

## **Towards improved governance of indigenous land in Chile: Challenges and opportunities regarding indigenous land rights from a systemic perspective**

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### **About Chile and its land sector**

- Unbalanced development (e.g. rural – urban) and highly unequal distribution of income
- Market has priority in decision making
- Predominantly sectorial orientation
- Serious land conflicts, e.g. indigenous lands, lack of appropriate restrictions to land use, lack of sense of social responsibility
- Out of the 16,5 Million inhabitants, 4,6% belong to an indigenous group
- Almost 90% of the indigenous population are Mapuche
- A large proportion of these live in poverty

## Research objectives

- to identify and analyse the effects of the changes occurred during history with regard to indigenous lands in Chile
- to identify key problems of the processes involved in land conflict resolution regarding indigenous land rights
- to determine potential approaches to solve these disputes in an effective manner

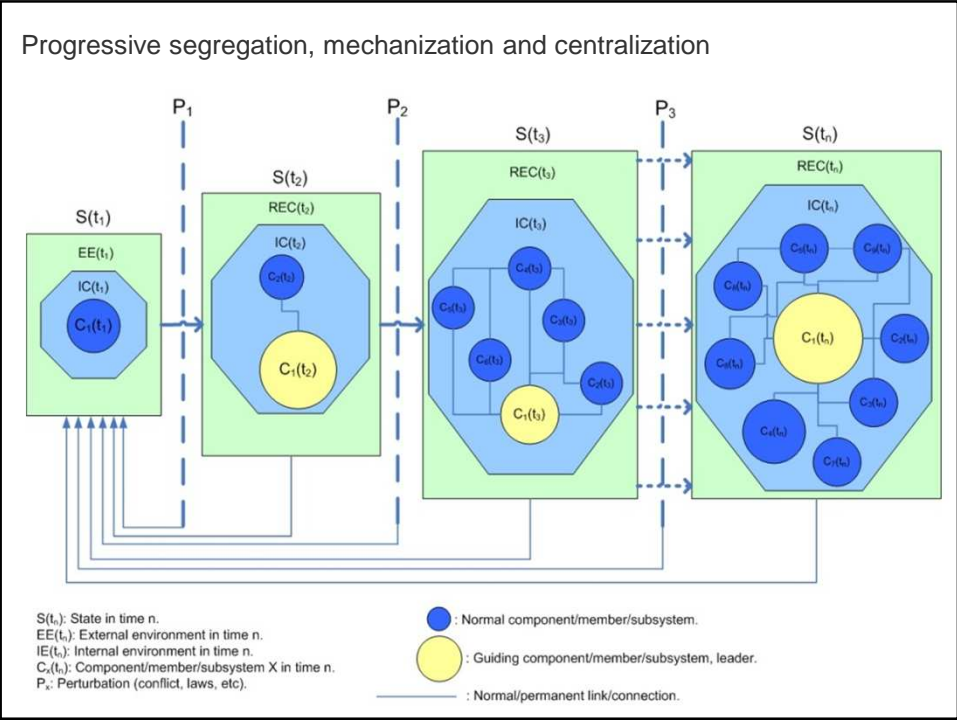
## Method

- Qualitative research
- Data collection from secondary sources as well as through personal interviews in three indigenous communities and with experts

## Some few words about general system theory

- **Progressive segregation** → the initial state is that of a unitary system which splits up gradually into independent causal chains
- **Progressive mechanisation** → increasing determination of elements to functions only dependent on themselves.
- **Progressive centralisation** → the process through which a progressive subordination of components under the guidance of more dominant or leading ones occurs.

Source: von Bertalanffy, 1968



### Some few words about general system theory (cont.)

- Progress is possible only by passing from a state of undifferentiated wholeness to a state in which there are differentiated but interlaced components.
- This implies, however, that the parts become fixed with respect to a certain action.
- Therefore progressive segregation also means progressive mechanization.
- Progressive mechanization alone, however, implies loss of regulation capacity.

