

FISHING IN NEOLIBERAL WATERS: THE POLITICAL,
SOCIAL AND ENVIRONMENTAL CONTEXT OF THE LEY
DE PESCA IN CHILE

by

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Paulo Henriquez

Around 80,000 families in Chile depend upon the fishing sector for their livelihood; however, for the one country able to boast the longest coastline in the world, many Chilean families consider having fish on the dinner table a luxury (Futuro: 2012). Part of the reason for this can be analyzed through the history of one law: *la Ley General de Pesca y Acuicultura*. The *Ley de Pesca*, or Fishing Law, was originally created in 1907 under the presidency of Pedro Montt. The law changed the government's approach to the age-old practice of fishing in Chile, and laid the foundation for the legislation in place in the country today. Approval of modifications to the law in 2012 have been controversial; information disclosed the following year indicated the involvement of bribery from large-scale fishing company Corpesca in the Senate vote. Chile's age-old interaction with the neighboring sea and its marine resources, in addition to the influence of Neoliberal policies implemented under Augusto Pinochet has resulted in widespread public outcry and continues to remain present in public discourse to this day. The research set forth seeks illustrate the way in which the Chilean *Ley de Pesca* came into being and to draw a connection between the

law and a larger Neoliberal framework—one of which that has influenced not only Chile over the last few decades years, but much of Latin America as a whole.

This research confirms what other research from Williams and Disney 2015, Ueyonahara 2012, Godoy 1998 and Mansfield 2003 have found. The issue of overexploitation of marine resources in many Latin American countries, in many cases, involves a complex relationship between large and small-scale fishers, which of whom have been tasked with maneuvering neoliberal policies largely implemented during the late 20th century and early 21st centuries. Those people who have relied on public fishing as their livelihood have experienced a large adjustment after the transition to neoliberal policy and management of marine resources centralized much of the fishing rights of the country.

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Introduction



(Los Dueños Del Mar)

to this question is a bit more complicated than a simple, *“Porque es bien caro po.”*

The high price, and subsequent low consumption, of fish in Chile relate directly to the political economics of the country. The neoliberal policies implemented under the military dictatorship of Augusto Pinochet in the late 20th century resulted in a privatization and monopolization of natural resources. Even after the country’s transition back to democracy, large corporations have continued to finance political

parties and their campaigns in order to gain political sway in the workings of the nation, resulting in approval of laws which benefit those very corporations and not the common Chilean people. Access to fish and the regulation of prices has been subject to the will of politicians bought off by corporations to vote in favor of laws beneficial to the fishing industry. Thus, the vast majority of Chilean people do not eat fish due to the fact that the resource has been sold off by corrupt politicians to seven of the wealthiest families in Chile—those of whom are heavily invested in the fishing industry and other major sectors of the Chilean economy, as well.

The research set forth seeks to answer four main questions: what circumstances made it possible for the democratic nation of Chile to pass the 2012 modifications to the *Ley General de Pesca y Acuicultura* which gave, in perpetuity, ownership of Chile's fish to seven of the wealthiest families of the country? Who are the actors involved in these changes to the law, and what, if any, special interests do they have? What has the public reaction to this ratification of the *Ley de Pesca* been? And lastly, what future projections can be expected for the course of this law?

In order to more fully grasp the context in which this law was created and later ratified, a brief history of both the fishing sector and the political sector of Chile will be reviewed. Although both of these histories are inextricably linked, the two will be covered separately for the sake of the reader, beginning with a look into the history of fishing in Chile, and then at the political context and its relation to fishing legislation. Next, it is necessary to consider the governmental climate of the late 20th century when this law was ratified under the military dictatorship of Augusto Pinochet. The section entitled "The Rise of Pinochet" analyzes the dictatorship of Augusto Pinochet and its

connection to Neoliberalism to illustrate the foundation created for the 2012 modifications made the *Ley de Pesca*. “The Path the Ley Longuiera” illustrates the lack of conservational efforts in the fishing sector leading up to the 2012 ratifications to the law; in “The Vote”, specific ratifications to the law are introduced and the Senate reaction is shown; the section “The Scandal” introduces the controversial unveilings related to the approval of the 2012 *Ley de Pesca*; and in “A Current View”, contemporary public opposition to the *Ley de Pesca* illustrates the widespread discontent for the 2012 ratifications to the law that remains an active part of Chile today.

The empirical research presented in this study is based on both peer reviewed journals and books accessed online, and the information directly related to the *Ley de Pesca*—its history and its present status—is based on both U.S. and Chilean news articles and Chilean legal texts accessed online through governmental websites.

Fishing History of Chile

Fishing has long played a vital role in the lives of Chileans and the indigenous peoples who inhabited Chilean lands before the country's founding. Inextricably linked, the peoples of Chile have interacted with the sea for as long as there have been people on the lands which now constitute the country of Chile. Although this relationship is intimate and ageless, it has not proven to be documented as meticulously as may be presumed.

The Chilean *Oficina de Estudios y Políticas Agrarias* released a document in February of 2014 entitled "*Sector pesquero: evolución de sus desembarques, uso y exportación en las últimas décadas*" which details the history of Chile's fishing sector. The governmental document references the work of Hernán Godoy in his study done through the Pontifical Catholic University of Chile in 1988, which attempts to fill in the historical gaps regarding Chile's fishing history. In the introduction of the "*Desarrollo histórico del sector pesquero en Chile*," Godoy confesses to the reader that the research was difficult to muster in spite of "*la actividad de la pesca... antiquísima*" in the country because "*no se ha escrito una historia de este sector en Chile*," (Godoy 45: 1988). Out of the 11,000 pages in the 20 volumes of the History of Chile, "*los escasos párrafos que se refieren a la pesca no alcanzan a sumar tres páginas*," (Godoy 45: 1988). The lack of a detailed history of the fishing sector may seem unbelievable considering the daily interaction much of the country's population has had with the sea for thousands of years, however it is perhaps for that exact reason that it is not so unbelievable at all. The everyday actions of a people frequently seem to be left behind in history as the extraordinary and uncommon find their way to the headlines.

Godoy also argues that, when taking into consideration the coastlines of the 14,263 islands of Chile, the total coastline of the country is closer to 15,534 miles, not the generally stated 2,796 miles that does not account for the “*sinuosidades reales de la costa*,” (Godoy 46: 1998). He argues, thus, that the country does not lack coastline with which to take advantage of aquaculture. The vast coastline is clearly taken advantage of by Chileans; many communities, especially in Southern Chile, rely greatly on marine resources to augment tourist interaction with the area. In December of 2010 there were registered 81,157 artisanal fishermen¹ in the country and taking into consideration the fact that an additional three job positions are created “to attend secondary activities, this implies that more than 320,000 people are dependent on the artisanal fishery sector (Ueyonahara 18: 2012). According to Godoy’s research, reliable testimony has been cited which verifies marine activity of “*los aborígenes*” –peoples living in Chile in precolonial times—especially in northern Chile where not only fish and mollusks were taken advantage of as a useful resource, but also seabirds, their eggs and deposits of guano, algae and sea salt (Godoy 46: 1988). From an archeological investigation that Godoy cites, it was determined that “*los grupos de economía marítima que poblaron el litoral chileno supieron aprovechar ampliamente los recursos del mar, alimentándose de todos los mariscos y peces que hoy se explotan e incluso de otros que raramente se consumen ahora*,” (Godoy 46: 1988).

¹ Artisanal fishermen are defined by the Chilean National Service of Fishing and Aquaculture (Sernapesca) as those who work as the boss or owner of one or two fishing vessels in a personal or habitual manner as their form of livelihood (Pesca Artesanal).

In postcolonial times, an increase in fishing practices ensued, resulting in both the exportation and augmented internal consumption of marine resources. The future looked bright for Chile—the fishing continued to increase without disappointment in yields. One North American fisherman, Bernard Magee, even stated “*que hay tal abundancia de pescado que por seguro no hay país en el mundo que lo aventaje,*” (Godoy 47: 1988).

Fishing came to play a key role in the lives of more and more Chileans every year, meanwhile certain marine species began to clearly define just which fish comprised the basis of the fishing industry: jack mackerel (*jurel*), anchovies (*anchoveta*), sardines (*sardina*), and hake (*merluza*) (Los Dueños Del Mar Chileno). Although fishing has played a part in the entirety of Chile’s history, after Augusto Pinochet came into power, a large period of overexploitation of marine resources ensued (Figuerola: 2012).

