

## TRUTH, JUSTICE AND LEGAL IMPUNITY: DEALING WITH PAST HUMAN RIGHTS VIOLATIONS IN CHILE\*

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### I. INTRODUCTION: HUMAN RIGHTS IN DEMOCRATIC TRANSITIONS

Dealing with past human rights violations has been a difficult issue in various Latin American democratization processes. Within the academic and political field of “transitional justice”, similar questions have been asked in various countries in Latin America and elsewhere. Under what circumstances can perpetrators be prosecuted? When is reconciliation and pardon possible? Should truth and justice be sacrificed so that fragile democratization processes are not undermined?<sup>1</sup>

Even though Latin American transitions from military to civilian rule took place mostly during the 1980s, impunity still continues to place many restrictions on democracy in various countries of the region. The reproduction of impunity works through both formal and informal mechanisms. In Chile, a country with a relatively legalistic political culture, dealing with the past during civilian rule has been strongly conditioned by the legal framework created by the military regime (1973-1990).

The Chilean Constitution of 1980 and the amnesty law of 1978 are shielded by various mechanisms created to “protect” democracy. When the possibilities for judicial prosecutions were greatly limited, the new civilian government of Patricio Aylwin (1990-1995) decided to put more emphasis on extrajudicial means of dealing with the past. The *Comisión Nacional de Verdad y Reconciliación* (CNVR, National Truth and Reconciliation Commission), which was working during 1990-1991, was an important mechanism that despite its various limitations helped to establish some shared understandings of the repressive era. The CNVR, known as the Chilean Truth Commission, has also been used as a partial model for some later democratization processes such as the South African one.<sup>2</sup>

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Nevertheless, as the turmoil related to the detention of Augusto Pinochet in London in October 1998 has revealed, dealing with past human rights crimes in Chile continues to face complex problems. In September 2000, after the return of Pinochet to Chile six months earlier, and especially after first the Appeals Court of Santiago, the Supreme Court of Chile decided to strip Pinochet of the immunity he enjoyed as life senator. With verdict, the system of impunity created by the military government is in more trouble than ever.

In this article, I shall analyze the significance of truth and reconciliation policies in the Chilean democratization process. Through a historical analysis, I intend to provide elements that may help us explain and understand some of the difficult choices that Chileans, as well as many other Latin Americans from Argentina to Guatemala, still need to make when confronting past human rights violations. The Chilean case is important because it shows quite clearly how formal and informal governance structures created during military dictatorship can still survive after a transition to civilian rule. Even though it may be too early to predict the results of the new legal and political possibilities to prosecute human rights violators in Chile, it also shows that a combination of transnational and local legal instruments can indeed be effective in struggles against impunity.

## II. HUMAN RIGHTS DURING THE MILITARY GOVERNMENT

### Historical Background

For much of its independent history, Chile has been considered to have one of the most stable institutional frameworks in Latin America. Since the drafting of the constitution of 1833, the rule of law and periodic elections have been much more characteristic of Chilean politics than for Latin America in general. It has also had one of the region's most stable party systems.

There exists a strong verbal commitment to legalism in the Chilean political culture. The acceptance of established legal procedures is often characterized as one of the particularities of Chilean politics. There have, however, been various deviations from this supposed ideal<sup>3</sup>. The most infamous of them started in September 1973, when the armed forces led by General Augusto Pinochet deposed the socialist government of Salvador Allende (1970-73).

It would be beyond the objectives of this article to analyze the enormous political and academic debate on the reasons that led to the *coup d'état* against Allende. He had declared that he wanted to move along the

"Chilean road to socialism" where individual liberties would not need to be restricted. The coalition *Unidad Popular* (UP, Popular Unity) that Allende in principle headed had various internal disagreements, and the situation amongst the left was also complicated by the existence of groups that wanted to advance towards the goal of socialism through armed confrontation. After the military coup, the "armed danger" presented by the far-Left was generally exaggerated by the military rulers in order to justify repressive measures against a supposed threat to national security.

Allende had received no more than 36.2 percent of the votes in 1970 when he was elected, but the electoral support of the UP grew in the municipal elections of 1971 to 48.6 percent. Even if the last year of the UP government is often characterized as very chaotic, it was able to secure 43.9 percent of the votes in the parliamentary elections of March 1973 (Boeninger 1997:184). The judicial institutions in general, and the Supreme Court in particular, were increasingly critical of the Allende government. In May 1973 the Supreme Court declared that the rule of law in Chile was in crisis.

