

**An Analysis of Current Relations Between
the Chilean Nation-State and the Mapuche
People**

**Unlawful Terrorism Prosecution in Chile towards the Mapuche
Population**

by

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I. Introduction

Since the inception of the Chilean state, the Chilean government and the Mapuche people have clashed over the definition of the Chilean identity; civil and political rights for autonomy. The Mapuche are an indigenous group, who reside in the southwestern region of Chile and along the Andean border with Argentina. In 1540, Spain invaded the southern core of Latin America -- onto what is now the Chilean nation-state. The Spanish authorities disrespected the Mapuche boundaries continuously as they repeatedly violated land treaties outlining the Mapuche's separate nation-state. These invasions marginalized the Mapuche community. When Chile gained independence from the Spanish Empire in 1810, the Mapuche hoped to still be recognized as a separate ethnic identity and maintain their cultural heritage.

Over time, intermarriages between the Spanish and indigenous people created a predominant *mestizo* or mixed-race population in Chile.¹ With an increasing percentage of intermarriages, the Chilean nation-state began to define itself as a unified nation consisting of citizens of a mixed-race ethnicity. The Chilean government's political foundation is based on the ideology of a homogenous nation and neo-liberal economic policy. This framework automatically excludes the Mapuche population because they demand to be recognized as a separate ethnic identity. From this exclusion arises the "Mapuche conflict," a need to fight for a place within the political framework of Chile.

¹ Mestizo is a person of mixed Spanish and native Chilean heritage.

Since the independence of the Chilean state, the Mapuche have been marginalized. Under the dictatorship of Augusto Pinochet, who governed Chile from 1973-1990, the Mapuche suffered severely as he applied neo-liberal economic policies. Under these policies, the Mapuche land was privatized and sold as individual plots for private and public interests. Out of this experience the Mapuche movement in demand of rights from the government began to develop. Inspired by an indigenous rights movement in the Andean region -- exemplified by the successes of Ecuador and Bolivia -- the Mapuche movement solidified. This movement established grounds for the Mapuche to demand for right to autonomy, the return of their ancestral land and fair treatment as equal citizens.²

When the country transitioned to democracy in 1990 by electing the Center-Left Political Coalition, the *Concertación*, indigenous policy remained the same. The ruling party did not respond to the Mapuche demands for rights. This indigenous group continued to be ostracized by the government under the laws that overlapped from the Pinochet era.

In view of the historical relationship between the Chilean-state and the Mapuche people I argue that this indigenous group in Chile is unable to achieve their rights because they undermine the chosen identity of the Chilean state. The Mapuche claim a collective identity and the cultural heritage of a separate ethnic group, which conflicts with the official mainstream identity.³

² Andres Benavente and others, *La Cuestion Mapuche: Aportes Para el Debate* (Santiago: Quebecor World Chile, 2003), 26-27.

³ Diane Haughney, *Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile*, (Gainesville: University Press of Florida, 2006), 1.

The group lies outside the government's political reality therefore the government does not acknowledge them. The Chilean state, on the other hand is unwilling to change its framework because the Mapuche demands for rights conflicts with its economic interests and political identity.⁴ Instead, the *Concertación* applied archaic laws remaining from the military dictatorship in response to violent political protests by the indigenous group.⁵

The Political Framework of the Chilean Nation-State Conflicts
with Mapuche Demands for Rights

Political theorists such as Schon & Rhein argue that the current political reality of a country incorporates the history, politics and culture of that specific nation-state. The Chilean nation-state's contemporary political reality reflects its own picture of its historical and political relationship with the Mapuche people. The political framework is used in Chile to justify its policies to the citizens of the country and the outside world. The government does not reveal the entire political reality that led them to create their perspective, but rather a highly condensed version of the history. I argue that the government does not want to reveal the entire political reality to its citizens because then it would be held accountable for the historical atrocities and political hardships that have ensued throughout the relationship between the Mapuche and the Chilean nation-state.

⁴ Ibid., 1.

⁵ Haughney, *Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile* *Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile*, 206.

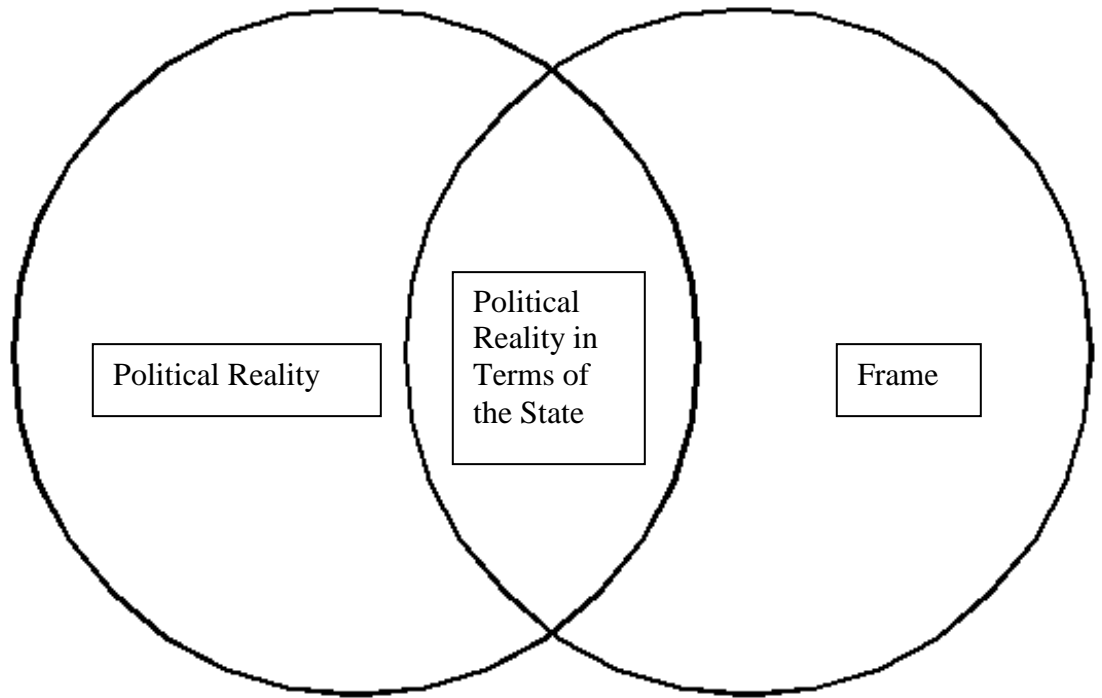
Figure 1

Figure 1 displays the framing of the political reality by a nation-state. The right hand side represents the 'frame', the perspective that the government wants to be reflected to the public. The overlap between the political reality and the 'frame' of the nation-state represents the political reality in terms of the state. Like all states, the Chilean government uses a political frame to further its interests. The Chilean government tries to show this specific frame so the public will legitimize their policy through their popular support. The Chilean government frame, which consists of the ideology of a homogenous nation and neoliberal economic policy, has been generally successful and has therefore resulted in the exclusion of the Mapuche population.

The frame reflects the government's commitment to neoliberal economic reforms and the ideology of a homogenous nation that marginalizes the Mapuche community ever since the community lost its position as a separate nation-state and was reduced to reservation (*reducciones*) within the Chilean nation in 1883.⁶

The government has made progress on creating public policy that works for the development of the Mapuche and indigenous populations in Chile. Since the return to democracy, public policies have created governmental institutions that address indigenous rights and development. This development follows the policy of assimilation, and does not respect the Mapuche's demand for self-determination. Unfortunately, as a result this progress inherently does not meet the demands of the Mapuche people but rather continues the same policy towards indigenous groups that originated during the military dictatorship of Augusto Pinochet within the framework of the state. These policies cover up the underlying conflict as they become more nuanced in supporting assimilation. This is a false representation of the progress made for Mapuche rights because they do not fulfill their demands.

Since the 9/11 attacks in 2001, the Mapuche people have been and continue to be perceived by the media and government as a terrorist threat. Certain Mapuche individuals are continuously treated under law by the government as internal terrorists. Despite media and governmental portrayal, the fact remains that the Mapuche indigenous group is not a terrorist group. As a whole they have committed violent acts, but these do not fall under the

⁶ Haughney, p. 4.

universal definition of a ‘terrorist’, as these acts do not directly threaten life, liberty or physical integrity.⁷ As a result of the violent acts of protests the indigenous group has committed, the government has used harsh laws such as the Law of Internal Security of the State and the Anti-Terrorist Law implemented during the military regime to punish the Mapuche. This delegitimizes their movement because they are seen as a threat to the overall society. The Mapuche do not define themselves as terrorists but rather as citizens demanding special minority rights, which they have been denied for twenty years. Since the Chilean government claims the Mapuche people to be terrorists, however, access to an equal and fair trial for the defendants of the Mapuche cause has been denied.⁸

I examine a variety of primary and secondary sources to make this claim. This includes books on the historical relationship between the Chilean government and the Mapuche community such as Diane Haughney’s book Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile, and several books written in Spanish about the historical relationship between the Mapuche and the Chilean government. I also delve into Non-Governmental Organization reports from Human Rights Watch and local NGOs analyzing the effects of human rights abuses committed by the *carabineros*, Chilean national police force. My primary research investigates

⁷ Dipak, Gupta K. *The Roots of Terrorism: Who Are the Terrorists?* New York: Chelsea House, 2006. Print.

⁸ Human Rights Watch, Undue Process: Terrorism Trials, Military Courts and the Mapuche in Southern Chile (Human Rights Watch and Indigenous Peoples' Rights Watch, 2004) 23-46.

government documents such as the cable released on WikiLeaks concerning the Mapuche population, “Myth versus Reality in Chile’s Mapuche Conflict,” and the Chilean Anti-Terrorism Law that has been applied to Mapuche individuals.

In Chapter 2, I outline the foundations for the government’s notion of the Chilean nation-state—the historical relationship between the Chilean government and the Mapuche population. From the very beginning, the Chilean nation-state excluded the Mapuche population because it saw the group as a threat to the state. This chapter discusses how naturalists such as Charles Darwin and Claudio Gay aided in the creation of the Chilean map, which created the geographic boundaries of Chile and Argentina. The border between these two countries divided the Patagonian region, and consequently the Mapuche population.

In Chapter 3, I discuss the changing political framework of the government due to the influence of increased terrorism prosecution following the US launch of the ‘War on Terror.’ The influence of American Foreign Policy caused international signaling which led nation-states to prosecute internal dissidents under ‘terrorist laws.’ One example of this is the increased application of the Anti-Terrorism Law on the Mapuche, beginning with the presidency of Ricardo Lagos from 2000-2006.

Due to the international signaling of the US launch of the ‘War on Terror’ the Chilean government changed its political framework to further exclude the Mapuche movement. After 9/11, the historical Chilean

government political framework of a *mestizo* identity and neoliberal economic policy began to see the Mapuche's violent acts of protest as a terrorist threat. Chile began labeling the Mapuche as a potential threat, therefore, stigmatizing them as *terrorists*. The Chilean nation-state and Mapuche relationship is unique due to the application of anti-terror legislation on an indigenous group.

To show the motivations behind the government's frames and how they frame the Mapuche differently from other citizens, I will show a group that committed similar violent acts as the Mapuche, but were convicted under ordinary criminal law. The subcontracted CODELCO miners protested against the government by committing similar crimes as the Mapuche people but were only prosecuted under ordinary criminal law. The miner example shows that certain groups are not prosecuted as terrorists for committing violent acts. The Mapuche's violent acts of protest can be convicted under ordinary criminal law without the use of the Anti-Terrorism Law. Therefore, when the government frames the Mapuche as *terrorists*, it views their crimes as a threat to national security that must be eliminated. The government legitimizes its targeting of the Mapuche population because it is perceived as the nation state's duty to protect its citizens from the threat of terrorism. This framework delegitimizes the Mapuche movement because they are not seen as regular citizens, but rather a separate group that is a threat to the general population.

The framework of Non-Governmental Organizations (NGOs) differs from that of the state, working to show a non-biased perspective. Here, I outline the perspective of human rights theory, local and International NGOs.

These organizations are competing with the government for public space and work to display a separate political reality than what the government portrays. In general, NGOs work towards the Mapuche cause and attempt to demonstrate a different part of the political reality — a non-biased reality. This movement of the frame tries to show more of the political reality than the government would otherwise—however, the government is the ultimate decision maker.

Chapter 3 also examines how the Mapuche claim for greater autonomy over their own lives, which reflects the flowering of indigenous movements worldwide that have increased in the past 30 years. Many other Latin American indigenous movements have similar claims to their land, natural resources, participation in the government, and greater autonomy over their own lives.

Chapter 4 discusses a cable between the US and Chilean government, released via WikiLeaks this past year, entitled “Myth vs. Reality in Chile’s Mapuche Conflict.” The cable illustrates that the US has a completely different framework from the Chilean government, which illuminates a greater political reality. This cable is a discourse between the two governments. The United States government represents a separate political framework that is removed from the internal Chilean political conflict and negates the targeting of the specific indigenous groups —such as the Mapuche.

Chapter II. The Mapuche relationship with the Chilean Nation-State

In this chapter, I outline the marginalization of the Mapuche tribe by the Chilean nation-state. Since the independence of Chile in 1810, the Mapuche have been labelled as a potential threat to the state's sovereignty. Long before the conception of Chile, the Mapuche had an independent territory under the Spanish Empire and remained a separate group until 1883 when the Chilean state granted them specific land reservations.⁹ After the incorporation of the Mapuche into the Chilean nation-state, there was much heated debate over geopolitical resources and land. The Mapuche resisted the neoliberal policies imposed by the Chilean government because they conflicted directly with the core ideology, beliefs and values of the Mapuche population.¹⁰

In Chapter 2, my main discussion focuses on the chronological trajectory of the Mapuche population and their marginalization throughout history. The Chilean state sought independence from the Spanish Empire, striving to become an independent homogenous nation. Claudio Gay, a French historian, contributed to the invention of this ideology demarking the first Chilean geographical boundaries on an atlas. He was contracted by the

⁹ Bengoa, José. Historia de un Conflicto – El Estado y los Mapuche en el Siglo XX. (Santiago: Editorial Planeta Chilena S.A., 1999) p. 53.

