Land & Law: A History of Neoliberal Transformation in Chile

Background

Situated on a narrow strip of land between the Pacific Ocean and the Andes Mountains (Fig.1), Chile is known for its mineral-rich deserts and fertile valleys lush with vineyards and fruit orchards. The nation is a world leader in copper extraction, as well as in the production and export of fruits, wine, seafood and wood pulp.[1] However, behind these remarkable feats of industry lies a tumultuous economic and political history ripe for critical analysis. To this day, scholars are scratching their heads trying to understand the nuances of Chilean economic development and its broader implications for democracy and society.

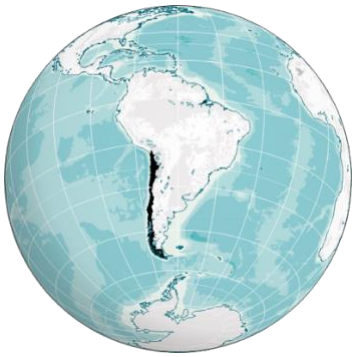

Fig. 1. Geographical location of Chile. *Wikimedia*.[2]

Chile was a poor country in the '70s, with a GDP per capita half that of neighboring Argentina. The economy went through a volatile period of economic crises in the mid '70s and early '80s, after embarking on an extreme market liberalization project, under authoritarian rule and with US backing. After that, Chile's economy finally started taking off. By the 1990s it was already being touted by the IMF and the World Bank as a poster child for market-oriented economic development. In 2010, Chile was the first South American country to join the rich

[1] Andrés Solimano, *Chile and the Neoliberal Trap: The Post-Pinochet Era* (New York: Cambridge University Press, 2014), 5.
[2] *Orthographic Projection of Chile*, January 1, 2009, Wikimedia Commons, accessed January 15, 2021, https://commons.wikimedia.org/wiki/Chile#/media/File:Orthographic_Projection_of_Chile.png.

nations' club knows as the Organisation for Economic Co-operation and Development, or the OECD. Today, Chile is one of the richest countries in South America, boasting a GDP per capita similar to fellow OECD member Turkey (Fig. 2) and not far behind that of members like Greece and Portugal.[3]

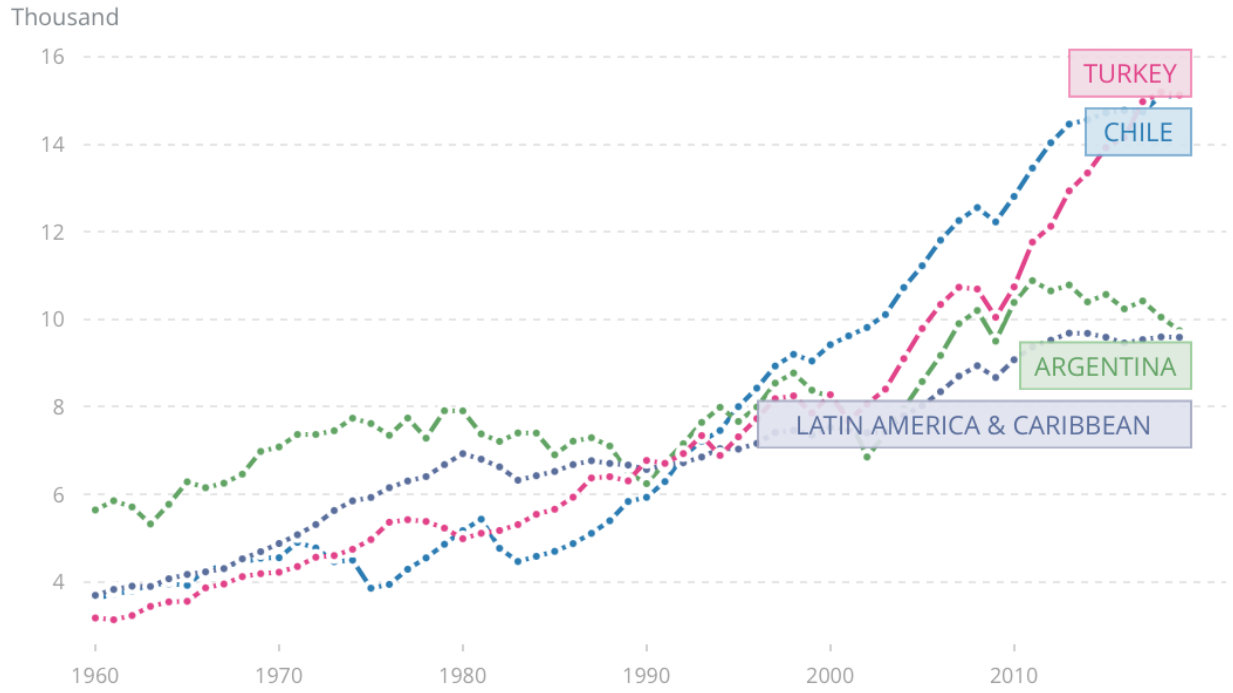

Fig. 2. Chile's GDP per capita in constant 2010 US dollars, compared to neighboring Argentina, the region of Latin America, and fellow OECD member Turkey. *World Bank*.[4]

