Whatever happened to trade unionism? The Role and Limits of Labour Unions in Contemporary Copper Governance in Chile

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Abstract: Where does labour fit in the contemporary copper governance in post-authoritarian Chile? To answer this requires a broad view of the nature of the Chilean state, institutions, and policies as well as an analysis of the responses of labour movement towards neoliberalism. This paper offers an empirical discussion of the evolution of neoliberal reforms (and some contradictions generated) and links this to the effects of the model towards union mobilisation. First, mining policy demonstrates a mixture of both productivist and regulatory agendas, which means that the form and substance of copper governance does not fit in the idealised neoliberal model. Second, labour unions in copper mining have faced precarious working conditions and less conducive atmosphere for mobilisation. Based on the fieldwork done in Chile, I argue that mining unions remain important actors in contesting neoliberalism but that serious limitations persist in allowing the unions to perform this role. The institutional constraints, embeddedness of neoliberalism in state-labour relations, and lack of strong cross-labour political identity make mining unions less effective agents of social change. To demonstrate the second part of the argument, the paper explores the tensions that Chilean mining unions face when they perform two functions. First, they maintain their traditional role as guarantors of social welfare of the working classes. Second, they deliver political critiques to what they characterise as neoliberalised copper mining. With a state that has employed neoliberal strategies in most instances, labour mobilisation is weak in strength and its role to reconstitute the model seems limited.

Keywords: Politics of resource extraction; state-labour relations; neoliberalism; Chilean democratisation
Introduction

Copper governance in post-authoritarian Chile reflects the political consequences of following a policy of continuity of the neoliberal model by the Concertación Democrática regime, the coalition of left and centre political parties that took power in Chile between 1990 and 2010. For twenty years, the democratic regime engaged in what is called the politics of continuismo and Pinochetismo, both of which indicate the overwhelming influence of the dictatorship and the dictator himself in post-authoritarian governance. What authoritarianism has achieved in Chile is to institutionalise the process of transition, to lock in the economic choices of the governing coalition towards pragmatic neoliberalism with emphasis on growth with equity, and to depoliticise labour unions through policy exclusion and deliberate institutional marginalisation.

Copper mining unions are very particular as a case of the Chilean labour movement. They are considered as the labour aristocrats of Chile, with astoundingly high salaries and benefits in exchange of working in one of the riskiest yet most important sector. Copper unions are likewise considered to be the most vulnerable of all workers; they constitute the historically strong labour movement that Chile once had prior to neoliberal restructuring between 1973 and 1990. But this paper is not concerned with representing the Chilean labour movement or the broader social movement. Rather, the goal is to demonstrate how union mobilisation within the mining sector has been shaped by neoliberal reforms, and their responses to the staunchly neoliberal labour code. In investigating the plight of mining workers who were at the core of social protests in Chile throughout the twentieth century, the
paper provides a limited view of how institutional constraints and the economic model affected social mobilisation.

In addition, I refuse to characterise the Chilean state as quintessentially neoliberal but that there are neoliberal strategies employed by the state in the copper sector. Amongst many things, it implies that there are both neostructural and neoliberal elements within Chilean copper policy, depending on which policy area are being examined. I empirically demonstrate this combination of state strategies to promote a productivist discourse within mining using copper policy and labour politics. The central argument is that labour mobilisation in the copper sector has had a limited impact in copper governance primarily because of institutional constraints, the power relations embedded in the new tripartite relationship between state, market and labour, and the lack of cross-labour solidarity to criticise the resource extraction model. The paper is structured in three parts: first, I briefly discuss the institutional legacies of neoliberalism in mining governance and labour politics; second, I extensively examine the changes in the relationships amongst state agencies, business sector, and labour unions; and finally, I raise the issue of the role, strengths and limits of labour unions in post-authoritarian politics through the lens of mining governance.

State-led Neoliberalism and Copper Mining in Chile
Prior to the military coup, Chile experienced roughly forty years of statist developmentalism. In the context of rapidly escalating social polarisation, copper governance took a direction towards complete state control over mining. The Chilean state responded by expanding its jurisdiction and directly involving itself with labour conflicts. In January 1966, under Eduardo Frei Montalva’s *chileanización del cobre*, Congress approved Law 16.425 allowing 51% of state control in the large-scale copper mines. But rather than solving labour conflicts, social divisions deepened and Socialist President Salvador Allende rose to power. In 11 July 1971, Allende managed to nationalise large-scale copper mining through a cross-party agreement transferring 100% state ownership of the old mines – El Salvador, El Teniente, Andina, and Chuquicamata, also known as *La Gran Minería* – without any form of compensation to foreign companies. In both cases, social and political conflicts intensified leading to party deadlock and constitutional crisis, which eventually resulted in the crisis of democracy. The Right and the Centre backed the military to intervene in politics, without knowing that this was the start of the 17-year rule that would transform Chilean political economy.

The logic of the military coup is to implement a new programme that would address the social crisis, which constitutes not only a new economic project but also social re-engineering of Chilean society. Central to this is the policy to demobilise labour,

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1 There is substantive literature covering why the military coup occurred and the conditions that allowed for a repressive regime to take control. Valenzuela (1978) makes a clear case about the failure of centrist forces to forge alliances with either the left or right through the intense electoral mobilisation from both sides, deliberate strategies from the Right and Centre of the Popular Unidad government’s economic programmes, and inability of the state or parties to control the radicalising labour. Others trace the crisis of representative democracy in Chile to the political strategies of Eduardo Frei and Salvador Allende in resolving social polarisation: that the expansion of state jurisdiction did not come together with sustained political authority, thereby, creating a legitimacy crisis and broader crisis of democracy (Taylor 2006).

2 Nationalisation without compensation was a break from the past policies of negotiation between the state and multinational capital. Although countries have the right to nationalise their resources, this generally requires giving compensations to the investments of foreign capital. As such, American companies specifically Kennecott launched a serious campaign to damage the reputation of Chilean copper (Vergara 2008: 158).
which was seen as increasingly linked to the Communist forces and a threat to social order. 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 natural resources with which it has comparative advantages. The state played a neutral role as regulator implementing the law to allow the market forces to decide on production and maintained ‘liberal neutrality’ in its import and export regimes. Because the state was seen as the source of the problem, mainly its excessive intervention in capital-labour relations, it was necessary to implement broad reforms that withdrew the state from labour conflicts.

Although the causes and process of creating the new economic model in Chile has been widely studied (Kurtz 2001; Taylor 2006; Vergara 1985), the implications of the model to the extractive sector and labour reforms have been underestimated (for exceptions see Drake 1996; Frank 2002; Winn 2004). At best, they have been treated as two distinct reforms with one existing parallel to the other. What is distinctively Chilean in the neoliberal model? Unlike other Latin American countries which failed to fully implement the market reforms, Chile achieved to complete both two phases of the reforms. The ‘first-stage’ reform, which occurred between 1975 and 1979, aimed at trade and foreign investment liberalisation, control over inflation, and de-nationalisation of the industrial sector. The ‘second-stage’ reform, which was an immediate response to the 1982 crisis, constituted what is known as ‘pragmatic neoliberalism’. These include reform of labour legislations, privatisation of ‘complex’ industries, and building of export promotion capacities (Naím 1996; Taylor 2006;
Teichman 2001). These reforms were consolidated under the Concertación Democrática regime.

