communities that disagree with the policies of their public prosecutor—in relation to the prosecutor's application of the Anti-Terrorist Law, for example—there is not any recourse available to them in terms of the ability to vote the prosecutor out of office. Congress and the executive cannot force a public prosecutor to file an anti-terrorist lawsuit against anyone or stop prosecutors from filing those lawsuits, so the discretion of the public prosecutor has a lot of weight and there are not ways for dissatisfied communities to go through governmental pathways in an effort to hold a prosecutor accountable.²⁴¹

The lack of oversight of the Public Prosecutor's Office in regards to the Anti-Terrorism Law appears to be an issue for some judges as well. José Manuel Fernández Ruíz discussed this in an interview with me. Fernández is a lawyer who works for the Public Criminal Defense Office and supported Juana Calfunao Paillaléf's attempts to get permission to conduct cultural

²³⁸ Establece la Ley Orgánica Constitucional del Ministerio Público, Ley 19640, Ministerio de Justicia (October 15, 1999), <https://www.bcn.cl/leychile/navegar?idNorma=145437>; Crea la defensoría penal pública, Ley 19718, Ministerio de Justicia (March 10, 2001), <https://www.bcn.cl/leychile/navegar?idNorma=182755>.

²³⁹ Fernández Ruíz, interview.

²⁴⁰ Fernández Ruíz, interview.

²⁴¹ Fernández Ruíz, interview.

ceremonies while serving an over four-year-long prison sentence for protesting the construction of a highway through Mapuche land in which the Anti-Terrorism Law had initially been applied.²⁴² Fernandez described how he later conducted a report documenting the failings of the Public Criminal Defense Office in living up to the International Labor Organization's Convention 169, which protects Indigenous rights. It was the first report of its kind and it also documented the use of Anti-Terrorism Legislation against Mapuche defendants. He noted that during the study, he organized discussions that included Mapuche community leaders, leaders of other Indigenous groups in Chile, public prosecutors, and even judges in the Temuco area. In those discussions, he noted that many of the judges indicated that they believed change was necessary in the way that anti-terrorism legislation was used against Mapuche protestors and that they did not agree with what they saw as an over application of the law. However, in the Chilean system, judges do not have a say over what charges prosecutors bring against defendants.²⁴³ Additionally, some studies have found that since the transition away from an inquisitorial justice system, lower-court judges in Chile, especially in southern regions, have begun to accept a judicial approach that takes greater consideration of cultural differences, rather than use a monocultural one.²⁴⁴ Although prosecutors have invoked the Anti-Terrorism Law relatively frequently against Mapuche leaders, judges have in most cases eventually dropped the terrorist charges because of insufficient evidence, even if they do still end up convicting an activist of a crime, as described in Chapter Three. While this indicates that Mapuche activists do not actually participate in what most judges define as terrorist activities, the discrepancy in the number of

²⁴² Calfunao was the lonko, or head, of the Juan Paillalef Mapuche community and therefore her imprisonment impeded her ability to conduct cultural ceremonies for her community. See Fernández Ruíz, interview; "An Interview with Mapuche Chief, Lonko Juana Calfunao Paillaléf," *COHA*, 21 Nov. 2019, <https://www.coha.org/coha-exclusive-an-interview-with-mapuche-chief-lonko-juana-calfunao-paillalef/>.

²⁴³ Fernández Ruíz, interview.

²⁴⁴ Fabien Le Bonniec and Cristopher Corvalan, "Derecho penal chileno e interculturalidad en Wallmapu. ¿Un espacio para nuevas estrategias emancipatorias?" *Utopía y Praxis Latinoamericana* 29, no. 93 (April-June 2021): 34-64; Fernández Ruíz, interview.

invocations are the number of times Mapuche protestors have been convicted of the crime demonstrate a consistent conceptualization by certain State officials of the Mapuche as a threat since the charge is continuously repeated.