In a 2011 interview with Juan Vilches, a marine biologist and fisherman, Vilches remembered the 1980s and 90s, claiming “[l]o de esos años no fue pesca; fue una matanza,” (Figuerola: 2012). The regulations on the fishing sector were limited during these years; in order to fish, one merely needed a boat and to ask for authorization from the National Fishing Services (Servicio Nacional de Pesca—Sernapesca) to fish in a certain area (Figuerola: 2012). At this time, fish were property of whomever they were captured by in a system of *libre acceso*, or free access (Figuerola: 2012). As a result, fishing companies extracted as many fish as possible and subsequently laid the foundation for the key role of the fishing industry in the Chilean economy in the years to come. By 1986, exportations already racked in

USD\$535,400,000 and the country's production of fishmeal made up 17.3 percent of world production (Figueroa: 2012). Second only to Japan, Chile was producing around 1.3 million tons (Figueroa: 2012). The high yields of production were not without repercussions, however.

Vilches, who worked for fishing company Alimentos Marinos S.A. (Alimar) at the time, said they were fishing so much that a single ship would discard back into the sea up to 80 tons of fish for being under legal size for capture (Figueroa: 2012). The fish were thus left dead in the sea—making up an enormous white mass left behind, floating in their premature aquatic grave. Although limitations were placed on access in the mid-80s, no catch limits were set, so overexploitation continued and in 1990, the total yield of fish exceeded 6,000,000 tons, over 40 percent of that mackerel (Figueroa: 2012). *The Ley General de Pesca y Acuicultura* was instituted by Augusto Pinochet at this time, as will be extrapolated upon in the coming pages.

The lack of regulation of the Chilean fishing sector resulted in overexploitation of many species of fish, and a drastic decline in fish population ensued. The reinstatement of the modified *Ley de Pesca* in 1989 sought to mitigate the issue.

Neoliberalism and the Rise of Pinochet

In order to analyze the historical role of the *Ley de Pesca* in the management of Chile's marine resources, it is necessary to better understand the political climate present in Chile prior to the rise of Augusto Pinochet and the subsequent implementation of the neoliberal policies which privatized much of the national economy. The government of Salvador Allende (1970-1973) unintentionally laid the foundation for the implementation of a largely privatized economy due to the instability and discontent of the nation at the end of his presidency. Neoliberalism, which emphasizes privatization and marketization, took hold in Chile under Augusto Pinochet's dictatorship after three years of Allende holding power and the decreasing GDP, increased inflation and widespread public discontent that ensued despite Allende's efforts to redistribute national wealth and increase citizens' wellbeing.

Salvador Allende consistently pursued the same platform for the nation of Chile during his time involved in the political sphere: redistribute income and reshape the Chilean economy, nationalize major industries including the copper industry, enact agrarian reform, and increase relations with communist and socialist countries (Covert Action 5: 1975). However, it wasn't until his fourth attempt at leading the nation that he was elected president and was able to put this platform into action. Allende gained power as president in 1970 as a democratically elected socialist leader winning by means of a plurality vote (Covert Action 5: 1975). Though democratically elected, he had by no means the support of the entire nation. Allende entered the presidency with a passionate, yet limited, group of supporters, however his stalwart nature to make rapid

changes to the country resulted in an economy that was “spinning out of control” within his first year in office (Constable 25:1991).

Many programs implemented in Allende’s three-year presidency intended to increase equality and the sense of community in Chile; Allende instituted an integrated school program of students from different socio-economic backgrounds, free milk programs in schools, and implementation of land redistribution occurred. However, the unintended impacts of Allende’s government tend to take precedence in historical dialogue; by the end of Allende’s presidency, the country experienced inflation of over 300 percent, food shortages, disgruntled land owners stripped of their property and protectionist barriers which resulted in a falling GDP for the nation (Constable 25: 1991). Chile had thus reached a level of social, economic and political instability that laid a sturdy and unforgiving foundation for a stark transition in power.

The coup d’état of 1973 in the nation of Chile arose from a complex history, part of which includes United States involvement in South America during the Cold War Era and the concomitant Western fight against Communism. Aware of Allende’s association with Cuba and the Soviet Union, and under the auspices of Cold War mentality, the United States government under President Nixon “sanctioned its own involvement” in the Chilean government (Park 1: 2013). On the 11th of September, 1973 General Augusto Pinochet led a coup d’état, which resulted that day in the alleged suicide of President Allende and the beginning of a nearly two decade-long military dictatorship. The ensuing seventeen-year regime of Augusto Pinochet was laced with human rights violations, murder, torture and exile of Chilean citizens, yet had been

financially supported by the U.S. government (Park 1: 2013). Henry Kissinger, U.S. Secretary of State at the time, had “backed General Pinochet’s decision to overthrow Allende’s government,” which was later disclosed in documents such as the Chile Declassification Project (Park 1: 2013). History has proven governments’ ability to overlook atrocities in order to achieve economic gain. The situation in Chile during this time proved no different.

Within a month of the coup taking place, the U.S. government had sanctioned a \$24 million loan to Pinochet for wheat purchases, which equaled “eight times the total commodity credit offered to Allende’s government,” (Harmer 109: 2013). A year later, the country was receiving 48 percent of U.S. “Food for Peace” (PL480) grants available for all of the Latin American region (Harmer 110: 2013). The reason for this was by no means kept secret; U.S. interests in fighting the spread of Communism fed directly into its involvement in Latin America, regarding such anti-Communist figures such as Pinochet, who the U.S. government supported from the beginning of his rule.

Three years into the dictatorship, in June of 1976, Kissinger traveled to Chile to attend a meeting of the Organization of American States, expressing to the military dictator that he was honored to be there (Harmer 109: 2013). Kissinger promised Pinochet that he would supply all the military and economic support he could from an “uncompromising U.S. Congress,” telling him “[i]t is my evaluation that you are a victim of all left-wing groups around the world, and that your greatest sin was that you overthrew a government that was going Communist. . . . You did a great service to the West in overthrowing Allende. Otherwise Chile would have followed Cuba,” (Harmer

109: 2013). This relationship was not unprecedented, however, and the implications for the wellbeing of the Chilean people are not to be underestimated.

The School of the Americas and Neoliberalism

The School of the Americas was a United States Army training facility created in 1946 and located in the “U.S.-controlled Panama Canal Zone as the Latin American Center—Ground Division” and targeted largely “Spanish-speaking cadets and officers from Latin American nations,” (Grimmett 1: 2001). Although Pinochet was not a graduate of the School of the Americas, one out of every seven members of the command staff of the National Intelligence Directorate (Dirección de Inteligencia Nacional –DINA²) was (Most Notorious SOA Graduates: 1). In the school, students were taught joined and combined operations, special operations and civil military operations. Although education in human rights was included in teachings, the school has since received copious critiques as numerous graduates went on to have a role in various military dictatorships in South America (Grimmett 3: 2001).

Although militarism and neoliberalism are not inherently linked, numerous cases during the 1970s and 1980s in South America illustrate just how interconnected the two have been. Along with other countries in Latin America including Guatemala, El Salvador and Argentina, Chile experienced a severe regime that created the foundation for neoliberal economic models to flourish (Williams 1: 2015). This was not, however,

² DINA was the military police force under the Pinochet regime known for its violence and cruelty toward Chilean citizens.

to the surprise of the U.S. government considering its influence through the School of the Americas and, in addition, the Chicago Boys.

The Chicago Boys were Chilean economists trained at the University of Chicago under Milton Friedman and Arnold Harberger or at its affiliate location, the Pontifical Catholic University of Chile (Brender 113: 2010). The formation of the Chicago Boys began in 1955 through a program created by the United States Agency for International Development (USAID) and consisted of twenty-six Chilean students from the Pontifical Catholic University, most of whom went back to work in the Department of Economics at the university after graduating (Brender 113: 2010). This first wave of graduates that ended in 1964 has thus been deemed the source of the establishment of monetarist thought in the Pontifical Catholic University economics department (Brender 113: 2010).

The second main wave of training programs that aided the formation of the Chicago Boys took place between 1965 and 1973 as a continuation of the program with USAID, though this time with financing from the Ford Foundation (Brender 113: 2010). One-hundred students were trained, 26 receiving a PhD and 74 an MA, who later returned to Chile to hold positions in business and academia until the coup of 1973; this time period marked the beginning of their involvement in Chilean politics and policy making (Brender 113: 2010). Having trained under Friedman and Harberger, the Chicago Boys emphasized monetarism and free market societies, an economic vision

which “starkly contrasted with the structuralist and Marxist economic thought in Chile and in most of Latin America at the time,” (Brender 113: 2010).