And whilst many market reforms in Latin America occurred after the democratic transition, it was a very repressive authoritarian regime in Chile which imposed the radical reforms. The model survived in the face of economic collapse, political unrest, disaffection from the private sector, criticisms from the military, and the demise of strong adherents (big conglomerates). For Gonzalez (2008), the high degree of political control of the authoritarian regime over free market restructuring is the key explanation to the successful completion of the neoliberal reforms. He calls this the institutionalisation of authoritarianism, which signifies the resilience of Pinochet’s regime to control both economic and political transitions.\(^3\) Silva (1995) echoes this, arguing that the capacity of the state to incorporate a wider spectrum of entrepreneurial interests was the key to the continuity of neoliberalism throughout tumultuous times. For Teichman (2001), it is the combination of a coherent radical policy network with personalistic ties and support from World Bank and IMF, which allowed for its completion. How the neoliberal economic model was imposed in copper governance and labour politics is discussed in the following sections.

\(^3\) Pinochet institutionalised himself in power by producing the 1980 Constitution that set the means and conditions of the democratic transition. This act resulted in a further eight years in power of Pinochet, which would only be contested through a plebiscite in 1988 asking the citizens whether they would want the military regime to remain for a further eight years or not. The constitution specifically set the transition calendar, and the process of transferring from military to civilian government (proceso de amarre) included clauses guaranteeing protection to the armed forces against human rights violations and institutional veto through the military and Right wing senators-dominated National Security Council (González 2008).

There are distinctive political and economic consequences of this institutionalised transition. In terms of democratic consolidation, the succeeding government could enact limited changes with the key policy issues subject to the veto of the Right. For example, only until October 2008 did Congress finally passed a law that overturns Law 18.948, which is Pinochet’s law allowing for the use of 10% of Codelco’s profits towards the purchase of arms sales and military modernisation.
Policy Continuity from Pinochet to Concertación Democrática

The context of this paper is that Chile exemplifies state strength in controlling and institutionalising regime transition and post-dictatorial politics. In economic terms, the state engages with the private sector in a very distinctive way. As classically neoliberal, the state is managerial in style and takes a pro-business position in general. Political parties and state agencies debate on the details of policies, but never on the nature of the policy itself. Hence, the Chilean state has been referred to as *estado de compromiso* (“compromise state”), with its policies embedded in *continuismo* and *Pinochetismo*, at least in the first decade of civilian-led governments (Barrett 1999; Barton 2002).

However, the ‘social debt’ of neoliberalism also requires the state to take the *growth with equity* agenda seriously. With inequality increasing despite spectacular economic growth since 1990, the last two presidencies of Concertación Democrática promised to deliver antipoverty spending and social redistribution albeit constrained by the fiscal disciplinary pressures of neoliberalism (Kurtz 2002; Rindefjäll 2009). In addition, the recent passage of the law imposing a royalty tax in mining can be interpreted as a clear effort of the Concertación Democrática to increase state revenues through additional taxation. Whilst the neoliberal model is embedded in the economy and society, the democratic government is clearly more serious of its social objectives.
To have a more accurate characterisation of the Chilean state, I employ Peter Evan’s (1995) strategy of ‘disaggregating the state’ and the use of sectoral lens to understand the continuity and changes of the Chilean political economy. In the copper sector, the legal and normative framework guiding exploration and exploitation is based on a complex set of legislations that were both inherited from the dictatorship and modified under the Concertación Democrática. Table 1 summarises the varying legal instruments in copper mining. The developmentalist elements of state policy towards copper reflect the willingness of the Concertación Democrática to respond to social pressures whenever its pro-business position compromises broader social equity objectives. An excellent example is the clever maneuvering of some of its party members in the royalty debate. Whilst the Right immediately rejected the imposition of additional tax for natural resource use, President Lagos in 2002 gave in to public pressure when figures showed the very large sums of copper profits going out of the country whilst foreign companies’ taxes have had limited contribution to the Chilean state.\(^4\) Although it took three more years to pass ‘Royalty 2’ bill in 2005, the staunchly neoliberal state performed its political duty of imposing additional taxes at a time when growing wariness of the future of Chilean mining was at the centre of public debate. The taxation policy unsurprisingly did not harm state-capital relations because the legislation was another consensual decision amongst the parties in Congress. Although this can be interpreted as a policy of appeasement, I take note that there are several instances when the state intervenes to regulate market failures and firm abuses (e.g. subcontracting law). The Chilean state cannot be simplistically dismissed as purely neoliberal. The poverty

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\(^4\) For an extensive discussion, please see Guajardo 2008; Riesco et. al. 2005.
alleviation schemes, regulatory capacity to indirectly manage capital-labour relations, and its tax policy all give a more complex picture of a “neoliberal state with both elements of neostructuralism and neoliberal strategies” that elucidate the unique capacity of the Chilean state to respond to social pressures.

Copper governance demonstrates the complexity of institutional layering in policymaking. Because the military regime did not completely reverse nationalisation, the authoritarian state severely constrained Codelco’s ability to monopolise copper production, and for many years, the company served as the milking cow of the regime. In the post-dictatorship era, the Concertación Democrática sustained the neoliberal model and incremental changes were made alongside the pro-private investment copper agenda. No other institution represents this uncomfortable position of balancing opposing agendas than the Chilean Copper Commission (Cochilco), which is tasked as the auditor of Codelco and promoter of private investment. Whilst Cochilco aims to improve the governance and performance of Codelco, doing so can potentially harm the competitiveness of the private sector. There is clear conflict of interests being the watchdog of the state owned company to increase confidence in the market and being the primary institution in charge of contracts and private investor confidence in mining.

5 I find two reasons for the maintenance of a nationalised copper sector. First, the nationalisation of copper was a cross-party agreement and this political consensus seemed irreversible even for the dictator. As mentioned earlier, copper constitutes partly the national identity of Chile, and its mining history attaches symbolic value to copper. For unions, nationalisation was the pinnacle of their success as militant organised labour. For political parties, the cross party agreement signified the undeniable importance of copper to the state and the need to directly manage its profits through a state-owned company. In fact, in the 2010 presidential elections no political party or presidential candidate expressed publicly the privatisation of Codelco. According to mining expert Gustavo Lagos, this simply reflects the ‘traditional view on the red gold as a cultural symbol’. Second, within the military dictatorship, a nationalist military faction was resisting the privatisation of copper. It is therefore not surprising that the military not only succeeded in keeping copper under state hands but also involved themselves in the governance of Codelco by having representation within the Board of Directors.
But the ultimate consequence of embedding successive policies after the dictatorships’ institutional framework is to create a productivist discourse, which means giving priority to economic growth, production, and GDP output whilst treating the negative consequences of mining as ‘externalities’. In the process of creating institutional boundaries, the state established a hierarchy of priorities within the mining sector. Other institutions are left to deal with the residual effects of mining. Whilst labour is dealt exclusively by the Ministry of Labour and its inspecting body Dirección del Trabajo, environmental issues are relegated to the weak institution National Commission for the Environment (CONAMA). Subcontracting and labour flexibility are managed quite effectively by the Dirección del Trabajo despite scarce resources and very limited staff to deal with subcontracting occurring in all sectors. CONAMA, whose primary responsibility is to issue environmental impact assessments (EIAs) and license to operate for mining companies, functions mainly as coordinator of the different government agencies which remain to be the key decision-makers on environmental issues. With the strength of CONAMA depending entirely on the commitment of the President, it is highly unlikely that its transformation into a full environmental ministry will increase its regulatory function and punitive capacity on issues such as environmental mitigation and compensation.\(^6\) In addition to relegating problems associated with mining as residual, other markets related to mining have been liberalised.

