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Forestry Extractivism and the Constitutive Role of Law: The Public/Private Divide in a Southern Chilean Case Study

Abstract: This article examines the relationship between law and the expansion of forestry extractivism in southern Chile since the country's neoliberal Constitution of 1980 was put in place, as well as the prospects of that relationship in the context of constitutional reform. It does so by focusing on the ideological and distributive functions of law as constitutive of forestry extractivism. The article shows how, through the ideology of the private/public divide, law attributes a subsidiary role to the State in shaping forestry extractivism, obscuring the fact that it has fostered this sector's growth through land-use regulation and legal-economic entitlements such as tax benefits and subsidies. Moreover, it shows how legal institutions, specifically property and freedom of contract, have shaped and enabled processes of land concentration in the hands of a few large-scale companies that dominate the forestry sector, creating an imbalance in bargaining power to the detriment of peasants and small landholders. The article further argues that the ideology of the public/private divide has turned social and economic conflicts related to forestry expansion into matters between private actors that do not require State intervention, depoliticizing the actors' subjectivities and deepening the unequal distribution of power. Finally, it reflects on the dynamics of forestry extractivism and its relationship to constitutional change beyond exceptional moments such as constitutional reform processes.

Keywords: property, freedom of contract, land accumulation, forestry extractivism, distribution, constitutional change

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I. Introduction

In June 2022 I visited Santiago de Chile as well as the province of Valdivia, capital of the Los Ríos region, including the commune San José de la Mariquina. My goal was to explore the functioning of forestry based on monocultures of exotic species such as pine and eucalyptus in southern Chile and its relation to constitutional law. In mid-2022 the Constitutional Convention, established in 2021 as a representative assembly holding the constituent power in Chile, was about to deliver the draft Constitution that would be put to referendum in September 2022. The constitutional reform process resulted from popular mobilization starting in October 2019 against what has been labeled the "neoliberal" Constitution of 1980, a legacy of the dictatorial government of Augusto Pinochet (1973–1990); that constitution's principles and ideological grounds, upholding an individualist market logic, the protection of the market against democracy, and the subsidiary role of the state in the economy, had persisted in the thirty years of democratic governance that followed the end of the dictatorship (Alemparte 2022).[1]

While my goal was to explore the concrete ways in which the political economy of forestry was constituted and shaped by the Chilean neoliberal legal order, I also wondered how the constitutional reform draft, in the event of successful approval by referendum, could significantly contribute to challenging the forestry sector's structure and dynamics. Forestry based on monocultures such as pine and eucalyptus is an important export-oriented sector of the Chilean economy, constituting 7 percent of the country's total exports (INFOR 2023). Southern Chile is the location of this large-scale cultivation of trees for mass production of wood products, which I define as "forestry extractivism" due to the high concentration of resources such as land and water it uses and its pervasive negative effects on nature and livelihoods. Chile has 2,309,563 hectares of forest plantations, and the Bio Bio, Maule, Nuble, Araucania, Los Ríos, Los Lagos, and O'Higgins regions have the largest planted areas of eucalyptus and *Pinus radiata* (ibid.).

Los Ríos (Region XIV) is in the southern part of Chile and has a planted area of 175,471 hectares of radiata pine (48.4 percent) and eucalyptus (47.9 percent). San José de la Mariquina, located in Los Ríos, has 28,108 hectares (INFOR 2023). Because the pulp-mill and biomass plant of the conglomerate Celulosa Arauco y Constitución (CELCO)—the largest exporter of forestry products (ibid. at 170)—is located there, the commune is actively involved in the production of chemical pulp for export. CELCO also owns a sawmill and wood-chip company in San José de la Mariquina (ibid.).

Forestry extractivism started in San José de la Mariquina when neoliberal ideas were first introduced as policy in Chile. Pinochet approved legislation, Decree Law 701 (DL 701), to promote forestry extractivism in 1974. Decree Law No. 701, October 28, 1974, Diario Oficial. So far, aside from effects on communities, it has caused ecological controversies related to megafires (González et al. 2020), potential sea contamination from a thirty-two-kilometer wastewater pipeline project (Palma 2013; Colectivo Viento Sur 2022), the mass deaths of black-necked swans and other water birds through contamination of the Carlos Anwandter Nature Sanctuary (Sepúlveda and Bettati 2005), and water scarcity (INDH 2022).

This article uses the case of San José de la Mariquina to scrutinize how forestry extractivism and its negative environmental impact are constituted by state law. This case study helps illuminate key aspects of the function of law in the context of capitalism in its neoliberal phase, as well as the ongoing consequences in the present. In this micro approach, I am inspired by the concept of

[1] Although the Constitution of 1980 underwent several reforms throughout different democratic regimes, the principles concerning the neoliberal economic order ruling Chile have remained (Alemparte 2022).

microhistory, a theoretical and methodological mode that insists upon a reduction in scale in the observation of historical facts. Microhistory helps unveil unnoticed aspects of larger, longstanding historical relationships and processes, generating more concrete insights (Hargadon and Wadhwani 2023 682–83). The experience of San José de la Mariquina is a microcase example (Monje Hernández 2018) that I use here to gather a concrete understanding of various sides of neoliberalism as a legal project and its relationship with forestry extractivism. When interplayed with the general background or macro framework concerning neoliberalism, constitutional law, and forestry extractivism in Chile, the micro approach allows me to produce knowledge about how neoliberalism as a legal project of regulation has worked in practice, but also to generalize those findings and add new information to the macro perspective of the interplay between law and neoliberalism.

I intend to show how a web of legal regulations concerning forestry, property, and freedom of contract have established conditions that create and entrench land concentration, exploitation, and the depletion of nature rather than promote equal competition and freedom. I argue that neoliberalism as an ideological project of legal regulation has contributed to the entrenchment of extractive capitalism by masking the distributive and coercive functions of property and freedom of contract by proclaiming values such as freedom and equality. In doing so, I call into question the extent to which contemporary constitutional reform can challenge the material effects of a legal order whose function has been to give form to the accumulative and exploitative dynamics of extractive capitalism.

The article proceeds as follows. Part II defines the concept of forestry extractivism and the relationship between law and extractivism during neoliberalism in Chile. Part III introduces Chile's forestry industry, focusing on San José de la Mariquina. Part IV provides my arguments on the law's role in creating a market for land accumulation, in distributing resources and wealth, and as an ideological device. The final part reflects on the Constitution and constitutional change in connection to the legalities of forestry extractivism.

II. Law and Extractive Capitalism

Extractivism is an academic concept born in Latin America to discuss "self-reinforcing practices, mentalities, and power differentials underwriting and rationalising socio-ecologically destructive modes of organising life through subjugation, violence, depletion, and non-reciprocity" (Chagnon et al. 2022). As a modality of appropriation and accumulation based on the exploitation of natural resources and labor, it is applicable to sectors engaged in the large-scale extraction of unprocessed natural resources, such as mining, fishing, and agriculture (Gudynas 2013; Ehrnström-Fuentes and Kröger 2018). Raw materials are extracted from natural resources and then exported internationally as inputs for industrial processes elsewhere (Szeman and Wenzel 2021; Gudynas 2015) with little or no industrial processing before export (Chagnon et al. 2022). Various fields of scholarship now focus on the effects of extractivism; for example, political ecology approaches highlight its pervasive socio-ecological effects (Ehrnström-Fuentes and Kröger 2018).

Just as agriculture is not necessarily extractive in character, forestry is not extractivist per se: Not all forestry techniques or tree-based economic activities unite the features of extractivism (Kröger and Ehrnström-Fuentes 2021). Forestry extractivism often entails two types of interconnected operation: tree plantations and cellulose pulp production (ibid.). It can also involve more complex operations related to the treatment of raw wood materials as agricultural crops.

Forestry is a mode of capitalist extractivism when it involves industrial monocultural plantations of hundreds of hectares contractually controlled or owned by corporations that forcefully pull out

value from soil and land (Kröger 2014), requiring investment for infrastructure. This activity is extractive since a condition for its development is accumulation and expansion of control of resources such as land and water for export-oriented commercialization of forestry products, such as logs and pulp. It is a long-term process that starts with controlling land in order to make it available for a second phase, planting monocultures, and a third phase, constructing infrastructure such as pulp mills (Kröger and Ehrnström-Fuentes 2021). Land control can happen through violence, fraudulent manipulation, or both (Saffon Sanin 2015), but also through legal tools that reproduce the idea of free and voluntary exchange. Forestry extractivism has destructive consequences such as soil salinization, water scarcity, pollution, the erosion of natural infrastructure, and the subversion of local people's previous ways of making a living (Kröger and Ehrnström-Fuentes 2021). In Chile, contemporary pine and eucalyptus forestry has been shown to rely on historical processes of expulsion of the Indigenous Mapuche population from their territories (Schmalz et al. 2023) and the privatization of their land by the state (Torres-Salinas et al. 2016). The birth and expansion of forestry extractivism has undermined the Mapuche population's relationship with their commons and traditional forms of production (Schmalz et al. 2023).

Growing monoculture forestry has also replaced southern Chile's native forests in Los Ríos. It has triggered ecological disasters, such as megafires and the decimation of water-bird populations, both in its plantation phase and during the construction of pulp-mill infrastructure. It has been enabled by land deals that allow accumulation and control through contracts of supply for raw materials (Clapp 1998). These legal forms have also co-opted peasants into dynamics of exploitation, converting them into a cheap labor force (ibid.). Extractivism has transformed local people by threatening their culture and livelihoods and coercing them to leave their territories or join its dynamics (Pino Albornoz and Carrasco Henríquez 2019).

A. The Law Constitutive of Forestry Extractivism

Although extractivism is an object of increasing attention, the role that law performs in enabling extractive capitalism remains underexplored. Legal scholars tend to either describe law as a mere fact or rely on the neoclassical idea that law and economics are separate spheres.

To show how forestry extractivism in Chile cannot be understood without considering its legal foundations and the context of neoliberalism, I borrow the theoretical framework built by early-twentieth-century US legal institutionalists such as John Commons and Realists such as Robert Hale, who highlighted how law performs a central role in creating and facilitating the conditions for capitalism's growth and expansion (Commons 1995; Hale 1923). While their work predates neoliberalism, it helps in understanding the relationship between law and neoliberalism as the current phase of capitalism (O'Connor 2010).

This framework shows that law is constitutive of capitalism and not a mere reflection or external element of its structure (Deakin et al. 2017). Capitalism and its processes are creatures of law created, enabled, and sustained by the state, and the legal rules grounding capitalism are expressions of state capacity or power that can be traced and analyzed historically in connection with institutions and state formation.

This analysis showed that it is impossible to completely deregulate or create an unregulated economy or market (ibid. at 190). Markets are not a natural phenomenon and prices are not an inherently self-regulating mechanism, as markets are created by law. Property bought and sold in the property market, contracts for different economic transactions, and subjects involved in those transactions are all legal entities rather than external objects outside legality (Davis and Klare 2019).