Is Chile actually the free-market transformation success pundits and cherry-picked statistics would have us believe? Recent events call this narrative into question, revealing how the economic growth happened at the expense of social mobility and equity, as the nation is one of the most unequal in Latin America and the OECD.[5] On October 17, 2019, the international

[3] Solimano, 1-4; Richard Davies, *Extreme Economies* (Penguin Books, 2019), 291-292.
[4] *Graph of GDP per Capita (2010 US$) for Chile, Argentina, Latin America, and Turkey*, World Bank Data, accessed January 15, 2021, https://data.worldbank.org/indicator/NY.GDP.PCAP.KD?end=2019&locations=CL-AR-ZJ-TR&start=1960&view=chart.
[5] Davies, 291-292.

news outlet *Financial Times* published an interview with then President Sebastián Piñera describing Chile as an "oasis" of "stable democracy" in South America.[6] The very next day, Piñera declared a state of emergency in Santiago over violent protests seemingly started by a hike in subway fares.[7] Fueled by Chileans' dissatisfaction with the region's stark inequality, lackluster public service provision, and failing safety nets, the protests lasted through the COVID-19 pandemic and did not decrease in intensity until a year later when a referendum was passed in a landslide to replace the nation's archaic constitution, widely condemned for its ties to Chile's authoritarian past.[8] Official government statistics that indicate a drastic reduction of poverty rates at the beginning of the 21st century would have us question protesters' sanity. Yet researchers argue that official numbers grossly underestimated poverty by disregarding rapid changes in lifestyle and consumption patterns in Chile over the last few decades.[9] The public unrest in Santiago stands as nothing less than palpable proof of the harrowing state of economic injustice in the coastal nation.

Looking back, while political and business elites were praising Chile as South America's best performing economy, popular dissatisfaction was steadily mounting. How did Chile get to the point where elite discourse about economic performance and stability was so far removed from the lived realities of average Chileans? I believe the answer lies in analyzing the role that neoliberalism, the guiding ideology behind Chile's economic development and post-authoritarian transition, plays in social transformation and democratic participation. In this paper, I argue that

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[6] Benedict Mander, "Chile President Sebastián Piñera: 'We Are Ready to Do Everything to Not Fall into Populism'," *Financial Times*, October 17, 2019, accessed December 22, 2020, https://www.ft.com/content/980ec442-ee91-11e9-ad1e-4367d8281195

[7] John Bartlett, "Chile Students' Mass Fare-dodging Expands into City-wide Protest," *Guardian*, October 18, 2019, accessed December 22, 2020, https://www.theguardian.com/world/2019/oct/18/chile-students-mass-fare-dodging-expands-into-city-wide-protest

[8] "Jubilation as Chile Votes to Rewrite Constitution," *BBC News*, October 26, 2020, accessed December 22, 2020, https://www.bbc.com/news/world-latin-america-54687090

[9] Solimano, 77-78.

neoliberalism divorces political economy from democracy in order to protect private wealth accumulation and concentration from popular demands. As "the first great experiment with neoliberal state formation," [10] Chile provides a prime example for this study, through the lens of the near "shock treatment" way in which neoliberal governing was introduced there in the '70. The half a century passed since then has given neoliberalism time to show its true colors. This timeframe, coupled with the accelerated, surgical way in which neoliberalism was implemented in Chile, can provide us with foresight and theoretical implications for other, more slow-moving and more recent neoliberal endeavors around the world.

Moving forward, I present a survey of the literature on neoliberalism in order to ground the case of Chile within the parameters established by historians and theorists of the subject. I then delve into the particularities of Chilean neoliberalism, narrowing down the discussion on examples belonging to the categories of "land" and "law," represented here by agrarian policy and constitutional reform, respectively. Any state is defined by its geographical and material bounds – "the land" – and its institutional setup – "the law," hence my choice of these categories as instrumental for the analysis of Chile as a project of neoliberal state formation. Finally, I show how the transformations of "land" and "law" amount to a stunted democratic transition in recent decades and I conclude with broader implication for the future of neoliberalism and democracy in Chile, Latin America, and the world.