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\(^6\) It is worth noting the difference of commitment between President Aylwin and Eduardo Frei Jr. Whilst the former sees the creation of environmental institutions as central to sustainable economic development, the latter views environmental problems as residual and therefore only produced reactive policies. However, CONAMA Director of International Affairs Raul Campusano argues that “economic development remains the central agenda for the Concertación Democrática”, and this is reflected in the low prioritisation of environmental concerns vis-à-vis economic growth by the left-centre coalition.
The wide-ranging marketisation of commodities in Chile is likewise noticeable in water resources. One obvious observation is the relative full control of mining companies in acquiring water rights especially in key mining areas. The Dirección del Agua (DGA) in charge of deciding the distribution of water rights clearly follows a policy of supporting private sector acquisition. To produce 1 ton of copper, it needs around eight cubic metres of water, which effectively comes free through the privatised water market; and this is not a small quantity since this is the most arid desert of the world (Marin 2009; Interview with the author). Further, in cases of conflicts between local communities, including the indigenous peoples, the state sides with the private sector on the basis of the productivist argument. This entails the privatisation of other commodities even if it comes at the expense of contradicting other state responsibilities. In particular, upholding the right of indigenous peoples as a result of Chile’s compliance with ILO Code 169 and Indigenous People’s Act (Law 19.223) becomes difficult because there are conflictual claims on who has the right to access water. As indigenous leader Roberto Salinas argues:

“Water rights in the region, the DGA sold more water than what exists here, and these days it is affecting [us] because it has scarcely rained and there are many mining [projects] when copper prices go up and it is exploited, the consumption of water is excessive…the implementation of OIT 169 here will work if the state takes responsibility to educate its different departments. In this region, you are going to CONAF or INDAP, the public services, they are unaware of this, they do not know about OIT… The state has the duty to send people into courses, to master and study it.”

This indicates the consistently neoliberal elements of the other markets associated with mining. In theory, this pattern of liberalising commodities is good because it optimises production by offering a very stable economic environment that is readily accessible for mining firms. However, when liberalising water comes at the expense
of the rights of affected communities, the contradiction unravels and this generates social conflicts. In some instances, such as the Pascua Lama case, the state is unable to control societal dissent against state-led neoliberalism. Barrick Gold sought license to operate despite the massive social and environmental consequences of giving the company rights to water and exploration licenses. The incident led to sustained mobilisation of NGOs, environmental organisations, and citizen support groups in opposition to mining project.\(^7\) These policy outcomes are deliberate state strategies to maintain the generally free market orientation undertaken under Pinochet. In the next section, the paper explores incremental policy changes, which are visible in terms of the new state-labour relations in copper mining.

**State-Market-Labour Relations in Post-Authoritarian Chile**

Unlike other Latin American states which faced staunch opposition primarily from organised labour to implement free market reforms, the Chilean state succeeded in completing the radical economic project through the coalition of technocrats, military faction, and in the first phase of the reforms an international circuit of policy network involving IFIs (Teichman 2001). Central to the neoliberal project is the legitimization of the private sector as the new engine of Chilean development. Even prior to the resurgence of the Right after 1973, Valenzuela (1978: 13) argues that private interests have always been taken into account, for example through the formal

\(^7\) This is the only significant case of environmental and indigenous mobilisation in Chile. This sustained protest includes important national actors like OLCA, Greenpeace Chile, and indigenous communities. Their mobilisation framed the issue as an environmental issue that also criticised the Chilean neoliberal model as treating environmental and social concerns as unimportant in comparison to the economic benefits that could be brought in by the mining project. This incident is clearly more complicated and is more of an exception than the rule in terms of social mobilisation in Chile.
inclusion of private groups in state boards and agencies. This intermingling of private and public interests within the state sector, not to mention the high level of organisation of private actors through business associations and economic groupings, is uniquely Chilean and is often referred to as ‘private governments’. The rise of neoliberalism induced untrammelled access for the private sector to the apex of power in government; together with deliberate state strategies of appeasing the market forces, neoliberalism has institutionalised the close relationship between state and private capital (Teichman 2001). Today, business forums and open consultations with the private sector is the norm, a clear break away from the pro-labour position of the state between 1966 and 1973.

What does this mean for labour? The regime instituted a series of labour legislations that substantively eroded the gains of the labour movement since Pedro Aguirre Cerda’s pro-labour policy. Operating under one of the most repressive military regimes in Latin America, labour unions were disbanded, negotiations in collective bargaining were limited to wages, and employers were given the right to replace workers on strike for ‘labour flexibility’ reasons. Labour unions were also seen to have played a marginal role in the democratic transition because political parties took the centre stage both during the plebiscite and elections. Although the Concertación Democrática coalition recognised the participation of the unions to make the transition successful, there was widespread reservation in possibly reviving the state-labour relations that led to the social crisis of 1973.
Given the context of political uncertainty, many scholars evaluated the changes in the labour code under President Patricio Aylwin as minimal in substance (Frank 2004, 2002; Winn 2004). In the words of CUT representative Lariza Palma as regards the early phase of labour reforms,

“We sought for greater unionisation, union freedom, the creation of new collective bargaining arrangements, the right to strike, and the right not to be laid off – however, there is little advancement in labour rights. Whilst there was a negotiation and improvement in minimum salaries, allowances and remunerations were taken away, companies have minimally complied with the law.”

What CUT has implied, and this is documented in many studies, is the weak position of labour unions in influencing labour reforms in the country. If we look at the phase of reforms, Eduardo Frei whose initial commitment for further reforms was strong watered down its policy agenda on labour as a way to compromise. In addition, the first move to impose a royalty tax in 1995 was also rejected in Congress. Any attempt to increase state responsibility either in copper management or in labour rights waned progressively as the state championed a depoliticised governance model where the market forces decide on copper policy and labour relations (Barton 2009, Interview with the author). In the next two sections, the paper looks at the institutional constraints in promoting labour rights and the problems associated with labour management strategies of Codelco.

**Institutional Constraints in Promoting Labour Rights**

With democratisation also came the promise of rebuilding the trust between the state and labour unions which the dictatorship broke. Mining unions perceive themselves as fundamental in instigating social protests and the fight against the dictatorship.
Indeed, political mobilisation against the military regime showed its first signs in the world of labour amongst the mining union leaders whose life where in constant danger from military forces. When the workers began to assume greater role to initiate the movement to challenge Pinochet, political parties received the support needed to engage with the military regime the process of transition.

However, the new institutions formed to regulate labour conflicts after the transition have clearly been influenced by Pinochet’s Labour Code. In 1988, the extent of unionisation was limited to enterprise-based workers, thereby, excluding government employees, supervisory personnel, and workers in ‘transitory’ or seasonal employment (Epstein 2001). Two critiques are raised by unions as regards state-union engagement. First, privatisation deepened under the Concertación Democrática, particularly under Aylwin and Frei. Combined with the limited changes to rectify the Labour Code, collective negotiations have been completely unequal in favour of employers where the *patrones* (employers) have a mountain of faculties to negotiate whilst the workers no means to confront them (Latorre Risso 2009; Marin 2009, interviews with the author). The institution in charge of inspecting labour abuses of employers, the *Dirección del Trabajo*, remains understaffed and therefore has limited capacity to bring into courts abusive firms. This is a serious limitation to the promotion of labour rights because this state agency is the only institution concerned with labour rights promotion. In the mining sector, most state agencies have no labour experts, notably in the Ministry of Mining and Cochilco. This is indicative of the technocratic nature of policy-making in managing copper, with
labour excluded in what constitutes as copper policy.\footnote{Whilst Cochilco is concerned with auditing Codelco and promoting foreign investment, the Ministry of Mining is in charge of coordinating policies to encourage public-private initiatives in mining, as well as to promote small and medium enterprise mining.} Unsurprisingly, labour issues are left to be dealt at the firm-level, which is of course an outcome of the state withdrawal in labour conflicts. The relationship is constantly tense and problematic because of conflicting interests in collective bargaining.