1. Distribution and Coercion: Debunking Formal Equality

In opposition to the liberal view of the economy as a field ruled by freedom and equality, Realist legal scholarship has identified how the law functions to unequally distribute entitlements and impose coercive restrictions on individual freedom (Hale 1923). The economy is a system based on asymmetrical power that decides on resource allocation and income distribution, and the law creates and then validates that system (Samuels 1973, 276).

Law plays a causal role in distributing natural resources, income, wealth, and social and economic harms (Kennedy 1991), and this distributive function results from power relations and the coercive power that parties or groups exert over one another. As such, the way the law operates in practice departs from its purported protection of equal rights or promotion of equal opportunities; the law can create exploitation.

The distributive function of law paves the way for the conditional inclusion of the impoverished within a natural resource economy that reproduces exploitation, accumulation, and resource-grabbing. To illustrate, the right to property implies the state will not interfere with the rights of the owner; at the same time, the state exerts coercion over nonowners to protect the owner from violent or peaceful infringement (Hale 1923, 471–72). The state's protection allows the owner to impose legal duties over the nonowner that stem from the power of exclusion as a core element of property rights. Given material realities, the nonowner is therefore compelled to carry out the owner's will to avoid negative consequences (ibid.). Due to the coercive restrictions imposed upon nonowners, the bargaining power of nonowning individuals and groups is limited and unequal compared to the bargaining power of those who own or control resources and other commodities (ibid.).

This functional role of property shows social and legal relations to be proprietary relations, effecting economic actors' position of power in social relations generally (Frerichs 2024, 45-46). Ultimately, thinking through property in its functional sense throws into relief the dynamics of coercion and inequality that ground societal formation in the context of capitalism.

2. The Public/Private Law Divide as an Ideology

The law also has an ideological function. I draw on ideology critique to show how legal meanings and institutions serve to form, sustain, and create relations of domination and exploitation (Torres Zúñiga 2022) in the capitalist context. Specifically, these meanings and institutions reproduce the belief that markets are a private domain and obscure the state's role in creating the market by providing the rules for its functioning. More generally, law and economic processes are interdependent and coconstitutive rather than separate or normatively different (Samuels 2007).

In particular, the so-called public/private divide obscures the link between the state (government) and the private domain (understood as the market), even as the private law governing market relations in a context of neoliberalism enables the reproduction and deepening of inequality. A theoretical division between public and private law has sustained the political economy of capitalistic markets and liberal legal thought. Under capitalism economic life is portrayed as a sphere ruled by private actors without government intervention (Ireland 2003). Scholars argue that capitalism has relied on the argument that polity and economy are separate domains, a division that works ideologically because it portrays the economic sphere as apolitical since it is out of the public domain and state control (Wood 1995).

The artificiality of the public/private divide hides the fact that the private sphere is the other side of the governmental coin. In defining only the government as public, the purported public/private split masks the fact that private actors also exert governing power (Duxbury 1990). In fact, every allocation and enforcement of property rights represents a distribution of power determined by the state, as well as an agenda for the distribution of power, wealth, and welfare (Waxman 2006).

B. Law and Extractivism in Chile in the Neoliberal Era

Both capitalism and neoliberalism need to be understood as legal projects. Neoliberalism is one phase in the long history of capitalism and its continuous transformations (O'Connor 2010); it reflects a specific organization of capitalist relations of production and reproduction based on power and exploitation (Tzouvala 2017). The concept is complex and has been defined variously by different scholars as a normative project, as a social class project, and as a "totalizing rationality" producing subjectivities such as "homo economicus" that become common sense or a generalized worldview (Brown 2015; Chadwick 2019b).

During the dictatorial government of Pinochet, Chile is understood to have been the laboratory for neoliberalism. Pinochet appointed a group of Chilean technocrats who had been educated at the University of Chicago starting in the late 1950s (sponsored by the US and now known as the "Chicago Boys") under the leadership of economics professor Arnold Harberger (Edwards 2023) in various government positions. Together with business elites (Valenzuela and Cordero 2023) and with the advice of Chicago school scholars such as Milton Friedman, Friedrich Hayek, and James Buchanan (Whyte 2019; Alemparte 2022; Edwards 2023), they put in place a market order. They argued such an order would ensure individual freedom because, they believed, it would require minimum intervention by the state to secure its optimal functioning. Named *El Ladrillo* (The Brick), this economic program involved trade liberalization, tariff reductions, widespread privatization (including of social security), and regressive added-value tax (Whyte 2019).

Chile's neoliberalism has been addressed as a legal project from various perspectives. Scholars have shown that as a normative project it influenced the constitution-making process between 1973 and 1980, establishing the primacy of the market as the constitutional principle creating development and distributing resources. They have thus focused on the impact on the constitution-making process of Chilean legal scholar Jaime Guzman's work, Hayek's *The Constitution of Liberty* (1960), Buchanan's thinking on constitutional economics, and Friedman's advice on "shock therapy" (Cristi 2020; Alemparte 2022). Another approach shows how the 1980 Constitution transformed citizens into "neoliberal subjects" with primarily individualistic ends, in other words, entrepreneurs (Ramírez 2019). From a class-project perspective, it has been argued that neoliberalism in Chile served local elites through a set of policies oriented toward re-creating the conditions for accumulation in the second half of the twentieth century (Undurraga 2016).

In this article I focus on the neoliberal Constitution of 1980 as the founding legal order ofChile's current forestry extractivism. The 1980 Constitution created an enduring "public economic order" in which the autonomy of the individual—centered around freedom of contract and the right to property—represents the common good and ultimate point of the state, and the role of the state in the economy is subsidiary (Ferrada Bórquez 2015; Cristi 2020; Alemparte 2022).

The principles of this economic order rely on strengthening the ideology of the public/private divide that sustains the legal code of capitalism in Chile and has grounded the country's civil law tradition since the nineteenth century. Minimal state intervention and prioritizing the economic freedom of private agents are deep tenets of the country's legal culture and influence the way legal norms are interpreted and put into practice (Valle Silva 2021). The neoliberal economic order made

official by the Constitution of 1980 has entrenched an already existing mode of social reproduction based on relations that create and reproduce inequality and exploitation.

1. The Subsidiarity Principle and the Market Economy

The principle of subsidiarity, which states that decisions and responsibilities should be addressed at the lowest or most local level possible, aspires to address the allocation and use of authority within a social, legal, and political order characterized by multiple levels and dispersed political power levels (Føllesdal 2014). In the last twenty years it has been used to discuss, inter alia, topics related to Europe's integration into the constitutionalization of international human rights law (ibid.). In economics, subsidiarity is part of an economic public order in which the state abstains from intervening in the economy in order to secure freedom, autonomy, and independence of individuals (Ferrada Bórquez 2000).

Subsidiarity is a core principle underpinning the relationship between state and the economy in the context of Latin American constitutionalism.[2] The principle is tied to the idea that Latin American constitutional orders embrace, explicitly or implicitly, a "social market economy" or "market economy" as a system in which individuals have a fundamental responsibility for their own development and in which the market is the mechanism for achieving distribution, solidarity, common good, and social equilibrium (Alarcón Peña 2018; Resico 2009). In this model, the state intervenes in the economy to correct market distortions when individuals cannot carry out economic activities in an efficient way, or to protect and secure social and cultural rights within the dynamics of the market economy (Alarcón Peña 2018; Cruces 2020; Viera Álvarez et al. 2016; Correa Henao 2018).

Although the Peruvian Constitution of 1993 is the only constitutional text in Latin America that explicitly refers to subsidiarity in relation to the "social market economy" as the ruling economic constitutional model (Article 58), the case law of regional high courts[3] and Latin American scholarship refer to the social market economy, the market economy, and subsidiarity in relation to their legal orders (Viera Álvarez and Garcia-Campos Almendros 2023; Alarcón Peña 2018; Correa Henao 2018).

In Chile, the Constitution of 1980 does not expressly include the principle of subsidiarity, but Article 19.21 ("Right to establish a business") has been interpreted as stipulating the role of the state in the economy as minimal (Ferrada Bórquez 2000). The Constitution does recognize the autonomy of intermediate groups, the principle of state service, and the regulation of state business activity (Viera Álvarez and Garcia-Campos Almendros 2023; Vallejo Carretón 2016), three elements that have functioned as containers of subsidiarity, that is, by preventing the state from entering fields that can be developed by individuals in an efficient and convenient way. This means the state can only intervene when individuals cannot perform economic activities efficiently. While this definition of subsidiarity can be linked to the idea that neoliberalism depends upon a mode of governance based on deregulation, concurrently reregulation is a permanent feature of neoliberalism as the state intervenes to create markets (Panez et al. 2020).

[2] The principle of subsidiarity as a legal concept in Latin American constitutionalism has links with ordoliberalism as a political and normative project born in postwar Germany and US neoliberalism, specifically its conceptions about the role of government in the economy, the separation of the economy and politics, and the protection of individual and economic freedoms. However, these connections are beyond the scope of this article. To read about the differences and commonalities between US neoliberalism and ordoliberalism, see Cerny (2016).

[3] Constitutional Court, September 26, 2005, Sentencia C-983/05 (Colom.).

The notion of a minimal state reproduces the public/private divide ideology and masks how neoliberal reforms in Chile required a strong state—indeed, a dictatorial state (Alemparte 2022). The principle of subsidiarity also entails that a strong state is present in the economy through regulations that facilitate transfer and accumulation of resources and provide legal protection or certainty to those who accumulate those resources, either through property (Panez et al. 2020) or contract law.

The growth of agribusiness in Chile is one such example: It can only be explained by the state's intervention to secure property rights, liberalize land markets to facilitate land accumulation, and precaritize labor rights (Kay 2016). In the case of forestry extractivism, the state subsidized the sector for approximately forty years, from 1974 to 2014, and the Constitution of 1980 legitimated the extractivist dynamics already created under private law arrangements such as exchange of land under contract law.

2. Property and Freedom of Contract

Chile has a longstanding tradition of civil law that shapes how freedom of contract and property are understood (Valle Silva 2021). In the Chilean civil law tradition, property is understood as an exclusive, permanent, and absolute right. Although the concept that property has a social function was introduced into the constitutional order in 1925, and the Constitution of 1980 still included this conception, in practice property as an individual right has been maintained, reinforced, and protected from any democratization or redistribution.

Article 19.24 of the 1980 Constitution, which includes an extensive right to property, has been analyzed by scholars to show its impact on the propertization of the right to water, among other rights (Ferrada Bórquez 2015; Ramírez 2019). The Commission of Studies of the New Constitution that prepared the draft that became the Constitution of 1980, created by Pinochet's regime, established the legal principles of a neoliberal economic order in which the free market would be, simultaneously, the space for competition and distribution and agent of the common good. The Commission reinforced the idea of property and its background in civil law tradition, presenting it as the fundamental pillar of individuals' autonomy and freedom (Cristi 2014), without which public freedoms are an illusion (Alemparte 2022). This understanding of property impacts the distributive and coercive function of law: Concepts such as solidarity and collective goals are surpassed by private and individual interests.