Though not common, these modes of economic thought were not new in Chile. Pre-dating the Cold War Era, an organization based Chile’s capital city of Santiago called the Economic Commission for Latin America (ECLA) was created under the United Nations in 1948 and “geared its training and research towards economic rather than agricultural or administrative affairs,” beginning technical assistance programs through its policy institute and training thousands of technocrats in structuralist theory during the 1960s (Brender 114-115: 2010). In addition, the Organization of Development and National Planning (ODEPLAN) created during Eduardo Frei Montalva’s presidency of 1964-1970 helped generate economic policy, that of which remained through the Pinochet era (Brender 115: 2010). The goals of the Frei’s administration included “buying out foreign owners in the copper industry and expansion of secondary imports, import industrialization,...expanding export markets by liberalizing trade with other countries, and...income and land redistribution,” (Brender 115: 2010). Thus, the Marxist ideals of neighboring countries were not fully supported in Chile even before Pinochet came to power; the seed of thought regarding privatization and the economic benefit to be had from it were not entirely new to the country.

Economically, the Pinochet regime centered its focus in nationalizing Chile’s industries with the intended result of national economic gains and reduced international dependencies (Williams 1: 2015). This did not mean becoming isolationist, however.

True to the “ten neoliberal commandments”, Pinochet leaned toward a system that tended to favor fiscal discipline, public expenditures in fields with high economic returns, tax reform, financial liberalization, unified and competitive exchange rates, trade liberalization, removal of barriers of foreign direct investment, privatization, deregulation, and secure property rights (Williams 4: 2015). This system of neoliberalism illustrates a global economy and transnational influence in decision-making processes within a country. For Chile, this resulted in augmented productivity and GDP levels, however only a small sector of society actually benefited from that growth. Even today, the richest 20 percent of Chilean citizens earns nearly 15 times more than the poorest 20 percent (McCarthy: 2006).

By the turn of the century, U.S. leadership and global market capitalism were nearly considered one in the same, and U.S. influence in Latin America everything but forced countries to take up the neoliberal economic model or be left to their own devices (Williams 3: 2016). The influence of neoliberal economic policy aided in the resurrection of the Chilean economy and began to shift the focus that Allende had tried so hard to implement during his presidential years: focus on economic gain for the large-scale industries and the national economy replaced policies favoring redistribution of wealth in the nation.

The inequality, wealth disparity and class stratification that can be seen to this day in Chile have been deemed by many Chileans as the direct result of Pinochet’s neoliberal policies which generally focused on “wealth over welfare,” (Park 1-2: 2013). Pinochet’s dictatorship affected not only financial stability of Chileans, though, but all aspects of Chile including management of resources (Park 1-2: 2013).

Pinochet's revisions to the *Ley de Pesca*, a law originally created in the year 1907 under the presidency of Jorge Montt, resulted in the *Ley General de Pesca y Acuicultura*, or the General Fisheries and Aquaculture Law of 1989 (Godoy 50: 1988). The original creation of the *Ley de Pesca* not only marked the beginning of governmental financial support of hydrobiological resources in Chile in the form of subsidies, but also marked the first national campaign widely encouraging the consumption of fish in the home, resulting in a twenty percent increase of domestic consumption for Chile at the end of the century (Godoy 50: 1988). The law created subsidies for the fishing sector and the rhetoric the law included concerned the regulation of the extraction of marine resources, thus helping to fortify both a governmental and public awareness of marine life and resources, while also increasing consumption of fish in the nation (Godoy 52: 1988). This law underwent ratifications throughout the years, but was met with great changes in the late 1980s.

Under the dictatorship of Augusto Pinochet, a new approach to management of the fishing sector was implemented in Chile. Previous legislation from 1931 essentially established a system of free access to fishing activities, such as extraction and processing, and included maximum capture quotas set on annual bases. (Historia de la Ley). Following decades of severe overexploitation of hydrobiological resources, Pinochet set forth revisions to the original *Ley de Pesca*. In a message on October 20, 1988 to the *junta de gobierno*, or governmental assembly, Pinochet suggests the previous fishing legislation created a state of overexploitation of resources; for example, in the year 1987, the annual quota of the red langoustine fish was reached in only six days (Historia de la Ley).

In the message, the foundation of a new law is set forth by Pinochet which aims to establish regulations for the fishing sector, to create efficient modes of preservation of hydrobiological resources and to permit the existence of “*un sistema permanente donde se desenvuelvan armónicamente, derechos y deberes, tanto del Estado como del sector privado,*” (Historia de la Ley). Pinochet notes in his message to the *Junta de Gobierno* that taking advantage of hydrobiological resources in the recent past created financial growth in Chile; a recent increase in fishing exports and the “*importante fuente de divisas que aquellas reportan a la Nación,*” aided in the generation of new businesses and the development of the country as a whole (Historia de la Ley).

Furthermore, Pinochet stated the importance of a legal text concerning marine resources to permit the simultaneous achievement of two principal objectives: the efficient and comprehensive economic development of the fishing sector and the well-due acknowledgement of the importance of the preservation of hydrobiological, or living aquatic, resources. And so it came to fruition. The law was approved by the *Junta de Gobierno de la República de Chile* and put into place exactly one year later on October 20, 1989 (Historia de la ley).

The *Ley de Pesca* has been ratified numerous times since its original implementation in 1907, however public opinion of the law and since ratifications made in 2012 in particular underwent a drastic transition unprecedented in comparison to the rest of its existence.

The Path to the “Ley Longueira”

Up to eleven pounds of jack mackerel can be used to raise just over two pounds of salmon, and although the fish is a staple in Africa, many people around the world consume it without their knowledge as it is used as feed for pigs and aquaculture (Rosenblum et al.: 2012). In the mid-1980s, jack mackerel—one of the country’s main marine resources—nearly reached a point of extinction due to overfishing (Figueroa: 2012). The reaction to this? New actors were not allowed access to the saturated zones “*bajo la lógica de que si los recursos son limitados, el ingreso a su explotación también debe serlo,*” (Figueroa: 2012). Those that remained, though, continued to extract fish as they previously had “*sin ningún control*”; by this point, Chile was already the second largest producer of fishmeal in the world and fishing exports constituted 12.7% of total exported goods from the nation (Figueroa: 2012).

Part of the dilemma regarding the decline in jack mackerel population involved the lack of respect for the regulation on minimum size requirements for capture (Figueroa: 2012). The practice of capturing pre-mature fish was common during this time and affected population size because large portions of fish were captured before reproductive age. It was at this point in 1991 that Pinochet’s regime modified the *Ley de Pesca* “*para controlar el esfuerzo pesquero de la industria,*” by limiting the number of ships a company was allowed in addition to limiting their holding capacity (Figueroa: 2012). The companies did not fish any less, however; investments were made in technologies which made their fleets more efficient and autonomous, resulting in the capture of four million tons of jack mackerel per year (Figueroa: 2012). The overfishing

taking place was partially rooted in the implementation of an Exclusive Economic Zone in Chilean waters.

In 1947, both Chile and Peru declared maritime zones of 200 miles, proclaiming national sovereignty “over submarine areas, regardless of their size or depth, as well as over the adjacent seas extending as far as necessary to preserve, protect, maintain, and utilize natural resources and wealth,” later joining with Ecuador to sign the Santiago Declaration, the first international document to proclaim a 200-mile maritime limit (Nandan: 1). This concept of The Exclusive Economic Zone (EEZ) originally emerged in the United States in 1945 under the Truman Proclamation, in which the U.S. claims ownership of the natural resources “of the subsoil and sea-bed of the continental shelf beneath the high seas but contiguous to the coasts of the United States,” recognizing the need to conserve and protect the fishery resources of those waters and claiming proprietorship over those resources in order to do so (Nandan: 1).

For Chile and Peru, the Santiago Declaration came to function as a proclamation of international maritime policy stating that each of the countries possess sole sovereignty over “the area of sea adjacent to the coast of its own country and extending not less than 200 nautical miles from the said coast,” (Nandan: 1). With self-proclaimed sovereignty over coastal resources, Chile was able to begin development of its fishing sector and capitalize on the hydrobiological resources stretching along its thousands of miles of coastline. Since then, both the fishing industry and the research of marine resources has grown.