¹⁰¹⁰ Haughney, Diane. Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile, (Gainesville: University Press of Florida, 2006) p. 214-215.

Chilean government to officially compile a book on the national history of the country.¹¹

The Chilean fight for independence against the Spanish Empire was the beginning of the marginalization of the Mapuche tribe because it conflicted directly with their ideology of being recognized as a separate identity. Through a historical and current analysis of the Mapuche population, I discuss certain policies in respect to its ideology of a homogenous nation that were implemented by the Chilean government. These policies in the twentieth century – the agrarian reform and later the neoliberal economic policy -- removed the indigenous group further from the state, therefore, ostracising the Mapuche from the political framework of Chile.¹²

Chile's Political Status Affects the Mapuche

Chile is currently in a transitional stage of democratic development. Latin American governments are caught in a stage between democracy and authoritarianism. Chile is seen as a “political pendulum” that swings between democracy and authoritarianism with a brief period of anarchy in-between.¹³ Overall Chile has been a well-working democracy since the inception of its statehood. As democracy develops in Chile, the Mapuche people should be granted their right to autonomy.

¹¹ Gay, Claudio. *Historia Fisica y Politica de Chile: Tomo Primero*. Paris: Museo de Historia Natural de Santiago.

¹² Haughney, Diane. Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile, (Gainesville: University Press of Florida, 2006).

¹³ Latin America in Transition Lesson 2: Politics and Democracy. Christopher Brown and Alyssa Smith. Southern Center for International Studies, 2008)

Brief History of Mapuche Conflict

Since the independence, the Chilean state has oppressed the Mapuche and refused to recognize them as a part of the nation. The two elements that conflict with the Chilean concept of statehood and the Mapuche demands are: the state's perception of a homogenous nation and the doctrine of neoliberalism.¹⁴ The demarcation on the Chilean map reflects the state's perception of a homogenous nation. The map creates an image unifying the Chilean nation-state and disregarding their demands for a separate Mapuche nation. Chile used this idea of a homogenous nation to try and include the Mapuche population into this ideology. This geographic and cultural incorporation was in defense of the ideology of a homogenous nation, but conflicted with the Mapuche demands to be recognized as a separate ethnic identity.¹⁵

Before the existence of Chile, the Mapuche resisted foreign invasion and external intrusion onto their land. In the 16th to 19th century, the Mapuche community had rights to an independent nation-state by the Spanish and later the Chilean government.¹⁶ This gave them autonomy over their own lives—freedom of cultural, religious and ethnic identity. Although the Mapuche had a separate nation-state from the overarching powers during this period, the group still experienced infringement upon their territory.

¹⁴ Haughney, p. 201-217.

¹⁵ Ibid.

¹⁶ Minahan, James. Encyclopedia of the Stateless Nations. Westport, CT: Greenwood, 2002. Print. pg. 1182

Ever since the ‘Araucanian Wars’ against Spanish authorities, the Mapuche have constantly defended their land and livelihood.¹⁷ In the 16th Century, the Mapuche defeated the most resilient threat to their nation—the Spanish. The Mapuche led an attack on Spanish settlements in 1533 fighting for the land that was unjustly taken from them.¹⁸ They formed political and economic alliances among themselves by organizing an army of horsemen. Led by warrior chief Lautaro, the artillery of the Mapuche army destroyed the settlements to the south of the Bío-Bío River and defeated the Spanish in December of 1553.¹⁹ They intended to attack the Spanish base at Santiago, but were prohibited by the death of their leader and a pandemic of smallpox.

The Spanish realized their inability to conquer the Mapuche territory, and a treaty was negotiated between the two states. The Treaty of Quillin in 1641 granted independence to the Mapuche, allowing them control of the territory between the Bío Bío and the Chonos Archipelago.²⁰ In essence, the Mapuche were granted the right to their own nation-state. This did not last long, as the Spanish attempted to infiltrate Mapuche land in 1725, 1740, and 1766.²¹ However, the European wars caused the Spanish to deter their attention from South America and focus on conflicts within the European

¹⁷ "Araucanian wars." *Encyclopedia Britannica. Encyclopædia Britannica Online.* Encyclopædia Britannica, 2011. Web. 04 May. 2011.

<<http://www.britannica.com/EBchecked/topic/32201/Araucanian-wars>>.

¹⁸ Ibid.

¹⁹ Minahan, James. *Encyclopedia of the Stateless Nations*. Westport, CT: Greenwood, 2002. Print. pg. 1182

²⁰ Marhiquewun, R. "The Mapuche Nation." Available at : <http://www.mapuche-nation.org/english/html/m_nation/main/m_nation.htm> Accessed March 12, 2011.

²¹ Minahan, pg. 1182.

territory, such as the Seven Year's War (1756-63).²² Spain allied with the US declared war against Britain in 1779 to support the American Revolution.²³ This border is still relevant today as sectors of the Mapuche population, such as the CAM (Conflicto Arauco-Malleco), are still demanding that the Chilean state recognize and respect this treaty as the natural border between Chile and a separate Mapuche nation.²⁴

In the early 19th century, the relationship between the nation-state and the Mapuche people changed. Chile and Argentina gained their independence from the Spanish colonies in 1810, which meant that Spain was no longer the sovereign authority. Soon a territorial dispute arose between the two newly independent nations as both countries raced to claim Patagonia as their own — the southernmost part of South America where the Mapuche population resides. The land was valuable to both countries because it provided a larger geopolitical vantage point and an abundance of untapped natural resources. The two nations came to a mutual agreement and divided Patagonia. Today, the Andes Mountains are a natural geographical boundary between the two nations

The Creation of the Chilean Map: the Influence of Gay and Darwin

²² Ibid.

²³ Ibid.

²⁴ Véase, Mariman, José. "Movimiento Mapuche y Propuestas de Autonomía en la Década post dictadura," Denver: USA, 1997. Available at: <<http://Linux.soc.uu/se>> Accessed March 15, 2011.

The naturalists Charles Darwin and Claudio Gay influenced the Chilean decision to relinquish most of the Patagonian region to Argentina. In 1831, Darwin embarked on the 'Beagle Voyage' – a five-year journey circling many parts of the South America, Australia, New Zealand, and Cape Town. Darwin visited Chile from June 1834 to April 1835, travelling along the Chilean coastline, stopping on the Island of Chiloé, Valdivia, Concepción, Valparaíso and the Andes Mountains. Darwin observed the Patagonian territory to be unprofitable. Chile inspired by his commentary was no longer inclined to fight for Patagonia. As reported by Darwin:

April 22nd. -- The country remained the same, and was extremely uninteresting. The complete similarity of the productions throughout Patagonia is one of its most striking characters. The level plains of arid shingle support the same stunted and dwarf plants; and in the valleys the same thorn-bearing bushes grow. Everywhere we see the same birds and insects. Even the very banks of the river and of the clear streamlets which entered it, were scarcely enlivened by a brighter tint of green. The curse of sterility is on the land, and the water flowing over a bed of pebbles partakes of the same curse.²⁵

The lack of wildlife and fertile land made the Patagonian region unworthy of a fight to Chile and therefore contributed to their decision of discontinuing a dispute over the territory. Eventually Chile ceded the territory to Argentina. This was a politically logical decision since a majority of Patagonia lies on the right-hand side of the Andes Mountains. This resulted in a division of the Mapuche population across the Andean border of Chile and Argentina. The tribal demands of the Mapuche were between the two separate overarching authorities. For Chile, this meant incorporating the Mapuche territory into its own geographical boundary.

²⁵ Darwin, Charles. "Chapter 9 - Santa Cruz, Patagonia, and the Falkland Islands." *The Voyage of the Beagle*. Norderstedt Germany: GRIN Verlag, 2008. 111. Print.

The French naturalist Claudio Gay was contracted by the Chilean government to write Chilean history from the perspective of the nation-state. In his *Atlas of the Physical and Political History of Chile*, Gay depicts many important elements of Chilean statehood. Gay displayed Santiago as the capital of Chile. Prior to the publication of this atlas many Chileans considered the city of Castro on Chiloé Island as a legitimate rival to Santiago as its capital city. If Castro had been the capital of Chile, the nation's entire history may have been very different from that of what we know today since a majority of the indigenous population resides in this region. Gay also demonstrated the southern tip of Chile as the 'Strait of Magellan' — which was a significant asset for Chile since it allowed them to control much of the naval traffic on the coastal region at the tip of the Southern Core. Finally, the atlas established the Chilean borders as its natural physical barriers: San Pedro de Atacama desert in the north, the Andes Mountains to the East, Tierra del Fuego in the south, and the Pacific Ocean to the East.²⁶ These borders are important to the Mapuche population because they became divided by the Andes Mountains and between two different countries: Argentina and Chile. Also, the Andes served as a border between the two countries separating the Patagonian region.

²⁶ Gay, Claudio. *Historia Física y Política de Chile: Tomo Primero*. Paris: Museo de Historia Natural de Santiago.



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Figure 2: Mapuche Territory: The majority of the Mapuche indigenous group inhabit the south-western region of Chile and reside along the Andean border into Argentina. “At present they number approximately 1.5 million in Chile, and 200,000 in Argentina.”²⁸

The Mapuche population in Chile continued to resist multiple military invasions, even after the Chilean independence. In an attempt to claim Mapuche territory, the government leased land to European immigrants to the south of the Bío Bío River. The government labeled the land as federal property. In 1866, the Chilean government “passed a law allowing the sale of public lands,”²⁹ which privatized Mapuche territory and sold it as plots to

²⁷ New World Encyclopedia Contributors. "Mapuche." *New World Encyclopedia*. 7 Apr 2008, 16:20 UTC. 15 April 2011, 21:32
<<http://www.newworldencyclopedia.org/entry/Mapuche?oldid=689423>>.

²⁸ Unrepresented Nations and People Organization. *Mapuche: Statistic (2002 Population Concensus)*. Accessed March 25, 2008. Available at: <<http://www.unpo.org/members/7895>>.

²⁹ Minahan, pg. 1184.

public and private corporations. Finally, in 1881 the Mapuche were defeated when the entire Chilean national army invaded the Patagonian region. The Mapuche lost more land to the Chilean government in 1884 when they signed more treaties, which reduced their territory to limited reservations designated by the Chilean state. These territories were later eliminated as the government introduced neoliberal economic policy — in an attempt to sell Mapuche territory as public land — and therefore further marginalized the Mapuche.³⁰

³⁰ Ibid.

The Introduction of Multicultural Neoliberal Policy in Chile

In the twentieth century, the Chilean nation-state, as another attempt to assimilate the Mapuche population into its framework, began to introduce the doctrine of neoliberalism and privatization. The application of neoliberal economic policy did not value the Mapuche perception of culture, ideology, and values.

The application of neoliberal economic policy began during the regime of Augusto Pinochet. The neoliberal model de-emphasized the role of the state and put an emphasis on trade, private enterprise, open domestic markets and international markets. These economic reforms value privatization and individualism, such as private property, which include natural resources—land. During Pinochet's dictatorship, land was seized from the Mapuche and re-distributed as public property of the state to the private business sector. This caused the Mapuche to lose their livelihood and dignity. Neoliberalism seeks to maximize profits by putting a marketable value on goods (land), hence automatically excluding cultural, ideological and linguistic values because of their low monetary demand. This ostracizes the Mapuche.³¹

Minority groups, such as indigenous people, need the government to protect them from market distortions. This is because the market does not apply as much value to their livelihood compared to other groups nor protect them from market failure. Indigenous people resist the application of neoliberal policy. They question the model because it makes it difficult to preserve their culture, beliefs, language, ideology and politics. The conflict is

³¹Haughney, Diane.

between the ideology of the Mapuche population and the state, which reflects a homogenous state and neoliberal economic policy. This is because neoliberalism does not value indigenous culture unless it is seen as profitable in the market. The Mapuche movement, as it becomes more politicized, calls upon the state to intervene in the application of neoliberal economic policy because it conflicts with Mapuche ideals, culture, and ideology.

As neoliberal economics perceives that the market will assign value to culture, the indigenous language becomes a very marginal profit in comparison to Spanish and is unfavorable to the nation-state. Therefore, Chile and Argentina only recognize Spanish as their official language. The Mapuche speak their native language called Mapundungun. Spanish is often their second and written language. Indigenous languages are rarely taught in public schools. In Chile, a few bilingual schools created for only Mapuche children are located in the ARAUCANÍA and minimal programs exist at the college level to study Mapundungun. A recent effort has been made by organizations to preserve the written language and alphabet of Mapundungun for future generations.³²

As scholars have noted the predominant Latin American indigenous response to neoliberalism has been resistance. Prior to neoliberalism indigenous people were often grouped with peasants or unions. José Antonio Lucero, in the article “Decades Lost and Won: Indigenous Movements and Multicultural Neoliberalism in the Andes”, points out that there is not only an

³² Minahan, pg. 1181.

economic dimension to neoliberalism, but also a social and cultural dimension.

The concept of multicultural neoliberalism does not fit the same concept or political views of the indigenous groups in South America. It is only after neoliberalism was implemented in Latin America that the indigenous people have become a separate group from peasant farmers in the eyes of the Chilean state. The Mapuche population has separate demands from the peasant unions, such as recognition as a separate ethnic identity, collective rights and self-determination. Neoliberalism views culture in terms of market value. This economic theory argues that the market will automatically assign value to these cultural and social values. This transcribes to indigenous culture being virtually unprofitable and insignificant because the market does not apply significant value to indigenous culture.

The application of agrarian reform and neoliberal policy in Latin America have sparked resistance by indigenous movements because they fail to recognize their collective identity, values, culture and ideology. This is evident in the examples of Chile and Peru. Neoliberal economic policy ignored the demands of the Mapuche to be a separate culture, society, ethnicity, and group from peasant farmers. Another example of this refusal to acknowledge the Mapuche demand for rights is the Agrarian Reform in Chile during Eduardo Frei Montalva's presidency (1964-1970). The regime of President Frei did not view the Mapuche as a separate group from peasant unions. This agrarian reform grouped the indigenous Mapuche population

with all peasant farmers in Chile. Indeed, many Mapuche are actual peasant farmers, but their identity as Mapuche reflects a larger movement for greater autonomy from the state beyond employment. This nomenclature helped the Mapuche movement realize their identity as a separate entity from peasant farmers due to their shared ethnic and cultural roots. The agrarian reform interaction between the state and the Mapuche launched the movement to become more political as it saw itself in a new light with a need for specific rights from the state that was separate from other groups.³³

Inability to Deal with Land Concession and Privatization

While Chilean state interests during the Cold War did include agrarian land reform and social movements, the military coup d'état of 1973 led to a reversal of the progress during the presidencies of Eduardo Frei and Salvador Allende. Following the coup, Augusto Pinochet ruled as a dictator from 1973 until 1990. Neoliberal economic reform was a key component of Pinochet's contributions to Chilean history.

