

# Governing the Extractive Sector: The Politics of Globalisation and Copper Policy in Chile

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*Chile exhibits an immense continuity in its copper policy and the sector's reliable output contributes enormously to the tax revenues of the state. Copper in Chile is thus an interesting case because it challenges the presumed failure of neoliberal reforms in Latin America. It does this in a number of different ways. First, the sector is a clear success in terms of its output and contribution to GDP. Second, private capital and foreign direct investment in particular plays a critical role in developing the mining sector. Third, state-owned CODELCO has stood firmly against multinational companies. And fourth, Chile simultaneously exhibits a stability of rules inherited from Pinochet's neoliberalism; labour relations characterised by conflict and co-optation; and a depoliticised mode of governance marked by copper policy technopols and an indirect link between copper and social policy. This paper argues that the Chilean state under La Concertación government has played an important 'steering' role by defusing the various political conflicts, contradictions and tensions in copper policy.*

## **Introduction**

How should we characterise the changing relationships of state and market in the context of neoliberal globalisation – or, in Latin America's case, in the post-neoliberal era? In order to answer this question, it is important that we closely examine the political economy of specific sectors within different countries and attempt to understand the varied impact of neoliberalism on state-market relations. Whilst many studies have already observed the shift towards more market-oriented reforms in agriculture, manufacturing and financial sectors (Wise, 2003; and WIR, 2009), the resource extractive sector has also experienced a process of market liberalisation but the

consequences of this have yet to be systematically studied (Sánchez et. al., 2001; and WIR, 2007). Meanwhile, the Latin American region is becoming increasingly dependent on extractive resources such as petroleum, natural gas, or mining; and tensions abound because these resources are subject to various conflicts between governing elites, the private sector, social movements, and other groups seeking to make claims of ownership.

To unravel the politics of neoliberal reform in the Latin American extractive sectors, it is necessary to place the reforms in the context of the broader political economy of the last 30 years. Since the late 1980s, key mining countries in the region (Peru, Bolivia, Brazil) have undertaken reforms to change their property rights regimes, taxation policies, and trade rules in order to attract foreign investment. More fundamentally, there were clear attempts to reverse nationalisation, reduce the role of the state and particularly state-owned enterprises in mining, and to introduce low tax rates and attractive investment packages in order to increase Foreign Direct Investment (FDI) into the region. In response to high prices, transnational corporations (TNCs) have accelerated their investment into the exploration and exploitation of extractive resources, as is illustrated by the purchase of Brazilian firm Vale by Canadian company Inco.<sup>1</sup> Today, Brazil and Mexico, followed by Chile, are the main recipients of FDI inflows (WIR, 2007). These reforms can be seen as responses to state-led industrialisation and its varying degrees of failure.

The extent to which these policies were maintained after 2000 differs across the region. In Brazil and Chile, mining laws have remained intact and continue to reflect the neoliberal reforms of each country, thereby offering stability in terms of rules. Peru and Colombia have undertaken further liberalisation and attracted FDI into new mining sites, but this has met some resistance (especially in the Peruvian case, see Bebbington et. al. 2008).<sup>2</sup> Meanwhile, in some countries such as Argentina, Bolivia, Ecuador and Venezuela, there were revisions in contracts and tax regimes aimed at increasing state control over the industry, imposing stricter environmental regulations, and securing a bigger share of windfall profits for the state (Hogenboom, 2010; and WIR, 2007, pp. 59-60). The latter set of countries is important because they mark a policy shift in Latin America from neoliberal to post-neoliberal thinking.

The Chilean case is interesting in challenging the presumed failure of neoliberal reforms in Latin America in four ways. In terms of output, shared private and public production is responsible for 35% of the global copper supply and constitutes 8% of the GDP in 2008 (COCHILCO, 2009). For this reason, copper is typically referred to as *el sueldo de Chile* ('the wage of Chile') or *oro rojo* ('red gold'). Second, private capital, but more specifically foreign firms, play a critical role in developing the mining sector in terms of technology transfer, foreign direct investment (FDI), and state revenues through taxation. This departs from the typically antagonistic relations between state and capital found in Bolivia, Ecuador and Venezuela. Third, state-owned CODELCO has stood

firmly against multinational companies. One must not forget that the biggest copper producer is still state-owned and this demonstrates the capacity of the state to manage production in a highly competitive global environment. Finally, the Chilean resource model simultaneously exhibits an immense stability of rules that were inherited from Pinochet's neoliberalism, labour relations characterised by conflict and co-optation, and depoliticised modes of governance characterised by the extensive presence of technopols in copper policy and an indirect link between copper and social policy.

The neoliberal reforms in the Chilean copper sector thus demonstrate the contradictions between an industry requiring greater state management and an ideology that holds back such a role for the state. With policy constraints on pursuing a more statist agenda, La Concertación government has attempted to adopt a 'steering' role and negotiate three different sources of pressure: (1) private sector interests seeking to open Chile's small market to the global economy; (2) the perceived need to develop a policy framework that can address and avoid the so-called 'resource curse'; and (3) domestic calls for more social policy and better labour rights. The remainder of this paper expands upon this basic argument in the following manner. First, it discusses the literature on globalisation, resource governance and economic development. Second, it traces the politicised role of copper in Chilean economic development. And finally, it discusses some of the problems and issues arising from the policy of continuity of La Concertación regime.

### **Globalising Latin America: The Political Economy of Resource Governance**

Within the context of Latin American political economy, globalisation has typically been associated with the rise and fall of neoliberal economics. For unlike other regions, the governing elites in Latin America have embraced this development model that shifted import substitution industrialisation (ISI) strategies under authoritarian leaderships – bureaucratic authoritarianism (BA) – towards market-led governance under at least formally democratic regimes (Grugel, 2009; and Grugel & Ruggirozzi, 2009). In this sense, globalisation is a process of historical change that is reflected in the shifting policy paradigms and ideological debates around models of development. From a policy perspective, globalisation refers broadly to the sweeping market reforms initiated since the late 1980s in response to the failures of the BA model. Under this paradigm, the state – conceived as a political actor with roles in various spheres – holds legitimate authority to direct the economy towards industrialisation. Rather than relying on the market and its laws of supply and demand, the state 'politicises capitalism' and structures the capacity of businesses to organise their interests.<sup>3</sup> But such a belief in the state as the principal actor of development was reversed as states came under attack by one crisis after another. The 1982 debt crisis signalled the beginning of a shift away from this fledgling development

model, and subsequent economic crises (which have typically characterised critical junctures of change in Latin America) created conditions for radical market reforms. At the same time, social discontent saw pressure applied to the state and governing elites by labour unions and grassroots social movements who sought to open up the political system. Latin America therefore underwent a dual transition: politically, the state was transformed by a commitment amongst governing elites towards liberal democracy; and economically, by discrediting the authoritarian state, its ISI model was also dismantled and replaced with neoliberal policy and ideology (Gonzalez, 2008; and Grugel, 2009). The state was now seen as the main obstacle to growth and development.