The Origins of Neoliberalism

The study of neoliberalism requires the setting of its parameters. An uncritical approach to neoliberalism, along a single axis of analysis, would be to define it as "anti-state" and "pro-markets." David Harvey challenges this view, defining neoliberalism as an institutional

[10] David Harvey, "Neoliberalism as Creative Destruction," *The Annals of the American Academy of Political and Social Science* 610, no. 1 (2007): 21-44, doi:10.1177/0002716206296780.

framework that boosts entrepreneurial freedoms, such as private property and free trade. Such a framework is not simply "anti-state" and "pro-market" because it requires a large state to guarantee private rights (such as the police state) and state interference where markets fail to deliver (for instance, in education and healthcare, where a minimum of regulation needs to be ensured to prevent total unraveling of the market).[11]

Harvey observes that neoliberalism has become "the hegemonic discourse" of our days, the main way societies approach economic and political matters, mainly due to two factors. Firstly, neoliberalism has promised relentless economic growth that will benefit everyone, a promise yet to deliver upon. Secondly, neoliberalism has appealed to a common sense understanding that individual freedoms and liberties can only be guaranteed by keeping the state away from distributional matters, and letting competitive markets run their course.

In Harvey's conception, neoliberalism is essentially a project to re-establish class power for the rich and funnel wealth to the top, operating through what he identifies as "processes of accumulation by dispossession," which include privatizations, destruction of indigenous and peasant ways of living, and conversion of collective properties and rights into private ones. He identifies in Pinochet's Chile "the first great experiment with neoliberal state formation." Without democratic checks, accumulation by dispossession ran its course with little restraint. It is exactly these controlled, laboratory-like conditions that make the Chilean case so emblematic for the study of neoliberalism.

Many histories of neoliberalism, including Harvey's, tend to focus on the political doings of Thatcher, Reagan and Pinochet, and on the theorizing of Friedman and Hayek, but Quinn

[11] Harvey, 21-44.

Slobodian takes us further back. He identifies the ideological origins of neoliberalism at the end of WWI among the ruins of the Austro-Hungarian empire, in a circle led by Ludwig von Mises that later becomes the Geneva School. These elites were worried that, through the emergence of democratic, sovereign states, people would want the state to take over private property and advance socialism. Neoliberalism was meant to shield private poverty from the threat of democratic socialism. Slobodian thus shows that neoliberalism is rooted in anti-democratic sentiment.[12]

To explain the intentions of neoliberals, Slobodian borrows from Carl Schmitt, who defines the world as divided in *imperium*, the world of borders and states, and *dominium*, the world of property. The neoliberals' goal is to keep the two worlds separate. To do so, neoliberalism develops an extra-economic framework to protect markets and capitalism's long-term existence, by keeping threats at bay, be it capitalism's own excessiveness, state interference, or popular demands. In this sense, Slobodian agrees with Harvey that neoliberalism is not market fundamentalist and that it consists in state-supported institutions that service markets. What Slobodian adds to Harvey is that this institutional framework extends beyond individual state to form a global order, a world of *dominium* that is not subject to the *imperium*, to the sovereignty of nations.

Therefore, the theoretical discussion so far challenges the reductionist view that neoliberalism is simply an "anti-state" and "pro-market" stance. To summarize Harvey and Slobodian's perspectives, neoliberalism constitutes an ideological project and particular flavor of capitalism that takes hold in the wake of WWII as reaction to socialism, focused on co-opting

[12] Quinn Slobodian, *Globalists: The End of Empire and the Birth of Neoliberalism* (Cambridge, MA: Harvard University Press, 2020), 1-26.

and transmuting the structures of the state so that markets and wealth concentration are shielded from democratic interventions. This is done under the pretext of protection of rights from state intervention, and through the replacement of structures of the social welfare state with private solutions, laws protecting private ownership, and the police mechanism needed to enforce this system. However, in doing so, neoliberalism fails to recognize how "non-intervention" is an intervention in itself. This could be very well interpreted as a dissimulation tactic that naturalizes outcomes of the market.

Still, the concept of "neoliberalism" remains nebulous across scholarly research and largely immune to attempts at formulating a clear and concise definition. Perhaps an easier way to approach neoliberalism is by looking directly at its manifestations in the world, and no example serves this purpose better than the case of Chile. Even though the term "neoliberalism" first emerged from the German Freiburg School to signify a moderate and improved upon reiteration of classical liberalism, it only gained its current connotations to market fundamentalism during late '70s among critics of radical economic reforms in Chile. The histories of neoliberalism and Chile are intimately tied, and a joint investigation should lead to a fuller understanding of both.[13] In the following sections, I will be providing empirical evidence for the synthetic Harvey-Slobodian theoretical approach to neoliberalism outlined so far, discussing how neoliberal features manifest in the Chilean case.