The territorial demands of the Mapuche people conflict with the neoliberal economic policy implemented during Pinochet times. The state gifted the land to forestry and energy companies. The effort of the Mapuche to reclaim these lands has largely been ignored, even during the Bachelet regime. The Mapuche demands also include the right to intellectual property and social recognition as an ethnic group. Neoliberalism promotes values of

³³ Haughney, Diane, pg. 36-52.

individualism, consumerism, privatization, and free market policies that go against the Mapuche community values.

Florencia Mallon's book, Courage Tastes of Blood, discusses the repression of the Mapuche indigenous community by the nation-state through the experience of the Nicolas Ailio community. Using oral history Mallon discusses twentieth century history and shows how many state policies have affected this community. This oral history illustrates the experiences of these community members. She argues that since the military defeat and resettlement of the community, the efforts of the Mapuche movement to restore their culture and lands have occurred within the confines of state policy. This is evident in the stories of the community members, many of which illustrate the greatest shifts in resettlement and agrarian reform of this time. The Mapuche people have been exploited and so must continue their struggle of survival. Their resistance attempts to counter the vast human rights abuses that have been committed against them.

In the Nicolas Ailio community, throughout 1906-1940, "land title recorded and reorganized kinship relations within the group." The state was interested in privatization. Although the state claimed to be giving benefits and power to the locals, conflicts over land and power led to the marginalization of the Mapuche community. Secretly, the state was manipulating the native population by taking the best land from the Mapuche

and selling it off to private business interests,³⁴ including local landowners, merchants, foreign and national colonists. In order to acquire the best land, the nation-state pressured the Mapuche to leave. Following the auctions of land occurred many of the Mapuche were forced to become “rural workers for the new commercial enterprises appearing in the area.”³⁵ In this way, the Mapuche lost more than land; they lost their livelihood and jobs. Much of the land was not good enough to farm, so they were forced to give up their tradition of an agricultural livelihood to work for businesses that now owned the property. This led to the next cycle of marginalization discussed in Mallon’s book. From 1940-1970, the post-settlement Mapuche communities found themselves entangled in a vicious cycle of poverty. The land the Mapuche once owned was reduced to smaller properties. “In 1963 the average amount of land per person in Mapuche communities had declined to 2.3 hectares.” As they lost their land, the Mapuche moved from cultivating crops and livestock to impoverished or dependent situations. Many depended on family members who had migrated to the cities for income.³⁶ This is part of a regional phenomenon of Latin Americans migrating to urban areas, both within the country and internationally, in order to send money home.

³⁴ Mallon, Florencia E. *Courage Tastes of Blood: the Mapuche Community of Nicolás Ailfo and the Chilean State, 1906-2001*. Durham, NC: Duke UP, 2005. Print. P. 40.

³⁵ Mallon, P. 41.

³⁶ Mallon, P. 62-63.

During Eduardo Frei's presidency, from 1960-1964, there was an emphasis put on rural unionization and agrarian reform. For the Mapuche population, these state policies presented real opportunities for social change.³⁷ Frei wanted to create an alliance for all poor peasantry. Mapuche were included in this plan. The problem was that the Mapuche would not be distinguished as a separate identity, ethnic group, culture or race.³⁸ From the position of the state, it was easier and more efficient to group the two together. This recognized the peasants and Mapuche as part of the same social class, but "overlooked an entire fabric of social relations."³⁹

An Overview of the Mapuche Movement from the Military Dictatorship

Until Today

The word Mapuche means "people of the land" and henceforth land is a fundamental part of Mapuche identity. Land is an essential part of their social, political, and cultural identity. Their spirituality and ideology also incorporate an ongoing relationship with the land.

The Mapuche were marginalized in public policy, both land reform and the application of the neoliberal economic model, during the military dictatorship. The implementation of neoliberal policy implied expansion of private companies and the state onto Mapuche land. After the neoliberal

³⁷ Ibid. P. 80.

³⁸ Ibid. P. 82.

³⁹ Ibid. P. 83.

reforms were applied under Augusto Pinochet's regime, "Territoriality then emerges as a public matter, of power and rights".⁴⁰ The public Chilean nation-state fought with the Mapuche over this land. The strong relationship the Mapuche maintain with the land made this seizure of property a threat to their livelihood, culture, beliefs and traditions.

The Mapuche movement for recognition as a separate ethnicity and collective identity grew out of resistance to the radical policies inflicted under the military dictatorship. These policies include Secret Law (*Decreto Ley*) Number 2.568 and Secret Law Number 2.750 which "exploded subtle identity processes and opened a step towards a political symbolic confrontation and a large cycle of ethno policy mobilizations." The decree 2.568 put an end to communal and collective property. The Mapuche case during this time became an important case illustrating the violation of human rights under Pinochet. The Mapuche experience of reform is unique in that it emerged during a time of severe repression, 1973-1978. The repression during this time was inflicted by the military regime not only towards the Mapuche population, but also towards many other Chilean citizens. The only other visible social movements were those of detained and/or disappeared persons that were killed and tortured by Pinochet's regime.

Two international factors were very important in the emergence of this Chilean indigenous movement, both "the international movement of human

⁴⁰ Toledo, Llancaqueo Victor. Pueblo Mapuche: Derechos Colectivos Y Territorio : Desafíos Para La Sostenibilidad Democrática. (Santiago De Chile: Programa Chile Sustentable, 2005). Print. Pg. 83.

rights and the cooperation for development.”⁴¹ The point of the movement during this time was partially symbolic, “affirming its ethnic identity and condition as a people, to install the indigenous question in the Chilean imaginary and in the demand for democratic recovery.”⁴²

The Catholic Church is the main mediator regarding Mapuche rights and affairs. In September 1978 the Mapuche community, with the help of the church, organized a meeting of 155 Mapuche from 90 different communities to respond to the law N 17.729. The meeting fostered a collective response to be presented to the Military Junta, claiming that they collectively “refuse the division of their land and desire that the land remains always in the hands of the Mapuche.” Also, that they do not agree “that the lands be sold for touristic, commercial motives given the danger of losing their unity as a Mapuche people.”⁴³ This action reflected the recognition of a collective Mapuche identity and the desire for greater autonomy, which was being violated by the dominant Chilean government ruling. During the 1980’s, indigenous movements were emerging on the global scene demanding greater autonomy over their own lives. During this time period the Mapuche movement reshaped itself in “the defense of the culture and the ethnic identity” while demanding self-determination over their own lives.

⁴¹ Llancaqueo, Pg. 84.

⁴² Llancaqueo, Pg. 84.

⁴³ Llancaqueo, Pg. 85.

**Chilean Self-image, Illusion of a Homogenous Nation Traps Regional
Experience of the Mapuche and Aggravates its Failure**

The national image of a homogenous nation traps the regional experience of the Mapuche people and worsens the experience of the Mapuche. In her book, Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile, Diane Haughney discusses the democratic transition following the military dictatorship and its effects on Mapuche people. Haughney perceives the government's indigenous policy in Chile as an attempt to assimilate the Mapuche people into the Chilean nation. In this way, the Mapuche receive one identity--Chilean--and lose their right to a separate identity. Secondly, Chilean government actions work, "to free the material resources and indigenous lands to capitalist exploitation." These goals go against the Mapuche political movement, which has developed to incorporate all Mapuche people into a collective identity.⁴⁴ The movement has become increasingly politicized and works for the universal demands of the Mapuche people. The right to a collective identity conflicts with the neoliberal concept of modernization.⁴⁵

The Chilean state's adherences to a homogenous nation and capitalist economic development have clashed with the Mapuche claims for land and a collective identity. Following the end of Pinochet and the transition to

⁴⁴ Haughney, Diane. *Neoliberal Economics, Democratic Transition, and Mapuche Demands for Rights in Chile*. Gainesville: University of Florida, 2006. Print. P. 203.

⁴⁵ Haughney, p. 186.

democracy, the Concertación government planned to push for gradual social and political reform, but was adamant about maintaining the neoliberal economic model. The regime considered the neoliberal economic model the best path to development for Chile at the time.⁴⁶

Haughney highlights the examples of the Biobío hydroelectric dam projects and the logging companies to demonstrate that the “1993 indigenous law did not provide protection against the negative consequences of capitalist expansion on Mapuche communities.”⁴⁷

Initially, the 1993 indigenous law appeared to be a big step forward in Mapuche rights and the recognition of cultural diversity within the Chilean nation. The law also worked “to protect indigenous lands.” However, it became evident that the law was not intended to protect the collective rights of indigenous peoples, but rather integrate this population into the neoliberal model and mainstream Chilean society.⁴⁸

Following the implementation of the 1993 indigenous law, the Chilean government has made many attempts to resolve conflicts with the Mapuche. One example of this is instances of dialogues between the government and Mapuche communities. The dialogues are an attempt to resolve the conflicts and are held between the state and Mapuche representatives. The Mapuche are concerned that this interaction does not accurately reflect their demands because the government does not allow main leaders of the Mapuche movement to be present.

⁴⁶ Haughney, 204.

⁴⁷ Haughney, 204

⁴⁸ Haughney, 205.

Chapter III.

Unlawful Terrorism Prosecution of the Mapuche

Who are the terrorists?

There is no universal definition of 'terrorism.' An expert briefed the Australian Parliament saying,

The international community has never succeeded in developing an accepted comprehensive definition of terrorism. During the 1970s and 1980s, the United Nations attempts to define the term foundered mainly due to differences of opinion between various members about the use of violence in the context of conflicts over national liberation and self-determination.⁴⁹

However, certain definitions have been proposed over time.

The United Nations has collectively established a Comprehensive Convention on International Terrorism that incorporates a single, all-encompassing, legally binding, criminal law defining term for terrorism. The political description of terrorism states,

Criminal acts intended or calculated to provoke a state of terror in the general public, a group of persons or particular persons for political purposes are in any circumstance unjustifiable, whatever the considerations of a political, philosophical, ideological, racial, ethnic, religious or any other nature that may be invoked to justify them."⁵⁰

Although the above is the official definition of terrorism by the international community it has yet be accepted universally.

⁴⁹ Angus Martyn, *The Right of Self-Defence under International Law-the Response to the Terrorist Attacks of 11 September*, Australian Law and Bills Digest Group, Parliament of Australia Web Site, 12 February 2002.

⁵⁰ 1994 United Nations Declaration on Measures to Eliminate International Terrorism annex to UN General Assembly resolution 49/60, "Measures to Eliminate International Terrorism," of December 9, 1994, [UN Doc. A/Res/60/49](#).

Background

The definition of the term “terrorist” has been controversial throughout history. The notion of terrorism originated during the French revolution. The revolution began when French citizens stormed the Bastille prison and demolished it in protest. Soon thereafter, the “Reign of Terror” ensued as the guillotine was used to kill alleged traitors to the revolutionary leader Maximilien Robespierre.⁵¹ This action inflicted fear upon aristocrats and common people alike so that they would submit to the decisions of the ruling government. Only the physically present witnesses for the executions by guillotine felt the terror of this gruesome display. The term terrorism originated from the concept of an act of “violence with the theater of a public spectacle.”⁵²

Today terrorism has many different meanings, but the effect is the same and is increased dramatically in present mass media and communication tools. Mass media displays terrorism through television, internet, radio, and newspaper sources. In a sense, terrorists win by having their cause displayed to a world audience. Terrorist groups and individuals do not call themselves “terrorists” because that would be detrimental to the cause of their ideology.

⁵¹ Dipak, Gupta K. *The Roots of Terrorism: Who Are the Terrorists?* New York: Chelsea House, 2006. Print. Pg. 4-6.

⁵² *Ibid.* Pg. 4.

Many describe themselves as ‘liberators’, ‘revolutionaries’, ‘justices’ and ‘jihadis’ (righteous warriors).⁵³

Terrorism is the outcome of a specific ideology, an attempt to reshape the world in the ideal image of a specific group. Therefore, in order to understand terrorism, we must focus on the ideas that propel groups of people to kill others and even willingly sacrifice their own lives.⁵⁴

According to a political historian David Rapoport there are four waves of global terrorism spanning across the world in the past 125 years.⁵⁵ These four trends include anarchism, anti-colonial movements, leftist movements, and most recently religious fundamentalists. Anarchism originated in Russia in the 1880s by Mikhail Bakunin (1814-1876).⁵⁶ This ideology does not accept an overarching authority ruler. Inequality plagued Europe during this time. The local population of Russia suffered dramatically and unfairly in comparison to the elite. This disadvantage of the Russian locals, “inspired the anarchists to kill people of authority in order to create a society in which everybody would be treated equally.”⁵⁷ This philosophy spread across Europe and crossed the Atlantic as a wave of immigrants came to the United States.

Anti-colonial sentiments ruled the second worldwide wave of terrorism. Following the First World War, and the division of the world into colonies, the colonized desired freedom from foreign rule.⁵⁸ This occurred in Ireland where the Irish Republican Army (IRA) attempted to eliminate any remains of

⁵³ Ibid. Pg. 6.

⁵⁴ Gupta, p. 15-23.

⁵⁵ Ibid.

⁵⁶ Gupta, p. 16.

⁵⁷ Gupta, p. 15-23.

⁵⁸ Ibid.