In such a neoliberal legal order, the subjective or absolute function of the right to property performs a constitutive role in processes of concentrating land in few hands. Property acquires a normative dimension that surpasses most other rights, becoming a supra-right of the legal order (Ferrada Bórquez 2015). Given that there are no limits imposed on property rights—despite the formal inclusion of the social function of property in Article 19.24 of the Constitution ("the general interests of the Nation, national security, the public utilities and health and the preservation of the environment"), the legal order prioritizes owners' interests before the protection of common goods and other matters of a public nature—the owner holds powers of exclusion and coercion that trump other interests and legal rights of an individual and collective nature, such as the protection of the environment and Indigenous rights, among others.

Equally, freedom of contract, based on the idea of the equality of the parties involved, envisions individuals as if everyone has equal bargaining power—eliminating historical context and any differences in economic and political power. In promoting freedom of contract as a core element of the economic order, the Constitution of 1980 turned subjects into buyers and sellers, foreclosing any potential for an equal distribution of resources (Brabazon 2022). Freedom of contract, based

on the idea that subjects act under their free will in the marketplace, serves to depoliticize conflicts and can turn common or collective goals into private interests, perpetuating inequality and dynamics of exploitation (Brabazon 2017b; Brabazon 2022).

To sum up, this section has provided the theoretical framework for my understanding of the function of law in relation to extractivism and the connection between law and neoliberalism from a constitutional law perspective in Chile. These ideas will be used in Part III to analyze the specific case of San José de la Mariquina, which demonstrates how the state, through its legal institutions such as freedom of contract and property, as well as the ideological function of the public/private divide and subsidiarity, has established, shaped, and legitimized forestry extractivism in southern Chile.

III. Forestry Extractivism in Chile

This section focuses on the commune of San José de la Mariquina as a micro case study of forestry extractivism in Chile. I start by providing a general background of the origins of monoculture forestry to put the case study in context. The information about San José de la Mariquina serves to highlight the singularity of this case, where monoculture forestry expansion has occurred through private law schemes rather than through the suppression of common ownership of Mapuche lands, through privatization of state-owned monoculture plantations, land, and infrastructure. Part III provides an account of the transformation of the territory San José de la Mariquina, explaining a change in the use of land from traditional agricultural crops to monoculture crops, the social conflicts and mobilization against the expansion of forestry extractivism, and the consequences this activity has triggered in the commune. These facts indicate the role that law has performed in constituting forestry extractivism, as described in Part IV of this article.

Monoculture forestry has become an important economic export sector in Chile over the past forty years. According to United Nations Food and Agriculture Organization (FAO) statistics, Chile contributes 2.24 percent of the total of forestry products worldwide. It also exports 7 percent of the total of pulp exports, after Brazil (24 percent), Canada (15 percent), and the United States (11 percent) (FAO 2022). Chile exports forestry products such as chemical pulp primarily to China and the US (INFOR 2023). In 2022, a total of $19,483 million US in forestry products were exported to the Chinese market, accounting for 29.2 percent of the total, while the US markets received $1.715 million, 25.7 percent of the total (ibid.).

The beginnings of forestry in Chile can be traced back to colonial times (1600–1810), when native forests were exploited to provide material for construction and energy. In 1872, the first forest law established rules and limits for the burning and felling of native tree species (Frêne Conge and Núñez Avila 2010). Now, two types of forest coexist in Chile: native forests and exotic plantation forests.

The origins of pine and eucalyptus forestry extractivism in Chile are linked to the expansion of the agrarian frontier in southern Chile during the second half of the nineteenth century. As part of its colonization policies, the state aimed to relocate the Mapuche population into constricted allotments of land called *reducciones* and through emigration. The state also promoted the burning of the native forest covering southern Chile to facilitate white settlement and make land available for feeding livestock and cultivating wheat, among other agricultural products (Klubock 2014).

At the beginning of the twentieth century, however, the state changed tack, seeking to reverse the effects of its former strategy to occupy the south. Due to droughts and soil erosion, among other

consequences of intensive agriculture in this territory, the state now promoted the cultivation of exotic species such as Monterey pine (*Pinus radiata*) as an afforestation measure (Klubock 2014). Agricultural overexploitation thus paved the way for pine plantations to become an attractive investment for landowners.

Since the early twentieth century, Chile's forestry sector has been dominated by private actors who have received permanent support from the state, which has promoted the colonization of southern Chile by granting land concessions or property titles to national and foreign private settlers for planting tree species such as pine at large or small scale (Torres-Salinas et al. 2016; Klubock 2014). In the 1930s and 1940s forestry was part of the state's import-substitution industrialization policy and expanded massively in southern Chile. In 1931, the Forest Law was passed to promote forestry extractivism, stipulating subsidies for land planted with trees (declared "forestal" land) and exempting tree plantations from property taxes for thirty years. In the period that followed, state agencies such as the Chilean Economic Development Corporation (CORFO) also provided incentives, loans, and credit to private landowners that would expand pine plantations and eucalyptus (Klubock 2014).

In the 1950s and 1960s the state reinforced its policies to promote pine and eucalyptus plantations and export-oriented economic activities related to forestry (such as cellulose extraction). A number of state-owned and state-run companies such as Forestal and Celulosa Arauco S.A., Forestal and Celulosa Constitución S.A, Industrias Forestales, and Forestal Pilpilco were founded. State-owned paper mills were established in an attempt to diversify Chile's exports (Klubock 2014). International agencies such as the International Monetary Fund (IMF), United Nations Food and Agriculture Organization (FAO), and United Nations Economic Commission for America Latina (CEPAL) have also played an important role in expanding forestry in Chile (ibid.). CEPAL and FAO have advocated for the construction of cellulose and pulp mills and offered technical assistance to programs seeking to expand pine plantations in the country. They see pine forestry as a source of economic development that would convert Chile into Latin America's most important country through its paper and cellulose industries (ibid.).

Agrarian reform took place during the governments of Eduardo Nicanor Frei Montalva (1964–1970) and Salvador Guillermo Allende Gossens (1970–1973). Frei's government sought to redistribute large areas of land among workers and to modernize agriculture. It promoted forestry based on pine and eucalyptus as essential for exploiting the land efficiently, to industrialize the country, and to create wealth based on a system of privately held land. Private properties engaged in productive forestry could not therefore be expropriated (Klubock 2014). Upon coming to power in 1970, Allende's government expropriated private forest estates in response to demands from peasants and workers who had invaded these lands, arguing that the estates had been established through fraud and that forest exploitation was therefore illegitimate (ibid. at 210-211). It created state companies to hold ownership of the expropriated lands; Complejo Maderero y Forestal de Panguipulli (COFOMAP), for example, was created in 1971, administrated and controlled by workers (Monje Hernández 2018; Barrena Ruiz et al. 2016).

From 1973, the Pinochet-led coup marked a structural change in the dynamics of forestry extractivism. The previous agrarian reform was dismantled and expropriated land returned to its previous owners. For example, Mapuche communities in the region of La Araucania, whose lands had been restituted under the agrarian reform, were impacted by this counterreform. Land restitution was revoked, and lands were returned to the previous owners, leaving these communities without the opportunity to cultivate crops or livestock (Millamán and Hale 2016). The owners then sold the land to big corporations dedicated to monoculture forestry, which were seeking to expand their control of land in a context of active state support for such extractivism.

In 1974, Pinochet approved Decree Law 701 (DL 701), aimed at promoting forestry in soils that could sustain it and recovering areas of degraded soil for forestry by subsidizing the costs of establishing a plantation by 75–90 percent, scrapping related property taxes, and cutting related income taxes by 50 percent (Ministerio de Agricultura and CONAF 2005; Donoso et al. 2015). DL 701 is widely seen as central to private actors' expansion of forestry extractivism. The law, however, was not only driven by Pinochet's free-market policies, but was also the result of lobbying: The forestry business association Corporacion de la Madera (CORMA) had been requesting benefits for forestry expansion since the 1950s.

In 1964 CORMA had introduced a bill that sought to promote afforestation and forestry expansion, reforesting fifty thousand hectares per year with radiata pine and twenty thousand with other species, and to increase the production of cellulose, newsprint, sawn wood, and derived products (Monje Hernández 2018). DL 701 incorporated the contents of this bill. CORMA's president between 1963 and 1966, Fernando Léniz Cerda, was Minister of Economy under Pinochet between 1973 and 1975, when DL 701 was approved (ibid.).

In tandem, the military regime embraced a forestry model based on free-market policies, privatization, and forestry exports (Klubock 2014). In the years that followed the approval of DL 701, the state sold off plantations, forests, and industrial facilities at bargain prices. The National Forest Corporation, CONAF, sold off three major companies created by CORFO—Forestal y Celulosa Arauco, Forestal y Celulosa Constitución, and Industrias Forestales—even though they had all been profitable and efficient as state-owned businesses. Groups such as Angelini and Matte bought this state infrastructure at low prices and quickly expanded their businesses in regions such as Araucania and Concepción by controlling land, planting exotic rapid-growth species such as pine and eucalyptus, and building infrastructure (Van Dam 2006). Their forestry business model involves controlling land to grow plantations and build infrastructure such as pulp mills, paper and cardboard production plants, wood-panel factories, chip production, and sawmills (Reyes and Nelson 2014, 4).

The forestry sector's growth was enabled by state subsidies and other state incentives to the private sector. In 1975 the state authorized the export of forest products at any stage of processing, including roundwood (any timber sold in log form) and chips. Around the same time, it modified labor legislation to cheapen labor costs for the forestry sector and other sectors (Lara and Veblen 1993). Meanwhile, DL 701 provided economic incentives to achieve afforestation quickly in the lands appropriate for this type of activity (Article 21; Donoso et al. 2015); it also provided income tax benefits to the companies involved in the forestry sector (Article 20)

Overall, the state has been the contributor to the expansion of forestry based on pine and eucalyptus. As Klubock (2014, 243) writes, "Of the 1 million hectares [of pine trees] planted between 1974 and 1980, CONAF was responsible for planting 37.5 percent and for financing with subsidies and credits another 39.4 percent. Private capital financed and planted only 23.1 percent of the pine plantations during this period."

Between the 1970s and 1997, the big forestry companies, such as CELCO and Compañía Manufacturera de Papeles y Cartones (CMPC), received 94 percent of the subsidies; only 6 percent of subsidies went to small producers (Reyes and Nelson 2014). In 1998, Act No. 19,561 extended state subsidies to improve degraded and fragile soils in favor of small landowners, yet between 1998 and 2009 the companies remained the main beneficiaries, receiving 50 percent of funds while small landowners only received 32 percent (ibid.).

Afforestation subsidies were supposed to expire on January 1, 2011, but in August 2010 Chile's government extended the law for two years with a temporary increase in subsidy amounts (Act No. 20,488). Since 2012 the state has not provided any subsidies for afforestation with pine and eucalyptus.

As a result of the above-described legislation, forestry extractivism remains highly concentrated in the hands of three grand conglomerates, CELCO, CMPC, and Maderas Aglomeradas Sociedad Anónima (MASISA), which own over thirty thousand hectares of plantations (INFOR 2023), equating to 64 percent of all plantation forest in Chile. Moreover, the forestry sector is primarily concentrated on roundwood consumption and primary forest industry production such as pulp, sandwood, and chips (ibid.). Pulp represents 48 percent of the forestry sector's exports, followed by sandwood, panels, veneer, and chips (INFOR 2023; Cardemil Winkler 2021).