The difference in the number of terrorism charges brought against Mapuche activists and the number of people who are eventually convicted of terrorism may be slowly influencing prosecutorial strategy. According to a top-level human rights defense lawyer in Santiago who requested not to be named, he believes that prosecutors are becoming disillusioned with the anti-terrorism legislation because it has been dismissed so often. He noted that fewer prosecutors were using it against Mapuche individuals.²⁴⁵ A transition is occurring in prosecutorial strategy, according to the lawyer: since it is becoming harder for prosecutors to prove that Mapuche defendants have engaged in terrorist activity, they have begun using the traditional penal code more regularly in an attempt to achieve convictions, demonstrating the growing conflict between the Mapuche and the judicial system.

Mapuche activists have begun to find ways to use the Chilean judicial system, traditionally stacked against them, to their own advantage. This reflects patterns of Indigenous engagement within the political systems of countries throughout Latin America.²⁴⁶ Researchers Fabien Le Bonniec and Cristopher Corvalan have shown that there have been some positive changes in the interpretation of national law due to court cases in the south where Mapuche activists have invoked international conventions and laws to try to break down the legal frameworks that have historically oppressed them. Their study found that while, in general, Chilean courts are still conservative, Mapuche activists have been able to successfully expand cultural sensitivity and challenge monocultural ideology in many lower-profile court cases. This

²⁴⁵ Anonymous defense lawyer, interview.

²⁴⁶ See: Miguel González, "Indigenous Territorial Autonomy in Latin America: An Overview," *Latin American and Caribbean Ethnic Studies* 10, no. 1 (2015): 10-36.

has been especially true in cases where Mapuche activists have drawn on the International Labour Organization's Indigenous and Tribal Peoples Convention of 1989, which Chile signed in 2008. However, they also note that at higher courts within the national structure, drawing on the Indigenous and Tribal Peoples Convention has not been as successful.²⁴⁷ Mapuche activism and persuasive arguments that draw on international norms have begun to create friction within the judicial system, a system that has traditionally upheld neoliberal policy and the rights of corporations. These small changes made by Mapuche activists directly threaten neoliberal interests.

Mapuche activists have also been successful in using international court systems to affirm their rights. The most well known example of this was *Segundo Aniceto Norín Catrimán, Juan Patricio Marileo Saravia, Víctor Ancalaf Llaupe et al. (Lonkos, leaders and activists of the Mapuche indigenous people) with regard to the Republic of Chile.*" It is also considered to be the most influential court case of the modern Mapuche movement. The Inter-American Commission on Human Rights submitted the case to the Inter-American Court on August 7, 2011.²⁴⁸ The case was composed of four petitions: one presented in August 2003 by Norín Catrimán; another presented the same day by Pascual Huentequero Pichún Paillalao; a third presented in April 2005 by Juan Patricio Marileo Saravia, Florencio Jaime Marileo Saravia, José Benicio Huenchunao Mariñán, Juan Ciriaco Millacheo Licán and Patricia Roxana Troncoso Robles; and the last presented in May 2005 by 69 leaders of the Mapuche people on behalf of Víctor Manuel Ancalaf Llaupe.²⁴⁹ When filing the case, the Commission concluded that the State of Chile had violated human rights, as well as eight rights identified in the American Convention, including the principle of legality, the right to equal protection of the law and non-discrimination, the right to

²⁴⁷ Le Bonniec and Corvalan, 58-59.