With the eclipse of state activism, private firms were given greater legitimacy as actors of development; indeed they were the central to the free market model which we saw unravel over the course of the 1990s. The process of market reform typically came in two phases, where the first aimed to stabilise the economy and keep inflation under control, while the second promoted a new round of more complex reforms designed to complement the initial ones. The success of these reforms varied across countries depending on the cohesiveness of the governing coalition, their ties with international financial networks, and the effectiveness of the political strategies through which they implemented their reforms (Naim, 1999, 1994; Margheritis & Pereira, 2007; Teichman, 2001; and Wise, 2003). Whilst mining reforms in most Latin American countries were being implemented in the second phase during the 1990s, Chile was exceptional in its early adoption. By 1974, the authoritarian regime initiated the process of creating an institutional framework aimed at attracting foreign investment and recognising the right of ownership of mines through a concessionaire system. In 1983, this was consolidated through the codification of the Mining Code. Mining governance in Chile is far more institutionalised in comparison to other Latin American countries where partial reforms were enacted by elected democratic governments in the 1990s.

From a political perspective, globalisation has transformed the role of the state in response to market-led governance, with the withdrawal of state involvement from key economic functions coming alongside a shift towards more 'minimal' regimes of regulation (Cerny, 1995). As market reforms are implemented throughout Latin America, the style of leadership has typically taken a draconian form through authoritarian methods, such as the use of executive decrees, non-consultative methods of decision-making, and the extensive use of patronage networks to co-opt resistance, although all are accompanied by an appeal to nominally democratic processes such as elections (Cook, 2007; Grindle, 2000; Grugel, 2009; and Teichman, 2001). These notions do not fully capture the nuances of the Chilean case where there is a marked continuity in state governance from Pinochet's neoliberal model and throughout the transformation of the state towards neo-structuralism. Because neoliberal reforms were completed under the authoritarian regime, the state under the governing coalition, La

Concertación Democrática (1990-2010), has promoted policy reforms within and beyond the extractive sector that constitute a *steering* role for the state – it has practiced a form of state intervention that conforms with the demands of the market and yet also seeks to remedy the costs of neoliberal reform.

Finally, globalisation as an actual process of historical change signifies real interconnectedness in political, economic, social, and cultural spheres, intentionally or otherwise, by a multitude of actors. As such, globalisation is not a force on its own, but rather it is a process driven by the actions of actors, and is therefore contestable and can be made to move in different directions. Latin America has become the new frontier of an expanding extractive sector as a result of the sustained demands of emerging markets like India and China. Chinese FDI inflows were directed mainly to the mineral and oil sectors; roughly  $\frac{3}{4}$  of the stocks that came in 2007 were of a 'resource-seeking' nature with Argentina, Brazil, Mexico, Peru, and Venezuela as the main recipients (Jenkins, 2009).<sup>4</sup> In Chile, Chinese FDI has gone solely to the copper sector, which reflects the compatibility of the Chilean production and export structure with Chinese demands for raw materials (Barton, 2009). Figure 2 shows FDI inflow in mining and in the Chilean economy in general (see end of article). With the rise of China as both a major importer and exporter comes a new division of labour between countries. Concomitantly, Latin America's economic relationship is slowly shifting away from the United States, which has historically been hegemonic through its foreign policy of market liberalisation and regional integration. We find new dynamics in the Latin American political economy marked by both competitive and complementary relations especially in industrial and manufacturing sectors (Jenkins, 2009; and Philips, 2007), although the extent to which this will continue and be fortified in the future remains unclear.

### **Politicising Resource Governance in the Context of Post-Neoliberalism**

Market reforms are not a natural and uniform process; they have been implemented partially and sometimes in ways that depart from their original rationale (Pinheiro et al., 2004; and Teichman, 2001). This also typically occurs under conditions of coercion as in labour reforms (Cook, 2007) or undemocratic practices (Grugel, 2009). In fact, market reform has been widely contested as neoliberalism became costly for ordinary citizens and social organisations from the grassroots to national levels called for democratisation from below. In Latin America, the broad rejection of neoliberalism was marked by the capture of state power through elections by 'leftist' coalitions. The literature on Latin American political economy since 2000 and post-neoliberal governance, has been grappling to understand the contestation of neoliberalisms at different scales, the form and substance of governance after neoliberalism, and the consequences of the 'left' turn on democracy and economic development (Grugel, 2009; Grugel & Ruggirozzi, 2009,

2001; Macdonald & Rukert, 2009; and Wylde, 2009). Achieved via various forms of political mobilisation, a new social contract between the state and civil society is emerging, which is distinct from the more positive, institutionalised state-market relations in Latin America (for example, Bebbington et al., 2008; Perrault, 2008a, 2008b; and Sawyer, 2004). Latin America's political regimes may be experiencing a shift in state governance where more resource-based models of development are emerging – as in Bolivia, Ecuador and Venezuela – and in which the state plays a more active role in the re-regulation, re-taxation, and re-nationalisation of the minerals sector (Hogenboom, 2010; and Kirby, 2010).

But whilst we find change in the role of the state in Latin America in response to neoliberalism, there are also countries led by governing coalitions with substantial leftist parties – Chile, Uruguay and Brazil being exemplary cases – whose regimes of capitalist accumulation have produced governance models exhibiting immense stability, continuity, and positive state-market relations. Not only are they characterised by continuity of market-friendly policies, but their extractive resources are also managed by public-private partnership which legitimise the role of the (foreign) private sector in economic development. With the exception of Brazil, where Petrobrás remains dominant in production processes in the petroleum sector and likely to exercise exclusive control over the newly discovered pre-sal oil fields, most of the extractive resource sectors in Latin America face the challenge of attracting foreign investment and managing nationalist sentiments towards natural resources.<sup>5</sup> The consequences of globalisation for economic development, and its corollary relationship with democracy, are historically specific and contextual to state-market-society relationships produced by the specific way neoliberalism has been embedded, and in some cases contested, in society (Kurtz & Brooks, 2008; and Radcliffe, 2005). Resource governance therefore offers one way to examine the *spaces of contestation* and *of state autonomy* through which new developmental state strategies take shape.

Since 2000, we find two lefts in post-neoliberal Latin America. Whilst some characterise the new political economy as being divided between the 'good' and 'bad' lefts (Castañeda, 2006; and Castañeda & Morales, 2008), others take a more neutral view by looking at their social bases and the terms of state governance (see Grugel & Riggiorozzi, 2009 for a full discussion). Kirby (2010), for example, offers a characterisation of Latin American regimes based on their dependence on extractive resources, and the way they utilise these as bases of political power. Hence, the politics of resources and the broader changes in Latin American political economy cannot be easily disentangled.