A. San José de la Mariquina and Neoliberal Forestry Extractivism

Until the 1960s, San José de la Mariquina was not a territory oriented toward forestry; instead its land use was focused on wheat and other traditional products. Since then, extractive forestry has been silently growing (Monje Hernández 2018). The first pine plantations can be traced back to the late 1960s, and now over 58 percent of the region's exports are primary forestry products (Yanez Barrios 2024).[4]

DL 701 allowed the expansion of forestry extractivism in new areas by stipulating the types of land appropriate for forestry, including land with steeper slopes, and contained other exceptional rules to declare land as suitable for forestry even if it did not qualify under the criteria established in Article 3. Article 10 stated that the public authority could declare land as appropriate for forestry in cases involving public interest, regardless of its owner and regardless of whether or not the land already had forest. Steeply sloping land predominates in Valdivia and San José de la Mariquina. Although it is not ideal for agricultural use, communities have traditionally cultivated wheat, beets, and other crops (Monje Hernández 2018). DL 701 did not provide any special protection for these communities or their usages of land. It thus facilitated a change in land use.

Additionally, public institutions promoted the incorporation of forestry as part of peasants' activities.[5] In the 1970s, CORFO promoted pine cultivation by creating a forest nursery in Valdivia to replace cultivation of wheat and other agricultural products (Monje Hernández 2018). Starting in the same decade, institutions such as the Austral University of Chile promoted forestry based on pine and eucalyptus as a promising source of profit for landholders and as suitable for Valdivian territory (ibid.). In 1996, the Instituto Nacional de Desarrollo Agropecuario (INDAP) and the municipality of San José de la Mariquina created the Program of Local Development (PRODESAL), which has assisted in forestry expansion by providing technical and professional support to smallholders in San José de la Mariquina as well as creating forestry nurseries and greenhouses in communities as alternatives to traditional agriculture (ibid.).

A key driver of land concentration was the private acquisitions that took place throughout the 1980s and early 1990s, although some of the first transactions had already taken place during the 1970s (Monje Hernández 2018). Peasants and small landowners in San José de la Mariquina tended to be impoverished, and there was no support for them to improve their conditions. Big companies

[4] Los Ríos also exports fruits such as blueberries, cranberries, flowers, and dairy products. For an analysis of flowers and berries, see Almonacid (2018).

[5] Monje refers to the 1992 publication of *¿Cómo se enfermó mi suelo? (How did my soil get sick?)*, a book that suggests raising eucalyptus as an alternative to other agricultural practices to protect the environment and reforestation (Monje Hernández 2018).

such as Forestal Mininco S.A. (CMPC), Tornagaleones (now part of MASISA), Hancock Chilean Plantations (HCP S.A.), and Forestal Arauco (CELCO) thus found it easy to acquire plots of land from peasants and small forestry producers. The process was accelerated by the negative impact of forestry on the soil and water resources' acidity, which had created problems for peasants and small landowners dedicated to agriculture (ibid.). By the beginning of the 2000s, 70 percent of forestry land, or 34,571 hectares, was in the hands of Forestal Valdivia—one filial of CELCO (18,316 hectares), Forestal Tornagaleones (6,520 hectares), Forestal Mininco (5,051 hectares), Inversiones Forestales S.A. (358 hectares), and Forestal Magasa (39 hectares) (ibid. at 94).

After land accumulation took place in San Jose de la Mariquina, the process of expansion of forestry extractivism continued. Changes to DL 701 by Law 19.561 of 1998 extended afforestation incentives to smallholders and peasants. However, this law was not the only central government legislation that enabled forestry expansion. As mentioned above, in previous years national and local public institutions had also paved the way for a broader shift from traditional agriculture to forestry. Some commentators see the 1998 change in the law and the efforts of local and regional institutions as an attempt to deal with the resistance of communities in the areas surrounding forestry activities by incorporating smallholders and peasants into the forestry sector; the latter would consolidate (ibid. at 136).

As a result of forestry developments in the area of study, conflict also arose in 1996, when CELCO started a project to build a pulp mill and a biomass plant to produce energy for the pulp mill (Colectivo Viento Sur 2021). The biomass power plant was portrayed as a way to reduce carbon dioxide (CO_2) emissions, and forestry extractivism was presented as a sustainable business. Additionally, CELCO had as a project to build a pipeline to discharge waste from the mill into the sea in the commune of Mehuín, located in Valdivia. Lafkenche and Mapuche indigenous communities, artisanal fishermen, and neighbors organized as the Comité de Defensa de Mehuín (Mehuín Defense Committee) to challenge the pipeline project. They used the language of rights—speaking of the right to live in an environment free of contamination, for example, as stipulated in Article 19.8 of the Constitution—in the hopes of protecting the ecosystem that enabled their families' economic survival and Mehuín's potential for tourism (Nahuelpan Moreno 2016).

Because of this social mobilization, CELCO was authorized only to build the mill and the biomass plant, but not the pipeline project. Built between 2000 and 2004, this pulp mill and biomass plant started operating in 2004 and CELCO was allowed to discharge its industrial residues into the Río Cruces. The pulp mill in San José de la Mariquina has been the source of ongoing environmental conflict and ecological disasters in multiple parts of Valdivia since it was proposed. In 2004 CELCO discharged unauthorized waste liquid into the Río Cruces, a protected wetland that hosts black-necked swans, annihilating the swans' main food supply (the plant *Egeria densa*) and causing hundreds of swans to either migrate or die.[6] In 2014, CELCO accidentally discharged "green liquor" into the Río Cruces, causing the mass death of fish (Villegas 2018).[7]

In 2005, after the incident involving the death of the black-necked swans, CELCO attempted to restart its plans to build a thirty-two-kilometer pipeline to discharge wastewater from the mill directly into the sea in the commune of Mehuín. The community of Mehuín, organized again,

[6] In 2004 a civil tribunal declared CELCO responsible for environmental damage and imposed a fine of 5,200,000 Chilean pesos (Villegas 2018)

[7] In 2014 Superintendencia de Medio Ambiente imposed a fine of 4,420,000 Chilean pesos against CELCO (Villegas 2018).

creating the Comité de Defensa del Mar (Sea Defense Committee) to protest the project. [8] Due to this mobilization and further actions from the 2010s to the present, CELCO was not able to obtain approval for constructing the pipeline (Colectivo Viento Sur 2022; Nahuelpan Moreno 2016).

A conflict between the Indigenous population, including the Mapuche people, and the forestry companies in San José de la Mariquina is ongoing. In 2020, Instituto Nacional de Derechos Humanos (INDH) released a report about the social, economic, and environmental rights of the Indigenous population in San José de la Mariquina, detailing the negative impacts of the pine and eucalyptus monocultures in the district. Inhabitants reported bad air quality and lack of sunlight due to the trees' height. The report also found that despite the forestry expansion, San José de la Mariquina remains plagued by poverty. In 2019, 15.6 percent of the population lived below the poverty line and 24.1 percent below the multidimensional poverty index (INDH 2020).

Since 2015, INDH has also been reporting that forestry monoculture threatens communities' right to water. For every 10 percent increase in the coverage of forest plantations in the basins, summer flows decrease by 20 percent—due to higher water consumption and rates of evapotranspiration from pine and eucalyptus plantations (INDH 2015). In 2022, INDH reiterated its concerns about the drought affecting Valdivia and Osorno (INDH 2022), stating that the executive branch had declared the provinces of Valdivia and Ranco as zones enduring water-shortage conditions.[9] According to INDH, the water consumption of the pine and eucalyptus monocultures and the pulp mill has directly contributed to diminishing the supply of drinking water in Valdivia (INDH 2022; INDH 2020).

In 2008, CELCO registered the biomass plant in Valdivia as part of the Clean Development Mechanism (CDM), the mechanism under the Kyoto Protocol that until 2020 allowed emission-reduction projects in developing countries to earn certified-emission-reduction (CER) credits.[10] CELCO obtained emission-reduction credits during two credit-certification periods: 2009–2016 and 2016–2023 (Colectivo Viento Sur 2021). This allowed CELCO to sell carbon credits through the United Nations Carbon Offsets platform based on emission reductions achieved by displacing high-carbon electricity in the public grid (ibid.). By 2022, the biomass plant had registered 2,146,695 tons of carbon dioxide (CO_2) in emission reductions and sold them for over $2 million US (ibid.).

Meanwhile, CELCO continued to discharge industrial residuals into the river; 90 percent of effluents discharged to the Río Cruces were produced by CELCO (CELCO 2019; Caputo and Lacoste 2023). Various other ongoing CELCO projects also create socio-environmental conflicts. In 2017 CELCO was authorized to execute a project to produce textile pulp in the Valdivia pulp mill and started producing it, under the name ARAUCO Create, in 2020. In 2017 CELCO also announced it had started an environmental impact assessment to get the authorization to modernize and expand the Valdivia sawmill in San José de la Mariquina (INDH 2020).

CELCO sold green bonds in the Chilean market for the first time in 2023, for a total of $312 million US (CELCO 2023). These are debt finance instruments to raise long-term capital with low

[8] For a detailed analysis of the conflict in Mehuín regarding the construction of the pipeline that dates back to 1996 and predates the construction of the pulp mill and biomass plant, see Nahuelpan Moreno (2016) and Hermosilla Jaramillo (2010).

[9] Decree M.O.P. 122, *Declara zonas de escasez hídrica a las provincias de Ranco y Valvidia, Region de Los Ríos*, Ministerio de Obras Publicas, July 28, 2022, Diario Oficial, September 7, 2022 (Chile). https://bcn.cl/giLr54.

[10] CMD projects were supposed to start a procedure to transition to the mechanism of Article 6.4 of the Paris Agreement (UNFCCC 2023).

risk, issued with the specific goal of environmental benefits such as reducing CO_2 emissions and preventing pollution (Tang and Zhang 2020; Weber and Saravade 2020).

IV. The Unseen Role of Law: Coercion, Distribution, and Ideology

In Chile, forestry extractivism has benefited from a number of state support mechanisms: (i) the process of defining land suitable for forest plantations, which facilitates land accumulation in the hands of few; (ii) state-provided subsidies and other incentives to establish and grow forestry; (iii) the financing and construction of infrastructure such as pulp mills and sandmills, either by the state, which them sells them to private companies, or enabled by the state; (iv) the financialization of forestry extractivism through legal mechanisms such as "green bonds" constituted by state law; (v) the signing of free-trade agreements to allow the export of forestry products; and (vi) the enactment of state policies to promote forestry based on monocultures among small and medium-sized landholders.