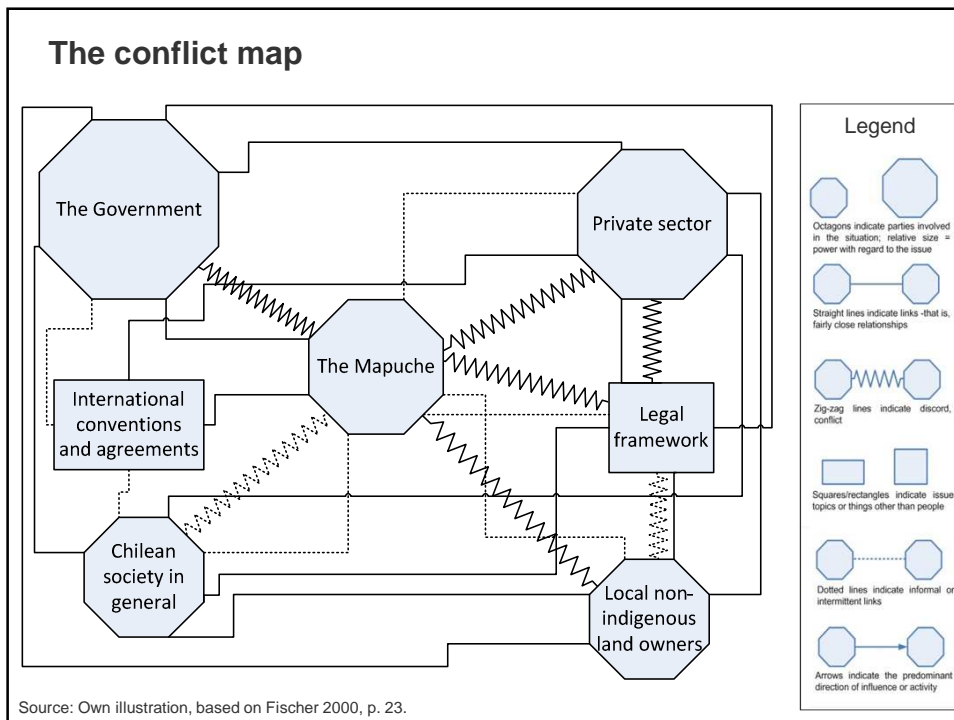
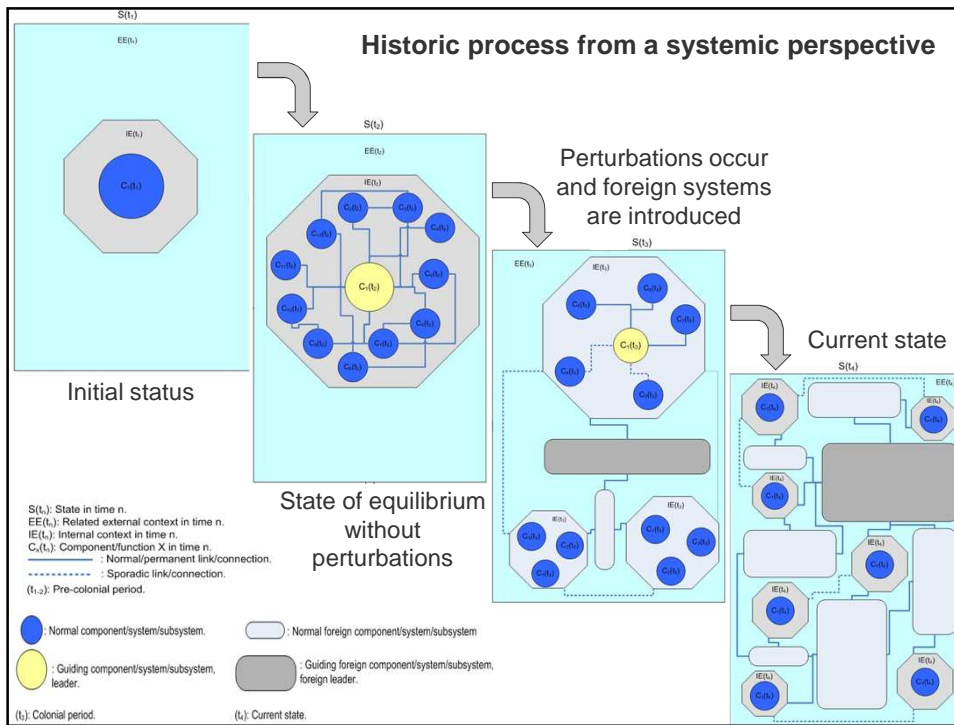
### Brief account on events across history

- Prior to the arrival of the Spanish colonizers, the *Mapuche* occupied a vast territory
- Their relation with land was not linked to individual property but to the common use rights over the available resources
- The *hacienda* and *encomienda* systems were imposed to them during the colonial period
- 1810 – 1818 → Independence from Spain
- More than two centuries of contact with Spanish colonizers, of different kind, transformed deeply the indigenous society

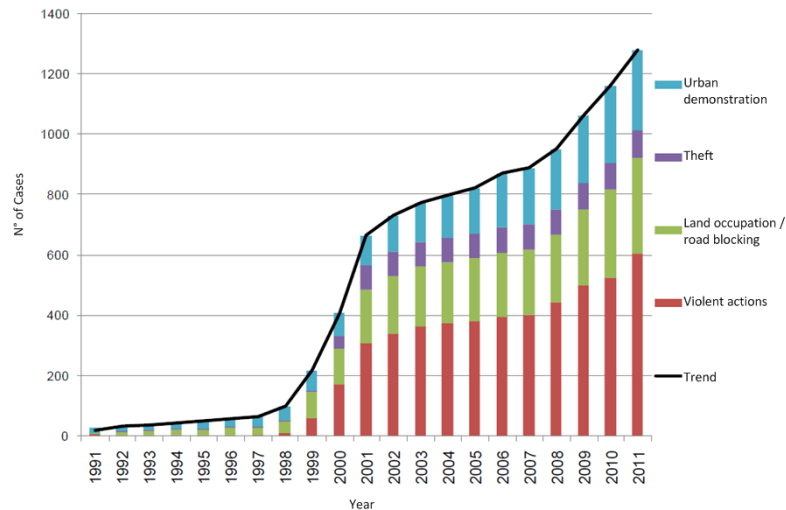
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### Brief account on events across history (cont.)