Since 1997, the Fisheries Development Institute of Chile (Instituto de Fomento Pesquero—IFOP) has realized an annual hydro-acoustic evaluation of the quantity of

mackerel off their shores, and the past couple decades show an alarming and accelerated decrease in numbers (Ibarra et al. 612: 2000). In 2001, in the *macrozona centro sur*—one of four fishing zones of the EEZ— the largest amount of biomass registered by IFOP was 5,950,000 tons of jack mackerel (Figueroa: 2012). Seven years later IFOP registered the presence of a mere 1,528 tons and one year later, in 2009, they didn't register even one (Figueroa: 2012). Alterations in fishing legislation during the last fifteen years show clear correlation to fish yield and species' population.

Fig. 1. Fisheries production in Peru, Chile and Mexico: 1970-1995. Source: FAO (1995a).

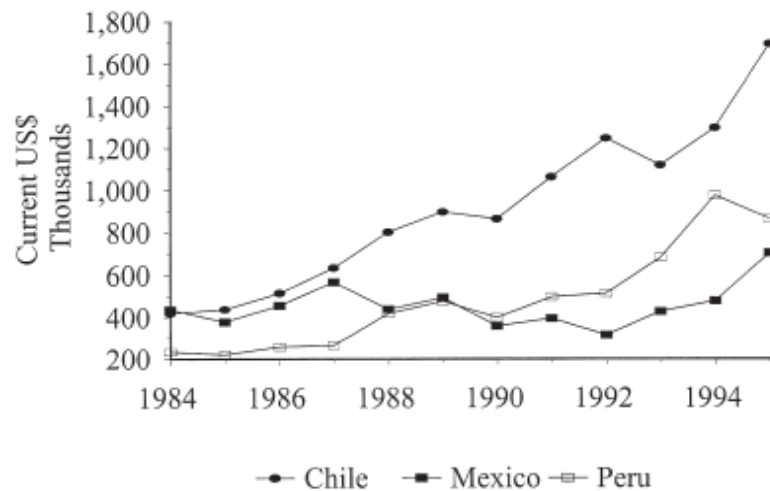


Fig. 2. Value of exports: 1984-1995. Source: FAO (1995b).

(Ibarra et al. 612: 2000)

As shown above, fishery production in Chile increased largely during and after the Pinochet dictatorship, illustrating one example of the power of the neoliberal policies of Pinochet's regime.

Fishing Regulation

Stocks of Chilean jack mackerel have dropped from around 30 million metric tons to a mere tenth of that in the last two decades, exemplifying the vastly unchecked fishing sectors around the world, including Chile (Rosenblum et al.: 2012). The controversy regarding the overexploitation of fish in Chile and the country's *Ley de Pesca* provides a case study example of the economic theory of the tragedy of the commons; a common resource is exploited by individuals working toward bettering their own end goal, not the well-being of the masses. One suggested solution to this issue is a limitation of access to the resource (Mansfield 319: 2003).

This is essentially what Pinochet intended with the *Ley General de Pesca y Acuicultura*. However, Pinochet's regime ended in 1990 and eleven years later, when Ricardo Lagos came into office in 2001, Chilean marine resources were still undergoing harsh exploitation as the fishing industry capitalized upon the exploits. Less than half a year into his presidency, President Ricardo Lagos set forward the *Ley de Límites Máximos de Captura por Armador* (LMCA) in 2001, which resulted in the distribution of marine resources to "*todos los pescadores del país,*" both industrial and artisanal (Figueroa: 2012).

With this law, the Chilean sea was divided into four fishing *macrozonas*,³ however, without a system of distribution between the various actors in the fishing

³ The first ran from the border with Peru down to Antofagasta; one from Antofagasta south to Coquimbo; one between the regions of Valparaíso and Los Lagos; and the austral zone which extends from Region XI toward the southern parts of the country.

sector, “*la medida generó una carrera por pescar la mayor cantidad en el menor tiempo posible,*” which only added to the issue of species depredation (Figueroa: 2012). As a result, these four areas of the sea quickly came to resemble “*una especie de fundo marítimo, donde las mayores empresas pesqueras marcarían su dominio,*” (Figueroa: 2012).

Although the law established the first five miles of offshore sea access to the artisanal fishing sector exclusively, the LMCA was nonetheless met with opposition from a portion of the artisanal fisherman who deemed the law a privatization of the sea. The National Confederation of Artisanal Fishermen of Chile (Conapach), the most powerful trade-union for artisanal fishermen, thus divided into two: those who supported the new law and those who opposed it, those of which accusing the Undersecretary of Fishing and Aquaculture at the time, Daniel Albarrán, of influence peddling⁴ (Muñoz: 2000). Nonetheless, with the implementation of the LMCA, the 81,157 artisanal fishermen belonging to the *Registro Pesquero Artesanal* were assigned five percent of the global quota of jack mackerel while the rest was divided among industrial ship operators (Figueroa: 2012).

Before the LMCA, fishing seasons were implemented and the fish were considered to be in common ownership until captured. Since fishermen didn’t have

⁴ Juan Carlos Cárdenas, one of the directors of Conapach, was one of the two people who in the year 2000 brought charges against Daniel Albarrán, including charges of conflict of interest as cited in the *Ley de Probidad* in which “*se prohíbe tener participación en empresas donde se tienen intereses,*” due to the fact that Albarrán was granted fishing licenses as Undersecretary of Fishing and Aquaculture (Muñoz: 2000). Considering Albarrán’s clear conflict of interest as Undersecretary, Cárdenas argued the threat to the fishing sector, the only sector in which the resources “*son de todos los chilenos,*” (Muñoz: 2000).

property of the fish until they had been caught, these seasons quickly turned into a race to catch the most amount of fish in the shortest amount of time, quickly depriving the ocean of certain inhabitants (Buck iii: 1995).

A system of Individual Transferable Quotas (ITQs) was additionally set in place under Lagos' government in attempt to reduce vast overfishing. The concept behind ITQs is that a species-specific total allowable catch (TAC), typically set by weight and a certain period of time, and distribution of portions of the TAC— called quota shares—would more or less guarantee to fishermen a specific, individualized amount of fish to capture. This intended to reduce the sense of urgency felt by many fishermen to catch as many fish as possible in the shortest amount of time thus help reduce overfishing.

The system of distribution of quota shares which Lagos utilized in the implementation of the LMCA followed a formula of “*coeficiente de participación relativo*,” which considered the sum of captured fish between 1997 and 2000; the result was the largest portions of the TAC being awarded to the fishing companies who had exploited the largest amount of marine resources during that time period (Figuroa: 2012). Subsequently, the quotas under this system that were assigned to smaller fishing companies greatly reduced the financial feasibility of remaining in business, and many of the larger companies absorbed the smaller by buying them out; gradually marine resource extraction was almost solely a concentration of “*los mismos nueve grupos económicos que hoy concentran el 93,7% de la pesca industrial de jurel, el recurso marino más importante del Pacífico Sur*,” (Figuroa: 2012). Although this was not a

direct legal act of privatization, the law illustrates neoliberal tendencies to privatize and centralize power, in this case dolling out power to the very few.

In 2002, “*para no empezar otra discusión sobre un nuevo manejo del sector*” Congress extended the validity of the LMCA for another ten years—until December 31, 2012. Although the law’s validity was extended to reduce turmoil within the nation, the ensuing legislation would prove to be the cause of great conflict nevertheless.

A Change in Power

Longueira’s political involvement includes time spent serving as an adviser to General Augusto Pinochet's regime in the 1980s, membership of the Independent Democratic Union Party (Unión Demócrata Independiente—UDI) political party and, in addition, sixteen years spent as a congressman (Reseña Biográfica Parlamentaria). In 2011, Longueira took over the position of *ministro de la economía* or Secretary of the Treasury under former president Sebastián Piñera.

Juan Andrés Fontaine, the first Secretary of Treasury under President Sebastián Piñera, advocated for the sustainability of the fishing sector, the involvement of new actors in the market, and better conditions for artisanal fishermen, however when Pablo Longueira replaced Fontaine in 2011, he brought with him a change in ideals that subsequently gave birth to the new *Ley de Pesca* (Solano: 2015).

Given the LMCA was set to expire at the end of 2012, it was necessary to render a new law to determine the regulation and management of Chile’s marine resources. Longueira, under the orders of Piñera’s government, responded to this necessity by proposing modifications to the *Ley de Pesca* and subsequently pushed it through

Congress (Chile's Corrupt Fishing Law: 2016). Although the *Ley de Pesca y Acuicultura No. 20,657* includes rhetoric favoring the sustainability and protection of marine life, passages in the law permit the exploitation of marine resources by large-scale fishing companies, renouncing the State as owner of the sea (Solano: 2015).