State law has created and facilitated the land market by distributing resources and bargaining power and using the public/private ideology to depoliticize land accumulation. To date, Chile has signed around twenty-nine free-trade agreements that constitute the legal basis for the current exchange and commercialization of forestry products (INFOR 2023). Forestry extractivism in Chile is also integrated into global capitalist markets through a legal framework composed of global value-chain rules (transnational rules) and certification processes (Almonacid 2020).[11]

The Forest Stewardship Council (FSC), a multistakeholder nonprofit organization providing certification to forest products, is an example of a private regulatory initiative advocating for the protection of Indigenous rights as a principle of certification, but it is criticized for its limited ability to achieve more equitable distribution of value and power (Brinks et al. 2021). Indeed, Hale and Aylwin show that most of the companies operating in areas of conflict around Mapuche land have obtained FSC certification; they argue that these FSC-certified companies do not comply with standards of forest management in relation to Indigenous rights (Hale and Aylwin 2021). The FSC certification mechanism has certified companies that have appropriated Mapuche territories through fraudulent land transfers, eliminated native forests and altered the traditional mode of life of this Indigenous population, and failed to implement mechanisms to secure these people's right to previous and informed consent. FSC-certified companies therefore do not fulfill the FSC certification standards, including the obligation to respect "the legal and customary rights of indigenous peoples to own, use and manage their lands, territories, and resources" and to conserve "biological diversity and its associated values, water resources, soils, and unique and fragile ecosystems and landscapes" (Hale and Aylwin 2024, 16).

A. Subsidiarity, Property, and Land Accumulation

The case study presented here is a case of forestry extractivism shaped by state law. It is not specifically an example of land-grabbing, which refers to land deals in the context of the land rush of 2007–2008, mainly in Africa and involving foreign governments, large-scale acquisitions, and undermined food security (GRAIN 2008).[12] Even when applying an extended notion of land-

[11] Interviewee 1, interview with author, June 27, 2022.

[12] For a study of the relationship between land-grabbing as a form of primitive accumulation and (international) law, the work of Umut Özsu (2019) provides relevant inputs that help reflection on the constitutive function of law. By primitive accumulation, he means expulsion and expropriation in contexts that are at the beginning of a process of integration into capitalism. Özsu argues that law is central in enabling primitive accumulation—unlike Onur Ulas Ince (2014), who does not consider the law while focusing on extra-economic and extralegal forces as means that constitute primitive accumulation.

grabbing applicable to Latin American countries, such that proposed by Borras et al.—"the process of controlling vast tracts of land and other natural resources through mechanisms that involve large capital . . . as a response to food, energy, and financial crises" (2012, 851)—San José de la Mariquina does not fit the definition. The expansion of forestry here took place earlier and cannot be related to the convergence of crises in the 2000s.

This case shows how state law has enabled the constitution of forestry extractivism in San José de la Mariquina in the context of neoliberalism. DL 701 established the conversion of privately owned agricultural land into privately owned forestry land as the rule—thus facilitating a process of land accumulation in a context where agriculture oriented toward traditional crops was the primary activity of impoverished landholders and peasants.

Furthermore, the transactions that took place after DL 701 had paved the way for the conversion of land uses were treated as an issue of private law. In San José de la Mariquina, land accumulation has taken place through "voluntary" land deals rather than through violence or legal frauds, as in the case of the Mapuche population. The analysis shows that the most important processes of land accumulation took place in San José de la Mariquina during the 1980s and 1990s, under the auspices of the Constitution of 1980. The public economic order of the Constitution and its underlying ideology of the public/private divide entrenched an understanding of land as an asset that can be assigned freely by the market.

In San José de la Mariquina, the state did not run any land auctions or sell off plantations and infrastructure, such as pulp mills; there was no privatization or deregulation process. Yet the growth of forestry has not been caused by minimal state intervention or come as the result of free exchange between forestry companies and peasants and smallholders.

Land transactions in San José de la Mariquina have occurred under civil law schemes. In combination with the ideology of the public/private divide, this hides the fact that the state is intervening in land transactions. When the subsidiary principle gives the impression that state and economy are separate spheres, land deals made under the rules of the market seem to concern only private actors, with peasants and forestry companies just buyers and sellers with equal bargaining power. Moreover, the principle legitimizes the state's nonprotection of the subaltern subjects who are selling their property, and its active support for powerful forestry conglomerates.

During the late twentieth century, the public/private distinction deepened in the context of neoliberalism, which championed a rationality-promoting market as the mechanism of distribution and promoted the myth of nonintervention by the state. In practice, this division depoliticized highly contested issues in the Latin American region, such as land distribution. Historically, land distribution had been a political issue addressed by the Latin American state through legal and constitutional reforms (Saffon Sanin 2022). The Constitution of 1980 legitimated state policies oriented toward land concentration rather than redistribution in both the agrarian and forestry sectors.

Specifically, land accumulation in San José de la Mariquina is linked to the right to property and freedom of contract and how they are conceptualized and put into practice in the context of forestry extractivism in Chile. Although the Constitution states that property has a social function of promoting the common good, property operates as an individual and absolute right that confers the power to exclude, exploit, and extract value from land, in this case to the benefit of forestry conglomerates. Here, control of land through property rights empowers companies to expand and develop forestry extractivism in a way that deepens the relations of domination and exploitation

between owners and nonowners. Property's social function thus becomes economic and exploitative, equating the common good with the extractive dynamics of forestry extractivism.

The Constitution's recognition of formal equality grounding the definition of property (Article 19.24) promotes the premise that property is a fundamental right and that everybody could potentially be a property owner. This premise of formal equality masks the fact that the law substantively predetermines the conditions under which only certain subjects can access landownership. Even having a formal land title does not necessarily bring equal opportunities of independence, economic growth, and capital accumulation to owners such as peasants and small producers. In the context of forestry extractivism, having a land title also does not mean that small landowners will freely exert the attributions of the right to property, such as the use and exploitation of their land; they are often coercively included in the business of planting monocultures (see Part IV-B).

In a wider perspective this case study sheds light on the formalization of property in various contexts in Latin America and beyond where agrarian extractivism is taking place. It shows that granting and recognizing land titles of small landholders or peasants in order to combat poverty, as proposed by De Soto (De Soto 2000) can in fact be counterproductive. The formalization of ownership may conduce the further exchange and transfer of land, thereby causing exclusion and social divisions (Sjaastad and Cousins 2009). Indeed, ownership and the possibility of transferring it in the "free" market have created or deepened existing inequalities and poverty. Thus, ultimately land formalization cannot redress the limited flexibility that certain social groups such as peasants, women, and smallholders have in the exercise of their property rights due to the accumulative and exploitative dynamics of agrarian extractivism that benefit powerful elites.

Once an owner has secured a property right, the powers inherent to the right acquire a specific scope in the context of forestry extractivism. Having control of land or property does not just allow the exclusion of others from the use and enjoyment of its value-exchange attributes, but also allows for the exclusion or expulsion of others from their own land and territory. This is because the coercive power granted to an owner who accumulates land for extractivist purposes becomes totalizing, co-opting or forcing others to regulate their lives according to extractivist dynamics.

B. Coercion and Unequal Bargaining Power: From Agriculture to Forestry

The relative bargaining power of peasants and smallholders from San José de la Mariquina has been shaped by neoliberalism as a legal project based on a strengthened notion of a public/private law divide that masks the dynamics of coercive inclusion, grounding relations between law and extractive capitalism. In theory, it is arguable that smallholders could bargain under the rules of private law to decide on the price of land, but in fact their bargaining capacity has been limited by general background legal rules that promote forestry and no other ways of using the land.

In 1974, DL 701 reproduced inequality by reconfiguring the distribution of land and income in Los Ríos and San José de la Mariquina. By setting the criteria by which land was made available for forestry activities that required control over large plots of land, the law established the unequal conditions under which forestry companies and impoverished peasants as well as small and medium owners would bargain. The Constitution of 1980 then established autonomy and freedom of contract as core elements of the economic order, thereby enabling and giving shape to the idea that the parties of a contract pursue free and equal negotiation. This premise of formal equality, however, works ideologically to mask the material conditions of inequality.

In practice, because smallholders and peasants could not choose to retain their land and continue planting agricultural produce, their selling of their land should be understood more as coerced rather than freely chosen. As traditional agriculture faced a crisis after the government facilitated the import of subsidized produce, decisions to sell were imposed by the need to overcome impoverishment; producers received no support to continue cultivating traditional crops and had to compete with imports sold at low prices (Almonacid 2020).

Almonacid suggests that during the 1970s and onward, the state was more interested in promoting a land market and land accumulation aimed at efficiency than in enabling small landowners to continue with peasant agriculture (ibid). The state had no interest in peasants continuing to hold plots of land; instead it encouraged a reorientation toward agro-export products (Almonacid 2017) and forestry extractivism based on large-scale production and land control. This is the context in which small landholders and peasants took part in unfair transactions in the land market in order to secure subsistence income. The state and "freedom of contract" thus helped constitute processes of social reproduction marked by inequality and exploitation.

In 1998, the modifications to Decree Law 701 by Law 19.561 created conditions of inclusion for small and medium owners by promoting economic incentives for the afforestation of exotic species. This too reproduced a dynamic of coercion, for the "free" subjects converting their agricultural land into forestry land to access economic support are not making a voluntary choice but accommodating the dynamics of forestry extractivism and its effects. The ideology of the public/private divide also obscures the fact that smallholders provide raw materials such as wood for the production of chips and pulp under conditions that are generally imposed by the forestry conglomerates.

Another consequence of the unequal distribution of natural resources is that forestry extractivism, like other forms of agrarian extractivism, exploits the workforce (Almonacid 2020). Forestry extractivism in San José de la Mariquina creates only temporary jobs and many workers come from areas other than the Valdivia or San José de la Mariquina communes.[13] Temporary work provides limited capacity for negotiating or bargaining with employers, leaving workers vulnerable.

Overall, the ideology of the public/private divide has helped forestry extractivism in Chile expand by normalizing coercive and exploitative relations CELCO has with peasants, Indigenous people, workers, and nature within Chile's neoliberal legal order. The public/private divide has masked the fact that the state has actively supported forestry conglomerates by facilitating their access to land in San José de la Mariquina and by legitimating the power imbalance between the local population and CELCO, as well as CELCO's profit-making at the cost of risking or violating collective interests, such the protection of the environment, the sea, the fauna, and people's fundamental rights.

C. Depoliticization: Redistribution and Environmental Conflict

The legalities of forestry extractivism foreclose the possibility of thinking about distribution and redistribution of wealth, more equal access to land, recognition of environmental and Indigenous rights, or how to challenge land concentration. Extractivism based on exotic species such as pine and eucalyptus requires intensive exploitation of land and the exclusion of other land uses because of its monocultural nature. In giving form to, legitimizing, and supporting these dynamics, the law works as a mechanism to depoliticize them. Yet the distribution of resources and recognition as mediated by law is inherently political, as it involves power struggles and agreements between

[13] Interviewee 3, interview with author, June 29, 2022.

people or groups. The public/private divide has shifted these political issues to the arena of civil law, redefining the role of the subjects involved in forestry extractivism and changing their subjectivities according to the logics of a market economy or, in other words, economic rationalities (Wood and Flinders 2014; Kellokumpu 2023).