- 1819 → every indigenous person was legally equal to all non-indigenous Chilean citizens → further lost of identity
- This meant also contractual freedom and paved the way for all kinds of hardly ethical transactions.
- 1884 – 1929 → all indigenous lands were declared as state land and redistributed (*Merced* titles) to the indigenous population (6,18ha/person)
- The rest were sold in public auctions in 500ha lots for establishment of colonies of Chilean or foreign citizens
- 1927 – 1961 → Communal lands were subdivided in individual plots
- In the 1970s → Agrarian reforms and “counter” agrarian reform
- During the 1980s, the military government decreed the division of the communal lands in individually owned parcels.
- 1993 → indigenous law (creation of corporation for Indigenous development, indigenous land registry and Lands and Water Fund) <sup>8</sup>



## Number of cases of violence accumulated since 1991



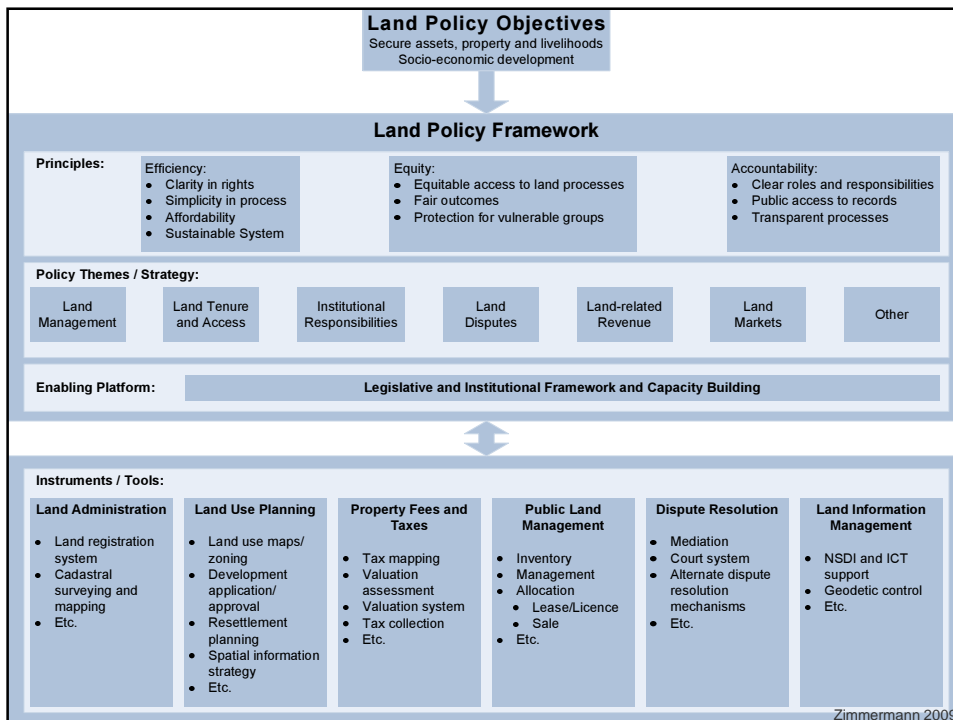
Source: Instituto Libertad y Desarrollo, 2012, p. 3; based on data from newspapers "El Mercurio" and "Diario Austral de Temuco".

## Conclusions

- There is a need to have a critical look at how the different events involved in privatization throughout history have impacted on the Mapuche and how they affected the system
- What we see today is the result of complex relationships and the results of events which ended up disarticulating the Mapuche society
- Since the process of privatisation has been harmful, this approach in land restitution should be evaluated critically
- Having a closer look to a continuum of land rights, could be an option
- The interplay of market forces and individual interests are often prioritized in decision making
- But, letting the market decide will not solve the problem

## Conclusions (cont.)

- To solve the problem there is also a need to look at the development processes, the targets and how to achieve these in a better way
- It is not only about land restitution, it is also about finding out how to restore customary arrangements where possible
- And development and implementation of instruments such as land consolidation to strengthen territorial cohesion
- There is therefore an urgent need to revise and improve the legal and institutional frameworks, particularly with regard to land rights, restrictions and responsibilities both of indigenous and non-indigenous citizens



**Thank you very much**