The Chilean Neoliberal Project

The history of neoliberalism in Chile began in 1973, when the democratically elected socialist President Salvador Allende was deposed through a military coup and his place was taken by a brutal authoritarian regime, under the leadership of General Augusto Pinochet of the

[13] Taylor C. Boas and Jordan Gans-Morse, "Neoliberalism: From New Liberal Philosophy to Anti-Liberal Slogan," *Studies in Comparative International Development* 44, no. 2 (2009): 137-161, doi.org/10.1007/s12116-009-9040-5.

Chilean army together with a military junta formed by heads of the navy, air force, and state police. However, since neoliberalism is essentially a reaction to socialism, the pre-conditions for Chilean neoliberalism developed pre-1973 through socialist experimentation in the nation. During the '60s, the Import Substitution Industrialization (ISI) model of economic development started to show signs of breakdown, unable to keep pace with increasingly competitive global markets. Caught between the demands of labor groups for higher wages and falling revenues, the interventionist state plunged into a fiscal dilemma. With a populist platform focused on redistribution, Salvador Allende's *Unidad Popular* was elected in 1970.[14]

Allende launched extensive socialist programs, including measures such as agrarian land reform for peasants, collectivization of farms, and privatization of businesses. These actions echoed unfavorably both domestically and internationally. Chilean capitalists and middle-class individuals, including middle-class military leaders, became disgruntled with the redistributive measures. President Nixon himself was dissatisfied with Allende's election, given how many resources CIA invested in undermining his campaign, which was perceived as a threat to US business interests in Chile. Inflation spiraled and foreign investors launched into capital flight mode. Trade with the US became limited and the World Bank cut access to loans. The Chilean economy was essentially sabotaged, partly due to outside pressures. All these tensions amounted into a swift coup, condoned by the US, that put an end to Allende's socialist leadership and installed Pinochet's regime, opening the gates to neoliberal transformation.[15]

In true globalist fashion, the US played an important role in the emergence of Chilean neoliberalism through what Juan Gabriel Valdés calls "ideological transfer." Through an

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[14] Marcus Taylor, "Success for Whom? An Historical-Materialist Critique of Neoliberalism in Chile," *Historical Materialism* 10, no. 2 (2002): 45-75, doi.org/10.1163/156920602320318084.
[15] Taylor, 45-75; Solimano, 20-34; Peter Kornbluh, *The Pinochet File* (New York, NY: The New Press, 2003): xi-xx.

exchange program between the University of Chicago and the Catholic University of Chile that was generously funded by the US government, Chilean graduate students were lured with scholarships to Chicago to be indoctrinated into the ways of Milton Friedman and neoclassical economics in order to disseminate the "knowledge." These Chicago-trained economists that came to be known as "the Chicago boys" returned to Santiago and established themselves at the Catholic University of Chile. By 1972, they were secretly plotting a new economic plan known as *El Ladrillo* ("the Brick"), to guide the nation in the case Allende was taken down in a military coup.[16]

When the military regime was eventually installed, junta leaders found themselves in lack of economic expertise for dealing with Chile's fiscal problems. Through connections from within right-wing circles of Santiago, the economic reforms proposed by the Chicago boys fell into the hands of the regime, which approved of the ideas. Oblivious to the irony of having economic liberalization be guided by a brick sized tome of meticulously devised instructions, the military junta offered the economists positions in government. Flaunting their elitist credentials and technocratic plans routed in economic science, the Chicago boys legitimized as necessary an expansive economic liberalization of Chile centered around three pillars: removal of barriers to economic activity such as taxes, tariffs and capital restrictions, withdrawal of state intervention from economic activity by way of privatization and fiscal austerity, and reorientation of production activity towards exports in demand on the global markets. Such radical transformation would have not been possible in Chile at that time without an iron-fisted military rule that murdered, detained, and tortured hundreds of dissidents, all in the name of "economic freedoms." The dictatorship continued until 1990, when the country peacefully started

[16] Juan Gabriel Valdés, *Pinochet's Economists* (New York, NY: Cambridge University Press, 1995): 1-15.

transitioning to democracy under the leadership of the left leaning Concertación, but still maintaining Chile on the neoliberal path set by Pinochet.[17]

Given Chile's trajectory, journalist Richard Davies went so far as to designate the nation as one of nine "extreme economies" of our world. In his investigative reporting on contemporary Chile, he painted the picture of a modern-day Santiago still reeling from the years of neoliberalism pushed to the extreme, the city being plagued by an ineffective public housing system, inaccessible school system, and highly segregated neighborhoods.[18] Davies' description of Pinochet's privatization and market liberalization projects confirm Harvey's logic of accumulation through dispossession. The fact that Chile has reduced poverty and sustained modest economic growth with abrupt increases in inequality validates Harvey's argument that neoliberalism sells an illusion of universal benefit while transferring resources to the wealthy. Chile's "Chicago Boys" debacle and joining of the OECD as first South American member concur with Slobodian's globalist argument that neoliberalism extends beyond the bounds of a state to establish a transnational order. Many of Chile's observable outcomes thus fit theoretical expectations about neoliberalism.