The constitutional order has provided the legal foundations for reinforcing the position of elite groups and economic conglomerates in both the agricultural and forestry export sectors. It gave legal form to the depoliticization of political subjects under the banner of autonomy, freedom, and the market economy. The formal equality that grounds private law theory extracts subjects from their context and social background. Legal institutions such as freedom of contract can depoliticize the social relations they mediate (Brabazon 2017b). It is not just the private/public divide ideology masking inequalities, but the juridification of social relations under neutral terms that makes neoliberalism a depoliticizing juridical project (Brabazon 2017a; Brabazon 2017b).

Any eventual mobilization against land accumulation that takes place through private law transactions is averted since the subjects of these transactions, such as peasants, have been depoliticized and made into "sellers." In San José de la Mariquina, land accumulation took place without contestation since land deals seemed to be voluntary.

Since the Pinochet government ended in 1990, there has been only limited mobilization against land accumulation in Chile, with the exception of Mapuche claims for land restitution and environmental concerns concerning the impact of forestry extractivism. The Pinochet regime had dismantled agrarian reform, weakened social movements (rural organizing and peasants' unions), and stifled claims for land redistribution and better working conditions in agriculture and forestry (Echenique 2011; Kay 2002). Mapuche and environmental movements have achieved small wins, but have not been able to forge a radical change in the forestry sector (Klubock 2014).

In San José de la Mariquina, mobilization against forestry extractivism has been framed in terms of defense of environment, in connection with Indigenous rights, but not directly in terms of unequal access to land. Moreover, mobilization against forestry extractivism organized around the language of rights and defense of the environment in the province of Valdivia has been treated as *asunto entre privados* (an issue between private actors) that does not require state intervention (Hermosilla Jaramillo 2010). For example, the state assumed a "neutral" role in relation to the environmental conflict regarding the construction of the CELCO pipeline in coastal area of Mehuín that took place in the 2000s.

As explained in section III-A, in 2005 CELCO sought to reinitiate its project to build a pipeline that would discharge industrial waste of the pulp mill into the sea, specifically in the coastal town of Mehuín. Faced with resistance and social mobilization against the pipeline, CELCO implemented various strategies to counter the opposition of Comité de Defensa del Mar. As such, in 2007, CELCO signed a cooperation agreement with the union of independent workers of Mehuín so that its members would help CELCO continue with the pipeline project. The contract stated that independent workers, mostly fishermen, agreed to collaborate with CELCO obtain permissions and concessions to use land, beaches, and the seabed to install the pipeline; in other words, their opposition to the project would be withdrawn by agreement. As a reward, CELCO agreed to pay them in various disbursements subject to the advancement of the project—a total of $8.9 million US to six hundred fishermen (ibid.).

Academics and Comité de Defensa del Mar activists denounced the validity of the private agreement, arguing that it entailed a breach of fundamental rights such as the right to live in an environment free of contamination (Article 19.8 of the Constitution of 1980). They also criticized

the fact that the content of the private agreement was invalid since it was not voluntary but coercive. The claims also questioned the overall validity of this private agreement since it revolved around a matter of public interest such as the management and use of common goods (Hermosilla Jaramillo 2010).

The government saw the arrangement as a private issue and decided not to intervene or take measures against CELCO (ibid.). Between 2007 and 2025, the company continued to request permissions and seek approval for the project. To date the national government has not granted CELCO a concession to build the pipeline in Mehuín (Cabrera 2025).

Although social mobilization in Valdivia did stop the pipeline project and led to a declaration that CELCO was economically responsible for the black-necked swans disaster, this example also shows that using the language of environmental rights, Indigenous rights, or social rights does not bring structural changes to forestry extractivism. Rather it shows that forestry extractivism is an industry that has not changed structurally since the dictatorship. While social movements and groups can engage with transformational projects, mobilization based on the language of human rights and environmental protection may not achieve solidarity or redistributive goals as long as it leaves in place structures and legal frameworks that continue distributing commodities such as land and other forestry-related market assets toward the conglomerates that already control the extractive economy. If the dominant mode of political economy is oriented toward extractivism, the state will likely continue protecting the interests of those benefiting from forestry extractivism. For this reason, it is important that social movements and advocates of Indigenous rights, human rights, and environmental protection also scrutinize the operations of the public/private divide and the role property and contractual rights perform in creating subjectivities and distributing wealth and power (Chadwick 2019a).

V. Forestry Extractivism and Constitutional Change in Chile

In September 2022, a constitutional referendum was held for Chileans to approve or reject a new constitution drafted by an elected 155-member representative Constitutional Convention. Nearly 62 percent of voters rejected the new text. Various arguments and opinions have been offered to explain the failure of the exit referendum. Some argue that even though there was high support for replacing the Constitution, the Constitutional Convention did not manage to agree on what the new constitution should include, especially with regard to defining Chile as a plurinational state and with regard to its political system, among other crucial areas (Verdugo 2024). Other commentators have argued that the Constitutional Convention draft was too ambitious in terms of the wide list of rights it included, diverging from the preferences of public opinion and the political parties (Landau and Dixon 2024). Others attributed the failure to political and misinformation campaigns, media bias, or issues related to the design and decision-making procedures of the Constitutional Convention (Verdugo and García-Huidobro 2024).

In the wake of that outcome, this article provides an opportunity to reflect on constitutional change and the dynamics of forestry extractivism. In particular, this article challenges the idea that economic transformation and equality will come from adopting a new constitutional text or constitutional reform. San José de la Mariquina allows us to examine how law is constitutive of forestry extractivism. This southern town is located outside Chile's centers of power, far from political debates about codifying a new constitution, yet the development of forestry extractivism there provides useful information about the coconstitutive dynamics of neoliberal capitalism and the law "in the sense of creating conditions for the possibility of each other" (Lander 2020, 26).

The situation of San José de la Mariquina shows the functioning of law's constitutive role in the sense that state law promoted and created the conditions to expand this activity through DL 701 in favor of local elites who own corporations dedicated to monoculture forestry. The expansion of forestry extractivism was likewise entrenched and legitimized by the Constitution of 1980, which created and gave form to a legal order in which principles such as the autonomy of the individual and property as a right and legal institution allowed forestry extractivism to expand and develop uninterrupted in southern Chile, masking its inherent features such as coercion and unfreedom under the scheme of a public/private law divide. Moreover, the case shows how the state, rather than subsidiaries, has been central to the development of extractivism through the approval of legislation, promotion of monoculture forestry, and embrace of the public/private divide ideology.

The Constitutional Convention had as a main task to prepare a draft constitution that would replace the neoliberal Constitution of 1980. Because it included a group of clauses concerning the protection of common goods such as native forests and water, the draft was dubbed an "ecological constitution." Clause 138 of the draft concerned the social and ecological function of land, for example, while Clause 34 stipulated the special protection of Indigenous territories and Clause 58 established the obligation of the state to protect the environment and fundamental rights such as water. In defining these as rights or common goods and therefore as state obligations, the Constitutional Convention tried to challenge the marketization mindset and the public/private divide ideology inherited from the civil law tradition and undergirded by the 1980 Constitution.

However, the analysis in this article raises questions about the extent to which including these clauses in the constitutional text could challenge the dynamics of forestry extractivism that has been constituted by private law and the public/private divide during the last fifty years under neoliberalism as a political and juridical project. Even if constitutional reforms would have imposed a constitutional obligation on the state to adopt regulatory frameworks to restrain the effects of forestry extractivism, such reforms may not have enabled a direct response to the expansion of private rights such as the right to property and its exclusionary and depletive effects in southern Chile. It may have had a limited effect in a context where property rights over land have enabled different processes of accumulation, including financialization, which intensifies value extraction in areas co-opted by forestry extractivism.

If property rights that allow land accumulation in the hands of a few are the sine qua non for development and economic growth in Chile, I find the constitutional draft to have been a limited attempt to overcome the dynamics of forestry extractivism backed and enabled by state law. Constitutional change in the material sense will require ways of directly challenging the current regime of property that provides forestry firms with the entitlement of controlling land in unequal and absolute terms, the exploitation of people and nature, and the social reproduction of surplus individuals subordinated to the presence of pine and eucalyptus. It will also require rebuilding the meaning of territorial unity and the governing function of the state in contexts of extractivism. Moreover, constitutional change requires more than an exceptional moment of constitutional reform, since the building of a different legal order unfolds over the long term as the product of political and economic conflicts shaped and mediated by law.

Overall, San José de la Mariquina is a singular micro case study that, in connection to the macrohistorical context of neoliberalism in Chile, permits a detailed view of how law has constituted, given form to, and legitimated the expansion of forestry extractivism and its consequences in the context of a neoliberal economic order. It provides a complementary viewpoint to the accounts that have explored in macroperspective the influence of neoliberal thinkers such as the Chicago Boys, Jaime Guzman, and Pinochet's regime in the making of the Constitution of 1980 and the related legal order grounding forestry extractivism. Understanding

forestry extractivism as a neoliberal legal project, this case study shows how it transformed the everyday life and subjectivities of ordinary people such as peasants, Indigenous people, and smallholders in southern Chile.

REFERENCES

Alarcón Peña, Andrea. 2018. "Economía Social de Mercado como sistema constitucional económico colombiano. Un análisis a partir de la jurisprudencia de la Corte Constitucional." 16 *Estudios Constitucionales* 141. https://dx.doi.org/10.4067/S0718-52002018000200141.

Alemparte, Benjamin. 2022. "Towards a Theory of Neoliberal Constitutionalism: Addressing Chile's First Constitution-Making Laboratory." 11 *Global Constitutionalism* 83. https://doi.org/10.1017/S2045381721000058.

Almonacid, Fabián. 2017. "La reforma agraria de la dictadura militar en el sur de Chile: Parceleros en las provincias de Valdivia y Osorno, 1973–1989." 71 *Historia Agraria* 175.

Almonacid, Fabián. 2018. "El sur de Chile como parte de cadenas globales de valor, 1985-2016: Economía regional y producción de arándanos." 25 *AGER: Revista de Estudios Sobre Despoblación y Desarrollo Rural* 131. https://recyt.fecyt.es/index.php/AGER/article/view/69799.

Almonacid, Fabián. 2020. *Neoliberalismo y globalización en la agricultura del sur de Chile, 1973-2019*. Ediciones Universitarias de Valparaíso.

Barrena Ruiz, José, Maite Hernando Arrese, and Fernanda Rojas Marchini. 2016. "Antecedentes históricos sobre el Complejo Forestal y Maderero Panguipulli, provincia de Valdivia, Centro-sur de Chile." 37 *Bosque (Valdivia)* 473. https://doi.org/10.4067/s0717-92002016000300004.

Borras, Saturnino M., Jr., Jennifer C. Franco, Sergio Gómez, Cristóbal Kay, and Max Spoor. 2012. "Land Grabbing in Latin America and the Caribbean." 39 *Journal of Peasant Studies* 845.

Brabazon, Honor. 2017a. "Introduction." In *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project*, edited by Honor Babrazon, 1. Routledge.

Brabazon, Honor. 2017b. "Dissent in a Juridified Political Sphere." In *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project*, edited by Honor Babrazon, 167. Routledge.

Brabazon, Honor. 2022. "Juridifying Agrarian Reform: The Role of Law in the Reconstitution of Neoliberalism in Bolivia." 43 *Revue Canadienne d'études du Développement* 78. https://doi.org/10.1080/02255189.2021.1945551.