We need also to recognise that mining is not the same as the industrial or manufacturing sectors. It generates a specific form of political mobilisation via those communities affected by mining expansion projects, and it often makes resource policy discourses more conflictual due to the ways mining reforms have typically been

implemented (Gunvald Nilsen, 2008; Perrault, 2008a, 2008b; and Sawyer, 2004). Meanwhile, both academics and development practitioners look to resource policy as a potentially innovative way to link resource wealth and social development (World Bank, 2006). Resource extraction is also associated with various political developments, such as administrative reform, (de-) democratisation, transparency and good governance, and corporate social responsibility initiatives (Brautigam et. al., 2008; Dunning, 2008; Gallo, 2008; Karl, 1997; and Ross, 2001, 1999). Resource governance is thus intensely politicised in Latin America. This includes Chile, where modes of de-politicisation emerged alongside increasingly technocratic forms of mining management.

On the one hand, we can speak of mining management as something that refers to the technical aspects of mining – investment policy, processing of environmental impact assessments (EIAs), mining closure and other regulations. This kind of apolitical discussion of copper policy appears because those taking the perspective of mining experts, economists, and engineers see mining in terms of productivity and as a question of efficiency. However, resource governance is intrinsically linked to economic development and is therefore intensely political and contested. For example, state institutions can include and exclude certain discourses within policy domains of mining, and policy-makers distribute rents among social and political actors. This reflects the ability of states to gear mining towards particular forms of economic development.

### **Mining as a Special Sector**

Extractive resources – nitrate, mining, petroleum, natural gas, etc. – typically produce a strong alliance between state and business, and in some cases where there are no national capacities for developing the industry, an alliance with foreign capital. Such collaboration between state and capital to share responsibility in the extractive industry makes competing claims more conflictual and sometimes violent, as in cases of civil strife (Karl, 1997; Ross, 2006; Smith, 2004; and Uldefer, 2007). For one, natural resources produce rents,<sup>6</sup> which are subjected to sectoral and elite interests who attempt to capture the state and share mining rents. Without state institutions autonomous from these social groups, the state becomes an instrument of elite and/or sectoral interests. And where labour needs to be pacified in the name of stability in governance, the state and business firms enter into negotiations with labour unions whose aristocratic status is marked by high salaries and generous welfare benefits.<sup>7</sup> In the past, labour and societal animosity against foreign capital led to the nationalisation of extractive industries, but this has only re-emerged in a few countries that are committed to a radical political economy (e.g. Bolivia, Ecuador, Venezuela).<sup>8</sup> Incidentally, Brazil and Chile still have state-owned companies but the state attempts to avoid alienating foreign firms in the mining and petroleum sectors. In fact, from the 1990s onwards, both countries showcase an immense stability in legal

frameworks and continuity in extractive policies, and a persistence in courting foreign investment. This is reflected in the broader policy agenda to maintain the economic growth model (Grugel & Riggorozzi, 2009).

With regard to the resource curse, asset immobility and geographical concentration of resources allow for the development of the mining sector without necessarily linking it to the productive sectors (Brautigam, 2008; Dunning, 2008, pp. 6; and Hammond, 2009). Without this linkage between the resource and productive sectors, it becomes difficult to diversify the economy. Zaire and Venezuela are cases where the economy successfully made a turn-around from an agriculture-based economy towards copper- and oil-based economy respectively. Resource dependence also leads to over-consumption, weak diversification of the economy, and what is commonly known as *Dutch disease*. As the natural resource profit inflow increases, real exchange rates rise, pushing labour costs up and making other non-resource based tradable goods less competitive. This occurs in periods of resource booms, and as the real exchange rates appreciate, it cripples other non-resource based sectors, especially agriculture. The overall effect is to further isolate mining from other industries, which traps the country into a cycle of resource dependence and vulnerability to international shocks.

Finally, natural resource dependence undermines the quality of the political institutions that govern resource extraction by forcing a choice between taxation and borrowing as means of financing extractive industries. Since minerals are immobile compared to other goods or services, taxation serves as direct state revenue. Some governments negotiate tax regimes on the basis of a contractual logic, for instance; revenue bargaining between the tax collector and the taxpayer stems from the need of the state for revenues and the desire of taxpayers to acquire public services. Since both parties have interests to be represented, political institutions emerge based on a liberal democratic logic of representation to enhance transparency and accountability. On the other hand, the relative ease in taxing minerals not only makes it less likely for the state to develop a competent system of tax collection for transparency purposes, but it also promotes coercive taxation in agrarian economies or those with a large informal economy (Brautigam, 2008). Tax reforms today focus on improving the institutional capacity to collect taxes, the transparency and state accountability of expenditures, and the ability to generate social development without running public deficits. The need for sustainable revenue management and decision-making on mining licenses and concessions further complicate resource governance. Oftentimes, mining resources are associated with increasing centralisation of power at the expense of democratic accountability, the mobilisation of social groups to gain more share of the mineral rents, and the deterioration of public and especially bureaucratic institutions as a result of the politicisation of mining management (Brautigam, 2008; Dunning, 2009; Karl, 1997; and Mejía Acosta & de Renzio, 2008).

Ultimately, the process of building independent institutions is hampered. For many resource dependent states, not only does mining foster the stability of authoritarian regimes or authoritarian styles of decision-making, it also consolidates the rentier class who serve as gatekeepers of the political process (Beblawi, 1990; and Ross, 2001, 1999). With an underdeveloped national tax system resting on a typical strategy of excessively taxing the mining sector, the state develops methods of imposition to assert its role in industrialisation (Beblawi & Luciani, 1987).<sup>9</sup> In fact, the Indonesian case demonstrates that the break down of the rent-seeking pattern is the key to democratic transition and the emergence of a political will to strengthen institutions and move towards developing other sectors such as agriculture (Karl, 1997, pp. 208-213; and Rosser, 2007).<sup>10</sup> In the next section, the paper problematises Chile's model of resource governance, focusing in particular on how neoliberal reforms have imposed constraints on more statist resource policy.

### **Demystifying Chilean resource governance**

Chilean copper governance reflects the tensions manufactured by this process of balancing market-friendly policies and state regulation, as well as the limits and strengths of its resource based development model. Beneath the success there are tensions within the model. Prior to the neoliberal reforms, one of Latin America's strongest labour movement emerged from the mining towns of Northern Chile, in which unions contested and fought for the nationalisation of copper in 1971. Chile's history of resource extraction from nitrate to copper demonstrates the tensions and conflicts between the state, transnational and domestic capital, and labour unions. From the statist developmentalist period (1938-1973) to the neoliberal restructuring (1974-1990), copper mining was at the centre of labour conflicts and of radical political change in Chile. Subsequently, the consolidation of market-oriented reforms in the mining sector and in the wider economy by 1990 reflects new capital-labour relations mediated by a reformed state under La Concertación Democrática committed to neoliberal globalisation at least rhetorically.