Much scholarly research dissects these observable outcomes and neoliberal manifestations in Chile, identifying how they intervene to deflect democratic mechanisms that are threatening to the power structures and patterns of accumulation that neoliberalism enshrines. For instance, the fragmentation and systematic repression of workers' movements diminished the power of the working class as a political actor.[19] Similarly, the highly stratified education system

[17] Solimano, 20-34; Davies, 293-305; Taylor; Valdés, 1-15.
[18] Davies, 290-327.
[19] Jorge Nef, "The Chilean Model: Fact and Fiction," *Latin American Perspectives* 30, no. 5 (2003): 16-40, doi:10.1177/0094582x03256253.

amplified class differences, marginalizing the poor.[20] Another example would be how the media landscape became concentrated in a few private hands, being thus co-opted to serve specific corporate and elite interests.[21] To understand how neoliberal policymaking acts to disconnect the political economy from popular demands, in what follows I choose to delve deeper into two particular aspects of Chilean neoliberalism – agrarian policy and the constitutional reform – so chosen for their long-lasting implications on class structure and democratic transition, as well as their illustrative power for two key aspects of the state formation project, "land" and "law."

Agrarian Reform and Counter-Reform

The military regime installed in Chile in 1973 shaped the economy following the principles of economic liberalization and reestablishment of class power of capitalists and landowners. Previously, the Frei and Allende regime had reformed the agrarian sector by seizing private agricultural land and redistributing it to peasants for the establishment of agrarian syndicates. In 1965, half of Chile's cultivable land was divided among just 730 large estates that relied on the labor of poor, exploitable peasants. After the reforms, more than 40% of the agricultural land was organized in agrarian collectives owned and managed by peasants. The point was not just to modernize the use of land, but also to create structures of collective support and political empowerment for peasants.[22]

As soon as they took over Chile, the military junta's agenda was to reverse any socialist actions of the past administrations. Agrarian policy was therefore at first based on de-

[20] Cristian Cabalin, "Neoliberal Education and Student Movements in Chile: Inequalities and Malaise," *Policy Futures in Education* 10, no. 2 (2012): 219-228, doi:10.2304/pfie.2012.10.2.219.
[21] Rosalind Bresnahan, "The Media and the Neoliberal Transition in Chile: Democratic Promise Unfulfilled," *Latin American Perspectives* 30, no. 6 (2003): 39-68, doi:10.1177/0095399703256257.

[22] Solimani, 19-21; Joseph Collins, *Agrarian Reform and Counter-Reform in Chile* (San Francisco, CA: Institute for Food and Development Policy, 1980): 5-16.

collectivization and restitution of property, constituting an "agrarian counter-reform." The large agrarian syndicates were disbanded, and the land was allocated as follows: 30% returned to former estates, 30% auctioned, 33% allocated to peasants, and the rest of 7% retained by the state. The allocations were based on a more or less objective point system, that scored former cooperative members based on criteria such as education, family size, work ethic and entrepreneurial drive. However, many who had been actively involved in the seizure of land under the Allende regime were never even considered. The system thus caused divisions among what used to be politically active and collectively engaged groups of farmers and peasants. In the astute words of one such agrarian syndicate leader: "They have sought to erase the image that it's possible to work in common."[23]

Under the new free market conditions with intense competition and lack of collective organization structures, even those peasants and small farmers who were provided some land, either through auctions or point-based allocations, were not able to hold onto their plots and were eventually forced to sell, usually to large agribusinesses. Many peasants were thus pressured into precarious work. Some moved to urban areas. Others, especially women, became temporary workers on fruit plantations. The auctions and allocations effectively constituted dissimulated ways to transfer land to large estates. The free-market mechanism naturalized outcomes and camouflaged the intentions of the state. It also pitted peasants and small farmers one against the other, rendering them unable to organize against their inevitable ruin.[24]

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[23] Collins, 5-16.