Brinks, Daniel, Julia Dehm, Karen Engle, and Karen Taylor. 2021. "Private Regulatory Initiatives and Beyond: Lessons and Reflections." In *Power, Participation, and Private Regulatory Initiatives: Human Rights Under Supply Chain Capitalism*, edited by Daniel Brinks, Julia Dehm, Karen Engle, and Kate Taylor, 258. University of Pennsylvania Press.

Brown, Wendy. 2015. *Undoing the Demos: Neoliberalism's Stealth Revolution*. Princeton University Press.

Cabrera Ruiz, Manuel. 2025. "Mariquina: Gobierno niega solicitud de concesión marítima de empresa Arauco para instalar ducto al mar." *Bio Bio Chile*. March 12. https://www.biobiochile.cl/noticias/nacional/region-de-los-rios/2025/03/12/mariquina-gobierno-niega-solicitud-de-concesion-maritima-de-empresa-arauco-para-instalar-ducto-al-mar.shtml.

Caputo, Luciano, and Arnaud Lacoste. 2023. "Contaminación fluvial en Valdivia: Una historia de postergaciones pactadas." *CIPER*, June 16. https://www.ciperchile.cl/2023/06/16/contaminacion-fluvial-en-valdivia/.

Cardemil Winkler, Magdalena. 2021. "Industria forestal en Chile." Serie Minutas 68–21. Biblioteca del Congreso Nacional de Chile, July 29. https://obtienearchivo.bcn.cl/obtienearchivo?id=repositorio/10221/32419/1/N_68_21_Industria_Forestal_en_Chile.pdf.

CELCO. 2019. *Reporte de sostenibilidad*. https://arauco.com/wp-content/uploads/2017/07/REPORTE_ESPAN%CC%83OL_2019_web.pdf.

CELCO. 2023. "Hecho esencial. Celulosa Arauco y Constitución S.A. Inscripción en el Registro de Valores No. 24." https://www.cmfchile.cl/sitio/aplic/serdoc/ver_sgd.php?s567=6d4cb3ad2d07551ac6f125f8e60091d1VFdwQmVVMTZRVEJOUkVVelQwUkZkMDEzUFQwPQ==&secuencia=-1&t=1682461021.

Cerny, Philip. 2016. "In the Shadow of Ordoliberalism: The Paradox of Neoliberalism in the 21st Century." 3 *European Review of International Studies* 78.

Chadwick, Anna. 2019a. *Law and the Political Economy of Hunger*. Oxford University Press.

Chadwick, Anna. 2019b. "Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project." 30 *European Journal of International Law* 1071. https://doi.org/10.1093/ejil/chz051.

Chagnon, Christopher W., Francesco Durante, Barry K. Gills, Sophia E. Hagolani-Albov, Saana Hokkanen, Sohvi M. J. Kangasluoma, Heidi Konttinen, et al. 2022. "From Extractivism to Global Extractivism: The Evolution of an Organizing Concept." 49 *Journal of Peasant Studies* 760. https://doi.org/10.1080/03066150.2022.2069015.

Clapp, Roger. 1998. "Regions of Refuge and the Agrarian Question: Peasant Agriculture and Plantation Forestry in Chilean Araucanía." 26 *World Development* 571.

Colectivo Viento Sur. 2021. "Planta de biomasa de Arauco en Valdivia: Emisiones de carbono y conflictos con comunidades Indígenas en Chile." https://environmentalpaper.org/wp-content/uploads/2021/11/Valdivia-case-study-ES.pdf.

Colectivo Viento Sur. 2022. "Stolen Land and Fading Forests in Chile." Environmental Paper Network, Conflict Plantations series, Chapter 3. https://environmentalpaper.org/wp-content/uploads/2022/06/20220530-Arauco-en.pdf.

Commons, John R. 1995. *Legal Foundations of Capitalism*. New Brunswick, NJ: Transaction Publishers.

Correa Henao, Magdalena I. 2018. "El orden económico constitucional." In *Lecciones de derecho constitucional.* Vol. 2, edited by Magdalena I. Correa Henao, Néstor I. Osuna Patiño, Gonzalo A. Ramírez Cleves, et al., 631. University Externado of Colombia.

Cristi, Renato. 2020. *El Pensamiento Político de Jaime Guzmán. Autoridad y Libertad.* LOM.

Cristi, Renato. 2014. "La génesis de la Constitución de 1980 y sus claves conceptuales: Función social de la propiedad y bien común." In *El constitucionalismo del miedo. Propiedad, bien común y poder constituyente*, edited by Cristi Renato and Pablo Ruiz-Tagle, 73. LOM.

Cruces Burga, Alberto. 2020. "El ámbito de aplicación del principio de subsidiariedad dentro del régimen de economía social de mercado en la Constitución de 1993." Master's thesis, Pontifical Catholic University of Peru.

Davis, Dennis, and Karl Klare. 2019. "Critical Legal Realism in a Nutshell." In *Research Handbook on Critical Legal Theory*, edited by Emilio Christodoulidis, Ruth Dukes, and Marco Goldoni, 27. Edward Elgar.

Deakin, Simon, David Gindis, Geoffrey M. Hodgson, Kainan Huang, and Katharina Pistor. 2017. "Legal Institutionalism: Capitalism and the Constitutive Role of Law." 45 Journal of Comparative Economics, 188. https://doi.org/10.1016/j.jce.2016.04.005.

De Soto, Hernando. 2000. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*. Basic Books.

Donoso, Pablo, Jennifer Romero, René Reyes, and Rodrigo Mujica. 2015. "Precedentes y efectos del neoliberalismo en el sector forestal chileno, y transición hacia un nuevo modelo." In *Democracia versus neoliberalismo. 25 años de neoliberalismo en Chile*, edited by Andrea Pinol Bazi, 210. CLACSO.

Duxbury, Neil. 1990. "Robert Hale and the Economy of Legal Force." 53 *Modern Law Review* 421. https://doi.org/10.1111/j.1468-2230.1990.tb02826.x.

Echenique, Jorge, 2011. *Dinámica del mercado de la tierra en América Latina y el Caribe: El caso de Chile.* FAO.

Edwards, Sebastian. 2023. *The Chile Project: The Story of the Chicago Boys and the Downfall of Neoliberalism*. Princeton University Press.

Ehrnström-Fuentes, Maria, and Markus Kröger. 2018. "Birthing Extractivism: The Role of the State in Forestry Politics and Development in Uruguay." 57 *Journal of Rural Studies* 197.

FAO (Food and Agriculture Organization). 2022. *Anuario FAO de productos forestales 2020.* https://openknowledge.fao.org/server/api/core/bitstreams/279f8c28-65b4-477b-823c-df88db78ea47/content.

Ferrada Bórquez, Juan Carlos. 2000. "La constitución económica de 1980: Algunas reflexiones críticas." 11 *Revista de Derecho* 47.

Ferrada Bórquez, Juan Carlos. 2015. "El derecho de propiedad privada en la Constitución Política de 1980." In *La Constitución chilena: Una revisión crítica a su práctica politica*, edited by Jaime Bassa Mercado, Juan Carlos Ferrada Bórquez, and Christian Viera Álvarez, 161. LOM.

Føllesdal, Andreas. 2014. "Competing Conceptions of Subsidiarity." 55 *Nomos* 214.

Frêne Conge, Christian, and Maria Núñez Avila. 2010. "Hacia un nuevo Modelo Forestal en Chile." 47 *Revista Bosque Nativo* 25.

Frerichs, Sabine. 2024. "The Place of Law in Political Economy. J. R. Commons' *Legal Foundations of Capitalism* at 100: A Retrospective Article." 43 *Contributions to Political Economy* 1. https://doi.org/10.1093/cpe/bzad023.

González, Mauro E., Rodolfo Sapiains, Susana Gómez-González, et al. 2020. *Incendios forestales en Chile: Causas, impactos y resiliencia.* Centro de Ciencia del Clima y la Resiliencia (CR)2, Universidad de Chile, Universidad de Concepción, and Universidad Austral de Chile. https://cr2.cl/wp-content/uploads/2020/01/Informe-CR2-IncendiosforestalesenChile.pdf.

GRAIN. 2008. "Seized: The 2008 Land Grab for Food and Financial Security." GRAIN Briefings. October 24. https://grain.org/en/article/93-seized-the-2008-landgrab-for-food-and-financial-security.

Gudynas, Eduardo. 2015. *Extractivismos: ecología, economía y política de un modo de entender el desarrollo y la naturaleza.* CEDIB/CLAES.

Gudynas, Eduardo. 2013. "Transitions to Post-Extractivism: Directions, Options, Areas of Action." In *Beyond Development: Alternative Visions from Latin America*, edited by Miriam Lang and Dunia Mokrani, 165. Transnational Institute and Rosa Luxemburg Foundation. https://tni.org/files/download/beyonddevelopment_complete.pdf.

Hale, Robert. 1923. "Coercion and Distribution in a Supposedly Non-Coercive State." 38 *Political Science Quarterly* 470.

Hale, Charles R., and José Aylwin. 2021."What Difference Can Certification Regimes Make? The Mapuche People's Claims for Autonomy and the Forest Industry in Southern Chile." In *Power, Participation, and Private Regulatory Initiatives: Human Rights Under Supply Chain Capitalism*, edited by Daniel Brinks, Julia Dehm, Karem Engle, and Kate Taylor, 96. University of Pennsylvania Press.

Hale, Charles R., and José Aylwin. 2024. "Using and Refusing Indigenous Rights Law in Southern Chile." In *Anthropological Expertise and Legal Practice*, 75. Routledge.

Hargadon, Andrew, and R. Daniel Wadhwani. 2023. "Theorizing with Microhistory." 48 *Academy of Management Review*, *681*. https://doi.org/10.5465/amr.2019.0176.

Hermosilla Jaramillo, Marcelo. 2010. "Un asunto entre privados: El caso Celco—Mehuín y la construcción de problemas públicos (1995-2010)." Master's thesis, FLACSO Chile.

Ince, Onur Ulas. 2014. "Primitive Accumulation, New Enclosures, and Global Land Grabs: A Theoretical Intervention." 79 *Rural Sociology* 104.

INDH (Instituto Nacional de Derechos Humanos). 2015. *Informe anual. Situación de los derechos humanos en Chile*. https://bibliotecadigital.indh.cl/items/24cf0851-3c39-4be9-bc25-099e8140a2bc.

INDH (Instituto Nacional de Derechos Humanos). 2020. *Misión de observación a comuna de Mariquina*. Región de los Ríos. 4–7 Septiembre de 2019. https://bibliotecadigital.indh.cl/items/4004f532-b273-41e9-80f9-5bce8a9c2570.

INDH (Instituto Nacional de Derechos Humanos). 2022. *Informe anual. Situación de los derechos humanos en Chile*. https://bibliotecadigital.indh.cl/items/696a6859-13bf-4627-bb8c-3259db56a26b.

INFOR. 2023. *Anuario forestal 2023*. https://www.infor.cl/index.php/destacados-home/949-anuario-forestal-2023.