British colonialism and assure complete independence. As European empires disintegrated from the global scene after World War II, so did the second wave of terrorism. The third wave of left-wing terrorist groups of the 1960s and 1970s incorporated Marx theory combatively resisted the poverty and social injustice. The third wave emerged out of the Vietnam War. Communist countries adopted Marxist theories into their political ideology. Examples of terrorist group during the Communist era are the Basque separatist group, the Weather Underground in the US, the Red Brigade in Italy, and the Palestine Liberation Organization (PLO). In Latin America icon Che Guevara and Marxist ideology inspired the emergence and following of Tupamaros guerrilla groups in Uruguay and Argentina, the Shining Path in Peru and the FARC in Colombia.⁵⁹

In the early 1990s the world faced the fourth and current wave of terrorism inspired by religious fundamentalism. “Today’s fundamentalist movement aim not only at replacing the current governments but also at transforming their nations into the group’s own image of religious purity.”⁶⁰ The “Christian Identity” movement in the United States and Islamic groups in the Arab/Islamic World are clear examples of this.⁶¹

In a review of world history, especially the last century, terrorism is a pandemic result of society. It has existed since the birth of society and will

⁵⁹ Gupta, P. 15-23.

⁶¹ Gupta, P. 21-23.

continue. However, waves of terrorism will come and go as historically noted. The current epidemic of religious fundamentalism is most likely to come to an end but societies should always be prepared to battle 'terrorism' as it changes form and manifests itself nonetheless.

US-Latin American Relations following 9/11

With the onset of the terrorist attacks of September 11, 2001 the political relationship between the US and Latin America abruptly changed. The US created an ‘all or nothing’ approach to address the ‘War on Terror.’ This meant that any nation against the US policy was considered a foe and henceforth a potential threat to its sovereignty. The President of the U.S., George W. Bush adopted a unilateral approach and refused to consult supranational organization such as the United Nations. Therefore, during such grave times, nations fearing their sovereignty allied their alliance with the US ‘War on Terror’ and thus changed their foreign and domestic policies to benefit the American cause.

However, the rules of the game changed once the ‘War on Terror’ was launched. These rules stated that countries could respond to terrorist attacks in the manner they desired “including the use of indiscriminate force.” There was no overarching authority observing the country’s responses to terrorism that would ensue. This made stronger nation-states more inclined to have a stronger response.⁶²

With a new outlook on terrorism nations began to convict internal dissidents or politically active citizens if their demands clashed with those of the government. Such was the case with the Mapuche, who were labeled ‘terrorists’ as the Chilean state sought to address the issues pertaining to their demand for rights since they had clashed with those of the governments from

⁶² Smith, p. 317.

time immemorial. The Chilean nation-state applied the exceptional *ley antiterrorista* (Anti-Terrorism Law) to the Mapuche people as they came to be known as ‘terrorists.’ A defensive approach was best suitable. The risks of a terrorist attack were too high for the American government and therefore “preventive action was appropriate”.⁶³ The fact that the Chilean nation-state considers the Mapuche ‘terrorists’ means it is in fear of an attack on its land, power or sovereignty. The third rule in the global world of ‘terror’ was that it was not important to follow international treaties or conventions.

The fourth rule post 9/11 stated, “Alliances could (and would) be formed around a single issue” — in response to 9/11 and the willingness to join the antiterrorist campaign.⁶⁴ The American administration became the unwarranted judge of the anti-terrorist alliances based on whether they were in support of the terror campaign or not. There was no middle ground, and the choices were simply black and white. “Gone were concerns about human rights, democratic practice, or related issues.”⁶⁵ This made for a difficult political decision for many countries, which had to make a political decision of choosing sides. Latin American countries were divided in their support of US actions and the global ‘War on Terror.’

Increased terrorism prosecution of the Mapuche Following 9/11

⁶³ Smith, p. 317.

⁶⁴ Smith, p. 318.

⁶⁵ Smith, p. 318.

The 'War on Terror' influenced the Chilean government's response to terrorism. It was during President Ricardo Lagos regime (2000-2006) that the Anti-Terrorism Law was used as a means to prosecute Mapuche individuals. My argument states that the US 'War on Terror' with international signaling and demonstration heightened the fear of terrorism, fueling the Chilean government's decision to apply the Anti-Terrorism Law to Mapuche individuals.

I analyze the difference in government response to combat terrorism pre and post 9/11. The Anti-Terrorism legislation applied by the government towards the Mapuche drastically increased following the attacks of September 11, 2001. The US launch of the 'War on Terror' set standards for increased terrorism rhetoric and prosecution of internal dissidents. The Mapuche individuals being tried under the Anti-Terrorism Law are an example of this. The state is using a new instrument, the Anti-Terrorism Law, in a way it was not applied before in order to suppress more indigenous claims. The state is fearful of its relationship with the Mapuche. In the economic sense, the nation-state fears losing its existing property rights to the land. Politically, Chile views the claim to self-determination and the creation of a separate Mapuche nation to be a threat to the existing nation's sovereignty. Also, if the Mapuche population is granted its rights, the government fears the domino effect of more indigenous movements falling to success in Chile and Latin America. Some of these are legitimate concerns that the state has, but the use of anti-terror legislation in response to the Mapuche's legitimate claim to

rights is unjust. Convicting these Mapuche individuals under ordinary criminal law is sufficient punishment for the crimes committed, but the US launch of the 'War on Terror' encouraged an international climate of fear and the rationalization of the use of anti-terror legislation.

Human Rights Watch fears that the current international climate has provided support for the Lagos government's inappropriate use of the Chilean Anti-Terrorism Law. The U.S.-led campaign against terrorism has, unfortunately, become a cover for governments who want to deflect attention away from their heavy-handed treatment of internal dissidents. Today, governments in countries around the world are attempting to use terrorism or national security measures as a means of avoiding international scrutiny of dubious human rights practices.⁶⁶

Even after considering the international climate that fostered this type of prosecution, the concerns of the state are not legitimate enough to employ this extreme legislation on people that are not terrorists.

⁶⁶ Human Rights Watch, Undue Process: Terrorism Trials, Military Courts and the Mapuche in Southern Chile. Human Rights Watch and Indigenous Peoples' Rights Watch, 2004. p. 5. Available at: <<http://www.hrw.org/en/node/11920/section/1>>

Figure 2: The Progression of the Use of the Word ‘Terrorism’ in Chilean and Argentinean National Newspapers from 1999-2010.

Search for Word Terrorismo	1999-2001	2001-2002	2002-2003	2003-2004	2004-2005	2005-2006	2006-2007	2007-2008	2009-2010	2010-2011	01/2011-03/2011
Source: El Mercurio (Chile)											
News Articles:	775	1,194	1,158	892	1,015	642	573	467	382	362	48
Source: La Nación (Argentina)											
News Articles:	818	1,659	1,214	1,390	1,777	1,459	1,288	5,339	9,205	10,344	1,195

Figure 2 displays data from the Chilean newspaper *El Mercurio*, the most prominent conservative newspaper in the country, and *La Nación* of Argentina, showing the progression of the use of terrorism from the year 1990 until 2010.⁶⁷ It is clear that the use of the word increased significantly following the attacks of September 11, 2001. In 2001 the use of the word increased from 775 (during the period of 1999-2001) to 1,194 in the Chilean newspaper. In Argentina, *El Mercurio* published the word ‘terrorism’ 1,659 times in the year of 2001, a significant jump from 818 times the previous two years.⁶⁸ This chart represents an example of the increased concern for ‘terrorism’ in the local national media of these respective countries.

⁶⁷ Sources used: El Mercurio (Chile) Available at: <diario.elmercurio.com>. La Nación (Argentina). Available at: <www.lanacion.com.ar>

⁶⁸ El Mercurio (Chile).

Chile Labels Mapuche as Terrorists

By labelling the Mapuche as terrorists, the Chilean government is legitimizing its neglect of the demands for land rights and ethnic recognition posed by this indigenous tribe. Terrorism is the rationalization that the Chilean government is using to ignore Mapuche demands for land rights and ethnic recognition. Influenced by the international demonstration of the US launch of the “War on Terror” and increased terrorism prosecution worldwide, the Chilean government recently resurrected a draconian Anti-Terrorist Law from Augusto Pinochet’s dictatorship (1973-1990). This law targeted citizens who refused to agree with his political regime. The law is being used to target the Mapuche population. Rodrigo Lillo, a lawyer and long-time defender of Mapuche leaders in military tribunals believes,

the Mapuche have lost Chilean public support. By using the terrorist law, the government has not only succeeded in [disenfranchising] Mapuche groups, it has also robbed them of the moral prestige and sympathy they once enjoyed.⁶⁹

Arthur Chaskalson’s article on Counter-terrorism, Human Rights and the Rule of Law claims that since 9/11, terrorism is the legislative framework, replacing communism. In Chile, the Pinochet regime was in power throughout the second half of the Cold War. The *Concertación*, a coalition of Center-Left Political Parties, replaced Pinochet in 1990, as Chile transitioned to a democratic political regime. In the wake of the threat of global terrorism the

⁶⁹ "Chilean indigenes face trial". Earth Island Journal: 2005. 15 March, 2011. [http://findarticles.com/p/articles/mi_hb6393/is_4_19/ai_n29153853/Chilean Indigenes Face Trial](http://findarticles.com/p/articles/mi_hb6393/is_4_19/ai_n29153853/Chilean%20Indigenes%20Face%20Trial). Earth Island Institute: 2005. New York Times, 8/11

Concertación government is using a terrorist rhetoric. Chaskalson says, “Lessons from past laws and practices that deny the dignity of the persons against whom they are directed lack legitimacy. They harm victims of the law and those whose attack is to enforce them. They infect the entire legal system.”⁷⁰ The Anti-Terrorist Law in Chile exemplifies this, since this past law being re-invoked against Chile’s indigenous community clearly denies the Mapuche dignity and lacks legitimacy. Chaskalson also explains that it is difficult to define terrorism due to “ideological differences.” He argues that, “National legal instruments should be carefully formulated and go no further than is absolutely necessary for the purposes of combating terrorism.”⁷¹ It is difficult to establish standards for the creation of legal instruments that will effectively combat a threat such as terrorism.

Courts are very influential and can prevent the negative consequences of terrorism. In the United Kingdom, courts have been “firm in their commitment to uphold human rights and the rule of law.” This effort has been important, but also needs the support of parliament and civil society. Chaskalson concludes that we must all be defenders of the rule of law.⁷² In

⁷⁰ Chaskalson, Arthur. The Widening Gyre: Counter-Terrorism, Human Rights and the Rule of Law. The Cambridge Law Journal. Vol. 67, No. 1 (Mar., 2008). P. 75. Published by: Cambridge University Press on behalf of Editorial Committee of the Cambridge Law Journal Stable URL: <http://www.jstor.org/stable/25166377>

⁷¹ Chaskalson, p. 7

⁷² Chaskalson, p. 91.

the case of Chile, judges in military tribunals have not upheld human rights standards and the rule of law when prosecuting Mapuche individuals.

Misuses of Terrorist and Terrorism Prosecution in Chile

Despite media and governmental portrayal, the fact remains that the Mapuche indigenous group is not a terrorist group. The Chilean government accuses the Mapuche people of being terrorists, however this is untrue. As a whole they have committed violent acts, but these do not fall under a “terrorist” definition, as these acts do not directly threaten life, liberty or physical integrity. Because the Chilean government claims the Mapuche people to be terrorists, however, access to an equal and fair trial for the defendants of the Mapuche cause has been denied. The invocation of the draconian Anti-Terrorist Law, first established by Dictator Augusto Pinochet, was unnecessary. The government could have used regular criminal law to prosecute the Mapuche population.

Since 1990 and the election of *La Concertación*, the government has treated the Mapuche unlawfully by targeting the population. The government and its institutions have targeted the Mapuche and mistreated this indigenous population primarily through police abuses and unlawful terrorism prosecution. More importantly, the government refuses to recognize many of the group’s legitimate demands for autonomy over their own lives and the return of their ancestral lands. There have been many cases of police abuses towards the Mapuche population. The application of the Law of Internal

Security of the State Law and the Anti-Terrorism Law that began with the dictatorship and still continues today, reflects the government fears the Mapuche are a legitimate threat to their sovereignty. The Mapuche have committed arson attacks on various private properties, set fire to buses and trucks, and done land occupations in an attempt to make their demands heard and recognized. The government does not see the Mapuche as a group with legitimate claims because it threatens the government's nationalist notion of a homogenous state and its commitment to neoliberal economic reforms. If the state does not defend its political framework it will lose legitimacy. It is important for the government to recognize that the Mapuche claims are legitimate demands and their protest is a social movement that reflects the diversity of the Chilean country. Their demands need to be considered by the Chilean nation-state to foster an inclusive, well-working democracy that defends the rights of all its citizens. Here, I will outline the trajectory of the misuses of terrorism prosecution in Chile following the military dictatorship.

The Military dictatorship (1973-1990)

The dictatorship began after the military coup de'tat of 1973 in Chile. On September 11, 1973, also known as the "other September 11," the military junta overthrew the democratically elected President Salvador Allende of the ruling political party Popular Unity. The US later endorsed the military coup d'état because it feared the influence of the socialist President Allende causing a domino effect and fuelling the spread of communism in Latin America.

Augusto Pinochet, the head of the army, emerged to power soon thereafter and ruled as a military dictator until 1990.

The military dictatorship showed a policy of assimilation and ignorance of the indigenous population. During this time, the government created a state of exception and therefore changed many legal documents. The regime changed the constitution and created harsh laws to prosecute political opponents. These included citizens that belonged to left-wing political parties such as communists, socialists, and even indigenous peoples. These laws, particularly the Law of Law of Internal Security of the State and the Anti-terrorism Law translated to persecution and repression of these populations during the military regime.

Strikingly it was Pinochet's social opponents, the *Concertación*, which continued the use of the Law of Internal Security of the State Anti-Terrorist Law.⁷³ This party was founded in 1988 and served as the main opposition to Augusto Pinochet. The *Concertación* is a coalition of center-left political parties in Chile that include the Christian Democratic (*Democrata Cristiana-DC*), For Democracy (*Por la Democracia-PPD*), Socialist (*Socialista PS*) and Radical (PRSD) Party. On October 5, 1988 the *Concertación* beat Pinochet in the national plebiscite, officially marking the return to democracy in Chile after the dictatorship.⁷⁴ The party has ruled for twenty years (from 1990-

⁷³ Haughney, Diane. Pg. 185-217.