### **Legacies of dictatorship and Politics of Continuity in Chile**

Resource governance in Chile has undergone changes in conjunction with this broader political trajectory. The immense capacity of institutions to withstand such changes – the shift from statist developmentalism (1930-1973) to Pinochet's neoliberal revolution – reflects a state strength that was historically accumulated. For instance, whilst most of its Latin American counterparts failed to develop viable taxation systems, Chile by the time it entered the War of the Pacific against Bolivia and Peru in 1879 was collecting tax

income that would have financed the war (Kurtz, 2009, pp. 492). The centralisation of authority and development of administrative capacity for revenue extraction, both of which serve as foundations for the elite political control necessary for state-building, has been lacking in most Latin American states (Centeno, 2002; Kurtz, 2009, pp. 486-487; and Tilly, 1992). Instead, political and economic elites resisted wealth redistribution – such as land reforms, or the creation of meritocratic bureaucracies to facilitate institution-building – and on the whole this still underpins the persistent weakness of Latin American states (Ondetti, 2008, pp. 10-13, 107; Schneider, 1999; and Wittman, 2009, pp. 121-122).

And as the resource curse thesis posits, many developing countries struggle to simultaneously manage political conflicts around rents and complete administrative reforms to protect the economy from international price fluctuations and Dutch disease (Karl, 1997; and Ross, 2001). In Chile, however, the period of state developmentalism in Chile between 1930 and 1973 was the most critical in terms of centralising its authority and expanding its jurisdiction (Kurtz, 2009; Taylor, 2006; and Valenzuela, 1978). The expansion of the state started during the Pedro Aguirre Cerda's Popular Front government in 1938 and gained momentum in Salvador Allende's presidency. Although it constantly met resistance from the conservative parties, its main legacy is the gradual institutionalisation of the state in economic management. In promoting import substitution strategy, the Corporación de Fomento (CORFO) was established to provide technical assistance in developing infant industries and its role was sustained until the move to nationalise banks and state-owned companies occurred under Allende.<sup>11</sup> In a corporatist fashion, the state expanded its role by mediating directly in capital-labour relations. The 1931 labour code involved state-sanctioned collective bargaining, wage-setting, and state-sponsored labour mobilisation through unionisation (Taylor, 2006; and Valenzuela, 1978).<sup>12</sup> This comes as an important point given that the militant mining workers were the major source of political conflict between the state and society. The fierce battle among foreign capitalists, labour unions, and the governing elites was only resolved in 1971 through a cross-party agreement towards the nationalisation of copper. As history shows, state intervention in Chile ended bitterly through a military coup led by Augustus Pinochet Duarte in September 1973.

There is already substantive work on the reasons why Salvador Allende fell from power (Valenzuela, 1978; and Vergara, 1985). What must be noted is the new role that the state took after laying out the foundations of the new economic model. Broadly speaking, neoliberal reforms reversed all the economic policies of Allende, particularly the nationalisation of key industries, universal welfare systems, and protectionism through tariffs and quantitative restrictions. Kurtz (2001) explains that the Chilean state reoriented economic production by withdrawing the state from direct management – for instance, by allowing the collapse of existing industries like textile and traditional

agriculture and aligning Chile's investment policy towards the natural resources in which it had a comparative advantage. The state played a 'neutral' role as regulator implementing the law so as to allow market forces to guide production, and it also maintained a 'liberal neutrality' in its import and export regimes.

Whilst massive privatisation was taking place, copper mining was retained in state hands. On 1 April 1976 through Decree Laws 1.349 and 1.350, the state consolidated the administration of copper production by creating the unified state-owned company *Corporación Nacional del Cobre de Chile* (CODELCO). This may come as a surprise, but in fact it was a logical outcome of the correlation of political forces within the military regime. Between 1974 and 1980, Chile's first phase of neoliberal restructuring, there were clear fault lines within the regime between the elite technocrats ('the Chicago Boys') and the military officers who took administrative posts in CODELCO. This set of military generals was considered to be the strong nationalist faction in the balance of power of the military regime, and they were resistant to the privatisation of copper mining. Throughout the Pinochet period CODELCO was managed by the military and they saw copper as emblematic of patriotism. Vergara (1985), for example, shows how the regime's national security doctrine was intricately tied to copper policy. Furthermore, the armed forces until October 2009 were receiving 10% of CODELCO's profits to pay for arms purchases and modernisation projects. The direct benefit of the copper industry to the military as an institution in terms of revenues meant that it made sense keeping it in state hands. But we must not forget that their opposition against the privatisation of copper became the critical juncture for the continuity of the model in the 1990s. Under *La Concertación*, the state maintained a balancing role of supporting private sector initiatives and keeping CODELCO a competitive firm in the copper industry. During the 2009 presidential elections, no presidential candidate suggested the privatisation of the company. Even after the victory of the right coalition, *Alianza*, Sebastian Piñera remains silent about the issue and most discussions on copper policy still revolve around making Chile less vulnerable from price shocks especially now given the current high prices. In fact, the new government seems to be consistently in support of expanding investment in CODELCO to enhance its productive and labour capacities.

But copper mining has a special political resonance in Chile. The nationalisation was a fierce struggle in which labour unions fought for the right of Chileans to benefit more from their natural resource. This occurred in the context of a highly polarised society with sharp divisions between political parties in pre-1973 Chile. This achievement to forge consensus amongst political parties to nationalise copper was taken as caution. And indeed, Chileans today ascribe some form of cultural identity to copper because of the country's history of mining.<sup>13</sup> In the Constitution, the State has the ultimate subsoil rights in mining and declares the Chilean public as the ultimate owners

of copper. Such nationalist sentiments are captured by the continued public support for CODELCO as the main copper producer. In the aftermath of the neoliberal restructuring, CODELCO's *raison d'être* is to create the balance between state production and private sector investment in mining. In the words of mining expert Juan Carlos Guajardo:

CODELCO is the result of all the political conflicts around mining during the 1950s, 1960s... Besides this origin, CODELCO then played a key role in promoting the development of national capability in mining, I mean small companies on technology and engineering, the domestic productive factors were boosted by CODELCO in mining... But a third aspect is... after the institutional changes during the military regime, the existence of CODELCO from my point of view has served as a buffer factor to avoid conflicts between private sector and the political sector [class]. [Its] existence... is at certain point an element that provides support to the institutional regime in [Chilean] mining. Why? All the people, Chileans, who believe that all the copper resources should be nationalised are happy that CODELCO exists and that CODELCO has the first position in the world copper production. This political scenario allows for the private sector to develop in a more positive way without the questioning of the political class who believe copper should only be Chilean (2009, Interview with the author).