Compared to many of the neighboring countries, the armed forces of Chile had relatively little involvement in governmental matters since the 1930s. According to some commentaries, in 1969 the majority of the military personnel were sympathetic to political views that could be characterized as "center-left" (Ibid:1997:205). The cold war campaign by the US government to make Latin American military leaders as anticommunist as possible was, of course, having a deep impact on the opinions of the armed forces, and the doctrine of national security was clearly present in the military establishment during Allende's government. It also needs to be remembered that the Chilean armed forces had an aura of invincibility, based on their victories in the wars of the 19<sup>th</sup> century.

One of the most debated issues as regards the fall of Allende is the role of the US government. There is plenty of evidence that the CIA was supporting various right-wing organizations and the military was connected to the US government through many bonds. Even if it does not necessarily follow that the US government took actively part in the coup, its direct and indirect role should by no means be belittled. After the detention of Pinochet in London, the Clinton administration decided to declassify various secret documents revealing new information on the role of the CIA. Even if in September 2000 there are visible disagreements between various US agencies on the extent of the declassification process, the new information will most probably be useful in future judicial processes within Chile.<sup>4</sup>

## Repressive Measures

According to the ideologues of the military government, demagoguery, populism and other problems of governability could only be avoided by having a sufficiently authoritarian government. After a period of unspecified length that would be needed to restore the governability with a strong hand, Chile would become a "protected democracy"<sup>5</sup>. Even though the first military leaders stated that there could be a return to democratic institutions after a three-year interregnum, it soon became clear that the military was planning a long-term project to reorganize Chile along the capitalist lines proposed by the economic policy group nicknamed as *los Chicago Boys*.

The military government's first economic policy group headed by Raúl Sáez had advocated a rather state-centric development model. One of the fundamental difficulties with Sáez was that he had emphasized in government meetings that the "human rights problem" was seriously affecting the government's possibilities to get external resources. The Chicago group took a much more pragmatic attitude towards the issue: human rights were a political issue while they would only deal with economics<sup>6</sup>.

The human rights problem was certainly present and caused a rapid deterioration of the military regime's international image. During the first months after the coup, there were massive violations of human rights and also some confrontations between the state security forces and the armed groups resisting them. The importance of the armed opposition was constantly exaggerated by the military in order to justify repressive measures. According to the defenders of the new regime "armed resistance by the Marxists" carried the main – if not the only – responsibility for the use of violence (cf. Cox 1974:205-306).

The assassinations carried out by the military regime were mostly targeted at lower and middle ranking activists and people from popular sectors. Whereas the more visible leaders who did not want to (or manage to) escape were often sent to the prison camps of the infamous Dawson Island, or forced into exile. By the end of 1973, an estimated 1800 people had been killed by the security forces or "disappeared"<sup>7</sup>. The act of disappearing a person whose body will never be found has particularly cruel consequences on the victim's family. At the same time it is an effective method of not letting the presence of the terror and the corresponding fear be forgotten.

One of the most feared groups of the military government, the *Dirección de Inteligencia Nacional* (DINA, National Intelligence Agency),

was created in June 1974<sup>8</sup>. It was responsible for a systematic campaign of detaining, torturing and murdering people that it considered as threats to national security. It was dissolved in August 1977 after it had been publicly associated with the murder of the ex-Foreign Minister Orlando Letelier and his colleague Ronnie Moffit, a US citizen. The fact that the assassination was executed through a car bomb in Washington D.C. seriously deteriorated Pinochet's relationship with the Carter administration (Varas & Orrego 1990). In September 2000, the declassified US documents revealed that Manuel Contreras had cooperated closely with the CIA while being Director of CIA. This suggests that the US policy makers may have had various internal disagreements over Chile in the 1970s.

In March 1978 the government decreed an amnesty law which was presented as a reconciliatory gesture. Although it favored some opposition politicians who had been condemned for various charges of terrorism, its main impact was clearly to protect ex-agents of the dissolved DINA and other persons involved in the repressive measures. In the military discourse, the amnesty law symbolized a transition from a period of civil war to a period of institutionalized authoritarianism (Boeninger 1997:279, Moulian 1997:237-238). The U.S. pressure was an important factor in making sure that the assassinations of Letelier and Moffit were explicitly excluded from the amnesty law<sup>9</sup>.