Ley General de Pesca y Acuicultura

Anticipating the expiration of the LMCA, in 2011 the Chilean government enlisted the newly appointed Minister of Treasury, Pablo Longueira, to prepare a new law to be proposed in legislation regarding the management of marine resources (Cisternos: 2012). After a year of processing, the new law drafted by Longueira, the *Ley General de Pesca y Acuicultura No. 20,657*, was put into place (Nueva Ley de Pesca). The law, reevaluated every five years to determine efficiency of implementation of the modes of conservation utilized, modifies the areas of the previous *Ley de Pesca* regarding sustainability of hydrobiological resources, access to industrial and artisanal fishing activity and regulations for research and audits of the fishing sector (Nueva Ley de Pesca).

The objective of the law, as denoted by the *Subsecretaría de Pesca y Acuicultura*, Subpesca, is “*la conservación y el uso sustentable de los recursos pesqueros mediante la aplicación del enfoque precautorio, de un enfoque ecosistémico en la nueva regulación pesquera que permita salvaguardar los ecosistemas marinos en los que existan esos recursos,*” (Nueva Ley de Pesca). Subpesca is the organizational body in Chile whose aim is the sustainable development of national fishing and aquaculture activity by regulation of fishing activity through technical reports based on scientific research (Subsecretaría de Pesca y Acuicultura). The Subpesca webpage that provides information on the *Ley de Pesca* lists some of the goals of the law, all of which related to the careful management of hydrobiological resources as an effort to eliminate the overexploitation of fish (Nueva Ley de Pesca).

The *Ley General de Pesca y Acuicultura* that Pinochet instituted in 1991 introduced the quota system, allowing fishermen to bid on quotas set within an annual limit and limitations to access and carrying capacity of ships were put in place in consideration of the overexploitation so common in Chilean waters at the time (Figueroa: 2012).

The 2012 ratifications to the *Ley de Pesca* contain more explicit rhetoric focused on the sustainable practices that must be enforced for all species of marine life for the sake of those marine resources, not merely for the economic benefit of fisheries as was one of the main focuses in the 1991 law under Pinochet. Artículo 1B of the 2012 version of the law states that “[e]l objetivo de esta ley es la conservación y el uso sustentable de los recursos hidrobiológicos, mediante la aplicación del enfoque precautorio, de un enfoque ecosistémico en la regulación pesquera y la salvaguarda de los ecosistemas marinos en que existan esos recursos,” (Ley de Pesca Numero 20.657).

In this sense, the law is written to have an augmented environmental focus based on intrinsic environmental value of marine resources, which lacked in previous versions of the law. However, the modifications to the law additionally alter the proprietorship of the fish captured, which has subsequently changed the way the fishing sector has handled marine resources.

Chile is a democratic republic and thus processes the creation of new laws by means of vote in the House of Representatives and the Senate. In October of 2012, the modifications made to the *Ley General de Pesca y Acuicultura* passed a Senate vote 25 to 9 bringing the law to life, though it faced controversy even prior to its approval, an aspect that will be discussed in coming pages (Senado Aprueba Idea: 2012).

Several members of the Senate who voted in favor of the law were faced with critique for their participation in businesses involved in, or related to, the industrial fishing sector; the law gives the fishing licenses to the large-scale businesses in the fishing industry and secures that right in perpetuity (Senado Aprueba Idea: 2012). Although this information was available to the public before the Senate vote, and those opposing the proposed law which was clearly to favor the large-scale fishing industry had held protests even prior to its approval, the law was approved—but not without bringing with it a newly termed nickname: *La Ley Longueira*.

The Vote

Thirty-four suggested modifications to the *Ley de Pesca* were proposed in the House of Representatives on July 18th, 2012 and twenty-three of those were key to the interests of the industrial fishing sector (Equipo CIPER: 2013). Some of the modifications proposed were approved, carried through with in the implementation of the law, and ultimately augmented the modes of sustainability within the fishing sector. The House voted in favor of articles 153 and 154, which support the creation of *Comités Científicos Técnicos de Pesca y Acuicultura*, which was an important vote for sustainability of marine resources. The ratification takes into account data from the scientific findings to determine the amount of fish legally available for capture each year (Así Votaron Los 107 Diputados: 2013). However, environmental sustainability was not the only focus.

Other modifications made resulted in the reduction of power held by the State, simultaneously benefitting the industrial fisheries and hindering the artisanal. The Fisheries Commission proposed modifications that would establish the State's claim to "*dominio absoluto, exclusivo, inalienable e imprescriptible*" of marine resources, and though the indication received a majority vote, it was turned down for not meeting the authorized quorum required (Equipo CIPER: 2013). Similarly, one modification sought to change the rhetoric that established fishing licenses given to industrial fleets "*que operan en pesquerías en plena explotación*" from "indefinite" to "temporary," (Equipo CIPER: 2013). The ratification was voted down, however it was included in the law in later proceedings and specified that the validity of the licenses would be renewable for

twenty years, clearly benefitting the industrial fisheries as the entities who hold such licenses, not the artisanal fishermen.

Further proposed ratification included extension of fishing boundaries for artisanal fishermen to be measured beginning at the most protruding part of land touching the sea; though the ratification was approved, an apparent “*error de cálculo de los diputados ‘pro-industria’*” resulted in the ratification falling through in the Senate (Así Votaron Los 107 Diputados: 2013). The approval of this ratification would have augmented fishing territory for the artisanal sector and decreased that of which for the industrial fishing companies. Increased global industrial quota of capture for smaller companies and the reservation of fishing rights of the *reineta*, or pomfret species, for only artisanal fishermen were other proposed ratifications favoring the artisanal fishing sector which were turned down (Así Votaron Los 107 Diputados: 2013).

On top of a recuperation program for artisanal fishermen and crewmen, one modification did legally secure the first mile offshore to solely artisanal fishermen of boats twelve meters in length or less. However, when compared with the economic security the industrial fishing industry gained through other ratifications to the law and the fact that artisanal fishermen were permitted the first five miles offshore with previous legislation, the weight this gain holds for the artisanal sector seems almost negligible (Morgan: 2012).

The increase in allocation of power to the industrial fishing sector not only impacted artisanal fishermen, but also hampered rights of indigenous communities in Chile. The vote to qualify a “*Definición de Pueblo Originarios*” as indigenous peoples

guaranteed the same rights as other groups “*incluidos en el mismo cuerpo legal,*” was voted majority in favor but also failed to reach the authorized quorum required.

The *Ley de Pesca* thus created a nearly ideal foundation for the industrial fishing sector to thrive; the State no longer holding sovereignty over the waters and marine resources gave ownership and access to Chilean fisheries to the seven wealthiest families in the country (Cárdenas: 2015). The Ley Longueira eliminates the State

“en su rol histórico como único asignador de derechos de propiedad, acceso y uso de los recursos marinos del país, transfiriendo este papel al mercado, mediante el sistema de cuotas individuales de pesca plenamente transables las que pueden ser vendidas, compradas, arrendadas, colocadas como garantías, e incluso heredadas,”
(Cárdenas: 2015).

All of the seven families are involved in the large-scale fishing industry and the modified 2012 *Ley de Pesca* reaffirmed their essential monopoly of not only the fishing sector, but much of the Chilean economy including the mining industry—one of the largest economic sectors in Chile. This paradoxical relationship between the artisanal and industrial fishing sectors has a deep rooted history not new to the 2012 modifications to the *Ley de Pesca*, however, and provides insight into the drastic decline in fish population over the past couple decades. Furthermore, emails were disclosed in 2015 proving foul play between high-ranking member of the large-scale fishing industry and members of the Senate, only adding to the complex history of this law (Ex Gerente de Corpesca)

The Seven Families

Thanks to the ratifications made to the *Ley de Pesca* in 2012, seven families were privileged with the free exploitation of marine resources in Chile in perpetuity (Cisterna: 2012). The families include: Angelini, Sarquis, Stengel, Cifuentes, Fernández, Izquierdo and Santa Cruz (Ruiz: 2012). The Angelini family and its company Grupo Angelini operates not only in the fishing industry as owner of Corpesca, but also has ties in the mining, energy and forestry industries (Company Overview of Grupo Angelini: 2016). Grupo Angelini was started by Anacleto Angelini, an Italian-born businessman who began a life in Chile after WWII (Bernstein: 2007). Although Angelini moved to Chile with only \$100 to his name, he quickly made himself known in the business world, ultimately finding the bulk of his financial gain during the Pinochet regime due to the widespread privatization; Angelini had already gained control of a large minority share in Copec, a conglomerate “with holdings including gas stations, mining interests, shipyards, forestry products and insurance,” and quickly thereafter invested in fishing fleets (Bernstein 2007).