[24] Collins, 5-16; Cristobal Kay, "Chile's Neoliberal Agrarian Transformation and the Peasantry," *Journal of Agrarian Change* 2, no. 4 (2002): 464-501, doi:10.1111/1471-0366.00043; Robert N. Gwynne, Cristobal Kay, "Agrarian Change and the Democratic Transition in Chile: An Introduction," *Bulletin of Latin American Research* 16, no. 1 (1997): 3-142, doi:10.1111/j.1470-9856.1997.tb00155.x.

The cumulated result of the agrarian counter-reform was concentration of ownership of farming land, as well as impoverishment and displacement of small farmers and peasants. Under Pinochet, compared to the Allende regime, the land- and capital-owning bourgeoisie became stronger over time, concentrating more power in their hands. As of 1985, 32.000 producers owned 53% of the agricultural land of Chile and produced 70% of the national agricultural production. The junta even auctioned the agricultural equipment that Allende's *Unidad Popular* had bought for collective syndicates, allowing estates and large agribusinesses to not just snatch large amounts of land cheaply and easily, but capital equipment too. At the same time, left without property, peasantry became "proletariazed," meaning they became working class, losing their land under market pressures and being pushed into low-paid, precarious jobs either in large agricultural establishments or in cities. This served the regime and agribusiness interests by providing a cheap, easy to exploit supply of labor, lowering production costs and boosting profits (Fig. 3.)[25]

Fig. 3. Chilean peasants turned landless day workers as a result of Pinochet's disbandment of cooperative farming organizations. *Joseph Collins.*[26]

[25] Collins, 5-15; Harry Díaz, Rigoberta Rivera, *Notas Sobre La Estructura Social Agraria En Chile* (Santiago: Grupo De Investigaciones Agrarias, Academia De Humanismo Cristiano, 1986): 51-117.
[26] Joseph Collins, Landless Day Laborers, in *Agrarian Reform and Counter-Reform in Chile* (San Francisco, CA: Institute for Food and Development Policy, 1979): 5.

Another important aspect of the agrarian counter-reform was the direct encouragement of fruit export industries, highly competitive and in demand on global markets. The support for this sector came through cheap loans secured by the junta and favorable macroeconomic policy, highlighting the privileged position that fruit production enjoyed. However, fruit cultivation was only feasible for large, capital intensive firms situated in the favorable climate of the central valley. Smaller farmers outside the valley who were engaging in traditional sectors like dairy, wheat, and sugar beet, suffered under trade liberalization, as they could not compete on the international markets. However, southern farmers in these sectors also happened to play an important role in the advent of the Pinochet regime. They were able to exert political pressure and eventually obtain certain protections for these traditional sectors, protections mostly focused on concentrating production and improving technology in order to become more competitive internationally. The dairy industry in particular obtained some protections in the form of tariffs on imports that were subsidized by foreign countries, as these foreign subsidies made competition in a free-market sense untenable.[27]

The case of agrarian policy illustrates how the neoliberal state, under the guise of liberalization, works to entrench inequalities and divides, separating the realm of wealth and accumulation from that of mass popular demands. Firstly, the neoliberal state assigns winners and losers in the economy, either indirectly, by setting up the rules of the market (such as the auctioning of land, followed by increased private concertation), or directly, through limited interventions, when pressured to assuage the demands of organized interest groups (such as the

[27] Kay, 464-501; Gwynne, Kay, 3-142; Warwick E. Murray, "Neo-feudalism in Latin America? Globalisation, Agribusiness, and Land Re-concentration in Chile," *Journal of Peasant Studies* 33, no. 4 (2006): 646-677, doi:10.1080/03066150601152281; Heidi Tinsman, "Politics of Gender and Consumption in Authoritarian Chile, 1973-1990: Women Agricultural Workers in the Fruit-Export Industry," *Latin American Research Review* 41, no. 3 (2006): 7-3, http://www.jstor.org/stable/3874.

provision of specific protections for certain traditional farmers). This latter case illustrates why it was so important for the state to both concentrate land ownership in large businesses and push small farmers into poverty, so as to avoid any chance of collective organizing that might put undesired pressures on the state to intervene in ways that challenge the economic orthodoxy of the free market.

Secondly, agrarian counter-reform shows how neoliberal ideology permeates society, modifying hierarchies and social structures in order to establish an impoverished, easy to control working class. For Chile, traditional subsistence farming was destroyed as a way of living, stripping peasants of their own means of production and wealth accumulation. They became instead waged workers dependent on large businesses and lacking rights and political powers under a system repressive of unionization efforts. These workers were pushed into informal work and exploitation, which rendered low production costs and higher profits for the estates that employed them. Subsequently, business leaders could build fortunes trading these cheaply produced agricultural products on international markets.