Second, the fact that Concertación Democrática is a political block of left and centre parties means that the plethora of interests are contradictory and in many cases, legislators closely allied with the business sector within the block deliberately go against further reforms towards labour rights. CUT argues that these conflicts have been apparent in both phases of labour reforms under Aylwin and Lagos. Hence, it was not only the Right parties which resisted the bills in Congress to reduce labour flexibility but also the business sector-allied senators within the coalition. This brings light to the complicated relationship between unions, parties and the state.

If we examine voting trends of mining regions (see Figure 1), such as Antofagasta and Copiapo, the Concertación Democrática presidential candidates have retained the electoral support in these areas. The data can easily be interpreted as workers giving their unconditional support to the left-centre coalition. But what is not told is that there exists a very fragile relationship between the governing coalition and the workers. Whilst the promise of further enhancing labour rights is still not fully realised, the possibility of a Right alliance to come to power is equally dangerous and potentially precarious for workers. Chilean politics has moved towards consensual decision-making and politics of appeasement is the rule of the game in enacting key
legislations. If one problematises the political context of electoral mobilisation, it can be argued that there is genuine lack of choices for workers and that their only hope is for consensual politics to work towards their favour. In the example of subcontracting law, the excessive externalisation of services of mining firms led to strikes amongst subcontracted mining workers and pressures in Congress to regulate labour abuses through a more punitive legal framework. The political behaviour of left-wing legislators in the post-dictatorship era has been characterised by mining leader Mario Plaza as disappointing:

“People distrust [politics and politicians] and there are times when some organizations should distance themselves a bit from the political situation in order to move forward [with their agenda]... There is distrust towards politicians. As we see them on tv, some politicians that back on the old days were from the extreme left and today we watch them on tv totally renewed (as in renew an ideology, like wearing a new suit). I usually say, where is the [original] ideology that inspired them? Because they get themselves involved with the bureaucratic circles and that pushes away the final objectives of the people [that they should be pursuing].”

This quote mirrors the close relationship between parties and unions that once existed in Chile, a traditional tie broken by the dictatorship and its model. Although unions have been dependent to the parties for several decades, the failure of Concertación Democrática to deliver its promise of labour rights has challenged the social concertation pact. In the recent assessment of CUT National Secretary Esteban Maturana to the performance of Concertación Democratica, the overall view is negative:

"Respecto a los grandes pilares que construyeron sus programas, inspirados en la democracia con más justicia social, más equidad (...) en esos tres temas los gobiernos de la Concertación entregan el mando al debe, con cifras negativas, con un saldo rojo” (Palma 2010).

This sums up the relationship between states, left parties and unions after twenty years of consensual politics. The failure of Concertación Democrática hinges on
substantively reforming labour laws, giving access to labour unions in policy-making, and introducing more social protection schemes for the popular classes.

There are both material and discursive elements in the politics of dispossession of mining unions. In terms of material dispossession, there have been actual changes in policies and relationships between actors that have consolidated the free market objectives of resource extractive policy. Neoliberal restructuring broke the interdependence between state, parties and unions, and mining unions lost their ability to influence copper policy within the coalition. In terms of discursive shifts, the discourse of foreign investment and broader liberalisation has disarticulated the claims of labour for social welfare. Because labour is viewed as an externality rather than part of the production cycle in mining, the market forces decide on production whilst labour and environment are dealt by state institutions. Both these elements interact at the institutional level to create a coherent image of the Chilean state as neoliberal (although in practice it is more mixed). This also forges the institutional constraints for copper workers to make any significant influence towards the direction of labour rights and mining policy. These constraints are clearly demonstrated in collective bargaining and the intense conflict between firms and unions.

**Labour Relations in the Mining Sector**

Labour politics in mining offers a fairly different view of labour management. The strategic nature of the sector makes effects of labour conflicts widely felt. The private
sector in mining is also one of the most organised coalition with access to government officials to influence copper policy. Consejo Minero (Mining Council), the business association with ties to the Right parties, represents mining interests in the corridors of government power. They constitute the 10 biggest mining firms in Chile, including Codelco, the foreign firms, and domestic capital notably Antofagasta Minerals. Although each company manages its own labour relations, the collective negotiation in one part trickles down to other negotiations. For instance, FTC’s rejection of the salary offer of Codelco in the recent negotiation (January 2010) was induced by the workers’ very high expectations of salary and bonus following Minera Escondida’s offer to its workers. Due to the limited number of competitors in the market and the organised nature of workers, the mining sector is highly responsive to business actions and labour activities. Labour management revolves around issues of health and safety, collective negotiations, and subcontracting/externalising services deemed ‘not associated with the core business of mining’.

Labour management is identified by the top management as the key challenges in modern corporate governance of Codelco (Lima 2009; Majluf 2009, Interviews with the author). Without a sound relationship between Codelco and its workers, production can be impeded through strikes and workers are not motivated to work better for the company. In the mining sector, there exists strong political organisation of workers. Whilst the general rate of unionisation in Chile is around 13%, mining has approximately 90%. In the mining capital, Antofagasta, mining and construction have roughly 17,000 active workers affiliated with unions between 1991 and 2008. These two sectors constitute the backbone of workers’ participation in unions because all
other sectors have had around 2,000 workers between 1991 and 2008 (Dirección del Trabajo 2009). The other mining region, Atacama, also has mining as the most unionised sector. Take note that mining and industrial sectors are the militant sectors in Chile waging strikes since 1990 (see Figure 4 for data on mining strikes).

But whilst labour unions on strike in private firms remain to be a conflict between capital and labour, a decision to strike in Codelco generates massive attention from media, politicians and labour unions. The public nature of the company necessarily requires a different labour management model than the private sector. In 1992, the management of Codelco was taken away from the military and a new composition in the Board of Directors was created. The key point here is that the new model is based on mutual trust and sacrifice. Because Codelco was perceived to be underperforming in terms of production (see Figure 2 for comparison with private sector), there were mounting pressures to modernise the company by streamlining the staff and investing towards the expansion of mining projects. This has led to the Estrategica Alianza (Strategic Alliance) and Proyecto Común (Common Project). These are supposed to be a break away from the authoritarian model of labour management under the dictatorship.

Labour unions particularly of the plant workers have had more bargaining power vis-à-vis the company in two ways. First, after the right to strike was returned, unions have been given legitimate grounds for legal strikes, which mining firms find costly. Second, unions have had institutional access to decision-making through the law that

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9 This included two ministers, two labour union leaders, one armed forces, and two ‘professionals’.
provides 2 union representatives in Codelco’s Board of Directors. One seat is allocated automatically to the FTC president. This is by no means a typical structure of corporate governance in companies, and mining experts have perceived this as a problem when making decisions like downsizing the company staff.