The Stengel family who founded Pesquera Bío Bío—later fused with fishing company Camanchaca of the Fernández and Cifuentes family— was started by Walter Stengel, a German immigrant who brought his family to Chile in 1955 (La Exitosa Pesca: 2006). His sons have since taken leading roles in the business and Pesquera Bío Bío makes hundreds of millions of dollars in sales each year (La Exitosa Pesca: 2006).

Jorge Fernández Valdés and Francisco de Borja Cifuentes Correa control Camanchaca, an industrial fishing company, which makes around \$400 million a year

and is the second largest producer of fishmeal in the country trailing only behind Grupo Angelini (Salvo: 2016).

The Sarquis and Yaconi-Santa Cruz families own Blumar, one of the most powerful fishing companies in Chile, which produces fish products for not only Chile but countries around the world (Blumar). Grupo Yaconi-Santa Cruz was founded in the 1970s by Manuel Santa Cruz, Hugo Yaconi, Jaime Santa Cruz, Mario Vinagre and Ernesto Noguera and began as a construction and gas distribution company (El Gran Salto: 2007). Jaime Santa Cruz became president of fishing company Pesquera El Golfo in the 1980s and has since grown to control a large portion of the salmon fishing industry in the country (El Gran Salto: 2007).

Last but not least, Alimentos del Mar S.A. (Alimar) is owned and operated by the Izquierdo-Menéndez family. Roberto Izquierdo Menéndez, president of Alimar, previously held the presidency of Sonapesca⁵ and prior to that was president of the Asociación de Industriales Pesqueros (Asipes), which is a trade-union of the industrial fishing sector (Roberto Izquierdo, Presidente: 2015).

These seven families, which are fused into three of the largest conglomerates in the country, “*controlan nada más y nada menos que el 76% de la capacidad pesquera industrial del país,*” and because of the new law, the families have shared gross profits of at least \$3 billion annually through free exploitation of the sea’s resources, putting on the backburner the financial and environmental concerns of the rest of the nation (Cisternos: 2012). It has been estimated that if the State were to lead an attempt to

⁵ The Sociedad Nacional de Pesca is an industrial labor union.

regain control of marine resources, multiple millions of dollars in compensation to the families would be required. The law thus created for the government a deep financial pit nearly unimaginable to dig out of considering the wide-reaching power held by the families (Cisternos: 2012). The information disclosed regarding transfers of large sums of money to members of the Senate thus made it even more challenging for the Chilean government to keep appeased its people in the midst of such a scandal.

The Scandal

As was speculated from the initial approval for the modifications to the *Ley de Pesca* in 2012, corruption infiltrated the Senate vote by means of bribery from corporate networks, which ultimately resulted in charges against three politicians from Tarapaca, home of the Corpesca company (Cárdenas: 2015).

In 2015, emails were disclosed showing discourse between Longueira, representatives of the seven industrial “cartel” families which control the majority of the fishing industry, and employees of Undersecretary of Fishing and Aquaculture at the time, Pablo Galilea (Corrupción En Ley Longueira). The emails reveal payments made between the aforementioned parties, which in part resulted in the approval of the aspects of the 2012 *Ley de Pesca* with ratifications to the law explicitly favoring the industrial fishing sector and, more so, the seven families involved.

After a meeting was held to discuss the terms of the proposed law, political operator of the Sonapesca at the time, Hector Bacigalupo, sent out summary emails to the large fishing companies that had been present in the dealings and later benefited from the law (Corrupción En Ley Longueira). The emails included a summary of the negotiations held between Longueira, Galilea, Francisco Mujica—general manager of Corpesca, property of the Angelini family—and representatives of the remaining six families aforementioned.

Bacigalupo mentions the principal points from the meeting as indicated by Longueira: “*que 100% de los permisos de pesca se transformarían en licencias de pesca plenamente transables y divisibles,*” adding later that 50 percent of the licenses would have indefinite limits to their termination and 50 percent remaining would be for

a time period of twenty years (Corrupción En Ley Longueira). In other words, 50 percent of all fishing licenses in Chile were given in perpetuity to these seven families heavily involved in the industrial fishing sector and the remaining 50 percent, also given to the families, would remain in their proprietorship for the next twenty years at least.

The email states that this model “*tiene mérito*” and claims the incentive to be the sustainability and recuperation of fisheries, “*por lo cual tendrá amplio apoyo,*” (Corrupción En Ley Longueira). It adds that neither the artisanal fishermen lose anything since “*se asegura el fraccionamiento ganado,*” nor do the industrial fishermen because they are secured their current levels of capture (Corrupción En Ley Longueira). The disclosure of these emails was not the first sign of corruption involving the *Ley de Pesca* and were an essential addition to the case made against the just nature of the law.

The emails only placed a cherry on top of an already suspicious Chilean people. Two years earlier, information about member of Congress Marta Isasi submerged, merely a year after the *Ley de Pesca* passed through Congress. After the approval and implementation of the law, it came to light that payments had been made to Isasi by Corpesca before the completed processing of the *Ley de Pesca*. In 2013, ex-adviser of Isasi, Georgio Carrillo Vercellino, came forward to La Fundación Centro de Investigación Periodística (CIPER)⁶ and admitted to having “*hecho mal uso de dineros correspondientes a asignaciones parlamentarias*” under direct order of Isasi (Ex asesor de diputada 2013). After he admittedly carried out studies for Corpesca—the largest

⁶ CIPER is an institution claiming independence from economic or religious affiliation whose stated mission is to provide investigative reports of the highest professional standard to contribute to the attainment of a more transparent relationship between the Chilean government and its people (Acerca de CIPER).

extractive fishing company in Chile and also the main fishing company of Grupo Angelini, beneficiary of 25 percent of national fish yields— Vercellino received \$25 million from the company, which was to be directed toward Isasi before the *Ley de Pesca* was voted upon in 2012 (Ex Asesor de Diputada 2013).

Once Vercellino came forth with this information, CIPER reporters called Francisco Mujica Ortúzar, general manager of Corpesca, who admitted to having paid Vercellino. Mujica stated that the payment to Vercellino was “*una de las tantas asesorías que nosotros pagamos por investigaciones pesqueras,*” (Ex asesor de diputada 2013). In addition, he recognized that the president of Corpesca, Roberto Angelini, supported Isasi’s campaign. Ortúzar stated that the finances directed toward Isasi were part of a relationship already held with her, not a persuasion effort to direct her vote in the approval of the *Ley de Pesca* and added that the support Corpesca has provided to other members of Congress has always been done in a legal manner (Ex Asesor de Diputada 2013). However, when the CIPER investigator asked which others Corpesca had supported, Ortúzar refused to answer.

During the session held in the House of Representatives regarding the ratifications to the *Ley de Pesca*, Isasi opposed several that did not directly favor the large-scale fishing industry. For example, she voted against the proposal of the State holding absolute dominion over marine resources and against the suggested annual quotas to be set for species in determined areas (Ex Asesor de Diputada 2013).

After a series of investigations, CIPER found that some members of Congress such as Isasi had been capitalizing on loopholes in the system as a way in which to augment their personal income. Discretionally directing funds into the bank accounts of

advisers on a monthly basis, Congress members can avoid taxation and can pocket funds illegally (Ex Asesor de Diputada 2013). In 2009, 8.5 percent of the \$13 million that members of Congress receive to pay advisers, phone bills, and rent for buildings was entered into bank accounts of two advisers that, according to the CIPER investigation, did nothing for the parliament. Two advisers of Congresswoman Claudia Nogueira were found having transferred money back into a bank account of Nogueira after she had directed funds their way (Ex Asesor de Diputada 2013). Congressmen Julio Dittborn and Jorge Sabag were also found to have committed similar acts under the investigation. When CIPER reached out to Isasi, she claimed none of the money received from Corpesca was ever used in her last congressional campaign, noting the fact that she had to sell two of her apartments in Iquique due to her economic situation being “*tan débil*,” (Ex Asesor de Diputada 2013).

Public knowledge of the bribery from Grupo Angelini resulted in the immediate resignation of general manager Mujica, and Isasi was later charged with the crime of fraud against the State Treasury due to negligent control of her parliamentary wages (Ex Gerente de Corpesca).