²⁴⁸ *Norín Catrimán et al.*

²⁴⁹ *Norín Catrimán et al.*, 4.

examine witnesses, the right of appeal, the right to freedom of expression, the presumption of innocence, and the right to an impartial judge.²⁵⁰ It recommended that Chile should amend its Anti-Terrorism Act and its laws governing criminal procedure so that they would comply with the American Convention, as well as “adopt measures of non-repetition” so that discrimination in the legal system could be eradicated.²⁵¹

The Court ruled in favor of the Mapuche leaders in 2014 and its decision increased the visibility of Mapuche arguments for autonomy and land reclamation and highlighted the disproportionate application of the Anti-Terrorism Law against Mapuche leaders in international discussion and also in political conversations within Chile. The Court determined that “the sentences convicting the eight victims in this case... were delivered based on a law that violated the principle of legality and the right to the presumption of innocence... and imposed ancillary penalties that entailed undue and disproportionate restrictions to the right to freedom of thought and expression... and to the exercise of political rights.”²⁵² In accordance with this ruling, the Court established that the State had to nullify the convictions against the activists, financially compensate them for their experiences in prison, and provide “immediate and free of charge” medical and psychological treatment to the Mapuche leaders, among other reimbursements.²⁵³ Additionally, the Court determined that Chile must put more limits on the use of anonymous witnesses and give more control to judges in approving or denying the use of this particular law.²⁵⁴ This particular ruling was in relation to the use of anonymous witnesses in many trials where the anti-terrorism law had been invoked against Mapuche leaders, a procedure which is not allowed outside of this law.

²⁵⁰ *Norín Catrimán et al.*, 5.

²⁵¹ Inter-American Commission on Human Rights, 82-83.

²⁵² *Norín Catrimán et al.*, 138.

²⁵³ *Norín Catrimán et al.*, 137-146.

²⁵⁴ *Norín Catrimán et al.*, 142.

Some members of the court also noted the prejudice of the judges who initially sentenced the victims in this case. A joint dissenting opinion written by judges Manuel E. Ventura Robles and Eduardo Ferrer Mac-Gregor Poisot, contested the majority opinion that it was “not incumbent on the Court to rule on the alleged violation of the right to an impartial judge or court established in Article 8(1) of the American Convention on Human Rights,” and stated the following:²⁵⁵

The authors of this opinion consider that this reasoning... which is based on negative ethnic stereotypes and prejudices, reveals that the judges had personal prejudices with regard to the accused that were decisive in the establishment of their criminal responsibility (essentially their participation in the criminal act or the special terrorist intent). In other words, these personal prejudices had a decisive impact on the analysis of the evidence of criminal responsibility. The facts described in the Judgment reveal that those judicial decisions were reached in a context in which the social media and segments of Chilean society had adopted unfavorable stereotypes and notions of what they called “the Mapuche question,” the “Mapuche problem” or the “Mapuche conflict” that delegitimized the land claims of the Mapuche indigenous people and, in general, classified their social protest as violent or presented it as a cause of conflict between the Mapuche indigenous people and the other inhabitants of the region.²⁵⁶

This opinion demonstrates that even though some judges in lower courts question the disproportionate invocation of anti-terrorism legislation against Mapuche activists, as was discussed above, there are still many who draw on stereotypes during terrorism trials and continue to uphold the neoliberal values for the regime-era courts.

While no substantive change was made to Chile’s Anti-Terrorism Law following the Inter-American Court verdict, Mapuche activists used the case to bring more attention to their plight in the south of the country and have since been able to use the ruling as justification for their protest actions, as well as to defend their claims of unequal treatment. The Court ultimately

²⁵⁵ *Norín Catrimán et al.*, “Joint Dissenting Opinion of Judges Manuel E. Ventura Robles and Eduardo Ferrer Mac-Gregor Poisot, Case of *Norín Catrimán et al. (Leaders, Members and Activists of the Mapuche Indigenous People) v. Chile*,” 1.

²⁵⁶ *Norín Catrimán et al.*, “Joint Dissenting Opinion,” 17.

determined that the Chilean State was not under any obligations to change either its Anti-Terrorism Law or any laws regulating court procedure; however, it found that in all cases brought forward, Chile's Anti-Terrorism Law had been wrongfully used against the Mapuche activist.²⁵⁷ Even though not much direct legislative change came from the process, the Inter-American Court's decision legitimized the arguments that Mapuche leaders and the Mapuche community had been making. It validated that the application of anti-terrorism legislation was biased, subscribed to a racist framing of Mapuche protest, and delegitimized the claims of the Mapuche people.