Many of the DINA's tasks were taken up by the new *Central Nacional de Informaciones* (CNI, National Information Office), but initially there was a clear decrease in the intensity of human rights violations. Even though the "soft-liners" got more power inside the regime, there were few signs that the military might consider stepping down in any foreseeable future. The repression was again intensified in the 1980s, partly as a response to the growing popular mobilization and the decision of some opposition groups to initiate armed activities against the regime<sup>10</sup>. During the Reagan administration's policy of "silent diplomacy" in the early 1980s, there was also less fear that repressive policies would be met with sanctions from the United States (Frohmann 1996:238-256).

### **Opposing the Human Rights Violations**

While the right-wing parties took a strong position in favor of the military government, the outlawed Socialist Party and Communist Party along with smaller left-wing parties and groups were clearly in opposition; the role of the Christian Democrat Party was at first rather ambiguous. During the first months after the coup some of the leading Christian Democrats expressed their support to the "return to law and order". The

proofs of massive human rights violations were one of the main factors that soon led most Christian Democrats to oppose the new regime (Retamar Avila 1990).

Since most of the political parties were made illegal and a large number of their leaders either exiled, imprisoned or murdered, much of the political work was made in the human rights organizations. One of the most significant organization was the *Vicaría de la Solidaridad* (Vicariate of Solidarity), founded in 1976 by the Cardenal Silva Henríquez. Compared to some of the neighboring countries, the Catholic Church in Chile took a relatively critical stance towards the military regime even though the military continuously presented itself as the savior of Christian values. The fact that the Vicaría was working within the church shielded it from the worst attacks of the military. It was able to collect an important archive on human rights violations, which became one of the main sources of information for various attempts to clarify the mode and scope of repressive measures in Chile<sup>11</sup>.

Other human rights groups included the *Comisión Chilena de Derechos Humanos* (CCHDC, Chilean Human Rights Commission) and the more radical *Comité de Defensa de los Derechos del Pueblo* (CODEPU, The Defense Committee of People's Rights). The opposition in general had some internal problems in the human rights movement. Some of the other movements found the role of the more radical CODEPU problematic. There were fears that if the military associated other human rights movements with CODEPU, then repression against all groups would increase. Similar attitude was sometimes also visible in the ranks of the Christian Democrats. Many of their leaders thought that it would be easier to negotiate with the military if they could not be accused of cooperating with the communists and the socialists<sup>12</sup>.

There was also an armed opposition that was to a large extent destroyed during the first months of the military regime. In 1980, the Communist Party started emphasizing armed struggle as a viable political option, especially through the armed group closely related to it – the *Frente Patriótico Manuel Rodríguez* (FPMR, Manuel Rodríguez Patriotic Front). Other armed groups included *Movimiento de Izquierda Revolucionaria* (MIR, Movement of Revolutionary Left) that had been promoting armed struggle from the beginning of the military regime, and the smaller *MAPU Lautaro*.

### III. TOWARDS A NEGOTIATED TRANSITION

#### The Constitution of 1980

In 1980 the military government established a new constitution<sup>13</sup> It contained many formal democratic elements, but they would become effective only after the transitional period. The initial transition was for a period of eight years, after which there would be a plebiscite on a single candidate presented by the military. If the candidate received a majority, the dictatorship would continue for another eight years. In the case the majority voted "no" against the candidate, there would be a general election within a year and the country would, as the statement goes, return to democracy. This democracy, as stated by one of the most important persons behind the formulation of the constitution, Friedrich von Hayek, could not be "unlimited"<sup>14</sup>.

The 1980 Constitution contained various measures created to "protect" democracy even after the transition. Although most Congress members were going to be chosen through open electoral competition, 28 percent of the Senators would be designated by the military and other institutions initially controlled by people sympathetic to Pinochet. The establishment of a binominal electoral system also obstructed making any radical changes in times of formal democracy. The system would make it very difficult to secure qualified majority in the parliament, even for a coalition that gets a clear majority of the votes<sup>15</sup>. In other words, the constitution created efficient mechanisms for making the socioeconomic changes carried out by the military government as irreversible as possible. Simultaneously, it created serious obstacles for any future attempts to overcome the amnesty law of 1978.