However, the neoliberal model which led to privatised mining governance contains contradictions. Pinochet retained state production through CODELCO whilst aiming to bring in foreign capital by making mining attractive for foreign investment. By issuing Decree Law 600 in 1974, the Foreign Investment Statute, Pinochet gave companies generous tax rebates for imports used in mining operations, permitted delays in tax payments, and provided a guarantee that the rules would remain stable and unchanging. The government likewise compensated companies from the nationalisation of copper, which helped to recuperate the confidence of foreign capitalists. With the fierce hand of the dictatorship, José Piñera, Labour Minister and key supporter of the Chicago Boys, produced a labour code in 1979 that institutionalised labour flexibilisation. To assert the property rights of individuals, the Mining Code was issued in 1983. This was described as the act of giving the individual the absolute right to own mining concessions – a process that opened opportunities for Chileans (mainly national economic elites) and not just transnational companies to take advantage of the liberalised laws in mining. Fundamentally, there is recognition of a role for private sector, and consequently of the need to protect the private property rights regime.

In addition, due to the state's commitment to re-establish private sector

confidence, firms were given wide access to policy processes (Teichman, 2001), and in mining, organised business was able to direct copper policy. During the democratic period, the Consejo Minero (Mining Council) and the Sociedad Nacional de Minería (SONAMI) were able to take advantage of the privatised legal framework. Although the former was only created in 1998, the latter has been in existence since 1883. Their key function is to make sure business interests are publicly visible, and under La Concertación's terms in office, that they are given sufficient support from the Right. By the 1990s, La Concertación's political capacity to steer the economic direction away from the free market model was reduced. After the dictatorship, the mining sector was perceived as more efficient because of private sector efforts to modernise mining operations, enhance community relations through their social responsibility agenda, and develop a system of environmental mitigation and compensation. In comparison to the negative view on private capital in the 1960s-1970s, the 1990s is the era in which private sector has been recognised as a legitimate political actor essential for economic development. Although the state has been reserved certain rights, such as invoking licenses, it has never been used in recent history for fear of sending the wrong signal to the private sector. Mining liberalisation led to the most interesting outcome in Chile today: despite nationalisation of copper, roughly 70% of Chilean mineral production is done by the private sector whereas 30% is produced by CODECLO and Enami (see Figure 2).

### **Labour relations under conditions of privatised governance**

The second consequence of Pinochet's neoliberalism relates to labour relations. After the Labour Code was institutionalised, Chile's labour flexibility was hailed by the World Bank and IMF for its 'sound labour relations'. As Figure 3 shows, the Chilean labour market is typically characterised by a decline in protests and increase in *convenio colectivo*,<sup>14</sup> both of which generate an image of peaceful labour relations. Whilst most workers in many sectors face more precarious labour conditions, mining workers with their powerful and organised unions have managed to defend their economic demands. With the plethora of social benefits, bonuses and high salaries for permanent workers and fairly better conditions for subcontracted workers, labour conflicts have largely been averted in the mining sector (Cook, 2007; and Winn, 2004). Crucial to successful mining operation is the continuity of production and minimal labour conflicts. The strength of the Chilean state was once more demonstrated when Pinochet put labour in its place, that is, tied it to the whims of capitalists and undermined its capacity to mobilise. Using both coercion and labour policy, organised labour, including mining unions, were stripped off their collective rights to unionise and make collective bargaining with employers. Because the institutionalisation of most of the anti-labour legislation in Latin America occurred under the dictatorship, it was successfully completed without any form

of dissent. What scholars note is that this labour code remains intact in terms of substance throughout the La Concertación days (Frank, 2002; and Winn, 2004). The remarkable continuity in the labour policy framework in Chile – one that favours employers and businesses in the name of competitiveness and labour flexibility – demonstrates the state's capacity of keeping a coherent policy direction albeit in neoliberal terms.

But what is unique in the transition is the high level of control exerted by the state in the process. By silencing labour, banning any form of collective action, and isolating the technocrats from social pressures, the coalition of domestic big business, military, and international financial institutions has successfully managed the economic transformation in Chilean political economy (Teichman, 2001; and Vergara, 1985). For more than 10 years, labour reforms since 1990 were sought, but almost always failed to gain any concessions through tripartite negotiations with the state and big business. Amongst their demands, the most crucial include removing the right of employers to fire workers on strikes, compelling employers to reveal information during collective negotiations, and securing the right to collective bargaining for transitory and inter-enterprise unions. There were enough constraints to enable policy reforms under the democratic period: the Right opposition was given an important veto in Senate, political parties moved towards the centre, and consensual politics helped to avert political conflicts similar to those of the Allende era. More radical proposals for labour rights were abandoned by the left and centre parties, and Chile today keeps in place laws for labour protection but not for collective labour rights.<sup>15</sup>

The high expectations of labour unions for a renewed alliance between the state and labour were not met. Politicians of the governing coalition were simply afraid of the return of chaos reminiscent of the Allende days. There was explicit and outright discontentment of the national trade union CUT on the labour reform programme implemented under President Patricio Aylwin. Other than formally recognising the right to unionisation and right to collective bargaining, the reforms were piecemeal and have maintained the pro-business labour code (Frank, 2004, 2002). In the beginning of 1990s, the governing coalition sought to promote labour rights in two fronts: the restoration of labour rights abolished during the dictatorship, and the modernisation of labour relations (Vergara, 2008, pp. 191). But at the heart of the democratic regime's social concertation project is the reformulation of the role of the state: the government must modify the legal institutions inherited from the Pinochet regime in accordance with negotiations between employers and workers but the government cannot in any way interfere in labour management policies of employers and essentially follows an 'off-limits' approach to capital-labour relations (Frank, 2004, pp. 81). In consolidating the export-oriented economy, the governing coalition's responsibility is to keep social peace, address the inequalities and poverty brought about by 17 years of structural market reforms under

the dictatorship, and promote an environment conducive for domestic and transnational private investors.

In practice, subcontracting and labour flexibility are deemed as necessary for competitiveness and better productive capacity for Chilean enterprises. For example, there are around 43,289 contracted workforce and 18,211 permanent workers as of 2007 in the state-owned company (CODELCO, 2007, pp. 98-99). Although the figure varies in the private sector, subcontracting is similarly practised by the private firms and collective negotiations have typically carried economic issues of these workers. The implication is that subcontracted labour performs the job that permanent workers do. There are clear implications for labour rights on this aspect because permanent workers receive the full benefits offered by the principal companies whilst subcontracted workers are offered less to maximise cost-effective labour management. Mining unions have therefore characterised their relationship with the management as one in 'constant tensions and frictions'.

On the whole, resource governance underwent transformation as the Chilean neoliberal model unravelled under the dictatorship. In the aftermath of the political transition, La Concertación inherited a very stable system of governance marked by pro-private sector legal framework and pro-employer labour code. Chile's dual political and economic transition is therefore exceptional in Latin America. Politically, the transition was a stable transfer of power through an institutionalised process designed by the authoritarian regime. The most significant consequence is the creation of a 'protected' or 'tutelary' democracy, in which remnants of the power of the Right and its authoritarian past – or *authoritarian enclaves* – still pervade in policy-making and in the public sphere more generally (González, 2008, pp. 38-46).<sup>16</sup> Economically, there were clear policy constraints as a result of the political process that led to a depoliticising of governance and a continuation of that governance model. State-market relations exhibit elements of labour flexibility and privatisation, and consequently workers and unions have never recuperated their relationship with the state. The Chilean state under La Concertación responded to the pressures of globalisation by carefully managing (or averting) conflicts. These elements exemplify the incredible state capacity to control the political and economic transitions, and in retaining policy ideas of privatised governance as a new model of development.