This model of cooperation attempts to make Codelco more competitive and use Estrategica Alianza as a fundamental tool for workers, the administration and the country as a whole to keep Codelco as the leading copper producer. Figure 3 illustrates the current administrative structure of the Alliance, which shows the consultative apparatus at the division level. In the Alliance, the agreements go beyond economic demands of the official union of plant workers, the Federación de Trabajadores del Cobre (FTC). Rather, Codelco administration negotiates other issues, including the implementation of occupational health and quality of life measures, the incorporation of human resource development aspects for workers through training courses, and consultations with unions as regards issues like mine closures and worker abuses. But in pragmatic terms, the Alliance attempts to cut down labour (streamlining administration) without compromising workers’ welfare. The competitiveness discourse alludes to closing down unproductive mines, creating a new generation of professional Chilean miners, and further developing skills to increase worker productivity.

What must be raised against the model is the fact that it only represents permanent/plant workers of Codelco, and this disenfranchises the overwhelming number of subcontracted workers. Starting in the late 1970s, copper mining steadily
increased its externalisation of services, which began in Codelco since it monopolised mining production until 1988. Through the Labour Code, mining firms like in other sectors were allowed to use third party firms to provide for services that were not considered as part of the core business of the companies. In theory, this is good because it cuts labour costs substantively especially in a strategic sector where the workers receive higher wages and better social benefits. But what mining experts, Codelco staff, and labour unions agreed in the interviews is that Codelco and the private firms used this strategy excessively. It came to its saturation point where the number of subcontracted workers exceeded the number of permanent workers. More importantly, the subcontracted workers were doing exactly the same jobs as the plant workers, and therefore more workers were receiving less pay for the same job description.

However, from a business perspective, this is perfectly rational because ‘firms buy services and not labour’. For them, it is the inadequacy of labour laws to regulate the abuses of third parties which causes the problem. Firms are bounded by legal requirements and the neoliberal logic of labour flexibility allows for such instances to be widely practised. In the private sector, this has led to the bitter fight between the subcontracting workers’ union Confederation of Copper Workers (CTC) and Minera Escondida, which resulted in the decision of the former to go on a thirty-day strike in 2006, costing 16 million Chilean pesos (roughly 20,000 GBP). This paved the way for the generous offer of the company in the next collective bargaining in October.

\textsuperscript{10} In 1988, foreign firm Minera Escondida made its first big investment in Northern Chile, and this was the beginning of private investment in mining.
2009, including a lump sum bonus of 14 million pesos for workers and salary offer of 112 million pesos (Vial 2009).

The analytical point is that the relationship between the firm and workers is always filled with friction and constant tension. The opposing interests of unions and capital make compromises more difficult, and given the state of labour rights, collective negotiations are prejudiced against workers. Mining companies view subcontracting as an effective tool to improve its economies of scales as well as tapping the expertise of other firms to perform specific mining-related jobs, particularly the professional, technical aspects of mining such as industrial cleaning, setting up infrastructures for mining exploration and machine maintenance. This obviously comes at the expense of subcontracted workers’ welfare, and FTC has been criticised severely for its less critical position on the issue.

In the neoliberal environment, combined with the limited institutional capacity and scarce resources of the Ministry of Work, trade unions are left to collectively negotiate their demands under the terms of the employers. Whilst mining unions tend to have more power through work stoppage and threat of strikes, most unions in other sectors such as in seasonal agriculture, retail, and services (banking, call centres) are disempowered to negotiate evenly with employers.

The second critique on the model is the politicised nature of the relationship between the state, unions, and political parties. Because Codelco is a state-owned company managed by ministers committed to keep mining under privatised governance, the
company has been attacked easily for its performance and labour management vis-à-vis the private sector. Investment decisions are not made by the CEO but through the Board of Directors with the Ministry of Finance playing a critical role. Whilst private sector can easily expand its projects and finance large scale investments, Codelco is tied to Congress for investigations and to ministries and unions for its investment spending. Hence, its production has consistently fallen in comparison with private firms. In terms of labour disputes, Codelco administrators generally avoid confronting the FTC because they have direct connections within the Concertación Democrática coalition and to the President. What is supposed to be a problem between workers and firm becomes a salient political issue.

Therefore, assessing the success of this model of cooperation requires a more careful consideration of what political constraints Codelco face and which workers are represented when negotiating with Codelco. For example, FTC effectively prevented the closure of an open-pit mine in Codelco Norte, thereby, preserving the jobs of plant workers in the mining site. However, the broader challenge of integrating subcontracted workers within Codelco and their right to unionise remains unresolved. With subcontracted workers on a weaker position due to their lack of direct association with Codelco and the pressure to downsize the company constantly impeding production, the model seems to be put into a test.

**Mining Workers and Collective Action in the face of Neoliberalism**
Mining workers have been very politically active until 1973, but the dictatorship’s policy of neutralisation targeted union leaders leading to a void in civil society mobilisation. Although unionisation rates increased again after 1990 as a result of the formal recognition of the right to form trade unions, the rates have never caught up with the pre-dictatorship period. The stable economic environment is characterised by a relative decline of labour conflicts (measured through effective legal strikes) throughout the 1990s, a clear indicator of the ‘modern labour relations’ in post-authoritarian Chile. If one examines civil society mobilisation in Chile, it is considered as weak if not almost absent. So far I have argued that the politics of continuity created institutional constraints for unions to mobilise and defend themselves, the second part is to look at the implications of the neoliberal model to collective action in Chile.

The strong capacity of unions for collective action prior to Pinochet’s demobilisation has contributed to the hollowing out of civil society in post-authoritarian Chile. Because political mobilisation were channelled traditionally either through the unions or political parties, social movements have failed to develop organised responses vis-à-vis the dictatorship. Whilst there are environmental and social costs associated with mining, citizen responses to go against the neoliberal model have been weak. At best, they have been through institutionalised resistance by indigenous communities or local community organisations. These are hardly as effective as the strong mobilisation using human rights or cultural rights frames that we find in Central America and the Andean countries (e.g. Bebbington et. al. 2008; Martin 2003; Sawyer 2004). The closest social movement that can be compared with the
mobilisation around mining would be the case of NGOs campaigning against the operations of Barrick Gold in Pascua Lama. Again, this movement has been criticised for its lack of participation by ‘Chilean social movements’ (Karmy 2009, Interview with the author). I would argue therefore that the labour movement remains to be the strongest source of resistance and critique of the neoliberal model in Chile.

But how do unions perceive themselves in light of an anti-union environment? Since labour rights have been relegated in the margins of state institutions, unions have had more difficulties in responding to the pressures of market restructuring. The pro-employer labour code, the prohibition to discuss other issues (e.g. participation in management) aside from salaries in collective negotiations, and the unions’ lack of complete information in collective bargaining contribute in the atomisation of the labour movement. The lack of a collective strategy in union confederations compelled workers to develop negotiating strategies in an individual manner. The ultimate consequence of neoliberalism and labour flexibility is the fragmentation of a once coherent labour movement and their capacity to mobilise collectively.

This broad picture of the labour movement is no different in the most unionised sector of Chile. Mining workers have serious disagreements as regards subcontracting, mainly because the confederations of plant and subcontracted workers occupy different positions in the structure of production. They possess opposing interests and have different political identities. Subcontracting breaks the traditional relationship between the principal company (Codelco or big private firm) and the worker. Since they do not affiliate themselves with the principal company,
the responsibility over the labour welfare is transferred elsewhere, mainly towards the third party firms. Naturally, we find conflictual interests between unions representing the plant and subcontracted workers. Further, since no legislation existed until 2007 to regulate labour abuses of subcontracting firms, the lack of social benefits and welfare protection became the central responsibility of unions. Although FTC has direct access to the key decision-making arena, their agnostic position towards the criticisms of CTC on labour flexibility and subcontracting makes them less reliable allies in the broader labour movement. In terms of inter-union relations, it is best described as a temporal relationship. Whilst the federation of subcontracted workers have always tried to approach other unions and help them, the atomised nature of the movement makes it difficult to resolve the conflicting positions in issues.