The new constitution became an increasingly important and highly debated issue for the opposition. At first, it was out of the question for the majority that a constitution created by the dictatorship could be a basis for negotiating a transition to a popularly elected government. While the more radical opposition did not want any kind of compromise with the government, the more moderate sectors started making democratization proposals to the government. Even though these proposals differed in many ways from the constitution, they made it clear that one part of the opposition was willing to accept at least some of the transition rules established by the government.

One of the turning points in this regard was the unsuccessful assassination attempt of Pinochet by the FPMR guerrilla in September 1986 at which time five of his escorts died. Soon afterwards, a document

written by José Joaquín Brunner started circulating amongst the moderate left. The document took the failure of popular mobilizations for granted and stated the need for taking distance from the armed opposition and proposing a negotiated settlement with the military. This settlement, it added, "could not be found outside the conditions created by the constitution of 1980" (Moulian 1997:334).

The Christian Democrats and the Socialists became gradually convinced that taking part in the plebiscite would be the best possibility to change the regime. In July 1988 even the Communist Party called its supporters to vote. It did not seem possible to obtain free elections through any other method than the plebiscite; nor was it likely that one could depose the government through the use of force.

### **Human Rights Violations as an Issue in Transition**

When preparing for the plebiscite, the opposition parties changed their political rhetoric to avoid raising fears that democratization would mean chaos and confrontation. Especially for the Christian Democrats, it was important to find a way of dealing with the human rights problem in a way that would be acceptable to the military (Boeninger 1997:330). As a result, they started presenting human rights issues "as a demand to encourage pacification and depolarization rather than as a demand for punishment" (Correa 1995:455-461). According to one of the most influential Christian Democrats, Edgardo Boeninger, the advice given by the US-based National Democratic Institute and the National Endowment for Democracy was important in making the decision that past human rights violations should be treated with moderation (Boeninger 1997:343).

After the somewhat surprising victory over Pinochet in the plebiscite<sup>16</sup>, the triumphant Coalition for a "no" decided to reconstitute itself as *Concertación de Partidos por la Democracia*. It was quite evident that having defeated Pinochet in the plebiscite, the Concertación would have no major difficulties in winning the following parliamentary and presidential elections in 1989 as well.

Now that it needed to make a more detailed electoral program, the Concertación had again many difficulties in deciding on how to deal with past human rights violations. It finally came out with a carefully worded program that emphasized the need for establishing the truth in the cases of human rights violations that had occurred during the military regime. Even though the Communist Party was excluded from the Concertación, one reason for emphasizing electoral references to a willingness to investigate human rights crimes was to secure the communist vote (Boeninger 1997:361).



The judicial trial of atrocious crimes was also stated as a goal, though the attitude of the program towards the amnesty law of 1978 was rather ambiguous. The Concertación parties committed themselves to efforts to derogate or nullify the law, but often added that "these efforts had their natural limits in the very stability of the political process" (Correa 1995).

Despite the relatively moderate formulations, the armed forces expressed their dislike for the human rights parts of the electoral program. The risk of a new coup was not considered very high, but the fear of some kind of backlash was constantly haunting the opposition. In Manuel Antonio Garretón's terms, there existed a "reciprocal blackmail" between two competing logic that tend to be present when past human rights violations have to be faced in democratization processes. According to one logic, a radical solution of prosecuting as many perpetrators as possible may lead to an authoritarian regression. Therefore, it is advisable to be very cautious. On the other hand, not doing enough to resolve the issue of past human rights violations may lead to a serious lack of legitimacy of the new government (Garretón 1996:39-56). This dilemma was present in Chile from the beginning of the transitional period.

### **Reformed Continuity**

The military government promised the Concertación parties that it would not attempt to change the constitution through any unconstitutional procedures. After the triumph of the "no", it soon became obvious for important sectors of the regime that if no changes were made, the legitimacy of the constitution would fall so low that the future democratic government might call for a constitutional assembly to draft a totally new constitution. Consequently, the military government and the Concertación negotiated a set of changes to the Constitution of 1980. The government did not accept many of the changes proposed by the Concertación, and the result was much more modest than what many democratic politicians had hoped for. One of the main changes was the lifting of the ban on Marxist parties. The percentage of the designated senators was also diminished from 28 percent to 19 percent. However, most of the restrictions on full electoral democracy were maintained. The reforms were accepted by 88 percent of the voters in a referendum in July 1989.