### **Depoliticising Copper Policy under La Concertación**

One key feature of the new politics in Latin America is the way leftist governments respond to the political pressures of redistribution, and in some cases, social inequality historically constructed by institutionalised marginalisation as in Bolivia and Ecuador. Central to their platforms is the use of natural resource revenues to fund social

programmes that address these grievances. The move towards re-nationalisation and re-taxation of extractive resources politicises how revenues must be spent. Indeed, Rafael Correa, Hugo Chavez and Evo Morales came to power with a platform of redistribution, particularly in using the natural resource revenues to pay for social programmes that aim to directly address poverty and inequality.

In comparison, Chilean social policy has been marked by a commitment to fiscal discipline and macroeconomic stability that prohibits populist tendency towards social programmes (Rindefjäll, 2009). Whilst resource policies do serve redistributive functions, the Chilean conception of copper governance quite different. For economists, copper policy is about managing copper prices and making CODELCO more competitive vis-à-vis the private mining firms. For mining experts, it concerns technological innovation and capacity as well as reducing the costs of mining exploitation. For the Ministry of Mining and COCHILCO, copper prices, foreign contracts, and mining concessions constitute copper policy. There are no linkages between social and copper policy, and this is spelled out in the Law on Fiscal Responsibility which manages copper revenues through sovereign wealth funds. Not only does this disallow direct payment of social programmes, it likewise gives power to the Ministry of Finance and Central Bank to make joint decisions on how the savings would be spent. Sovereign wealth funds aim to reduce Chile's vulnerability on price changes, especially because mining prices ebb and flow depending on global economic demands. By saving copper revenues in high price periods, the revenue can offset the impact of low prices by injecting money into the domestic economy during this period.

This is compounded by anti-poverty programmes, which have been targeted to the poorest sectors with the aim of giving them access to the market. These constitute market-based instruments of social policy rather than conforming to the welfare state notion of universal access (Rindefjäll, 2009; and Taylor, 2006). Whilst resource governance under leftist governments tends to be more politicised and in some ways populist in the sense of using policy tools to create or consolidate social bases of political power, Chilean resource governance and its relationship with social policy seems to show another model. In fact, although Chile's poverty reduction strategies have been considerably more successful than many Latin American countries, for example, in terms of positive effects of cash transfers to reduce poverty and robust social spending towards health and education (ECLAC, 2009, especially Chapter 2), it is far from populist and its resource policy has been constantly depoliticised.<sup>17</sup>

Other than this lack of social component to its resource policy, Chilean governance is marked by the centrality of *technopols* in decision-making. The institutional privilege of the Ministry of Finance – which sits on CODELCO's Board of Directors and decides on the use of the stabilisation funds – guarantees ideological coherence and consistency in the goals of economic, social, and copper policies. The

Ministry, which rose to power due to the efforts of the Chicago Boys to depoliticise economic decision-making during Pinochet's era, makes fundamental decisions as regards state investment in CODELCO. In contrast, the model of governance assigns roles to peripheral institutions, such as the environmental and labour ministries, whose involvement in copper policy is low but nevertheless manage the negative consequences of copper mining. For example, CONAMA is seen by its critics as an apolitical actor whose only function is to issue environmental impact assessments (EIAs). Whilst issuing licences to operate on its own is a political act, CONAMA perceives this as a technical procedure that only requires compliance with the law. Although this is a tenable position, once conflicts erupt, as in the controversial case of Pascua Lama, CONAMA is criticised for its lack of resources and political will to challenge the hegemony of the pro-private investor discourse in Chile. The Pascua Lama project is a proposed open-pit gold mining of the Andean mountains in Argentina and Chile. To facilitate this, an international bilateral treaty to liberalise mining and harmonise the rules for exploration was carried out. Amongst other things, it will require 'transplanting' three glaciers to conduct open-pit mining, displacing indigenous peoples in the Andean region, and changing the hydraulic cycle (Karmy, 2009; Oporto Martin, 2009; Salinas, 2009; and Author Interviews). Transnational Canadian firm Barrick Gold and the Canadian embassy struggled to promote the image of the company through its CSR agenda. The environmental agenda – which at face value seems apolitical – appears as such because of the depoliticisation pursued by policymakers.

### **Assessing the Merits of Copper Policy**

With such remarkable stability and continuity in policy, the Chilean model of governance seems fairly successful. Firstly, the neoliberal reforms implemented under the dictatorship were completed and have produced the results the regime was aiming for: expansion of investment in mining, an image of political and tax stability in the international community, and the use of copper revenues for social development. In terms of investment, Figure 1 shows the dramatic increase in FDI over the last 20 years since the anti-foreign capital policies from 1958-1973. Without a doubt, this can be credited to the image of stability that Chile has projected to businesses and governments. With respect to environmental regulations, my interviews with state agency officials and private sector indicate some sense of shared responsibility with environmental mitigation and compensation for those affected communities in mining. Although this is highly contended by other interviews, especially given the pro-private investment position of the state, the general point that is observed by both sides would be the steady evolution of environmental standards in mining. Although the environmental agency CONAMA was created only in 1994 through the efforts of President Aylwin, it has gone a very long way

in institutionalising the procedures in acquiring EIAs, computerising the system, and establishing rules and regulations as regards mitigation and compensation measures in mining projects. In addition, foreign companies have been held responsible for initiating the creation of these rules as a result of the external pressures from the countries of origin of these companies. The high environmental standards imposed in Canada, Australia, and Western Europe have influenced the operations of these big firms in Chile. Overall, the Chilean case exhibits a break away from the typical story of transnational capital exploiting the Third World for its raw materials without environmental considerations (Interview with CONAMA Officer, 2009).

Second, with respect to labour union mobilisation and capacity, the relationship between CODELCO and the unions is one built on mutual respect and cooperation albeit filled with tensions and conflicts. This is reflected in the continuity of the series of agreements between CODELCO and FTC – particularly the Strategic Alliance now on its fourth phase, and the Common Project. These documents lay down mutual compromises, such as in the shared aims of modernising the company, streamlining labour and other costs, and guaranteeing job security for workers. If we use electoral participation as a quantitative indicator of labour mobilisation (a key indicator for political mobilisation, used in Valenzuela, 1978), the results show the sustained support of the labour unions to the Concertación Democrática. Figure 4 shows the voting trends in regions two and three, which are considered to be the main mining regions of Chile. They indicate the unconditional support for the presidential candidate in three elections in the last 20 years. They also demonstrate the role of unions in keeping the coalition in the government. However, they also show the closing gap between the two coalitions in the voting behaviour as the right-wing Alianza coalition reaches 40% votes in the bulwark of Concertación Democrática. The seemingly unchanged relationship between labour and state cannot be compared to the pre-1973 political configuration, and this is due to the imposition of neoliberalism and its consequences for labour unions during and immediately after the dictatorship.