Despite the limitations imposed on them, labour unions remain very critical of the neoliberal model and have been constant source of opposition in various political and economic issues. For example, it is the unions who sought for higher tax percentage to be imposed on foreign companies in the royalty debate. It is likewise the constant mobilisation of CUT that put the education reform agenda on top of Bachelet’s program of social reforms. Subcontracting, which has affected the other sectors negatively more than in mining, generates common positions amongst 

miner

os contratistas (contracted miners) and other unionised sectors. I find this sufficient justification to examine the way mining unions construct their worldviews as regards copper governance and labour politics.
However, I make a qualitative differentiation between the functional role of unions and their political realities. Whilst mining workers are indeed the most vulnerable of all labour unions, they have been the most privileged as well. Labour unions have been the guarantors of community and family welfare of mining workers with expectations of gaining more in every collective bargaining episode. However, unions also criticise the whole copper mining industry as fundamentally neoliberal in character and has consistently fought for Codelco to stay as state-owned company and the state to engage in more developmentalist roles. In this sense, unions are also expected to deliver the political critique to the same model that has paved way for better living standards in the mining regions. The contrasting interests and social positions of different unions within the labour movement makes the fulfilment of this dual role more complicated. How can unions mobilise themselves using their political critique if some workers benefit more than the others from the system?

**Mining Workers’ Perceptions of their Political Role in Democratic Chile**

Whilst labour relations in Chile has been perceived as peaceful, modern and worth duplicating, one must take into account that only a few studies have examined who paid the costs of this development (exceptions include Frank 2002; Winn 2004). When institutionalised democracy was put in place, labour issues were systematically taken out of the public agenda. Labour reforms were treated as less priority compared to other issues, particularly civil-military relations, judicial reforms, and social equity. In many ways, unions have been perceived less of a stakeholder in the process of reforming labour relations more so in the whole political process.
And although the Concertación Democrática claims they have prioritised in resolving the ‘social debt’ of neoliberalism, unions maintain their view of the Chilean economic model as unabashedly neoliberal and still far from its claim towards the social democratic model.\(^{11}\)

But why do unions exist to begin with? In the mining sector, workers need to defend themselves from potential abuses. Unlike other sectors, life in mining camps is very difficult. As union leader Mario Plaza narrates his everyday life:

“For them we are fighting noble causes like having a camp in which to do the work we have to travel three hours each way, twelve hours each day of work, a sum of 18 hours and give us 3-6 hours to be able to rest. The mining site is as high as 2,000 metres, you need to go up and down daily to work. Worse, this causes miners some health problems like insomnia and sleep disorder. Thank God camp facilities were built in the high altitudes [unions function for this].”

It is no surprise that Mario’s siblings who are miners alike are part of the unions in other mining firms. Unions provide the collective power for individual workers to fight for favourable working conditions; mining confederations like the Chilean Mining Federation (FMC) empower the worker to respond to the tactics employed by private firms to cut costs and maximise profits. As a confederation of around 21 unions, they express what mining workers mean for a resource extractive society like Chile: That the mining worker has been for years and for centuries the worker who has made changes. If one goes back to history since the time of nitrate, many struggles have been fought by the mining worker. With nostalgia, these workers and union leaders shared their history of resistance and their belief that to live in Northern Chile enables them as relevant workers who can build a fairer country.

\(^{11}\) For references on the debate as to whether Chile provides an exemplary case of a post-neoliberal state, see Leiva 2009.
In reconstituting their political role in Chilean democracy, labour unions constantly remind the public of the possibility of a less unequal society, of a fairer working environment for the popular classes, and of a more social democratic political arrangement. In the recent economic crisis, CUT launched the slogan “the crisis will not be paid by the workers” not only as a critique against the anti-worker ideology of neoliberalism but also to contest the seemingly trivial view that poverty and inequality which targets the working class is a natural outcome of economic development. But to make the public aware of their role, unions need to mobilise their workers by increasing union memberships and collectively negotiating with the firms.

For unions, the copper sector has been staunchly neoliberal in governance form, a similar model to the Anglo-Saxon liberal market economy. However, the key distinction to the Chilean model is its state capacity and its social commitment to compromise business interests through a strong tax system in natural resources. FMC criticises Congress of the recent royalty tax for passing the lowest tax rate (5%) in the world despite producing roughly 30% of global copper supply. In addition, Pedro Marin (2009)\(^\text{12}\) argues that most of Chile’s foreign investment and free trade negotiations have been based on extractive resources, especially copper. Miners view international treaties as policies towards entrenching commodity dependence of the Chilean economy. Despite fears of copper depletion in 70 years time or so, the Concertación Democrática has tied Chilean political economy to copper production and all attempts to diversify have remained limited in impact. Perhaps this is

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\(^{12}\) Pedro Marin is the president of the confederation of subcontracted mining workers, FMC, which include copper, gold and other metal mining.
justifiable. It is the mining communities which suffer the most in the vulnerabilities of resource dependency. Price fluctuations and international crises drastically affect production through job losses and supply cuts, which mining regions feel immediately. The ghost towns of the North remind them of the previously inexhaustible nitrate communities that collapsed in 1929 and induced massive migration of workers. The lack of regional development due to the centralised politics of Chile and the concentration of revenues towards Santiago likewise echo this uneven distribution of social, economic and environmental costs in mining (Aroca 2009; Marin 2009; Pesce 2009, Interviews with the author).

Further, the Labour Code has entrenched the power of employers in collective bargaining. In particular, Article 169 is typically invoked by employers to terminate contracts for the ‘casual needs of the enterprise, establishment or service’. The article specifically outlines the vague reasons that can be used by firms to dismiss workers, which include streamlining or modernisation, low productivity, changes in the market or the economy, and conditions that may require the separation of one or more workers. However, this clause has differing impacts on workers depending on their relationship with the principal company. Workers can be subcontracted in varying degrees and are employed indirectly by the mining firms. The farther the worker is from the company, the more precarious are the labour conditions. Codelco and private firms are in no way compelled to absorb these workers because they are hired on a short-term basis. Aguilera Donnay & Villalobos Dintrans (2007) conclude that the externalisation of services gradually break the traditional association of the worker to the mining company and make it difficult for plant and subcontracted
workers to share identity as mining workers. Because the dictatorship practically dissolved mining unions for 17 years and workers were left to defend their interests, the democratic period has neither revived the ideologically coherent labour movement nor has provided more viable political spaces for collective identity construction. This contributes to the fragmentation and atomisation of the broader mining workers’ movement. In the words of Hector Cerda Ortiz,\textsuperscript{13}

“[unions] have not understood each other. There has been no cohesion between these two major unions [CUT and FTC]... [they] are simply minor issues, the theme of leadership, personal issues and a tendency of trade unions, unfortunately, Codelco, of being somewhat different, [compared] from other workers. Perhaps as a labor aristocracy, it is separating a little to the rest of the workers and in turn, other workers come [to see] them as privileged workers because they have more income and better living conditions, then there is a world of interests of different interpretations. The central organisation of workers (CUT) are the poorest workers and with fewer resources. These others (FTC) are powerful. And there has been a distance unfortunately.”