2010). In 2009 the opposition Party for Change (*Partido por el Cambio*), led by Sebastian Piñera, was elected and inaugurated in 2010.⁷⁵

The transition to democracy after years of an oppressive dictatorship in Chile created expectations for change. The Mapuche population expected the Concertación to acknowledge their claims after the administration promised to change indigenous policy. Although the Concertación is a left-wing political party they continued the same political stature of ignoring the indigenous claims and marginalizing the Mapuche.

President Eduardo Frei Ruiz-Tagle (1994-2000)

The Presidency of Eduardo Frei continued the state of exception in its interaction with the Mapuche population. The Internal Security of State Law is similar to the anti-terrorist laws and “orients the persecution of facts and groups to those that they attribute the intent to destabilize the constitutional government and/or provoke panic in the population.”⁷⁶ The law is reserved for exceptional cases. President Frei Ruiz-Tagle’s government applied the Internal Security of the State Law “four times (three of those times against Mapuche individuals).”⁷⁷ At this time, private enterprises also accused the indigenous population of committing crimes against property.

⁷⁶ Facultad De Derecho Universidad Diego Portales. "Derechos Humanos De Los Indigenas." *Informe Anual Sobre Derechos Humanos En Chile 2003: Hechos De 2002*. [Santiago, Chile]: Facultad De Derecho, Universidad Diego Portales, 2003. p. 330, 295-336. Print.

⁷⁷ *Ibid.*, p. 330.

In 1997, the Wood Company Arauco Forests S.A., a forestry company, requested the employment of the Internal Security of the State Law against the Mapuche in defense of their property and territory. The company accused the Mapuche of the “partial burning of two trucks on the interior road Lumacopuren.”⁷⁸ Following the accusation, twelve Mapuche individuals were detained by the government and five of them were convicted. Those convicted “received a prison sentence of three years and one day.”⁷⁹ The confession of the defendants was made by witnesses with covered faces that could not be recognized by third parties. This is very similar to the application of the Anti-Terrorist Law which employs “faceless” witnesses. The Annual Human Rights Report administered by the University of Diego Portales explains that detainee’s confessions may not have been judicial, as “the minister instructor Antonio Castro, fulfilled a police ground which reprimanded their eventual participation in the crime.”⁸⁰ Other reports do not reference the participation of the defendants. Therefore, the application of this law created a state of exception which prosecuted the Mapuche, not allowing them the right to a fair trial to defend their case. The crime did occur, but it is unclear whether those convicted were truly guilty because their confession was made by unidentifiable witnesses. The government’s application of these laws leads to a “stigmatization of the indigenous, moving away from the discussion of the

⁷⁸ Facultad De Derecho Universidad Diego Portales. "Derechos Humanos De Los Indigenas." *Informe Anual Sobre Derechos Humanos En Chile 2003: Hechos De 2002*. [Santiago, Chile]: Facultad De Derecho, Universidad Diego Portales, 2003. p. 330, 295-336. Print.

⁷⁹ Ibid.

⁸⁰ Ibid.

demand of rights to a question of criminal repression.”⁸¹ This discrimination continued into the next Chilean presidency of Ricardo Lagos.

President Ricardo Lagos (2000-2006)

Post 9/11, the launch of the US war on terror caused the Chilean government to apply the Anti-Terrorist Law to Mapuche cases because it encouraged an international climate of counterterrorism legislation. The application of the same harsh laws used during the dictatorship (Internal Security of the State Law and Anti-Terrorism Law) following the launch of the US war on terror only further exemplified and justified the Chilean government’s state of exception in its relations with the Mapuche population and indigenous groups in Chile. This application showed a continuation of previous government policy but reflected a harsher response to the Mapuche demand for rights. Rodolfo Stavenhagen, the first UN Special Rapporteur on the situation of Indigenous Rights, said, “the trials put in force by the antiterrorist law...questioned the guarantees of due process.”⁸² The harsh application of these laws continued during Michelle Bachelet’s presidency.

President Michelle Bachelet (2006-2010)

⁸¹ Facultad De Derecho Universidad Diego Portales. "Derechos Humanos De Los Indigenas." *Informe Anual Sobre Derechos Humanos En Chile 2003: Hechos De 2002*. [Santiago, Chile]: Facultad De Derecho, Universidad Diego Portales, 2003. p. 336. Print.

⁸² Human Rights Watch. *Undue Process: Terrorism Trials, Military Courts and the Mapuche in Southern Chile*. Chile: 27 October 2004.

Following Ricardo Lagos, Michelle Bachelet was elected as the first female president of Chile in 2006. Bachelet was a victim of political torture and was forced in to exile in the 1980s. Her election represents incredible progress for Chilean history and the transition to democracy since the military dictatorship as she is a “divorcee, mother of three, socialist, agnostic and former political exile”.⁸³ President Bachelet continued the unlawful application of the draconian Anti-Terrorist Law to prosecute Mapuche individuals. Richard Caifal, a human rights lawyer described the Anti-Terrorist Law as an “abomination” in which “the government is using it in a discriminating way, only against Mapuches.”⁸⁴ Most recently, under President Michelle Bachelet (2006-2010), the Mapuche continued to demand political participation, the right to self-determination, recovery of lost territory, economic development, education, health, legislation and justice.

In response to Mapuche demands, President Bachelet promised not to invoke the use of the Anti-Terrorism Law and to create a more inclusive social policy during her presidency. Her administration broke that promise when they decided to apply the antiterrorism law, “to go after these groups of people who are set on perpetrating crimes, disorder and unrest in a region seeking peace and harmony,” Chile's Deputy Interior Secretary, Patricio

⁸³ Ibid., p. 120.

⁸⁴ Franklin, Jonathon. "Chile Uses Antiterror Laws to Defeat Mapuche Uprising - TIME." *Breaking News, Analysis, Politics, Blogs, News Photos, Video, Tech Reviews - TIME.com*. 12 Dec. 2009. Web. 1 Apr. 2011. Available at: <<http://www.time.com/time/world/article/0,8599,1947335,00.html>>.

Rosend, said recently.”⁸⁵ The Bachelet presidency continued a top down approach to public policy with some small changes, allowing for little inclusion of social minorities voices in the creation of social policy that affected them.

The article “Top-Down and Bottom-Up Democracy in Latin America: The Case of Bachelet in Chile” by Patricio Navia unravels the reasons why Bachelet’s government adamantly campaigned to introduce more bottom-up democracy mechanisms, but after her election the administration continued the established policy of top-down mechanisms. The Concertación governments preceding Bachelet’s administration had “combined neoliberal economic policies with socially aimed state intervention.”⁸⁶ President Bachelet wanted to change this trend and “promised to establish a more participatory democracy”⁸⁷ than the previous political administration.

In an effort to reflect a stronger left-wing presidency, Bachelet wanted to implement bottom-up mechanisms of democracy. In her campaign, Bachelet emphasized the strengthening of a social safety net. In her words this meant to “construct a more humane environment and to promote a wider conception of human development.”⁸⁸ This safety net would allow for the legitimacy of a socialist government to balance “basic guarantees for all” its

⁸⁵ Ibid. p. 1

⁸⁶ Ibid.

⁸⁷ Navia, Patricio. "Top-Down and Bottom-Up Democracy in Latin America: The Case of Bachelet in Chile." *Stockholm Review of Latin American Studies* 3 (2008): 119-30. Print.

⁸⁸ Ibid. p.121

citizens and the economic policy of neoliberalism. To enforce this policy, Bachelet tried to incorporate more participatory and inclusive democracy. While campaigning, she promised to enforce gender equality “in top governmental posts and promised new faces in key positions”. Once in office, Bachelet was faced with other challenges, such as a struggling economy, a student movement that sparked the questioning of educational public policy across the country, and the implementation of Transantiago public transportation reform.⁸⁹ These challenges became priorities that resided over her original campaign message of inclusive and participatory reform. This caused Bachelet to re-prioritize the importance of her policies during her presidency, and this refocus led to lackluster social policy. Her government “had few and scattered references to improving representative democracy.”⁹⁰ The administration managed to implement some gender quotas for government jobs and bring in new leaders, but on the whole the vast improvement Bachelet had hoped for remains to be seen. Her inauguration speech said,

I want government officials to be transparent about our actions, but I also want my administration to govern without hiding from the people. I want them to consult with the people. I believe citizens have a lot to contribute to help us make the right decisions. For that reason, I have already indicated that we will promulgate a series of initiatives promoting citizen participation in issues that they consider important”

⁸⁹ Ibid. p. 122

⁹⁰ Navia, Patricio. "Top-Down and Bottom-Up Democracy in Latin America: The Case of Bachelet in Chile." *Stockholm Review of Latin American Studies* 3 (2008): 119-30. Print.

(Michelle Bachelet, "Intervencion en acto ciudadano, Casablanca" March 11, 2006).⁹¹

In this way, Patricio Navia argues that Bachelet's administration reflected both change and continuity in comparison to previous administrations. This notion can be applied to the Bachelet administration's approach to indigenous policy. Bachelet did make an important change in regards to indigenous policy by implementing the indigenous law recognizing the Mapuche as a separate ethnic identity. For the most part, President Michelle Bachelet continued the same approach to indigenous policy because she invoked the anti-terrorism law and refused to recognize the majority of the Mapuche indigenous claims.

Her government also failed to foster dialogue between the nation-state and the Mapuche. Human rights groups held a press conference to review the sentences to be used to prosecute the Mapuche under the Anti-Terrorist Law. There, the government's lackluster effort to facilitate dialogue became evident. The government "had committed itself to setting up a negotiating table with the prisoners' defense lawyers and representatives of the Catholic Church,"⁹² but had only held one meeting on December 17th. At this time, the government had also not responded to other commitments. It "delayed the granting of prison privileges, like home visits on Sundays, for which the Mapuche prisoners and Troncoso are eligible because of the number of years

⁹¹ Navia, Patricio. "Top-Down and Bottom-Up Democracy in Latin America: The Case of Bachelet in Chile." *Stockholm Review of Latin American Studies* 3 (2008): p. 125.

⁹² Estrada, Daniela. "RIGHTS-CHILE: Mapuche Land Conflict Stained With Blood - IPS Ipsnews.net." *IPS Inter Press Service*. 3 Jan. 2008. Web. 05 Apr. 2011. <<http://ipsnews.net/news.asp?idnews=40674>>.

they have been behind bars.”⁹³ President Bachelet did not respond to Senator Alejandro Navarro’s plea “to ask parliament to give fast track treatment to a legal reform that could lead to the activists’ release”. These responses by the administration were opportunities to stand up for marginalized citizens in a working democracy and ensure their protection and inclusion in government reform. The inability of the government to respond to these demands for dialogue and following through with their promises to indigenous people reflects the continuation of top-down policies that do not foster social inclusion. Although the effort failed, Bachelet’s administration did help to push the debate of a more participatory and bottom-up democracy in Chile.

In 2009, the Bachelet administration re-enacted the outdated Anti-Terrorist Law from Pinochet times, which, “allows the state to hold people for up to two years without charges, to restrict defence attorneys’ access to evidence and to use testimony from anonymous witnesses.”⁹⁴ In 2010, Chile elected Sebastian Piñera, part of the right-wing National Renewal coalition. To condemn the Anti-Terrorist law under Sebastian Pinera’s administration, the Mapuche exercised a hunger strike for 82-days in protest.

Mapuche Demands for Rights

As discussed in Chapter II, the historically conflicting ideologies of the Mapuche community and the Chilean state’s cause the indigenous group

⁹³ Ibid. P.1.

⁹⁴ EFE Newswire Service, Last 10 Mapuche Indians on hunger strike in Chile end fasting. October 9, 2010. Available at: <http://www.lexisnexis.com/hottopics/lnacademic/>? Accessed: November 8, 2010.

to be left outside the government's political framework. Following the US launch of the 'War on Terror,' the Chilean government uses Anti-Terrorism Legislation to prosecute Mapuche individuals as 'terrorists.' This is an example of the Chilean government wrongfully framing the Mapuche. Terrorists are criminals who pose a direct threat to national sovereignty and security; because they are criminals they can never have legal representation within the state administration. After 9/11 and the heightened international signalling of terrorism prosecution sparked by the United States, the Chilean government changed its political framework to label the Mapuche as 'terrorists' and internal dissidents of the state. This makes it virtually impossible for the indigenous community to demand special minority rights because it undermines their movement and leaves no room for open discussion.

The functioning political framework of the state is thus that the Mapuche cannot make demand rights of the government. Hence, the need for a Mapuche movement -- an effort to portray an actual picture of its agenda, one that is recognized within the state's political framework. This would reveal the multitude of political injustices committed by the state, which have help shape the current relationship between the Chilean government and the Mapuche.

The Mapuche demand for rights is an effort to be recognized as a minority group by being given representation within the Chilean government. The end claim of the Mapuche group is the right to their ancestral lands that

the government sold to private corporations (some Chilean, others foreign). The main agenda of the Mapuche people is to be identified as a separate ethnic group in Chile. In their own words, the Mapuche desire, “Constitutional recognition as a distinct group with shared symbols and history and a specific proposal for a political future.”

Divides within the Mapuche Movement

There are divides within the Mapuche movement. Different groups have different claims. The Conflictos Arauco Malleco (CAM) is the more radical group that contains the fewest members and performs the more violent attacks. “La Conflictos Arauco Malleco has made a series of incendiary attacks on trucks and pieces of land in the south of Chile, in its struggle to recover territory which they consider, historically belongs to the Mapuche. ” Today sectors of the Mapuche population, such as the CAM (Conflictos Arauco-Malleco), are still demanding that the Chilean state recognize and respect this treaty as the natural border between Chile and a separate Mapuche nation.

The group also wants to recuperate their political autonomy through the use of, “institutions such as the Autonomous Mapuche Parliament.” This type of institution allows their participation in state politics with enough autonomy to be respected rather than only being able to work from the inside of the system. Finally, the group demands “the restitution of territory

historically occupied by the Mapuche people.” This includes not only the land, but also, “the control of natural resources (water, land, subsoil, air, forests, animals, etc.) on that property.” This entails removing agro-forestry businesses on Mapuche territory and respecting the Mapuche system that existed prior to “the reform of the Code of Criminal Procedures.”⁹⁵

The Anti-Terrorist Law prosecutes the Mapuche people on multiple fronts. The Anti-Terrorist Law allows those convicted to be taken for two years without charges and restricts the defense attorney’s access to evidence. The Mapuche can be tried in military courts that can administer harsher sentences than a civilian court.⁹⁶ The law also specifies that the government can use testimonies from anonymous witnesses if convicted under the law.⁹⁷ This makes the Mapuche incapable of knowing whom the witnesses are and if the witnesses were actually present.