However, the electoral votes hide the tensions between the party and unions as a result of the movement towards the centre of Chilean parties generally. The relationship has definitely been strained due to the repressive demobilisation policy of Pinochet and the fear of the parties of a return to political chaos if strong ties between unions and parties are re-established. Party platforms and electoral participation fail to reflect the overall lack of options for Chileans in terms of a viable alternative against the neoliberal economic model. The sustained victory of Concertación Democrática in the last 20 years is based on the conscious efforts and capacity of the centrist party to craft a negotiation with the renovated left parties of Chile. Nonetheless, whatever the Christian Democrats do is not as important today as in pre-1973 party politics, precisely because the leftist parties have secured the votes of the unions, which of course constitute the

overall alliance within the governing coalition. Effectively, the unions have maintained their support for the economic agenda of La Concertación, even if they have done this with great caution.

## **Conclusions**

This paper has focused on the historically contingent nature of economic and political change in the resource extractive sector, and the way this change has been shaped in Chile by the neoliberal project under Pinochet. Although the mining sector remains the primary source of state income – *el sueldo de Chile* – the political economic dynamics in the last thirty years have been altered radically. With an institutionalised authoritarian regime that implemented a social re-engineering project, the mining sector has undergone a gradual but successful transformation from statist developmentalism towards the neoliberal model of development. The extent to which post-neoliberal governance exists in Chile therefore is subject to debate. Whilst there have been substantial efforts to move away from neoliberalism – as indicated by the social policies of La Concertación under Lagos and Bachelet, and the re-regulation of labour abuses through the subcontracting law – the degree to which it can be seen to constitute a regulatory state needs further investigation.

The successful implementation of the reforms is reflected in the new perception of the private sector: the business sector is now seen as a positive economic force that brought economic development to Chile. Consequentially, the new institutions in place after the dictatorship partake in the further institutionalisation of the neoliberal market strategy and the deepening of the role of capital, characterised by the exclusion of other voices in decision-making – such as labour and environmental groups – and the use of a competitiveness discourse to advocate governance reforms in CODELCO. Overall, we find a more complex set of policies in mining that is both an historical legacy of the dictatorship and a conscious political decision of the subsequent democratic regime.

## **Notes**

- <sup>1</sup> This accounts for the \$28 billion FDI outflow in Brazil vis-à-vis the FDI inflow of \$19 billion (WIR, 2007, pp. xix).
- <sup>2</sup> On this, see the ESRC project led by Tony Bebbington at the School of Environment and Development, University of Manchester entitled 'Conflicts over the countryside: civil society and the political ecology of rural development in the Andean region'. Further details are available online at <http://www.sed.manchester.ac.uk/research/andes/>.

- <sup>3</sup> Schneider (1999, 2004) has written on *desarollista* (or developmental) states in Latin America, describing the Brazilian and Mexican variants and distinguishing these from their East Asian counterparts.
- <sup>4</sup> FDI is typically classified as resource-seeking, market-seeking, or efficiency-seeking type. Whilst the latter two types are determined by investment climate, market conditions and production costs, FDI of the resource-seeking type is largely based on the presence of natural resources.
- <sup>5</sup> Petrobrás and Vale are Brazilian firms which have started investing outside Brazil. The former remains state-owned whilst the latter was privatised under Fernando Cardoso. Petrobrás is a unique case of public-private partnership because it is not 100% state-owned, with its stocks being sold in the market for private investors. Hence, it functions both as a private and public enterprise with the dual accountability of making profits and defending state interests. In terms of its role in the petroleum sector, only the upstream activities – exploration and production – have experienced the entry of new foreign players. In refining, the expensive investments necessary and lower returns dissuade foreign firms from making investments. As such, Petrobrás still has monopoly in this part of the commodity chain.
- <sup>6</sup> Rent is defined as the difference between the costs of extraction and the return from land, labour and capital. In the context of resource wealth, rents can be seen as super-normal (oligopoly or monopoly) profits.
- <sup>7</sup> In other cases, mining has a negative effect on labour. Whilst industrial production lowers production costs as economies of scale expand, resource extraction induces continuous exploitation of forests, mines, and deserts without improving the labour force (Bunker, 1985; and Schurman, 2001).
- <sup>8</sup> Only Botswana (diamond) and Chile (copper) have been shown to have succeeded in efficiently managing the sectors through public ownership (Sachs & Warner, 2001). However, nationalisation does not resolve governance issues, such as access to decision-making by stakeholders, social inequality, and distribution of rents.
- <sup>9</sup> There are however mechanisms that prevent the creation of rentier states, as shown in the case of Venezuela, Bolivia and Chile. For more, see Dunning, 2008; and Hammond, 2009.
- <sup>10</sup> In fact, Brazil is a counter case where rapidly transforming the capital goods sector undermined support for resource-based exports. The Brazilian development model from the 1930s to the 1970s emphasised industrial self-sufficiency and relied heavily on the primary sector. As such, the sustained shrinkage of the commodity sector and the failure of autarkic development policies resulted to deteriorating macro-economic performance (Auty, 1995). This implies that resource abundance neither has a linear

nor a necessarily causal relationship with institutional development and economic performance.

<sup>11</sup> Pressures for state intervention materialised as early as 1930s when the *Compania de Salitre de Chile* was formed, a conglomerate of foreign and Chilean nitrate producers with 50% shares from the state. This was taken over by the *Corporación de Ventas de Salitre y Yodo* in 1934, a move that gave the Chilean state effective control over the collapsing industry (Gallo, 2008, pp. 180).

<sup>12</sup> But one must not forget that the ultimate goal of labour corporatism in Chile was to control the increasingly powerful and influential labour movement. It was an act of securing stability and elite interests rather than an attempt to expand labour rights. Grugel (2009) points out that Latin American democracies are different on this respect: unlike its European counterparts, they are democracies of the poor with governing elites unwilling to compromise their resources.

<sup>13</sup> Interviews with Gustavo Lagos, Marcos Lima and two other mining experts.

<sup>14</sup> There are two types of contracts in Chile: *convenio colectivo*, which are written proposals by unions that employers can accept or reject; and *contrato colectivo*, which are demands with new terms of agreement for collective bargaining. Interestingly, there was an increase in the former rather than the latter, and the reason for this is that workers are more cautious of generating conflict with their employers. See Cook, 2007; and Frank, 2004, 2002.