The “land” was a natural starting point for the neoliberal regime to act upon in its beginning. Land is a fundamental resource for most economic activities, and especially for those that make Chile competitive on a global scene. By setting up the rules of land allocation and enabling its concentration into specific hands, the neoliberal state consolidated a socio-economic hierarchy based on a small group of wealthy owners and a large pool of exploitable workers. The obvious next step was to ensure that this order perpetuates indeterminately and unthreatened. This is where the “law” element came into play, through the establishment of a constitutional and political setup that kept the newly developed economic ordering sheltered from democratic pretensions.

The 1980 Constitution and Democratic Transition

Most dictatorships aim to concentrate power in the hands of an authoritarian ruler, usually by weaponizing nationalism to preserve a static political ordering. The junta considered pursuing economic nationalism in its early days but, under the influence of the Chicago Boys, the leaders turned around towards a neoliberal state project, more concerned with establishing and preserving a certain kind of socio-economic ordering than a permanent political one. Frictions between Pinochet and junta leaders, who were concerned with the durability of their neoliberal transformations, resulted in the constitution of 1980. According to Robert Barros, "the constitution was designed to contain future civilian political actors within a strongly constitutional framework, not assure continued political power for General Pinochet." Barros' argument falls in line with Slobodian's argument that neoliberalism protects capitalism from democracy. Instead of securing power for Pinochet and the junta, the new constitution aimed to shield the already regimented order from democratic pretensions for change.[28]

Neoliberalism and anti-democratic sentiment were deeply embedded within the formulation of the constitution. The very wording and structure of the articles made clear what the priorities of the state were. Private property was glorified, with detailed explanations of what should happen in the case of any infringement upon it. In contrast, rights like healthcare, pensions, and other public services were just cursorily mentioned. The constitution promised that these rights would be protected according to the "law" only to later explain that such law is at the discretion of the president. Similarly, tax and budget law are also to be changed only at the initiative of the president.[29]

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[28] Solimano, 22-29. Robert Barros, *Constitutionalism and Dictatorship: Pinochet, the Junta, and the 1980 Constitution* (Cambridge: Cambridge University Press, 2002), 1-9.
[29] 1980 Constitution of Chile, chap. III, art. 19, chap. V, art. 62.

Besides, the constitution pulverized the labor movement by prohibiting the participation in political life of union leaders. Similarly, it provided for the persecution of "doctrines" that are against the "(neoliberal) State," without clearly mentioning what those doctrines are. In this way, the constitution left enough legal room available for the state to crack down on workers' movements and prevent them from threatening the established socio-economic hierarchy.[30]

The constitution also featured anti-democratic "innovations" such as nonelected senators, binomial voting, and protections for certain military actors within the structures of the state. These mechanisms prioritized the access to government of the top two political formations (center-left and center-right), preventing smaller, more progressive parties from gaining any significant representation in government. It also ensured the consistent presence of certain center-right elements through the role of the military and of nonelected senators.[31]

Perhaps most remarkably though, the new constitution shyly opened the gates for a controlled transition to democracy. Through the plebiscite of 1988, the people of Chile decided that they did not want Pinochet as a ruler anymore. Afterwards, in 1989, the first democratic elections were held and, in 1990, Patricio Aylwin of the left-leaning Concertación alliance became the first democratic president of the post-dictatorship age. From there on, Concertación ruled uninterruptedly in Chile for 20 years. Constrained by the constitution, the transition consisted of negotiations between Concertación, the military, and opposition leaders. The result was that Concertación committed to continuing the neoliberal economic program and respecting military's self-granted amnesty with regard to human rights issues.[32] Margot Olavarría describes

[30] 1980 Constitution of Chile, chap. I, art. 8, chap. III, art. 23.
[31] Solimano, 36-37. Barros, 1-9.
[32] Rosalind Bresnahan, "Chile Since 1990: The Contradictions of Neoliberal Democratization," *Latin American Perspectives* 30, no. 5 (2003): 3-15, doi:10.1177/0094582x03256252.

this setup as a “restricted democracy” that has led to a loss of legitimacy and “electoral withdrawal” among the public.[33]

It may appear surprising that, in the wake of democratic transition, Concertación, representing the Chilean left, was so quick to abandon socialism for neoliberalism. What happened is that Concertación, being split between popular demands for social justice and the pressures of nonelected domestic and international actors, had to play politics of compromise. Upsetting the military or international institutions and the US could have destabilized the transition. As such, Concertación had to demobilize its base and suppress popular demands and social movements.[34]