Mapuche Claims Concerning Unlawful Terrorism Prosecution

The Mapuche have demanded the Chilean government to stop the use of the Anti-Terrorist Law against their peoples and to release those Mapuche who have already been convicted under the law. The recent hunger strike was

⁹⁵ “Demandas Actuales del Pueblo Mapuche.” *Ser Indigena*. December 05, 2010. http://www.serindigena.cl/territorios/recursos/biblioteca/monografias/mapuche/monografia_mapuche.htm#up

⁹⁶ “Mapuche Hunger Strike Enters 65th Day.” *Survival*. Survival: The Movement for Tribal Peoples, 14 Sept. 2010. Web. 15 Nov. 2010. <<http://www.survivalinternational.org/news/6472>>.

⁹⁷ “Chile to Drop Terror Charges.” EFE Newswire Service- Americas in Focus, 21 Oct. 2010. Web. 10 Nov. 2010.

a direct response to the government's imposition of the Anti-Terrorist Law. This sign of protest was administered by 38 Mapuche individuals imprisoned in the south of Chile. The hunger strikers called for the "demilitarization" of the *Auracanía* region, where the majority of Mapuche reside, and a stop to the unfair application of the Anti-Terrorist Law.⁹⁸

What have the Mapuche done to make their claims heard? Since the beginning of the liquid hunger strike on July 12, 2010 the political prisoners of Concepcion sent out a statement issuing their demands to the Chilean state.

The demands are as follows:

1.) Stop the application of the Antiterrorist Law with the Mapuche People. This is expressed by the complete abolition of the Antiterrorist Law legislated by the Pinochet dictatorship.

2.) Stop the process of Military Courts on the Mapuche People. This is expressed by the complete abolition of Military Courts in Chile.

3.) Freedom for all the Mapuche Political Prisoners imprisoned in different jails throughout the Chilean State. This is expressed by:

a.) Demanding a just and fair Trial.

b.) An end to the political/judicial set-ups; ending all external and foul procedures, ending the use of faceless witnesses and the end of the practices that violate basic human rights such as extortion, threats, physical and psychological torture and the degrading conditions of detention centers.

c.) Demilitarization of Mapuche zones where communities reclaim their political and territorial rights.⁹⁹

More recently, Natividad Llanquileo, a 26-year-old Mapuche law student residing in Santiago, has become the Ombudsman for the hunger strike. Natividad took on the cause because of her personal connection to the case. Two of her brothers are imprisoned in the south of Chile on charges

⁹⁸ "Chile to Drop Terror Charges." P.1.

⁹⁹ "Mapuche on Hunger Strike over Chile's Militancy." *Intercontinental Cry*. May First/People Link, 04 Aug. 2010. Web. 20 Nov. 2010. Available at: <<http://intercontinentalcry.org/mapuche-on-hunger-strike-over-chiles-militancy/>>.

under the Anti-Terrorist Law, Ramón is in the Concepción prison and Víctor in the Angol prison. Natividad's father was also an activist for indigenous rights during Salvador Allende's presidency.

Natividad spoke out against the unfulfilled promises by the Chilean government to provide open dialogue between the two parties. The indigenous group refuses to meet with the Chilean government to speak in an open dialogue until their voices have been heard and their demands met. When asked about the hunger strike Natividad replied, "*Esa huelga es una huelga mas. La lucha continua.*" "This strike is just another strike. The struggle continues." Although the hunger strike highlights the unlawful application of this particular law, the root of the problem is much greater. The marginalization of the Mapuche people is a historical problem of marginalization and conflict with the Chilean nation-state. This strike reveals Chile's reticence to transition to a democracy and adherence to principles from outdated authoritarian times.

Natividad defines the principle achievements of the strike as the withdrawal of the Anti-Terrorist Law, but is sceptical that the Piñera administration will follow through.

There is no reason to take away the previous government's responsibility because they promised in the last strike that they would not apply any more of the Anti-Terrorist Laws and that they would modify the law. Unfortunately, they did not do it.

So, the previous government has a large responsibility as well.¹⁰⁰

In October, an insider of the Presidential cabinet claimed that Piñera will not apply, “the provisions of a controversial Anti-Terrorism Law in the prosecutions of Mapuche Indians for politically motivated violence.” Many Chileans fear that Piñera was simply trying to put a swift end to the strike before the bicentenary celebrations began. Only time will tell if Piñera follows through on his promises. NGO’s such as the United Nations, and governments in Latin America as well as around the world must put international pressure on Chile to change these laws and put an end to this unlawful prosecution.

¹⁰⁰ "Término De La Huelga De Hambre Mapuche En Concepción." Conce TV, 02 Oct. 2010. Web. 15 Dec. 2010. <http://www.youtube.com/watch?v=ji8E-Q5o6ug&feature=player_embedded#!>.

Figure 3: Photo of Natividad Llanquileo, Spokesperson for the Mapuche Movement. ¹⁰¹



Figure 3 (*above*) displays Natividad Llanquileo, a young Mapuche activist, who has recently emerged as the spokesperson for the Mapuche hunger strike. She stands alongside watching a group of protestors parade down the main street of Santiago, Chile with the Mapuche national flag.

¹⁰¹ Riffo, Camilo A., and Paulino Aguilera Munoz. "Chile: Natividad Llanquileo, Voice of the Mapuche Hunger Strike." *Global Voices*. 25 Oct. 2010. Web. 19 Dec. 2010. <http://es.globalvoicesonline.org/author/paulina-aguilera/>.

Similar forms of resistance where the Anti-Terrorist Law is not applied

The framework the Chilean government chooses to legitimize the application of the Anti-Terrorism Law depicts the way the state wishes to perceive itself. The Chilean nation-state envisions itself as a homogenous *mestizo*, ethnic nation, which overlooks the rights of other ethnicities. As the Chilean government practices terrorism prosecution towards the Mapuche protesters, it misrepresents this indigenous tribe as a terrorist group. This misrepresentation of the Mapuche as ‘terrorists’ makes them suspect to the general Chilean population.

This section discusses how the government selectively applies the Anti-Terrorism Law to Mapuche individuals. The Chilean state specifically targets the Mapuche protesters by reserving the application of the Anti-Terrorist Law for them, whereas similar violent acts committed by a group of subcontracted copper miners for CODELCO¹⁰² were testified under the ordinary state criminal law. This example demonstrates the Chilean government’s wrongful prosecution of the Mapuche people.

An outline of the criminal acts committed by the Chilean copper miners in the north of Chile are discussed in this section. The violent acts committed by CODELCO miners in protest have been very similar to those enacted by the Mapuche. However, the CODELCO miners were prosecuted under the ordinary state criminal law, whereas the Mapuche had to face a

¹⁰² CODELCO is the National Copper Corporation of Chile (*Corporación Nacional del Cobre de Chile*), created in 1976 as a copper company for foreign enterprises. The corporation was nationalized in 1971 and is the leading copper producing company in the world. (Source: Wikipedia)

harsher trial and punishment under the Anti-Terrorist Law. This is a clear example of how the Chilean government is unreasonably abusing its own power and maltreating the Mapuche as opposed to other Chilean citizens.

By framing the Mapuche as *terrorists* the government exhibits a sense of fear pertaining to the indigenous group and its sovereignty. The state portrays the Mapuche as a national security threat. Hence, the Chilean government justifies its prosecution of the Mapuche, stating that all threat imposed to national security should be completely eliminated. Since, it is the duty of the nation to protect its citizens from harm, the state has legitimized the wrongful persecution of the Mapuche people. However, this stance taken up by the Chilean administration undermines the Mapuche cause because it separates them from the rest of the population and further ignores their rights of recognition by the state.

In the case of Chile, the government began to perceive terrorism as only a crime committed by others. The Chilean nation-state does not want to recognize its own use of unlawful terrorism prosecution towards the Mapuche because it would de-legitimize its own terror campaign. The threat of global terror became the rationalization for the state insinuating terror and fear on its citizens. In Chile, the main threat to the nation from the Mapuche people was not terrorist attacks, but rather the threat to Chilean sovereignty.

Here, I would like to describe a group that has displayed a similar form of resistance against the Chilean government as the Mapuche. This is an example of a group that has committed similar crimes, but has not met with

such a harsh government response. One example of this is the protest of copper workers that work for CODELCO, the Chilean national copper company. On June 25, 2007 over 28,000 contracted workers for the National Corporation of Copper (CODELCO) erupted in protest. Over 50 of these protestors were detained for lighting 10 buses and one truck on fire in an attempt to block traffic on the Copper Route in the North of Chile. The government enterprise, along with Jorge Sanhueza, manager of the sustainability division of CODELCO, labeled the protest by these subcontractors as “sabotage.” The workers ignited a national strike in demand of better labor practices under the Subcontractor law. The national strike affected nearly 30,000 people.

The protest began by making cuts in the copper route. Sanhueza describes it as “a blockade, at around six in the morning, on kilometer 33 of the *El Cobre* highway,” blocking access to the roads connecting to Andina, El Teniente and Salvador. The protest by the subcontractors is considered to have included “violent acts, we are talking about sabotage at the joining of a division, they turned around a minibus, a pickup truck, and there is damage to private property.” Special Forces of the police came from Santiago to respond to the scene upon request of business authorities to CODELCO. According to Ricardo Lagos Weber, the general ministry secretary, the regular functioning of the copper mine continued well.¹⁰³ He deemed these state workers’ protest

¹⁰³ "CHILE: 50 DETENIDOS EN VIOLENTOS INCIDENTES EN HUELGA DE TRABAJADORES DE CODELCO." *Radio.uchile.cl*. Diario Electrónico Radio Universidad De Chile, 26 June 2007. Web. 01 Dec. 2010. <<http://radio.uchile.cl/noticias/39127/>>.

to be “illegal and criminal” and denied the effects of the protest by saying “there are 27 detained, the mine is operating normally, there is no protests, because it would be illegal, there is no paralysis of activities either, in consequence this criminal act on the inside of the mine has been controlled.”¹⁰⁴ It is in the government’s best interest to keep the protests and their effects quiet because the public may get upset. The public’s tax dollars go to pay the workers of this national copper company and therefore if they are demanding higher pay some of the public may not want to contribute more money to this cause. Also, public opinion may side with the protestors and then the government would have to pay more to these employees. In response to the protest, the company offered a bonus to the workers of 450,000 pesos (US \$870). The effort was successful for CODELCO because many of the subcontracted workers accepted the offer. The union is not content with this offer because it does not meet their demands that the company provide higher pay and better benefits to its workers.¹⁰⁵ According to Jose Pena, President of the subcontracted workers, the workers demand “a basic health plan, housing plan, education for all of the workers and their families and the strict fulfillment of the subcontracting law.”¹⁰⁶

¹⁰⁴ UPI. *Más de 10 buses quemados y 50 detenidos deja huelga de contratistas de Codelco*. 25 June 2007. Available at:

<http://economia.terra.cl/noticias/noticia.aspx?idNoticia=200706252138_UPI_37250199>

¹⁰⁵ Staff Reporters. “*Violent Protests Resurface at CODELCO- Chile*.” *Business News Americas*. 26 July 2007. Web. 5 Apr. 2011.

<http://www.bnamericas.com/news/mining/Violent_protests_resurface_at_Codelco>.

¹⁰⁶ “*CHILE: 50 DETENIDOS EN VIOLENTOS INCIDENTES EN HUELGA DE TRABAJADORES DE CODELCO*.” *Radio.uchile.cl*. Diario Electrónico Radio Universidad De Chile, 26 June 2007. Web. 01 Dec. 2010. <<http://radio.uchile.cl/noticias/39127/>>

The union leader of the workers had a completely different opinion on the matter, describing the mines as at a halt. In defense of the protesters they described the government's speech as "destined to placate the solidarity of public opinion with our movement."¹⁰⁷ The union workers worried that the public government discourse would undermine their protest and progress because it belittled their movement and did not accurately portray the series of events.

The Mapuche have committed similar violent acts as those exhibited in the CODELCO protests. An example of this is the logging attacks in 2008 when the Mapuche set fire to buses and trucks in protest. The main difference between the two protests is that the government did not apply the Anti-Terrorist Law to the copper workers, but did apply the law to Mapuche. The government used ordinary criminal law to respond to the subcontracted workers protests, but invoked the Anti-Terrorism Law on Mapuche individuals. Since the government did convict the subcontracted workers for crimes outlined in the criminal code, if the Mapuche are committing the same acts, then there is no reason that the government cannot prosecute the Mapuche under ordinary law. The government's use of the Anti-Terrorism Law to prosecute the Mapuche protests for legitimate social claims exemplifies the nation-state's unlawful terrorism prosecution and targeting of the Mapuche population.

¹⁰⁷UPI. *Más de 10 buses quemados y 50 detenidos deja huelga de contratistas de Codelco*. 25 June 2007. Available at: <http://economia.terra.cl/noticias/noticia.aspx?idNoticia=200706252138_UPI_37250199>

The logging attacks in 2008 exemplify a similar form of protest to that of the CODELCO miners. Both incidents involved the protestors (a civilian population) uprising against a state institution in demand of legitimate claims. The subcontracted workers were demanding higher salaries and better benefits from the state-run copper company. The Mapuche were demanding right to their ancestral land and an end to the application of the Anti-Terrorism Law from the nation-state. The biggest difference is the response of the state to these uprisings.

In 2008 a series of logging attacks erupted in the south of Chile, the region of Aurananía where many Mapuche reside. The small violent group of Mapuche, Coordinadora Arauco Malleco (CAM), performed these violent acts. The acts included throwing rocks at buses and lighting two trucks on fire. During July of 2009, “A passenger bus heading from Santiago to Puerto Montt in the south was stoned by a group of hooded men, who also spray-painted it with Mapuche demands.”¹⁰⁸ In Temuco, the capital of the Aurananían region, two trucks were set on fire by a similar group. The protests also involved land occupations on private property. The land occupations were performed in defense of Mapuche territory, which has been lost to private forestry companies. The government administered the police force to restrain the protestors. The police have committed abuses, both verbal and physical, on the Mapuche. The government responded with the use of the

¹⁰⁸ Estrada, Daniela. "Rights-Chile: New Wave of Mapuche Land Conflicts — Global Issues." *Global Issues : Social, Political, Economic and Environmental Issues That Affect Us All — Global Issues*. 31 July 2009. Web. 07 Apr. 2011. <<http://www.globalissues.org/news/2009/07/31/2375>>.