An important addition to the constitutional reform of 1989 was the incorporation of international human rights treaties to the constitutional order. Various right-wing politicians lamented the decision, amongst them Sergio Fernández who stated that "by elevating international human rights treaties to the constitutional rank, the country imposed on itself an

unnecessary obligation" (cited in Boeninger 1997:365). In retrospective, his statement could be seen as a precedent of the arguments that various Chilean right-wingers would later use during Pinochet's detention in London. In 1989, some of the defenders of the military regime saw in the reforms the beginning of the end for the system of "protected" democracy. At the same time, others considered the modest reforms to be part of a strategy to change something so that nothing would change.<sup>17</sup>

#### IV. THE TRUTH COMMISSION

##### **The Founding of the Truth Commission**

Finding out the truth about past human rights crimes was one of the announced priorities of Patricio Aylwin when he inaugurated his presidency in March 1990. He had been elected with a clear majority and the Concertación had also won the majority of the votes for both houses of the Congress<sup>18</sup>. Because of the constitutional and other mechanisms created by the military government to "protect" democracy even after the transition, it was, however, difficult to establish an effective majority rule<sup>19</sup>.

Aylwin's preferred method of dealing with past human rights violations would have been to let courts investigate the crimes in judicial trials, even if the amnesty law of 1978 meant that most violators would have been automatically pardoned. Aylwin argued that a judicial investigation would have been a necessary condition for applying for amnesty. If no one was found guilty, no one could be granted amnesty either. The problem with this approach, which soon came to be known as the "Aylwin Doctrine", was that the Supreme Court interpreted the amnesty law in such manner that no judicial investigation at all was permitted<sup>20</sup>.

The Chilean legalist tradition and the fear of strong military pressures both contributed to the fact that the government did not want to derogate the amnesty law through procedures not permitted by the Constitution. It would have been equally difficult to disobey the decision of the Supreme Court. The fact that the chosen economic policy depended greatly on investor's trust on the government was another issue that should be taken into account. The civilian government's desire to maintain the socioeconomic program institutionalized by its military predecessor was an important factor that contributed to the "timid" approach to the human rights issue<sup>21</sup>.

The possibilities for derogating the law through constitutional means was also little, because the drafters of the Constitution had created various

obstacles for any major legislative changes. Even though the democratic coalition had a majority in the Parliament, almost one-fifth of the senators in the Senate had been nominated directly by the military regime. As a result, the right-wing coalition of the Senate was able to block any bill it disliked<sup>22</sup>.

In this context, a truth commission with no judicial powers was selected as the possible alternative for establishing an official account of the human rights violations. When it became clear that the Senate would not accept a legislative proposal to establish a truth commission, Aylwin decided to create it through a presidential decree in April 1990<sup>23</sup>. Apart from clarifying the "overall truth" (*Esclarecimiento global de la verdad*) about serious human rights violations during the military regime, the Truth and Reconciliation Commission (CNVR) was given the task of recommending measures to achieve justice and prevent future violations.

One of the most debated issues was the decision that the CNVR would only investigate such violations that led to the death or permanent disappearance of the victim. A justification for this decision was that the military government had always denied killings and disappearances, but not imprisonment and exile (Zalaquett 1992:1425-1438). The exclusion of individual cases of torture<sup>24</sup> from the agenda of the CNVR especially caused angry reactions from many human rights groups. As one victim of torture later noted that it would have been better for his family that he had been killed, because then his family would have received some assistance<sup>25</sup>.

One of the justifications for the exclusion of torture cases was that they would be much more difficult to prove "impartially" than the cases of disappearance and death. On the other hand, it also meant that there would be very few "insider" accounts of the gravest violations. As can be noticed by reading the Argentine truth commission report *Nunca Más*, including torture cases can make the report much more shocking than the more "sanitary" approach used in such reports as the Chilean one where torture is excluded<sup>26</sup>.

The Commission was given six months to carry out its duties, and it was stipulated that it could use an additional three months if necessary. One of its additional limitations, partly due to the fact that it was established through a presidential decree, was that it had no subpoena powers to demand appearance of persons whom it wanted to interview.