CUT has openly supported the plight of subcontracted workers, which tend to be more pervasive in private firms. A distinction should therefore be made between the relationship of Codelco with its workers vis-à-vis the private sector. The former is described as ‘paternalistic management’, referring to the overwhelmingly good conditions of plant workers. Despite the tensions in collective bargaining, there was never a strike in Codelco in the last thirty years. However, private sector-worker relationship is harsh (\textit{dura}) and generally characterised by strikes, road blockages and protests. This key difference marks the distinction within mining unions as regards who and in what instances workers decide to go on strike legally or illegally. In the context of this lack of cross-labour political solidarity, the political critique against neoliberalism is at best partial if not shared across labour unions.

\textsuperscript{13} Hector Cerda Ortiz has been working in the copper sector initially in the private mining companies Minera Manto Blanco then to Codelco.
In my opinion, Chile seems to lag behind the trail towards more progressive social mobilisation in comparison to other countries. Following reforms to address deepening poverty and social inequality produced by neoliberal reforms, many Latin American countries have experienced a policy shift that includes participatory mechanisms for citizens to reflect greater state accountability and broader democratic reforms (Grugel & Riggirozzi 2009; Hochstelter & Keck 2007). A central component of this political dynamics is the resurgent role of social movements in promoting social citizenship rights. In Chile, the traditional role of political parties and labour unions have surfaced again after the dictatorship as a result of the institutionalised political transition, thereby, further stressing my point on the near absence of social movements in Chile.14 Where there are possibilities for social movements to emerge, such as on questions of rectifying human rights violations, upholding indigenous peoples’ rights especially of the Mapuches, and broader mobilisation towards education reforms, civil society organisations have been failing to mobilise and put forward a strong agenda in the public arena. With environmental concerns, as in the case of better environmental management in mining, companies have hijacked the mobilisation potential by declaring themselves as the primary actors enhancing corporate social responsibility. Whilst the claim that mining firms are completely responsible is contestable, the fact remains that foreign companies brought in the country environmental standards due to civil society pressures from their home origins (Campusano 2009; Pesce 2009, Interviews with the author). In fact, the main consequence of foreign firms’ adoption of ISO 14001 on certifications on environmental management is the pressure for Codelco to follow suit and

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14 On this point, see Barrera 1998 for references.
implement the same ISO in addition to the Good Neighbourhoods Programme for social responsibility. But all in all, there has been very limited role for environmentalist groups to formulate political discourse to de-legitimise the image of mining firms as socially responsible. This again brings us back to the basic question: in what instances do unions and social movements share both political critique and social action towards change? In the Chilean context, perceiving the costs of neoliberalism is not enough. Creating alliances with political parties and state bureaucrats are also insufficient. If the model has entrenched institutional constraints for mobilisation, labour unions need to awaken what Palma (2009) calls ‘spontaneous consciousness’ that is ideologically oriented. Beyond the traditional mobilisation of labour through the corporatist arrangements under Allende or the militant protests under Pinochet, mining unions and social movements ought to learn how to expand democratic rights through the institutional spaces existing within the new state-labour relations. More importantly, workers must keep unionisation alive to forge collective political identity.

What do the limits to labour union activism imply for collective action and social mobilisation in Chile? Whilst the most privileged unions criticise copper governance, they remain incapable of initiating dialogues with other less powerful unions. Since mining unions have been the cradle of social mobilisation in Chilean politics, they remain the most capable amongst all sectors to challenge the free market model of resource extraction. But to do this requires thinking broadly in terms of labour movements’ role in politics and society. On the one hand, this entails stronger relationships among unions to have a sense of what they stand for. For CUT, trade
unions exist not simply to further workers’ demands and negotiate with political parties for policy compromises. Unions take a more important role in constructing the new democratic institutions of Chile, one that challenges the anti-democratic (institutional) legacies of Pinochet and promotes inclusive social policies. The political construction of post-authoritarian Chile requires unions to participate in the movement towards what Garréton (2003) calls ‘social democratisation’. This process refers to the transformation of political democracy (creation of new democratic institutions) into more meaningful forms of citizen participation, increased access to state institutions, and more equitable distribution of material resources in society. Without falling into the trap of state or party cooptation, labour unions need to maintain its independence and constructive relationship with the governing coalition. This is clearly necessary especially in the context of the recent victory of right wing populism in Chile where a social reform agenda is in place and where its victory is rooted in the failure of Concertación Democrática’s growth with equity agenda.

On the other hand, this necessitates a process of creating spaces for new social movements to emerge and link them with trade unions. If we examine contemporary social movements in mining countries, such as in Bolivia, indigenous peoples and tin miners have worked together, overcoming their group/class interests to critique the neoliberal model of economic development (Haarstad 2009). In Ecuador, transnational networks were formed to support grassroots mobilisation, which include peasants and workers (Martin 2003; Sawyer 2004). There is no incongruence between promoting social citizenship rights and labour rights,
especially in the context of Chile where the dictatorship effectively hollowed out social movements from critically examining the neoliberal model.

And what has been the impact of mining workers in the construction and contestation of the governance model of resource extraction in Chile? The unfortunate answer is that they have affected very little the construction of the model. Partly, this is because of the highly exclusionary nature of politics and policymaking in Chile. The technocratic process, the institutional exclusion, and the weakness of labour rights promotion have all decapitated the previously strong political role of mining workers. The image of labour aristocracy today implies not just higher wages and better benefits, but also the apolitical and less critical position of the big unions of plant workers against labour flexibility and the neoliberal model. But unions also make another point. The strategic nature of the economic sector, of copper, as well as the centrality of Codelco and private capital in Chilean economic development necessarily weakens mining unions. Capital has been strong and economically very powerful; copper workers have therefore been historically fighting against foreign capital. But this also means copper workers are more vulnerable than other unions. In the strike in El Teniente in 2002, some union members were shot and injured, and workers have increasingly avoided getting involved with unions due to the violent nature of the confrontation. (Palma 2009, Interview with the author). With powerful mining firms backed up by the state, the labour movement has effectively lost the coherent organisational structure it once possessed. Disempowered labour leaders, workers being laid off, all forms of dispossessions have been the experience of the unions in contemporary neoliberal Chile.
Conclusions

This paper began with a broad picture of copper mining and labour politics and its goal was to show the complex state-society relationship using the mining sector as a case study. In doing so, it has sketched what the governance of resource extraction in Chile looks like under the Concertación Democrática regime. The paper utilised a historical institutionalist explanation to empirically map the continuities and incremental changes in state strategies and policy orientations. However, characterising the state is not sufficient to explain the dynamics of social mobilisation within the mining sector. Hence, I sought to demonstrate some plausible reasons why labour unions, particularly mining workers, have remained fragmented despite the commitment of the democratic governments to revitalise unionisation. The argument is that there are institutional constraints in realising labour rights, the practice of decision-making in copper policy is exclusionary and technocratic, and unions themselves cannot agree on how to represent themselves in a coherent image.