Ireland, Paddy. 2003. "Property, Private Government and the Myth of Deregulation." *In Commercial Law and Commercial Practice*, edited by Worthington, Sarah, 85. Hart Publishing.

Kay, Cristóbal. 2002. "Chile's Neoliberal Agrarian Transformation and the Peasantry." 2 *Journal of Agrarian Change* 464.

Kay, Cristóbal. 2016. "La transformación neoliberal del mundo rural: Procesos de concentración de la tierra y del capital y la intensificación de la precariedad del trabajo." 1 *Revista Latinoamericana de Estudios Rurales* 1.

Kellokumpu, Ville. 2023. "Depoliticizing Urban Futures: Visionary Planning and the Politics of City-Regional Growth." 57 *Regional Studies* 617. https://doi.org/10.1080/00343404.2021.1980206.

Kennedy, Duncan. 1991. "The Stakes of Law, or Hale and Foucault." 15 *Legal Studies Forum* 327.

Klubock, Thomas. 2014. *La Frontera: Forest and Ecological Conflict in Chile's Frontier Territory*. Duke University Press.

Kröger, Markus. 2014. "Political Economy of Global Tree Plantation Expansion: A Review." 41 *Journal of Peasant Studies* 235.

Kröger, Markus, and Maria Ehrnström-Fuentes. 2021. "Forestry Extractivism in Uruguay." In *Agrarian Extractivism in Latin America*, edited by Ben McKay, Alberto Alonso-Fradejas, and Arturo Ezquerro-Cañete, 185. Routledge.

Landau, David, and Rosalind Dixon. 2024. "Utopian Constitutionalism in Chile." 13 *Global Constitutionalism* 228. https://doi.org/10.1017/S2045381723000266.

Lander, Jennifer. 2020. *Transnational Law and State Transformation: The Case of Extractive Development in Mongolia*. Routledge.

Lara, Antonio, and Thomas T. Veblen. 1993. "Forest Plantations in Chile: A Successful Model?" In *Afforestation: Policies, Planning and Progress*, edited by Alexander Mather, 118. Belhaven.

Millamán, Rosamel, and Charles Hale, eds. 2016. *Chile's Forestry Industry, FSC Certification and Mapuche Communities*. https://ga2017.fsc.org/wp-content/uploads/2017/10/Chiles-Forestry-Industry-FSC-Certification-and-Mapuche-Communities-FINAL.pdf.

Ministerio de Agricultura and CONAF (Corporación Nacional Forestal). 2005. *Evaluación de impacto del Programa de Bonificación Forestal DL 701*. https://www.dipres.gob.cl/597/articles-141063_informe_final.pdf.

Monje Hernández, Yerko. 2018. "La industria forestal en el sur de Chile: Transformaciones del territorio valdiviano (1974–2010)." Master's thesis, Universidad Austral de Chile.

Nahuelpan Moreno, Héctor. 2016. "Micropolíticas mapuches contra el despojo en el Chile neoliberal: La disputa por el lafkenmapu (territorio costero) en Mehuín." 30 *Izquierdas* 89. https://dx.doi.org/10.4067/S0718-50492016000500004.

O'Connor, John. 2010. "Marxism and the Three Movements of Neoliberalism." 36 *Critical Sociology* 691. https://doi.org/10.1177/0896920510371389.

Özsu, Utmu. 2019. "Grabbing Land Legally: A Marxist Analysis." 32 *Leiden Journal of International Law* 215.

Palma, Karen. 2013. "Desarrollo forestal en la Región de Los Ríos. Análisis de la resistencia y el impacto en la comunidad Mapuche Lafkenche en la Bahía de Maiquillahue, 1996-2007." Master's thesis, Universidad Austral de Chile.

Panez, Alexander, Ilka Roose, and Rodrigo Faúndez. 2020. "Agribusiness Facing Its Limits: The Re-Design of Neoliberalization Strategies in the Exporting Agriculture Sector in Chile." 9 *Land* 66. https://doi.org/10.3390/land9030066.

Pino Albornoz, Anyela Paola, and Noelia Gabriela Carrasco Henríquez. 2019. "Extractivismo forestal en la comuna de Arauco (Chile): Internalización y formas de resistencia." 42 *Revista Colombiana de Sociología* 207. https://doi.org/10.15446/rcs.v42n1.73233.

Ramírez, Simón. 2019. "Constitución chilena y gubernamentalidad neoliberal." 5 *Derecho y Crítica Social* 83.

Resico, Marcelo. 2009. "Economía social de mercado: Una opción económica para Latinoamérica." 26 *Diálogo Político* 133. https://repositorio.uca.edu.ar/bitstream/123456789/2327/1/economia-social-mercado-opcion.pdf.

Reyes, Rene, and Harry Nelson. 2014. "A Tale of Two Forests: Why Forests and Forest Conflicts Are Growing in Chile." 16 *International Forestry Review* 379.

Saffon Sanin, Maria Paula. 2015. "When Theft Becomes Grievance: Dispossessions as a Cause of Redistributive Land Claims in 20th Century Latin America." PhD diss., Columbia University. https://doi.org/10.7916/D8CN730W.

Saffon Sanin, Maria Paula. 2022. "Property and Land." In *The Oxford Handbook of Constitutional Law in Latin America*, edited by Conrado Hübner Mendes, Roberto Gargarella, and Sebastián Guidi, 578. Oxford University Press.

Samuels, Warren. 1973. "The Economy as a System of Power and Its Legal Bases: The Legal Economics of Robert Lee Hale." 27 *University of Miami Law Review* 261. https://repository.law.miami.edu/umlr/vol27/iss3/2/.

Samuels, Warren. 2007. "The Legal Economic Nexus." In *The Legal Economic Nexus*, by Warren Samuels with joint authorship by James Buchanan, Kirk Johnson, Marianne Johnson, Allan Schmid and James Schaffer, 18. Routledge.

Schmalz, Stefan, Jakob Graf, Julián-Vejar Dasten, Johanna Sittel, and Cristian Alister Sanhueza. 2023. "Challenging the Three Faces of Extractivism: The Mapuche Struggle and the Forestry Industry in Chile." 20 *Globalizations* 365. https://doi.org/10.1080/14747731.2022.2091867.

Sepúlveda, Claudia, and Bruno Bettati. 2005. "El desastre ecológico del Santuario del Río Cruces: Trizadura institucional y retroceso democrático." 20–21 *Ambiente y Desarrollo* 62.

Sjaastad, Espen, and Ben Cousins. 2009. "Formalisation of Land Rights in the South: An Overview." 26 *Land Use Policy* 1.

Szeman, Imre, and Jennifer Wenzel. 2021. "What Do We Talk About When We Talk About Extractivism?" 35 *Textual Practice* 505.

Tang, Dragon Yongjun, and Yupu Zhang. 2020. "Do Shareholders Benefit from Green Bonds?" *61 Journal of Corporate Finance* 1.

Torres-Salinas, Robinson, Gerardo Azócar García, Noelia Carrasco Henríquez, Mauricio Zambrano-Bigiarini, Tatiana Costa, and Bob Bolin. 2016. "Forestry Development, Water Scarcity, and the Mapuche Protest for Environmental Justice in Chile." 19 *Ambiente & Sociedade* 121. https://doi.org/10.1590/1809-4422ASOC150134R1V1912016.

Torres Zúñiga, Natalia. 2022. *The Inter American Court of Human Rights: The Legitimacy of International Courts and Tribunals*. Routledge.

Tzouvala, Ntina. 2017. "Continuity and Rupture in Restraining the Right to Strike." In *Neoliberal Legality: Understanding the Role of Law in the Neoliberal Project*, edited by Honor Babrazon, 119. Routledge.

Undurraga, Tomas. 2016. "Negocios, política e ideología: Neoliberalismo y formación de clase capitalista en Argentina y Chile (1990-2014)." 54 *Política. Revista de Ciencia Política* 175. https://doi.org/10.5354/0719-5338.2016.44780.

UNFCCC (United Nations Framework Convention on Climate Change). 2023. Standard for the Transition of CDM Activities to the Article 6.4 Mechanism, Version 01.0, A6.4-STAN-AC-001. https://unfccc.int/documents/637661.

Valenzuela, Ricardo, and Rodrigo Cordero. 2023. "The Making of Neoliberal Legality: The Legal Imagination of Business Elites and the 'Social Constitutionalization' of 'Free Enterprise' in Latin America." 50 *Journal of Law and Society* 517.

Valle Silva, Javier. 2021. *Nuestro código político*. Edeval.

Vallejo Carretón, Rodrigo. 2016. "La constitución económica chilena: Un ensayo en (de)construcción." 14 *Estudios Constitucionales* 247. https://dx.doi.org/10.4067/S0718-52002016000100008.

Van Dam, Chris. 2006. "Empresas forestales y comunidades rurales en el centro sur de Chile: Externalidades sociales de un modelo 'exitoso.'" 40–41 *Debate Agrario* 225.

Verdugo, Sergio. 2024. "Constitutions as Moving Targets." 13 *Global Constitutionalism* 250. https://doi.org/10.1017/S2045381723000308.

Verdugo, Sergio, and Luis Eugenio García-Huidobro. 2024. "How Do Constitution-Making Processes Fail? The Case of Chile's Constitutional Convention (2021–22)." 13 *Global Constitutionalism* 154. https://doi.org/10.1017/S204538172300031X.

Viera Álvarez, Christian, Jaime Bassa Mercado, and Juan Carlos Ferrada Bórquez. 2016. "Una aproximación a la idea de 'constitución económica' y sus alcances en la constitución chilena." 49 *Boletín Mexicano de Derecho Comparado* 1. https://doi.org/10.22201/iij.24484873e.2016.145.5000.

Viera Álvarez, Carlos, and Gonzalo Garcia-Campo Almendros. 2023. "El largo camino hacia la democracia: El neoliberalismo autoritario en la Constitución Económica chilena." 58 *Revista Derecho del Estado* 389. https://doi.org/10.18601/01229893.n58.14.

Villegas, Sergio. 2018. "CELCO busca evitar multa de $4.400 millones por grave contaminación en Valdivia." *CIPER*, April 12. https://www.ciperchile.cl/radar/celco-busca-evitar-multa-de-4-400-millones-por-grave-contaminacion-en-valdivia/.

Weber, Olaf, and Vasundhara Saravade. 2019. "Green Bonds: Current Development and Their Future." CIGI Paper No. 210. Centre for International Governance Innovation, January. https://doi.org/10.13140/RG.2.2.10059.82722.

Whyte, Jessica. 2019. *The Morals of the Market*: *Human Rights and the Rise of Neoliberalism*. Verso.

Wood, Ellen. 1995. *Democracy Against Capitalism: Renewing Historical Materialism*. Cambridge University Press.

Wood, Matt, and Matthew Flinders. 2014. "Rethinking Depoliticisation: Beyond the Governmental." 42 *Policy and Politics* 15.

Yanez Barrios, Liliana. 2024. "Ficha regional: Región de Los Ríos." Oficina de Estudios y Políticas Agrarias. https://bibliotecadigital.odepa.gob.cl/handle/20.500.12650/8965.