

Restitution in Land Markets and Social Exclusion of Indigenous Peoples

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- The paper is based on case studies from Chile and Canada using fieldwork undertaken in 2004.

- In Chile land reforms of the 1960s and 1970s were reversed under the Pinochet government and the property of those considered to be enemies of the state was expropriated.

- Also issue of claims for restitution by native groups seeking to recover land lost during colonialisation. Their experience is compared to how aboriginal groups have sought to recover property in Canada, which has a different legal system and political heritage.



Map of Chile showing location of Araucania



Map of Araucania



Table 1. Some divergent views that differentiate the attitude that indigenous peoples hold towards the environment from the view held by the West.

Indigenous peoples' culture	Based on the collective	Non-intensive use of the environment	Balanced and reciprocal interaction with the environment	Protection and preservation of ancient species and of the environment
Western culture	Based on the private	Utilitarian use of the environment as a source of wealth	Systematic and intensive exploitation conducive to accumulation	Destruction of ancient and sacred species replaced by exotic species for commercialisation



Natural habitat at Pidima, in the IX region of Chile, where isolated members of the indigenous Mapuche minority live in an increasingly hostile environment fighting for access to their patrimony





One of a network of newly-laid roads cut through the ancestral Mapuche lands planted with eucalyptus in the IX Region of Chile.



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Aerial photograph showing ancestral Mapuche land in the IX Region of Chile. Clearly identifiable in the photograph are the network of roads which cut through land appropriated from the Mapuche for the plantation of fast growing exotic species. The empty and barren land which is left behind when these have been cut down for commercial exploitation can also be seen.



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Author with Mapuche interpreter in August 2004 outside the Traiguén Prison in the IXth Region of Chile. The prison houses Mapuche leaders, who have been sentenced under the Pinochet-era anti-terrorist laws being applied to indigenous peoples protesting for the restitution of ancestral land.



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Breaches under International Law

Article 3.1 of the United Nations Declaration on the Rights of Persons Belonging to National, Ethnic, Religious or Linguistic Minorities of 1992, special provision is made for the following:

That persons belonging to minorities will be able to exercise their rights, including those contained in this Declaration, either individually or as part of their community with the rest of the members of their community, without any discrimination”.



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Further breaches in Law

- Furthermore, in Article 4.1 of the said Declaration, it is stated that:

“States are called upon to adopt necessary measures to guarantee that persons belonging to minorities can fully and efficiently exercise all their rights”.

- The above is a provision contained also in the Pact on Civil and Political Rights, which under Article 9.2 makes further provision for

“All persons whom are detained to be informed about the reason for the detention and notified without delay of the accusation made against them”.



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- Article 3.1 of the United Nations Declaration on the Rights of Persons Belonging to National, Ethnic, Religious or Linguistic Minorities of 1992;
- Article 4.1, and under Article 9.2 of the Pact on Civil and Political Rights contained in recommendations made by the Sub-commission for the Prevention of Discrimination and the Protection of Minorities set out in 1957 by the United Nations Human Rights Commission, were also found to exist.



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Recent newspaper report about Mapuche migration due to poverty resulting from the depletion of the natural habitat. The photo shows exotic plantations encroaching on peri-urban areas.



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Newspaper alleging that forest fires have been caused by Mapuche



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Recent newspaper article reporting demonstrations in support of imprisoned Mapuche on hunger strike



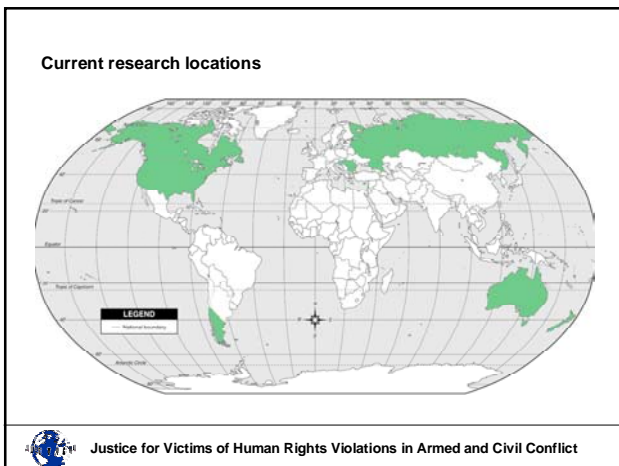
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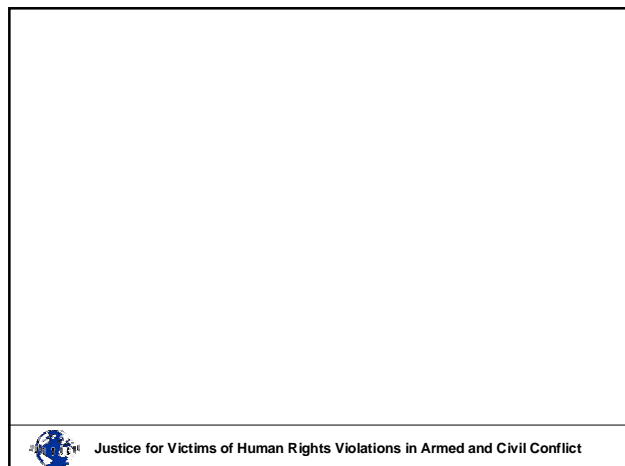
President Lagos declaring that the Chilean Government will root out the "violentistas". The newspaper reports that human rights lawyers and non-governmental organisations, like Human Rights Watch, are calling for the condemnation of the Government over its treatment of the Mapuche.



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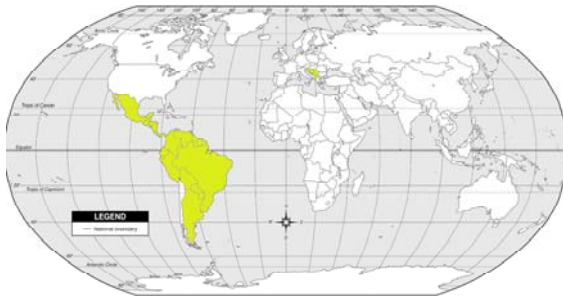


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Future research locations



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