### **Members of the Commission**

For Aylwin, one of the initial difficulties was to find suitable persons to form the commission. He considered it important that groups who had

supported the dictatorship would also feel represented by the commission, so that it would be more difficult to accuse the commission of establishing a politically biased interpretation of truth. As he himself has confessed, various persons excused themselves when asked if they could become commission members (Aylwin 1995).

Finally, eight members were selected<sup>27</sup>. The idea was to have a more or less balanced representation between people associated with the new government and people who were perceived as more sympathetic towards the Pinochet regime. Even though the chairperson of the commission, Raúl Rettig, claimed that political differences were forgotten during the work of the commission<sup>28</sup>, the existence of members and supporters of the previous government clearly placed some limits to the work of the commission<sup>29</sup>. At the same time it did give the commission more credibility in the eyes of the still influential *Pinochetista* sectors of Chile.

The aim was that whatever the attitude one had towards the military coup of 1973 as such, one could acknowledge that serious human right violations had been committed. Gonzalo Vial, who had previously served as Minister of Education in the military government, accepted the commission membership by saying; "everything that Pinochet did can be defended, except for the human rights violations"<sup>30</sup>.

All the commissioners were citizens of Chile, and it was considered important that it would remain as much a domestic issue as possible. The total staff, selected by the commissioners, was over sixty persons<sup>31</sup>. In order to avoid staff who would previously have been closely in touch with the case presented to them, the commission selected less than 10 percent of those who had earlier worked with human rights. For the public, the commission was often identified with its chair, and in most contexts it came to be known as the Rettig Commission.

### **Individualizing Responsibilities?**

The decree that created the Rettig Commission clearly stated that the responsibility "to individualize the guilty and apply sanctions" belongs exclusively to the courts. It was also stipulated that if the commission finds evidence of criminal action, it should hand out the evidence to a judicial court.

Initially, Aylwin had been planning to create a commission that could publish the names of human rights violators. José Zalaquett, one of the most respected members of the Rettig Commission, he was able to persuade Aylwin that it would be better not to publish the names. The commission had neither the mandate nor the resources to assure due process to those suspected of human rights crimes. And even if the human

rights violators had not respected any standards of due process, it was generally deemed morally and politically crucial that the new government does so.

The decision not to individualize responsibilities was criticized by many human rights organizations. The approach chosen by the government has in general been accused of being too cautious. To justify it, one can point not only to the practical possibility of a military backlash but also to the moral imperative that even perpetrators of the cruelest forms of crimes have rights that need to be respected. For Zalaquett, if in the struggle towards truth and justice there was a chance that by taking away one more brick to uncover what had happened in the past, the whole construction of rule of law might collapse; he would rather not touch the brick<sup>32</sup>. Silence about the names of the human rights violators would clearly have been such a brick for Zalaquett. A similar argument from a more conservative perspective was given by Gonzalo Vial, for whom publishing names would have "violated the *carta magna* of the Western world"<sup>33</sup>.

In December 1990, four Congress members from different parties suggested some kind of compromise in their "Document for Peace". In their proposal, the names of human rights violators should be kept secret for 20-50 years after which disclosing a "full truth" would be possible<sup>34</sup>. Their idea, however, did not have any success.

### **The Workings of the Commission**

The Rettig Commission worked for nine months and examined over 4000 individual complaints. It was also able to rely on some existing archives, especially that of the Vicaría. It received useful information from autopsy reports and transcripts of past judicial investigations. One of the main problems was to get the armed forces to divulge information. Even though most of the requests sent to the armed forces got a formal reply, extremely few replies were of any substance (Zalaquett 1992:1434). In addition, very few persons from the military establishment personally witnessed before the commission<sup>35</sup>.

The general attitude of the press towards the Rettig Commission had certain variations according to the political leanings of the journalists. The press, however, accepted the commissioners' demand for self-restraint and refrained from standing guard at the commission's headquarters or attempting to interview relatives and witnesses entering or leaving the premises (Zalaquett 1995:44-55).

About 3000 cases fell within the mandate of the commission. In its three-volume report of over 1800 pages, a total of 2025 cases were declared to have involved fatal victims of human rights violations

committed by the state. Armed opposition was declared responsible for 90 of the cases. Another 164 cases were declared as fatal victims of political violence that could not be clearly characterized as human rights violations. The commissioners could not reach a conclusion in 614 cases and recommended further investigation - a task that would later be taken up by its successor, the Rettig Commission (Zalaquett 1992).