Further information was released in 2016, which revealed the last-minute petition included in the *Ley de Pesca* of 2012. The “*artículo décimo séptimo transitorio*” drafted by Senators Jaime Orpis and Fulvio Rossi and included in the law by Longueira puts a “*techo*”, or cap, on the taxes that the industrial fishing sector is required to pay, an article in the law that lasted from 2014 to 2016 (Ramírez 2016). The article resulted in a large decrease in taxes paid by the large-scale fishing industry in which “*no se le cobraron tributos valorados en unos \$5.700 millones*,” nearly 82

percent of that figure corresponding to Corpesca (Ramírez 2016). According to figures calculated by Subpesca, Corpesca accumulated a total of \$5,555,000,000 in the three years, however was charged only 40 percent of that, essentially pocketing \$3,196,000,000 (Ramírez 2016).

In a document compiled by the Chilean government which summarizes all of the processes leading up to the approval of the modifications made to the *Ley de Pesca*, it is revealed that Senator Jaimes Orpis and Fulvio Rossi were the members of Congress who suggested limitations be set on the taxes paid by the fishing companies (Ramírez 2016). This proposal was made on the final day of processing of the *Ley de Pesca*, involving the congregation of a mixed commission, which analyzed the differences of opinion between the House and the Senate before deciding legal action in terms of implementing the law (Ramírez 2016). An undisclosed ex-parliamentary that was part of the mixed commission claims that the commission was more worried about whether the law “*entregaría los recursos de manera perpetua a los industriales, de definir si los recursos eran del Estado y de proteger la pesca artesanal,*” (Ramírez 2016). He added that

“[t]odo el mundo entendió que le bajaba los impuestos a Corpesca, que domina en un 90% la pesca del norte. En ese momento nadie pensaba en cohecho ni nada parecido, porque no se tenía la información que hay ahora, y aunque había un lobby fuerte de asesores y dirigentes sindicales de la empresa, la razón que se daba era evitar la cesantía. Parecía razonable, porque los impuestos le subían casi al doble a Corpesca con el proyecto original,” (Ramírez 2016).

In the northern regions of Chile, large-scale fishing provides the livelihood for many Chileans. The argument behind the approval of the law and the tax limitations set for fishing companies was that in the north especially, if the larger companies did not have

tax limitations set, there would be a huge decline in the amount of jobs those companies would be able to provide due to subsequent budgeting adjustments that necessarily be made (Ramírez 2016). According to this undisclosed source, then, the commission allegedly approved the law not out of malicious intent, but out of concern for potential levels of unemployment to come if the law, including the 40% cap on industrial taxes, were to not pass. The law was approved that day.

Orpis and Rossi refuted any claim of their involvement with Grupo Angelini, however charges of money laundering, fraud, and acceptance of bribes against Orpis led to his house arrest and in early June of 2016 and later that month he became the first Chilean politician to enter prison for a case involving corruption (Señora de Orpis: 2016). Between March of 2009 and April of 2013, Orpis received a total of \$233,000,000 from Corpesca allegedly in exchange for his vote in favor of the company (Señora de Orpis: 2016). Receiving money monthly, Orpis laundered a portion of that into his wife's accounts, a clear violation of Chilean tax law (Chile's Corrupt Fishing Law). The matter of acceptance of bribes is a grey area in the Chilean legal sphere because there was no campaign finance law in existence at the time. Current President Michelle Bachelet has since implemented a law regarding regulation of campaign financing following this case.

Orpis has maintained his claim of innocence in the matter, though he remains in prison; Rossi currently remains under investigation as one email was found linking Corpesca to the financing of Rossi's political campaign. In addition, investigation is underway as to whether or not Corpesca financed electoral propaganda in favor of a

candidate for town council of whom Rossi was in support (Fulvio Rossi En La Mira: 2016).

As the owner of Corpesca, Grupo Angelini has notoriously come to be known for catching fish under the legal size limit in the northern waters of Chile. The mackerel Corepesca catches in those parts of Chilean waters are allegedly a different type of mackerel, and thus do not fall under the legal regulations set for jack mackerel through the *Ley de Pesca* (Figueroa: 2012). The connection between the senators and Corpesca, thus, has left a bad taste in the mouths of much of the country.

Under two weeks after the imprisonment of Orpis, Longueira was placed under nighttime house arrest as authorities investigated him “for possible tax fraud and bribery” in addition to the falsification of receipts involving \$1 million received from specialty mining company SQM between 2009 and 2013 (De la Jara: 2016). SQM is a fertilizer producer supplying more than one fifth of the world’s lithium and is controlled by Julio Ponce, former son-in-law of Augusto Pinochet (Thomson: 2016).

The scandal involving Corpesca remains very much a part of contemporary national dialogue. Pablo Fernando González, a journalist for the well-known Chilean news source *El Ciudadano*, wrote an article in April of 2015 citing a similar case of corruption in Chile regarding money laundering, bribery and tax fraud for the large company Penta Group, and he states:

“Los que se beneficiaron de estos negocios al margen de la ley caminan por las calles de nuestro país en la más absoluta impunidad, mientras en un país como Suecia lo anterior generaría una crisis de gobierno y de la coalición responsable de los mismos y seguramente ocuparía todos los titulares de la prensa, en tanto que la Justicia no titubearía un segundo en ir tras los responsables, ya que es lo que en definitiva diferencia a un país controlado por la corrupción del que no lo está.” (González: 2015).

Since then, more cases of alleged governmental corruption have come to light including accusations against President Bachelet regarding involvement in the corruption investigations of her son and his wife, however she has denounced all such allegations (Vinculan a Michelle Bachelet: 2016). Thus, corruption in Chile is not limited to the *Ley de Pesca* case, however more and more it seems to have shown its presence in the past five years since the *Ley Longueira* came to be.

A Current View

The political climate in Chile has faced turbulence as many Chileans are displeased with the lack of transparency and trust between the government and the common citizen. A large basis of the discontent relates to the corruption in the *Ley de Pesca* and *Corpesca* case. The upset resulting from the modifications made to the *Ley de Pesca* was significant and sprouted protests before the modified law was even approved by the Senate (Dura Oposición: 2012). Considering Chile's long history with extraction and use of marine resources, the concentration of control as a direct result of the 2012 modifications to the law reasonably resulted in widespread upset, with protests occurring up to this day in opposition of the law.



(Pescadores Movilizados: 2016)

In September of this year, protests continued in Chile in adamant opposition of the 2012 *Ley de Pesca* due to the limitations artisanal fishermen received under the new law. With smaller quotas allowed to artisanal fishermen, the subsequent limitation on

the amount of sales they are able to make to big buyers and the overall concentration of power over marine resources, the fight to revoke the law has only gained support over the years it has been in place (Trabajadores Pesqueros: 2016).

Before the law was even approved in 2012, artisanal fishermen and others standing in opposition to the law came together in the form of protest and continued to do so for the entirety of the law's validity. The country saw the culmination point of these manifestations in early September of 2016 when the artisanal fishing sector organized a national protest for the repeal of the *Ley de Pesca*. Particularly in light of the unveiled corruption involving Corpesca and the Senate, the amount of people involved in the protest was vast (Pescadores Movilizados: 2016). Barricaded, filled streets spanned from the northern city of Arica all the way down to Valdivia, a city 1,790 miles south (Pescadores Movilizados: 2016). Miguel Angel Hernández is the president of the Federation "Nuevo Amanecer" stated that there is

“una falta de respeto que se trate de instalar un maquillaje a una ley que fue aprobada con parlamentarios que ahora están siendo juzgados por recibir dinero sucio de la industria. Nosotros estamos exigiendo la nulidad de la Ley de Pesca y no nos detendremos hasta conseguir nuestro objetivo,” (Pescadores Movilizados: 2016).

However, it's not just the artisanal fishing sector who has denounced the law as being corrupt; Emiliano Arias, ex-district attorney in charge of the Corpesca lawsuit, says the law was corrupt in its origin (Pescadores Movilizados: 2016).

Current Undersecretary of Fishing and Aquaculture Raúl Súnico stated the government has a critical view of the law but are awaiting the counsel of the FAO to see if the law adheres to the highest international standards, adding he fully respects the potential reform of the law in order to better represent the needs of the Chilean people

(Pescadores Movilizados: 2016). Súnico stated that “[c]reemos que el camino son las reformas y por eso hemos presentado proyectos de ley y estamos trabajando en estas evaluaciones, que se van a traducir en otros proyectos de ley que la modifiquen,”

(Pescadores Movilizados: 2016). Those in opposition to the law, mainly artisanal fishermen, have warned of the continuation of the mobilizations and increase in their “*algidez*”, or icy coldness, if they do not feel they have been heard by authorities.