Internal Security of the State Law,¹⁰⁹ and also sent a state representative, Deputy Interior Minister Patricio Rosende, to oversee affairs. This government representative worked to “oversee police actions and coordinate policies focusing on matters of interest to indigenous communities, such as employment plans, the provision of basic services like piped water and electricity to rural areas, and the improvement of irrigation.”

Both local and international NGOs expressed concern over the human rights violations that occurred during the logging attacks. The reports collected by Citizen Observatory (*Observatorio Ciudadano*, a local NGO) collected reports from Mapuche individuals involved in the protests painted the police as a force of abuse in response to the attacks. According to their observations, *carabineros* “made excessive use of dissuasive elements like tear gas and rubber bullets, and even buckshot, which they have shot from helicopters to crack down on protesters.” Amnesty International was not in support of the logging attacks, deeming them “unacceptable” because they affected the “physical and psychological integrity of unarmed people, private property, and free circulation.”¹¹⁰

The response of the state to its employees, as witnessed in the response to the mining protests, is to treat them as civilians by prosecuting their attacks

¹⁰⁹ Estrada, Daniela. "Rights-Chile: New Wave of Mapuche Land Conflicts — Global Issues." *Global Issues : Social, Political, Economic and Environmental Issues That Affect Us All — Global Issues*. 31 July 2009. Web. 07 Apr. 2011. <<http://www.globalissues.org/news/2009/07/31/2375>>.

¹¹⁰ Estrada, Daniela. "Rights-Chile: New Wave of Mapuche Land Conflicts — Global Issues." *Global Issues : Social, Political, Economic and Environmental Issues That Affect Us All — Global Issues*. 31 July 2009. Web. 07 Apr. 2011. <<http://www.globalissues.org/news/2009/07/31/2375>>.

under ordinary criminal law. The government's treatment of the Mapuche must not be different from that of other citizens. It is clear that this oppression and marginalization by the government has continued since the inception of the Chilean nation-state and the difference in prosecution between the subcontracted miners and the Mapuche is evidence of that oppression.

NGO Response

As the Mapuche demand rights to self-autonomy and the return of their ancestral land, the government needs to adjust its political framework accordingly. The only way to change the political framework of the state is to pressure the government through active social demands. Regular citizens, organizations, international institutions and an ever increasing number of Mapuche movement members are beginning to display their support for this indigenous movement through the aid of mass media. Through press releases, legal legislations and active protests, the Mapuche movement has grasped the attention of the Chilean government. In 2010, the Mapuche movement members protested through a vigilant 82-day hunger strike.¹¹¹ This caught the attention of international media, which further compelled the government to change its legal policies towards the Mapuche. In response to the protests, the administration of Sebastián Piñera finally conceded and put a stop to the Anti-Terrorism Laws. Therefore, instead of the harsher Anti-Terrorist Law, the Mapuche people are now testified under ordinary criminal law. Since the application of the Anti-Terrorism prosecution of the Mapuche population is a

¹¹¹ Estrada, Daniela.

local Chilean predicament, it should be resolved at a national level. Chile, however, fails to take responsibility of this internal upset.

A conference was held in 1989, where parliamentary representatives of several nations discussed indigenous people's economic (land and property rights), social, cultural, political and civil rights outlined in the Universal Declaration of Human Rights and UN International Covenants. On June 27, the same year, twenty-one Latin-American nations signed the 'Convention 169' of the International Labor Organization (ILO), which legally legitimized indigenous rights into an international framework. Chile was one of the nations to sign this agreement therefore recognizing the rights of its indigenous people. "Once it ratifies the Convention, a country has one year to align legislation, policies and programs to the Convention before it becomes legally binding." Even though Chile signed this legal document in 1989, it failed to rectify the treaty into law until 2008.

The International Labour Organization failed to monitor the progress of the indigenous people in Chile since it faced a "number of implementation challenges, particularly with regards to the coordinated and systematic action required as well as the need to ensure consultation and participation of indigenous peoples in decisions that affect them."¹¹² This is unfortunate for the indigenous people because if the ILO had supervised the progress of the indigenous people of Chile, then the state would have been pressured into granting some of the Mapuche demands, if not all.

¹¹² United Nations. Convention No. 169.

Available at: <http://www.ilo.org/indigenous/Conventions/no169/lang--en/index.htm>
Accessed: March 20, 2011.

Globalization has made the world a compact arena. Technology and media have played a significant role in shaping the ideology of nation-states by depicting a picture of them to people across the world. International institutions and NGOs work to display more of a political reality than the government would through the media. This creates a competitive clash between the state's framework and the NGO's framework. Supranational institutions such as the United Nations have created legislation that defends universal human rights, including the rights of indigenous people.

Non-governmental organization responses appeared in the 1980's. There are local, national and supranational NGOs that have been inclined towards the Mapuche cause. Several Chilean local NGOs located in Temuco, some operated by the Mapuche themselves and others run by concerned socialists, try to foster human development for the group in all aspects of their livelihood.

Amnesty International-Chile claims that the Mapuche are not terrorists and should not be considered as such. This NGO also points out the unfair discrimination of the Mapuche people and consequently their marginalized economic status in Chilean society as of today.

Human Rights Watch created a 60-page report, *'Undue Process; Terrorism Trials, Military Courts and the Mapuche in Southern Chile,'* which examines the Anti-Terrorist Law violations towards the Mapuche. "Last year the U.N. Commission of Human Rights special reporter on indigenous people, Rodolfo Stavenhagen, urged the Chilean government not to apply charges

taken from other contexts like terrorism for ‘acts related to the social struggle for land and legitimate indigenous complaints.’”¹¹³

Nobel Peace Prize Winner, Rigoberta Menchú supports the Mapuche movement and emphasizes the necessity to use legal instruments for political resistance, “We have many legal instruments and many regulations that we have to use and invoke, because if we only continue with political will, the extermination of the indigenous peoples will continue.”¹¹⁴

Henceforward, NGOs are indeed the only way to make the true cause of the Mapuche tribe heard. Not only do they pressure the government to respond to the Mapuche demands for rights, but also work towards building an integrated and harmonious society which functions as a safe haven for all.

¹¹³ Human Rights Watch, Chile, Terror Law Violates Due Process for Mapuche. Available at: <http://www.hrw.org/en/news/2004/10/27/chile-terror-law-violates-due-process-mapuche> Accessed November 6, 2010.

¹¹⁴ UNPO. Mapuche: Trial Begins for Chilean Mapuche. November 10, 2010. Available at: <<http://www.unpo.org/article/11915>>

Chapter IV. WikiLeaks Cable Concerning Mapuche

“Indeed the aftermath of 9/11 led to widespread re-labeling of domestic opponents as ‘terrorists,’ an exercise in linguistic acrobatics that could justify increasingly violent methods of repression and, in some instances, attract support from the United States.”¹¹⁵ The Chilean government manipulated the Anti-Terrorist Laws proposed by the US government under the circumstances to further repress the Mapuche people. Following this, the Chilean government pleaded the US administration to support its unlawful terrorism prosecution towards the Mapuche population evidenced through the WikiLeaks cable release, “*Myth Vs Reality In Chile’s Mapuche Conflict*” in 2009.¹¹⁶

The US government has a completely different political framework, which shows a larger political reality as compared to the Chilean framework. The Chilean framework labels the Mapuche as ‘terrorists.’ This is apparent through the WikiLeaks cable communication between the two governments. The Mapuche are linked to the FARC,¹¹⁷ a notorious terrorist group, by the Chilean government, even though no proof of this accusation has come to light over the years. The American government has refused to acknowledge these preposterous accusations of the Chilean government in relation to the

¹¹⁵ Smith, p. 318.

¹¹⁶ UNPO, “Wikileaks: US Cables Prove Peaceful Nature of the Struggle by Mapuche Indigenous.” Available at <<http://www.mapuche.nl/english/unpo101217.html>> Accessed November 11, 2010.

¹¹⁷ Armed Revolutionary Forces of Colombia (FARC), an official internationally recognized terrorist group.

Mapuche. The US has adopted a realist approach to address the issue and therefore devalued the claims of the Chilean administration.

Since the release of cables published by WikiLeaks, there has been one Santiago-based cable that has caught the attention of Chileans and foreigners alike. Only nine of 1,464 cables from the U.S. embassy in Chile's capital have been released thus far¹¹⁸. One news headline baffled the public, "Bachelet's Government Requested U.S. Intelligence Help with Mapuche Conflict."

The cable "Myth Vs. Reality In Chile's Mapuche Conflict" released on September 3, 2009¹¹⁹ analyzes the claims made by the Chilean government to US political specialist against the Mapuche. The correspondence of the cables is among the Chilean Interior Minister, Edmundo Perez Yoma and former U.S. Ambassador to Chile Paul Simons, Former Indigenous Policy Coordinator Jose Antonio Viera Gallo. The Chilean government wanted to accuse the Mapuche of cooperating with terrorist organizations such as the Revolutionary Armed Forces of Columbia (FARC) and had asked US officials to help make the connection through an in-depth investigation.

¹¹⁸ Bodenham, Partrick, "Wikileaks: U.S. Looked Past Chile's Sensationalist Media Bias In Mapuche Coverage." Available at <<http://patrickbodenham.wordpress.com/2010/12/19/wikileaks-u-s-looked-past-chile's-sensationalist-media-bias-in-mapuche-coverage/>>. Accessed November 15, 2010.

¹¹⁹ UNPO.

US realist response

A brief introduction to realism in international relations

Thomas Hobbes, a 17th century political and moral philosopher, perceived life as “brutish, nasty and short.”¹²⁰ The natural societal structure was a reflection of human nature in a world where people were self-centred and egoistic. Hence, it was human nature to compete against one another, always working toward personal gain. Hobbes perception him to believe that the only legitimate government fit to govern this natural tendency of anarchy and competition between individuals was an overarching one. He theorized that such an authority was like a ‘big stick’ that was needed to maintain perfect order within society. Hobbes thought that if people could appeal to reason and not fear it would be possible to survive without such a sovereign power.¹²¹ The realist Kenneth Waltz agreed with the theoretical perception of Hobbes.

In the international sphere, each country is an individual. Like people, Waltz argued that states are egocentric and seeking their own interests and therefore cannot afford rely on other states for support of any kind. Hence, states will naturally pursue own interests. Such an ideology makes cooperation between states very difficult. This makes countries hesitant and untrustworthy of cooperation because they can never know the interests

¹²⁰ “Hobbes: Moral and Political Philosophy.” Available at < <http://www.iep.utm.edu/hobmoral/>> Accessed December 5, 2010.

¹²¹ Bagby, 149.

sought by other states. Such a system creates a competitive environment defined as, 'a place of anarchy.' This competitive nature results in fear, which causes each nation to function in an environment of a test for 'survival of the fittest.' This is the major derivative for war between nation states.

Therefore, realism argues that a state's relative power and interests determine its behaviour in the international system. International relations theory examines how power makes the relationship between nations work in the global arena. In terms of the US-Latin American relations there has always been an imbalance of power. This is because historically the US has been a more powerful nation as compared to the Latin American countries, which have been underdeveloped and dependent. The overarching authority that Hobbes described as the Leviathan, is US hegemonic power, where the US has played the part of a sovereign power with the 'big stick' over Latin America.

In international relations theory, realists are more concerned with power, national security and interest over ideas and ideology. In this section, the US response (to the report released via WikiLeaks) concerning the Mapuche people is best explained from a realist perspective. The US actions have been consistent with those of the realist theory; therefore, national security has always been the forefront of its defence. In response to the Chilean government the US has adopted the realist approach and has refused to collaborate. In retrospect, the Chilean government also uses the realist

strategy when dealing with the Mapuche demands, because it clearly feels threatened by this particular indigenous group. However, Chile is willing to give up some sovereignty to the United States in order to help quell the local threat of the Mapuche population.

The US does not see the Mapuche conflict as a national security issue. Since the US does not view the Mapuche as a threat to its own national security, it refuses to acknowledge any threat imposed by them to the Chilean government. As the regional hegemony, the US is in a position to critique the Chilean government's actions and its mistreatment of the Mapuche people.

Following the Cold War, the US transitioned from hard power to soft power in Latin America. Hard power consisted of intervention, meddling in the affairs of Latin American countries. Soft power is a more subtle influence over Latin America that manifests itself through the popularity of US culture and economic trade agreements. Now, "America can influence but not control other parts of the world."¹²² However, American foreign policy does serve US interests.

Since the attacks of 9/11, the United States has taken a neoconservative approach towards its foreign policy, which means, "American power should be used for moral purposes not mere advantage."¹²³

The US does not have the same hostility towards left wing movements as it

¹²² Smith, Peter. *Talons of the Eagle: Latin America, the United States and the World*. Oxford University Press, New York, 2008, P.375.

¹²³ Smith, 371.

did during the Cold War, but rather takes the moral high ground. Since the attacks of 9/11, US foreign policy [has](#) [become](#) more focused on the Middle East. US behaviour has resulted in a pattern of neglect towards Latin America. In this way, the United States remains more ambivalent and has adopted a less interventionist policy in Latin America.

The WikiLeaks cable explains, “In contrast to the sensationalist news coverage, the reality of relations between the indigenous Mapuche community, their non-indigenous neighbours, and the Chilean state is complex and sometimes contentious, but overwhelmingly non-violent.”¹²⁴ Chilean media often portrays the Mapuche in a scandalous light as terrorists or a grave threat to Chilean citizens. The US acknowledges the fact that for an outside observer of the Chilean news, “violent Mapuche activists, related to the FARC and ETA, kill innocent civilians every week.”¹²⁵ Indigenous concerns [have made](#) front-page headlines in recent years for acts such as destruction of property. These concerns occasionally take [precedent over](#) “coverage of more severe crimes committed by non-indigenous Chileans.”¹²⁶ The Chilean government is trying to misrepresent the efforts of the Mapuche to justify the state’s treatment of this indigenous. Unfortunately, news of

¹²⁴ Bodenham, Patrick.