Since the 2014 Inter-American Court ruling, more Mapuche leaders have brought cases to the Court in attempts to push for recognition and the land restitution that they are not receiving from Chile itself. The use of international venues as a space to air grievances with the Chilean state and force restitution for past mistreatment of Mapuche peoples is a rising trend. As recently as February 2022, the Inter-American Court of Human Rights decided to hear a case brought by AWNg. The group is supporting an attempt to reclaim land taken from specific AWNg members during the early 1990s by the government.²⁵⁸ These successes for the Mapuche against the Chilean Anti-Terrorist Law on the international scale actively combat the neoliberalist framework of the state because these rulings put pressure on the Chilean government to put Indigenous interests before those of corporations.

Overall, state officials have conceptualized Mapuche activists, and especially those from more militant organizations, as threats to the Chilean state because their activism and demands do in fact threaten the state's neoliberal model. Not only does the collective world-view of many

²⁵⁷ *Norin Catrimán et al.*, 148-159.

²⁵⁸ "Organización Mapuche Recurrió a La Cidh Para Exigir La Restitución De Derechos Ancestrales Sobre La Tierra." *Cooperativa*, February 17, 2022, <https://www.cooperativa.cl/noticias/pais/pueblos-origenarios/mapuche/organizacion-mapuche-recurrio-a-la-cidh-para-exigir-la-restitucion-de/2022-02-16/143153.html>.

Indigenous peoples, including the Mapuche, directly contradict neoliberal capitalist thought, but the sustained actions taken by many Mapuche organizations put weight behind their demands for autonomy and land restitution. The legitimization of Mapuche concerns through court systems, as discussed in this section, has been more consistent and obtained more results—at least on the international stage—than that of any other activist group in post-military regime Chile, bar the 2019 manifestations. However, the view that Mapuche activists are a threat is, in part, ironic. It was neoliberal policies of dispossession and exclusion that threatened the Mapuche, exacerbated tensions between the Mapuche and the Chilean government, and prompted the sustained Mapuche movement. This increased discussions of autonomy, which were less vocally expressed in the last century.

Conclusion

During my last trip to Chile, I met Don Painequeo at a *Ruka*—a traditional Mapuche house—the same *Ruka* where I had begun learning about Mapuche land reclamation struggles two years before. Don Painequeo runs the space as a ceremonial and community center in La Pintana, an area on the outskirts of Santiago that has a very large Mapuche population. The *Ruka* itself was surrounded by a grassy lawn and many leafy trees. Don Painequeo began working on this space twenty years ago with the help of the larger community, turning it from what he called a “garbage dump” with nothing green in sight, into a small park. He uses the space to preserve Mapudungun, cultural practices, and the Mapuche worldview, telling me that “he who wants to maintain the culture, teach his children the language, teach them the traditions—they can come here and participate in the different activities that take place.”²⁵⁹

While he cannot return to live in Wallmapu because of concerns about work and supporting himself and his family, he explained why land reclamation and having a space for Mapuche in their historical territory is necessary and fundamental to Mapuche activism:

From this point of view [where the Mapuche people have been separated from their land for more than 100 years] the issue is complex: How do we exercise autonomy for our territory? When we talk about autonomy we obviously have to talk about a space where autonomy is. So, many Mapuche want to return to their territory.... The primordial demand is territorial recovery, then come other demands of a different nature, but basically the Mapuche people want to recover their territory. Why? Because the lands that the Mapuche people have today are tremendously insufficient to have a life in accordance with the times we live in, and together with that, the state [needs to] respond to this great historical debt that it has with the Mapuche people. Today the state has committed a robbery and this robbery has not been repaired under any point of view, not morally, or economically, or socially, or culturally.²⁶⁰

It is clear that both neoliberal policies established under Pinochet’s military regime and the use of anti-terrorism legislation against Mapuche activists both heavily impacted the

²⁵⁹ Painequeo Paillan, interview.