<sup>15</sup> Cook (2007) makes a distinction between labour protection and labour rights. Labour protection refers to laws that accord rights to workers individually whereas labour rights refer to collective rights, such as the right to organise unions, make collective decisions to hold strikes, and the right of unions to negotiate above the workplace. In Latin America, these rights vary depending on the strength of labour unions to shape the labour reform agenda and the historical legacies of the democratic transitions.

<sup>16</sup> The key aspects of these authoritarian enclaves include: (a) according protection to military officers involved in the 'internal war' waged between 1973-1975 that led to human rights violations at an alarmingly high level; (b) an electoral system that excluded traditionally radical political parties of the left which practically created two types of socialist parties in Chile – one within the *Concertación Democrática* and the other outside; (c) the establishment of a National Security Council that guaranteed the participation of the military in national defence policy-making and an effective veto power against the future president; and (d) a transition calendar that would allow the regime to remain in power until 1988, until which a plebiscite would be conducted to determine if the military regime would stay for a further eight years until 1996.

<sup>17</sup> Chile is grouped in the first category of countries, with Argentina, Brazil, Costa Rica, Panama and Uruguay, whose per capita social spending is at \$1,102; the public social

spending in relation to GDP is at 17.7%, and social spending on health and education as a percentage of GDP is on average 3.9% and 4.5% respectively (ECLAC, 2009, pp. 39).

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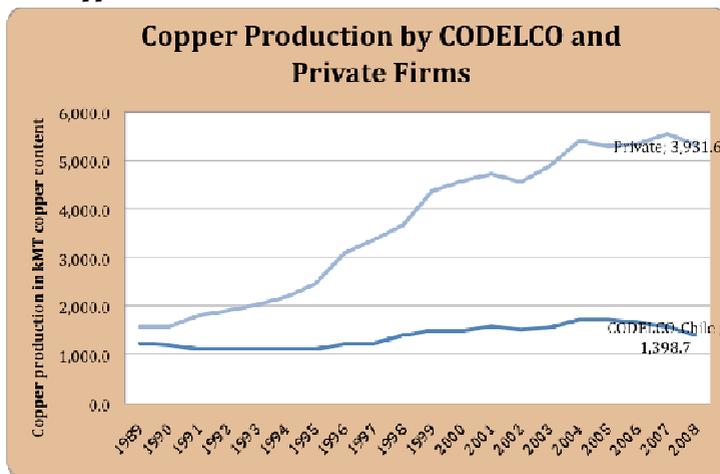
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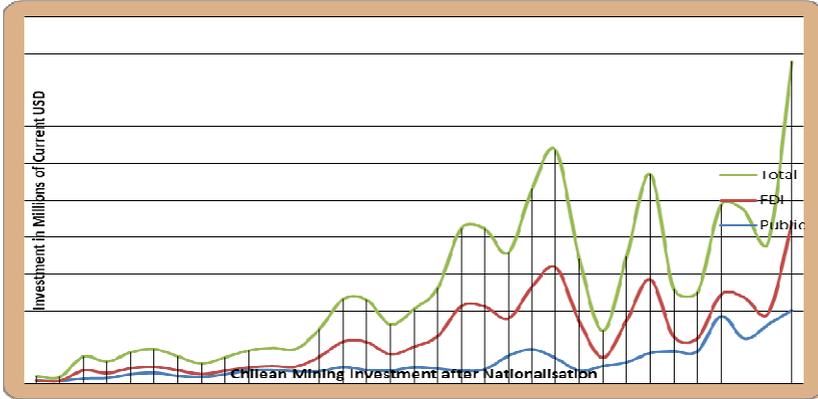
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**Figure 1: Copper Production in Public and Private Firms**



Source: COCHILCO Anuario, 2009.

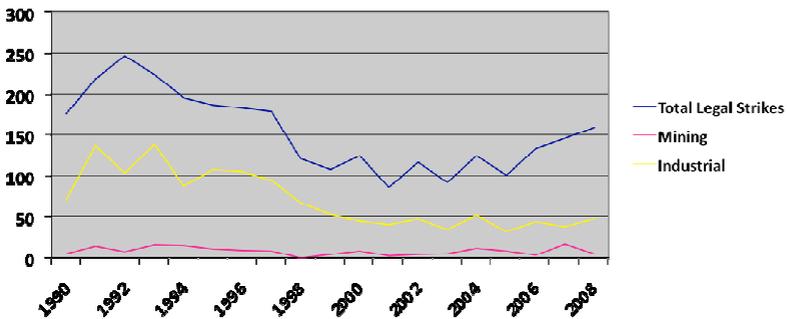
Figure 2: Mining Investment in Chile



Source: COCHILCO Anuario, 2009.

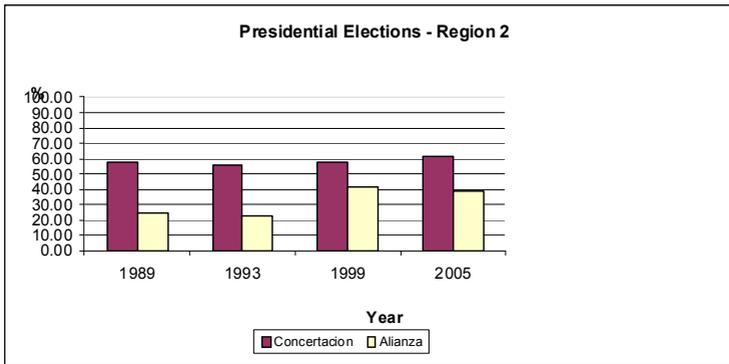
Note: Public investment includes CODELCO and ENAMI. The sharp increase in public investment in 2005 is due to the CODELCO's US\$ 393million Ventanas Smelter and Refinery Acquisition.

Figure 3: Labour Conflicts in the Post-dictatorship Era

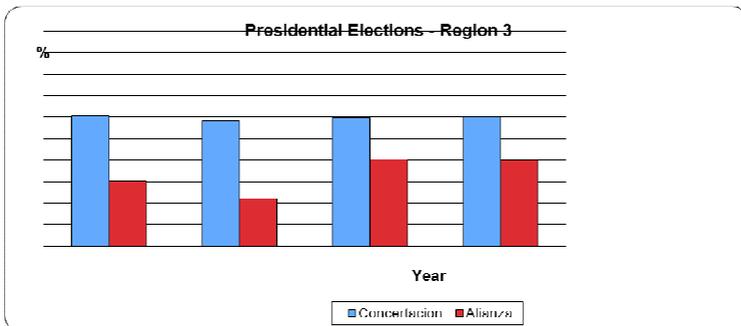


Source: Dirección del Trabajo, División de Relaciones Laborales, 2009.

Figure 4: Voting Trends in Major Mining Regions since 1989



Source: Ministerio del Interior, Gobierno de Chile 2009.



Source: Ministerio del Interior, Gobierno de Chile, 2009.

Note: The electoral system changed prior to the 1999 presidential elections into a two-rounds voting system. The results are the second-round voting.

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