What does this say about debates on neoliberalism, globalisation and collective action? First, the inherited policies in mining and labour management have constrained political choices for labour unions and left them to defend their interests as representatives of the workers. These external factors are beyond the control of mining unions and that the only response is adaptation. Collective negotiation in an individual manner, use of strikes and protests, and termination of conflicts through
Article 160 or payment of bonuses (for union workers) have been the tendency in labour management. Second, the new relationship between the Chilean state, Codelco, the private sector and labour unions have been characterised as filled with friction and constant tensions. With Codelco, the Strategic Alliance has empowered the plant workers in pushing for better working conditions for their staff but this good relationship between Codelco and FTC has undermined labour rights and the welfare of subcontracted workers. When subcontracting has been used excessively, the state was compelled to respond by putting in place legislation regulating abuses and empowering the Dirección del Trabajo to inspect cases of labour abuses. In the private sector, the key feature of the relationship is the pervasiveness of strikes, protests, and road blockages, all of which infer a very contentious relationship between capital and labour. The overall picture is a mining union movement that is fragmented and weak due to Concertación Democrática’s pro-investor mining policy and a decision-making style that is exclusionary of labour demands. Despite such weakness, unions still perform a dual function in society. First, they maintain their traditional role as guarantors of social welfare of the working classes. Second, they deliver political critiques to what they characterise as neoliberalised copper mining. In light of the recent victory of the right wing coalition, the labour movement faces more challenges as it will have to reconfigure again its relationship with the political and social classes in preventing further atomisation and fragmentation.
References Cited:


**Interviews Cited:**

Aroca, Patricio. 2009 (November 03). Director of Regional Applied Economics, Universidad Católica del Norte, Interview with the author, Antofagasta, Chile.

Campusano Droguett, Raul F. 2009 (October 07). Director of International Affairs, Comisión Nacional del Medio Ambiental (CONAMA), Interview with the author, Santiago de Chile, Chile.

Cerda Ortiz, Hector. 2009 (October 30). Codelco Andina Division, Interview with the author, Los Andes, Chile.

Karmy, Javier. 2009 (October 21). Independent Researcher on Mining and in Pascua Lama Case, Interview with the author, Santiago de Chile, Chile.

Latorre Risso, Agustin. 2009 (November 04). Labour Union Leader, Sindicato De Empresa de Trabajadores X-Strata Copper Alto Norte, Interview with the author, Antofagasta, Chile.

Lima, Marcos. 2009 (November 13). Codelco Former CEO, Incoming Member of the Board of Directors 2010, Interview with the author, Santiago de Chile, Chile.

Majluf, Nicolas. 2009 (October 21). Codelco Chair Board of Directors 2010, Interview with the author, Santiago de Chile, Chile.

Marin, Pedro. 2009 (November 04). President, Federación Minera Chilena, Interview with the author, Antofagasta, Chile.

Palma, Lariza. 2009 (October 16). Central Unitaria de Trabajadores (CUT) Representative, Interview with the author, Santiago de Chile, Chile.
Pesce, Dante. 2009 (September 10). Centro Vincular Executive Director, Interview with the author, Santiago de Chile, Chile.

Plaza, Mario Antonio Ramírez. 2009 (November 04). Labour Union Leader, Minera Meridian Gold El Peñon Division, Interview with the author, Antofagasta, Chile.
Table 1: Legal and Normative Framework of Chilean Mining

<table>
<thead>
<tr>
<th>Law</th>
<th>Description</th>
<th>Policy Orientation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ley 17.450 (July 11, 1971)</td>
<td>The legislation amending the Constitution to nationalise large-scale copper mining. This gives the state subsoil rights, and ultimately ownership of copper mines.</td>
<td>Statist development</td>
</tr>
<tr>
<td>Decree Law 600: Foreign Investment Statute (1974)</td>
<td>The decree establishing the right of foreigners to apply for mining concessions for exploration and exploitation. The decree applies to all sectors but this decree has affected mining production significantly. The law opened the country to international investment through generous tax breaks and established the right of foreigners to apply for concessions for exploration and exploitation. This guaranteed equal treatment between Chilean and foreign investors whether in terms of conditions to operate, tax payment, and license acquisition processes. Whilst the state ultimately owns the subsoil rights, the private sector was encouraged to apply for concessions to develop mining sites.</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>Decree Law 1.350 (January 1976)</td>
<td>The law created CODELCO.</td>
<td></td>
</tr>
<tr>
<td>Ley 1.167 (February 1976)</td>
<td>The law consolidating CODELCO and centralisation of administration of La Gran Minería</td>
<td>Authoritarian</td>
</tr>
<tr>
<td>Decree Law 1.530 (1976)</td>
<td>The law which allowed for the use of 10% of Codelco’s profits towards arms purchases and modernisation of the armed forces.</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>Water Code (1981)</td>
<td>This Code lays down the rules in acquiring property rights for the use of water. The Code likewise creates the institutional responsibilities of the State, and its limitations after acquiring water rights. The State gives up its claim once private sector claims rights over water, except in certain circumstances the responsible institution, Dirección del Agua (DGA), is allowed to withdraw the rights.</td>
<td></td>
</tr>
<tr>
<td>Ley 18.097 Organic Constitutional Law on Mining Concessions (1982)</td>
<td>This law establishes the rights and obligations of mining concessionaires. The law was made consistent with the Mining Code.</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>Mining Code (1983)</td>
<td>The Mining Code consolidated and institutionalised mining governance in Chile by setting out the rules in acquiring license to operate, concessions for exploration and exploitation, and recognised private property as essential for stability. The law put in place the individual right to acquire licenses, that is, the protection of private property, which was likewise enshrined in the 1980 Constitution. In acquiring</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>Law</td>
<td>Description</td>
<td>Country</td>
</tr>
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</tr>
<tr>
<td>DN 146 (1991)</td>
<td>The statute setting the corporate governance structure of the Corporación Nacional del Cobre (Codelco). This was a response to change the dictatorship's management structure and employer-employee relationship within Codelco</td>
<td>Neostructuralist</td>
</tr>
<tr>
<td>Ley 19.137 Decree</td>
<td>The first effort to enhance Codelco’s productive capacity through joint projects with other mining firms.</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>Chile to engage in joint ventures with third parties (1992)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ley 19.300 (1994)</td>
<td>This law called the General Bases of the Environment is the environmental legislation creating CONAMA, setting up EIAs, and setting up liability payments for non-compliance in the environmental regulations.</td>
<td>Neoliberal</td>
</tr>
<tr>
<td>DN 123 (2001)</td>
<td>A decree that regulates special patents that companies can acquire.</td>
<td>Neostructuralist</td>
</tr>
<tr>
<td>DN 132 (2002)</td>
<td>This is the executive decree regulating security, health and occupational hazards in mining.</td>
<td>Neostructuralist</td>
</tr>
<tr>
<td>Ley 20.026 (2005)</td>
<td>The royalty tax legislation, known as Royalty 2, which establishes the rules as to which companies are going to be subjected on the additional tax for the use of natural resources.</td>
<td>Neostructuralist</td>
</tr>
<tr>
<td>Ley 20.123 (2007)</td>
<td>The legislation that set up regulations on subcontracting. This law defined in which instances subcontracting is allowed, which mainly involves identifying what are the core business tasks and which ones can be externalised. In conjunction with labour code, this law is universal in application.</td>
<td>Neostructuralist</td>
</tr>
</tbody>
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Source: Nem Singh (2010)
Figure 1: Voting Trends in Presidency since 1989 in Major Mining Regions

Source: Ministerio del Interior, Gobierno de Chile.

Note: The electoral system changed prior to the 1999 presidential elections into a two-rounds voting system. The results are the second-round voting.
Figure 2: Comparison of Copper Production between Public and Private Firms

Source: COCHILCO Annuario 2009.