The history of the left in Chile made this perverse and misleading transition easy for Concertación. Before the Pinochet regime, Chile had a socialist tradition of Yugoslav influence that was pro-market, but also in favor of workers’ self-management, public services provision, and anti-monopoly. Post-Pinochet, the new left pivoted into neoliberals with a socialist flair by holding onto the “pro-market” element, while discarding all else that was contradictory to the established order. This manifested as minimal social progress in terms of some very basic provisions of unemployment insurance and other increases in social spending, without altering the unequal labor relations or highly privatized and socio-economically segregated provision of public services like healthcare and education. The result was a Concertación that promoted “growth with equity,” with minimal social policy targeted at reduction of extreme poverty, without challenging the structures that held inequality in place.[35]

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[33] Margot Olavarría, "Protected Neoliberalism: Perverse Institutionalization and the Crisis of Representation in Postdictatorship Chile," *Latin American Perspectives* 30, no. 6 (2003): 10-38, doi:10.1177/0094582x03256259.
[34] Bresnahan, “Chile since 1990.”
[35] Johanna Bockman, "Democratic Socialism in Chile and Peru: Revisiting the “Chicago Boys” as the Origin of Neoliberalism," *Comparative Studies in Society and History* 61, no. 3 (2019): 654-679, doi:10.1017/s0010417519000239.

The case of the 1980 constitution and the democratic transition tied to it shows how neoliberalism works to preserve and reproduce itself, maintaining the separation between the order of the political economy and any democratic processes that might threaten to disturb it. One way that this is achieved is through legal provisions that leave much to desire in terms of guaranteeing public services, labor rights, and electoral fairness, as illustrated by Chile's long-lasting and democracy-hindering constitutional provisions. Additionally, through international institutions and networks, neoliberalism embeds the economy in a sticky global net that cannot be escaped without dire consequences for trade relations and credit access. Another way that the democracy-economy disconnection is maintained is through neoliberalism's own machiavellic transformation, corrupting its adversary movements, co-opting their identities, and satisfying minimal popular demands, in order to create the appearance of change and progress, while preserving fundamental continuity. The "law" element, as shaped by neoliberal thinking, translated into an incomplete, stunted form of democracy that disregards the wellness of its citizens for the sake of wealth accumulation.

Conclusion

Adam Tooze argues that the success of neoliberalism is due to the attitude of those who practice it: never ideologically rigid, always ready to adapt and change.[36] The neoliberalism that started in the '70s in Chile is not the same one that is today. The leaders behind the neoliberal project, economists and authoritarians alike, acted upon the "land", the material basis of the nation, to determine a distribution of resources that agreed with their vision of a world of wealth concentration and accumulation. This economic reality permeated social structures and work cultures, creating a mass of atomized, exploitable workers in the service of few capital owners.

[36] Adam Tooze, "Neoliberalism's World Order," *Dissent Magazine*, July 09, 2018, accessed December 23, 2020, https://www.dissentmagazine.org/article/neoliberalism-world-order-review-quinn-slobodian-globalists.

Once this ordering was established, elites shifted their attention towards securing the long-term persistence of the socio-economic hierarchy by reshaping the "law" dimension of the state. This ensured the state had extensive powers over economic rights, with little to no accountability to popular demands, and even no need to maintain an authoritarian power structure.

Milton Friedman looked at the Chilean case and noted that "the free markets did work their way in bringing about a free society" because "the military junta was replaced by a democratic society."[37] He forgot to mention the part where that transition was only achieved once the neoliberal ordering became inextricably embedded in the fabric of society and the right backstops were put in place to shut down aspirations towards more mature democracy. The controlled abandonment of authoritarianism was not a sign of a truly free society, but an indicator that inequality became so deeply ingrained that sheer force was no longer required in order to maintain hierarchies.

Nowadays, it looks like Chilean neoliberalism is ready to move past its "law" stage, eager to shed the Pinochet-era constitution that regiments the divide between democratic means and economic outcomes, perpetuating the nation's social ordering. Will the next constitution be more of the same? If not, what dimension of the state will neoliberalism exploit next for the protection of its hierarchical functioning? That remains to be seen. What is certain for now is that neoliberalism continues to shapeshift and morph, as in this flexibility lies its only constant: the ability to bounce popular wants and needs, preserving the world of private wealth accumulation and concentration largely immune to the intervening voice of democracy. If they have not done so already, other nations risk falling down this slippery slope as well, be it in Latin America or

[37] Milton Friedman, "On His Role in Chile Under Pinochet," *PBS*, accessed January 15, 2021, https://www.pbs.org/wgbh/commandingheights/shared/minitext/int_miltonfriedman.html#10.

beyond, with potentially disastrous consequences for democracy and inequality of wealth, resources, and opportunities.

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