²⁶⁰ Painequeo Paillan, interview.

trajectory of Mapuche activism since the transition to neoliberal democracy. They dispossessed Mapuche communities from their lands and served to isolate Mapuche leaders from the overall national political discussion. However, contrary to the goals of the state, this environment of repression fostered the persistence of this activist movement, even if it was no longer tied to other political parties and organizations as Mapuche movements of the past had been. While the current Mapuche movement may be isolated within Chile, Mapuche activists have been able to exert international pressure on Chile's neoliberal system in order to move land reclamation forward. Chile's neoliberal model also acted as a foundation for the creation of the Mapuche "threat" in that the state's apathy pushed the radicalization of certain Mapuche organizations and made the longevity of Mapuche activism stick out as something undesirable and dangerous given that most non-Indigenous movements have not been as sustaining.

Fortunately, looking forward, neoliberalism as a political framework could soon be chipped back, given the social protests of 2019, the current Constitutional Convention, and the election of left-wing Gabriel Boric to the presidency. This may mean large-scale changes in Mapuche activists' struggle for land reclamation and a potential restructuring of Mapuche organizations if frameworks supporting Indigenous autonomy are written into the new constitution. So far, the convention has framed Chile as a plurinational state, which fits the demands of a majority of Mapuche and other Indigenous organizations.²⁶¹ The concept of plurinationality has been something that Mapuche activists have been calling for increasingly over the past three decades, and its inclusion in the draft constitution seems to be a very important sign. The concept of plurinationality recognizes Indigenous leadership in their traditional territories, and this could have many positive impacts in terms of breaking down existing narratives of a Mapuche "threat."

²⁶¹ Rojas Corral, interview.

However, the road ahead is not completely clear, and scholars will need to continue documenting the relationship between the Mapuche and the Chilean state in order to verify that human rights are not abused. The Constitutional Convention has not put a damper on radical Mapuche activism or retaliation by the police and armed forces, a fact which casts some doubt on the efficacy of any constitutional reform attempt. After the murder of Camilo Catrillanca by state forces in 2018, the number of land reclamation campaigns increased to levels “not seen since the era of agrarian reform in the 1960s and 1970s.”²⁶² These activities have been met with new accusations of narcoterrorism by elites and the press. The charge of narcoterrorism has fallen mostly on more militant Mapuche organizations and began to take form in 2020, though many argue these charges to be baseless.²⁶³ The claims of narcoterrorism that have surfaced in national discussion, are not evidenced in an increase in the number of drug-related crimes in the south. Looking at statistics published by the Public Prosecutor’s Office on the Bío Bío, Araucanía, and Los Lagos Regions, the percentage of drug-related crimes has not substantially increased over the past seven years. While the discourse of narcoterrorism does not appear to be well founded, it has had a substantially negative effect on the Mapuche community and has also served to sow greater distrust between the state and Mapuche activists. The increase of violence in Wallmapu over recent years does bring into question the willingness of the national government to listen to Mapuche arguments for greater autonomy and the state’s ability to make actual change in regards to Indigenous relations in the new constitution.²⁶⁴

The next few years will be a turning point in the relationship between the Mapuche people and the Chilean state. However, addressing the nature in which neoliberalism has

²⁶² Nahuelpán et al., 297.

²⁶³ When speaking with Mapuche historian Pablo Millalén, he noted that the narrative was founded on the fact that some police officers discovered a couple of young Mapuche activists growing a marijuana plant on their property, which is currently an illegal substance in Chile. See Millalén, interview; Nahuelpán et al., 302.

²⁶⁴ Millalén, interview.

ingrained itself in Chilean society and rolling back the processes that facilitated the loss of Indigenous land and the ostracization of Mapuche activist networks from general political discourse will only help in mending the pain that has flourished in the south of Chile over the last three decades and help to curb narratives of the “threat” of Mapuche activism.

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