Conclusions

As one of the countries considered part of the “Southern Cone” of the world, Chile has faced political and social involvement from Western countries—the U.S. in particular— for hundreds of years. This involvement has, inadvertently or not, made a very significant impact on the course of the country’s history. United States anti-Communist sentiments, neoliberal policies largely founded in the Chicago Boys and the executive actions of Augusto Pinochet helped to lay the foundation for the transformation of the Chilean economy into one centered on the creation of capital through privatization, and even exploitation, of natural resources.

After the transition from the military dictatorship of Pinochet to the 1990 democratic presidency of Patricio Aylwin, several politicians and government officials who had backed Pinochet’s policies remained in power and carried with them some of the ideals of the regime. The privatization of certain sectors of the economy which favor economic gains over the prioritization of conservation or distribution of national wealth remain a large influence in Chile’s national policies to this day; even post-dictatorship, much of Chile remains privatized, including public transportation and housing. Part of the impacts of such include a vast concentration of wealth in a mere seven families in Chile and, thus, a well-formed foundation for the realization of corruption within the government.

Though it is clear that many members of Congress—even those who voted in favor of the ratifications which benefitted the large-scale fishing industry— were not bought off by special interests, the unveiled truth regarding those who were swung open the door to a national conversation about the lack of transparency between the

government and its people that is still taking place today. A tendency to steer clear of explicit confrontation with the government has not become uncommon for those having lived through the dictatorship of Pinochet; the generations of Chileans who experienced first-hand the disappearance of loved ones in their communities have perhaps built up a personal defense system that involves a type of timidity toward the government that has lasted to this day.

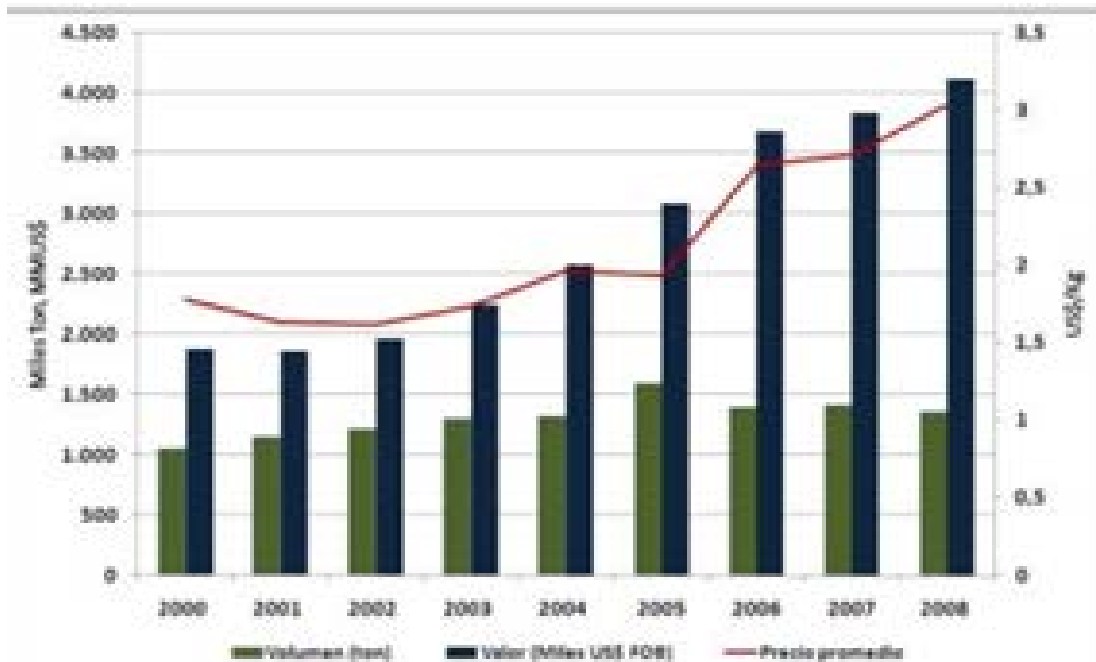
Although the 2012 ratifications to *Ley de Pesca* have not yet been repealed, the widespread discontent for the law has grown consistently over the last four years, and many foresee further modifications of the law to be made in the foreseeable future (Pescadores Movilizados: 2016). Because the annulation of laws is not part of the Chilean Constitution, the parliament does not have power to nullify the *Ley de Pesca* (Vera: 2016). However, that does not mean changes to the law cannot be made.

On September 30, 2016, Conapach organized a meeting in the city of Puerto Montt, in which leaders from around the country came to analyze some of the artisanal fishing sector's proposed reforms to the *Ley de Pesca* (Ávila: 2016). Close to 500 representatives from all over the country discussed their proposed ratifications “*que esperan sean consideradas por el Ejecutivo en una futura modificación de ese cuerpo legal,*” (Ávila: 2016). President of Conapach, Zoila Bustamante, stated that one of the organization's focuses “*es que los recursos sean de la pesca artisanal,*” and that from there more changes could be made (Ávila: 2016). Bustamante noted the lack of power the artisanal sector retained due to the 2012 ratifications made to the law:

“No queremos depender de una cuota, que cada vez es más mísera y que nos tiene sin poder subsistir. Además, propusimos en la discusión de la ley anterior que se midieran las 5 millas exclusivas desde la punta

saliente. Eso se ganó en la Cámara de Diputados y lamentablemente no prosperó en el Senado, por disposición de algunos parlamentarios que, como todos saben, la mayor parte de ellos hoy están siendo cuestionados,” (Ávila: 2016).

Considering the jack mackerel catch fell by 94 percent between 1995 and 2011, it is clear that modifications to fishing regulation in Chile are essential to not only the survival of the species but the survival of the fishing sector as a whole (Net Profits: 2012). This has not stopped exportation demands from rising, however. The following chart provided by FAO, the Fisheries and Aquaculture Department, illustrate the increase in fish and aquaculture exports between the years 2000 and 2008.



(Perfiles Sobre la Pesca)

The graph shows in thousands of tons a slight but steady increase in exportations from 2000 to 2003, a slight decrease in 2004 followed by another increase in 2005 and then slightly decreased exportation levels between 2006 and 2008 as indicated by the green bars on the left. However, as illustrated by the dark blue bars on the right, the value in

U.S. dollars has consistently increased over the eight years. This offers insight into the continued overexploitation of marine resources for the country despite the very Minister of Treasury's report from 2010, which acknowledged 70% of the main fishing resources in Chile to be in collapse or in the process of overexploitation (Morgan: 2012).

Although yield from both the industrial and artisanal fishing sectors declined between 2003 and 2008, the FAO website states this is due to "*la disminución en abundancia y/o disponibilidad de recursos pelágicos como el jurel*" and not necessarily due to changes in conservational efforts being made (Perfiles Sobre la Pesca).

As discontentment and manifestations in opposition to the 2012 *Ley de Pesca* continue in Chile, the social-political climate in the country remains a controversial and sensitive subject for many. However, the manner in which this law is addressed in the future plays a much larger role than merely helping to determine the relationship between the Chilean government and its people: the very existence of certain marine species, such as the jack mackerel, rely on the responsible management and application of the law, thus holding a stark and powerful position in the planet's natural balance in the food chain, and concomitantly in the existence of all other forms of life.

As recently as May of 2016, the islands of Chiloé experienced an unprecedented outbreak of a microalgae called *marea roja*, which left fish and shellfish populations in drastic decline and has subsequently forced the highly tourist-based economy to import shellfish from northern cities in order to sustain their livelihoods in the region (Marea Roja: 2016). There are commonly episodic outbreaks in the archipelagic region of Chiloé, however never to the extent recently reached: nearly 250 miles of ocean has been consumed by the algae (Marea Roja: 2016). Although the outbreak cannot be

sourced back directly to the fishing regulations and policies implemented by the Chilean government in recent years, citizens are making the connection. President of the Movimiento Defendamos Chiloé, Juan Carlos Viveros said that the environmental catastrophe regarding the algae has transformed into a social and economic crises (Marea Roja: 2016). Viveros drew a connection to the larger picture concerning the islands' relationship with the Chilean government; "*Ningún Gobierno nos ha comprendido nunca*" he stated, adding that the people of Chiloé feel abandoned by those in high levels of power in the government (Marea Roja: 2016). The "*terremoto ambiental*" that the islands are experiencing Viveros connects to the excessively capitalist Chile that "*solo favorece a las grandes empresas,*" (Marea Roja: 2016). Considering the country's contemporary history and fishing laws, the assertion may not be too great a leap.

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