¹²⁵ Seelau, Ryan. “Bachelet, the Mapuche, Terrorism, the U.S. and Wikileaks.” Available at <<http://indigenousnews.org/2010/12/14/bachelet-the-mapuche-terrorism-the-u-s-and-wikileaks/>>. Accessed January 7, 2011.

¹²⁶ “US Cables: Chile & the Mapuche.” Available at <<http://marrichiweu.wordpress.com/2010/12/23/us-cables-inre-chile-the-mapuche/>> Accessed January 10, 2011.

potentially positive progress such as “resolution of localized conflicts, peaceful protests, meeting, or other actions taken to address Mapuche political concerns – are often not covered at all.”¹²⁷ The cable released visibly displayed that the US government was not tricked into believing the ever-exaggerating images on media coverage and recognizes the non-violent Mapuche-Chilean relationships generally do not involve violence. In fact, the three deaths that have occurred during the Mapuche-Chilean relationships have been of young Mapuche activists by the Chilean police.

“Despite vocal allegations in the press, the opposition has yet to produce credible evidence that there is significant and on-going cooperation between the Mapuche community and FARC and ETA terrorists.”¹²⁸ Even the most violent group of the Mapuche, CAM, has not been proven guilty of terrorist acts. Jaime Lopez, author of *Operation Blackjack* is reported to have said, “three successive court cases failed to demonstrate that they had organized any terrorist acts. Therefore, the US position implies that the US does not approve of the Chilean application of the Anti-Terrorist Law because the Mapuche do not have any proven links to these organizations.”¹²⁹

US [Ambassador](#) Paul Simons recognizes the “Mapuche problem” as a predicament because of the separation of agendas within the Mapuche

¹²⁷ Kozloff, Nikolas, “WikiLeaks: FBI Now Keeping Tabs on Native Americans -- in South America?” Available at <<http://www.mapuche-nation.org/english/html/news/n-212.htm>> Accessed January 10, 2011.

¹²⁸ Kozloff, Nikolas. P. 1.

¹²⁹ Lopez, Jamie, *Operation Blackjack*. New York: Universe, Inc., 2010. P. 35.

movement. Simons finds their claims, “disorganized and incoherent, offering up a range of demands from the logical to the fanciful.” While the majority of the Mapuche are peaceful protestors, “a small number of violent actors discredit those who work in good faith to advance legitimate grievances.” The US did admit that some members of the more radical Mapuche group, CAM, have travelled to Colombia, Spain and southern Mexico, but that these visits were “casual and infrequent.”¹³⁰

The US embassy finds, “It is difficult to envision substantial progress” on the matter.¹³¹ This is because the Mapuche case is a complex problem with a historical significance that cannot be resolved with a single straightforward solution. The Bachelet government made some progress on indigenous rights but there still many more demands to be met.

The United States is not concerned whether or not Chile meets the Mapuche demands. Realists do not look at moral considerations and so the human rights violations committed under the current regime are not relevant for the US government. The US will only participate actively for the cause if the “Mapuche mess” could lead to instability in within US territory or the Latin-American region. This would threaten US hegemony and power.

¹³⁰ Embassy Santiago. "Myth Vs. Reality in Chile's Mapuche Conflict." *Cable Search BETA*. Eccar: The European Center of Computer Assisted Reporting, 03 Sept. 2009. Web. 14 Dec. 2010. <<http://cablesearch.org/?id=09SANTIAGO826&v>>.

¹³¹ Silveira Alison,. "Wikileaks: U.S. Looked Past Chile's Sensationalist Media Bias in Mapuche Coverage." *Santiago Times*. 15 Dec. 2010. Web. 18 Dec. 2010. <<http://www.santiagotimes.cl/news/human-rights/20378-wikileaks-us-looked-past-chiles-sensationalist-media-bias-in-mapuche-coverage>>.

Chilean State Response to released Cable

The Chilean response to the WikiLeaks release can be explained through a realist perspective. The Chilean government asked for US collaboration at pinning the Mapuche as terrorists seeking its own best interest and that is to get rid of the Mapuche threat. The act was an attempt to see how the US would respond as the hegemonic power. If Chile could attain the US support for its actions and claim that the Mapuche were terrorists, then it would have [increased](#) legitimacy against the Mapuche prosecution. The power gained would help [excuse Chile from](#) [explaining](#) its actions or [defending](#) itself against the international community. In this way, Chile was trying to act multilaterally with the power of the United States. On the other hand, ever since the 9/11 attacks, the US has acted unilaterally in its decision-making and therefore it was implausible that the US would be persuaded into such deceitful collaboration.

Another reason for Chile to ask for the US for political assistance is because the Chilean government views the Mapuche as a threat to its sovereignty. The government views the group's desire for a separate territorial entity and recognition as a 'Mapuche nation' as a threat to its legitimacy as a nation-state. Losing territory to the Mapuche would break up the map of Chile and create a separate nation within a nation. Therefore, the Mapuche represent an internal threat to Chilean national sovereignty. The Chilean government is trying to misrepresent the Mapuche demands as a national security threat. If the government can portray the group negatively so that they represent a

terrorist threat to all Chilean nationals, then they can dissuade the general public from supporting their cause. This also distracts the international community from seeing the Mapuche demands as legitimate claims for autonomy. As a realist, Chile sees this as a “zero-sum game.”¹³² If Chile loses one part of its territory to the Mapuche then it loses all legitimacy as a government.

Immediately following the release of the cables, Chilean Minister of Defense, Francisco Vidal stated that he was unaware of the communications via the cable. The Chilean government defended itself from exposure of this release of information because asking for help from the US government weakened Chilean sovereignty. Vidal argued that the Chilean act of requesting US help in the matter, “was an unnecessary thing because the Chilean forces had more than enough ability to gather information and were, in fact, doing so.”¹³³ As a spokesperson for the government, Vidal needed to show Chilean solidarity and independence from other nations in this prosecution.

The Chilean Newspaper *El Mostrador* found that Domingo Namuncura, the former head of the Chilean National Corporation on Indigenous Development (CONADI), found the Chilean request “reprehensible and a threat to national sovereignty to request outside help in an internal matter.”¹³⁴ This was clearly a local problem that offered a solution on the national front. Chile threatened its sovereignty and crossed the line by

¹³² Situation where one participant win or loss is balanced by that of another participant.

¹³³ Silveria, Alison. P. 1-2.

¹³⁴ Alison Silveria.

asking a foreign government to help assure its own national security. Namuncura critiqued the government for focusing its resources on cases that could, “only foster distrust among Indigenous peoples, instead of trying to find answers to the problems we face.”¹³⁵

The Vice President of the Christian Democratic Party, Fuad Chahin, also disagreed with the Chilean request for outside help, saying that, “it only served to further stigmatize the Indigenous peoples of Chile.”¹³⁶

Chile has economically and politically illegitimate reasons to overthrow the Mapuche population by labelling them as ‘terrorists.’ The Chilean administration has portrayed the Mapuche as a direct threat to national security and its civilians by using the ‘War on Terror’ as an excuse to stigmatize the indigenous tribe. More so, the Chilean state has shown interest in contriving with international super powers such as the United States of America to further the harassment of this indigenous group by asking for political assistance – revealed in the WikiLeaks cable. The Mapuche are innocent and rightfully believed to be so by the US government who has denied Chile any intrusive coalition to suppress them.

¹³⁵ Silveira, Alison.

¹³⁶ Seelau, Ryan.

Chapter V. Conclusion

The Mapuche are an indigenous tribe who inhabit the south and southwestern region of Chile along the Andean border with Argentina. The word Mapuche means, 'people of the land.' Land has a spiritual, ethnic and cultural importance for this indigenous tribe. The Mapuche tribe is the largest indigenous group in Chile and was the last group defeated by the Spanish invasion in Latin America.

The Mapuche tribe has a significant history of oppression, which has continuously challenged their identity and ideology. The Spanish Empire initiated this marginalization during their invasion in the 16th century, passing on the tradition to the Chilean government since its independence as a separate nation state in 1810.

This marginalization of the Mapuche tribe by the Chilean administration has primarily been a result of the conflicting ideologies of the two parties. The Chilean state's political framework of a homogenous *mestizo* nation and its application of neoliberal economic reforms clash with the Mapuche culture and the spiritual ideology attached to their 'ancestral land.' Land treaties made by the Chilean state with the Mapuche have been historically violated and therefore have disrespected the tribe's ancestral property. The Mapuche have been driven out of their land by the Chilean armed forces and thus forced to continuously face opposition. Under the dictatorship of Pinochet, the Mapuche lost most of their fertile land to private

and public businesses, which was sold off by the government as public federal property. Thus out of this experience the Mapuche people began to stand up in protest and demand for rights they had been denied for centuries.

The Chilean government has always sought ways to marginalize this indigenous group. The protests carried out by the Mapuche have been distorted by the media and displayed as violent acts endangering Chilean civilian life and harmony. These images have been depicted as such because the Chilean government has always feared the Mapuche tribe as a potential threat to its sovereignty.

With the US launch of the ‘War on Terror,’ a new image was presented to the Chilean government to use against the Mapuche community. A global definition of terrorism was proposed as the US administration sought the confidence of its alliances for support in a war against all individuals and groups who projected a threat to national security. This allowed the Chilean government to form an alliance with the United States and change its political framework. The new political framework pigeonholed the Mapuche into ‘terrorists’ who were now labeled as a threat to Chilean security. This allowed the Chilean government to prosecute the Mapuche under the harsh Anti-Terrorism Laws – a remnant of the military dictator Pinochet’s regime. The Mapuche demands for self-autonomy, recognition as a separate identity and reclaiming of ancestral land went unheard under the chaos created by the Chilean government. The Chilean state successfully de-legitimized the entire Mapuche movement by classifying it as a terrorist group and linking it to the

FARC – a notorious international terrorist organization, as outlined in the WikiLeaks correspondence between the US and the Chilean government.

The Mapuche were continuously targeted and their demands went unanswered by the Chilean state. The entire fabric of the political framework was ordained by the Chilean state to specifically dismantle the Mapuche movement. The political reality presented to the Chilean public and internationally stated that the Mapuche were performing terrorist acts and therefore ‘terrorists’ under Chilean supervision with the indispensable support of the American government. However, this was not the case as revealed by the WikiLeaks cable released in 2009 entitled “Myth Vs. Reality in Chile's Mapuche Conflict.” The US administration never supported the notion and refused to provide assistance when asked by the Chilean state. The US political framework is clearly a larger reality than that of the Chilean government, which allows the US to create an objective analysis of the situation. This caused the US administration to recognize that the Mapuche population is not a terrorist organization that poses a threat to national and international security.

The Chilean government’s harassment of the Mapuche has been evidenced through the CODELCO coal miners’ case. The CODELCO coal miners protested in a similar fashion to the Mapuche protestors, committing violent acts against the government, but were testified under the ordinary national criminal law. The Mapuche, in contrast, have been subjected to a harsher trial under the Anti-Terrorist Law. These acts do not fall under an

international definition of terrorism as they do not threaten the life, liberty or physical integrity of other individuals. Therefore the government is targeting the Mapuche community as 'terrorists'. This discrimination has been open to an international response.

Since the Chilean government fails to take responsibility of its citizens (the Mapuche) and refuses to recognize the rights of this indigenous group, many international NGOs have responded to the Mapuche case urging Chile to take drastic steps to improve their situation and grant them their legitimate demands for self-autonomy and the reclaiming of their ancestral land. Local NGOs, such as *Observatorio Ciudadano* have also played a key role in assisting the Mapuche cause.

It is clear that these Non-Governmental Organizations competing for public space show a different part of the political reality than the Chilean government. Their objective outlook illuminates the conflict of interests and repression of the Mapuche population by the Chilean state. International institutions are therefore vital in the process of working towards an integrated and equal society and have proven strong allies to the Mapuche movement. These organizations bring attention to Human Rights violations and work to defend the International Laws recognizing indigenous social, economic and cultural rights. Hence, such institutions are necessary to compete with the government for public space because they have the power to convince the public through media and the release of information to support the Mapuche cause.

These NGOs have been more of a help to the Mapuche cause than any other witnessed in the history of this indigenous tribe's movement. The emergence of a vocal actor, Natividad Llanquileo, following the hunger protests of 2010 demonstrates the importance a single actor can have on a movement. Her emergence as the ombudsman of the Mapuche movement has allowed the cause to infiltrate Chilean media and public opinion. The use of multimedia—Youtube, radio, internet, blogs, and newspaper articles—has proven to be an important way of informing the public and changing their opinion on the matter. Without the voice of Natividad Llanquileo and the work of NGOs, the Mapuche movement would not have achieved the attention of the government. The repeal of the anti-terrorist law by the new President Sebastián Piñera is a significant step in the right direction towards acknowledging indigenous rights and repealing this tattered framework of 'terrorism' in Chile. Only with the help of such organizations and individuals will the success of the Mapuche movement be assured. Without them, the Mapuche cause is lost and will never be salvaged.

The future prospects of the Mapuche movement can go in varied directions. Firstly, the Mapuche individuals under the CAM sect can continue administering violent acts that would lead to a harsher response from the Chilean government. In striking contrast, another option is that, while the majority of the Mapuche population is not politically active and informed, the movement could dissipate and lose momentum. The most viable and realistic option is that the Chilean administration and the Mapuche community can

come to a compromised agreement if the government grants the Mapuche legal recognition as a separate minority group with minority rights. The government must also allow the Mapuche fair representation in the government development programs concerning indigenous people, such as the National Corporation of Indigenous Development (Comisión Nacional de Desarrollo Indígena—CONADI) and the Special Commission of Indigenous Peoples (Comisión Especial de Pueblos Indígenas—CEPI). This would allow Mapuche leaders to be prominent actors in the creation of the public policies that affect their people, and would help to avoid the assimilation policies of the past. While working towards the integration of the Mapuche population in a way that respects their culture, rights and autonomy, the Chilean government and Mapuche people can learn to coincide in harmony.

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