## V. RECONCILIATION UNDER IMPUNITY

### Asking for Forgiveness

When presenting the Rettig Report in March 1991, President Aylwin asked for forgiveness from the families of the victims. He did that "assuming the representation of the whole nation". He appealed to the Chileans by quoting Pope John Paul II during his visit to Chile that it was "the time for forgiveness and reconciliation"<sup>36</sup>. He also emphasized that forgiveness would demand repentance from some as well as generosity from others.

Aylwin asked the armed forces "and all who had participated in the excesses" to make "gestures of recognizing the caused pain"<sup>37</sup>. The response to his call was, as expected, rather weak. The Air Force and the Carabineros did respond with a kind of an ambiguous apology<sup>38</sup>. For example, the Air Force commander Fernando Matthei said that his institution "lamented the loss of human lives", which the Minister of Defense commented as being a "responsible and reasonable" statement (La Epoca 9.3.1991). The army and the navy, however, did not show any signs of repentance<sup>39</sup>. In a verbal exchange between the army and the government, the army in its response to the report cited Patricio Aylwin's statements from 1973 who had made various declarations that can be read as a clear expression of support to the newly installed military government<sup>40</sup>.

Rodolfo Stange, the Director of the Carabineros police force, claimed that the report was incomplete and it should have included human rights violations that occurred between March 1990 and March 1991 against police personnel, mainly by leftist armed groups (Las Ultimas Noticias 29.3.1991). The Carabineros also claimed that the report attempted to immobilize police action in times of escalating criminal violence<sup>41</sup>.

For many victims of human rights violations and human rights groups, the arrogant attitude of Pinochet himself has been one of the most serious obstacles to a reconciliation process. Instead of showing signs of repentance<sup>42</sup>, Pinochet has repeatedly given rather ironical statements

about the human rights violations under his regime. These statements can be understood in the light of his expressed opinion that "human rights" are "an invention of the communists". He has repeatedly emphasized that cannot admit to any personal or moral responsibility for any excesses that might have been committed. "What moral responsibility could I have in something I did not even know that was happening?"<sup>43</sup> After his detention in London and return to Chile in March 2000, Pinochet's public statements have, perhaps for obvious reasons, been somewhat more conciliatory.

### **Reactions from the Right**

Most of the political Right in Chile has been eager to defend the military regime after the transition. Julio Dittborn, President of the influential pro-Pinochet right-wing party *Unión Demócrata Independiente* (UDI, Independent Democratic Union), was afraid that the people demanding an investigation of human rights violations during the military regime would "try to blame the armed forces, who had to intervene without wanting to do so". Comparing political violence to a fire, he stated that "the firemen are not to be blamed, but rather those who started the fire" (Las Últimas Noticias 5.3.1991).

For others like Joaquín Lavín, the "fundamental responsibility" for the human rights violations should be attributed to "those responsible for the fall of democracy in Chile, that is the Allende government and its extremist allies" (Fortín Mapocho 6.3.1991). One of the few good things the Right found in the Rettig Report was that the number of deaths was established at a much lower number than "20 000-30 000 as claimed by UP, or 700 000 as claimed by Radio Moscow"<sup>44</sup>.

An incident that contributed to the fears that the report would open up past wounds and thereby harm the process of reconciliation was the assassination of Senator Jaime Guzmán by the FPMR guerrilla. Guzmán had been one of the most influential political intellectuals working for the military government. Since his assassination (soon after the Rettig Report was released), many started wondering whether it could be a result of the attempts to uncover the truth<sup>45</sup>. On the other hand, one could also argue that the fact that the FPMR and MAPU Lautaro decided to take the justice to their own hands – even after the military government no longer existed – was due to the lack of any effective judicial means of punishing the guilty.

### **The Role of the Supreme Court**

Compared to the moderation in its general tone, the report was rather harsh in its criticism of the role of the judicial courts during the military regime. The strength of the legalist tradition in Chile contributed to the fact

that the Judiciary had, in principle, been able to continue functioning "normally" after the military coup of 1973<sup>46</sup>. According to the report, the courts were submissive to the military government, especially concerning personal rights of individual citizens<sup>47</sup>. In general, the "legalism" of the military government had various perverse elements. For example, even though many of the institutions safeguarded by the Constitution of 1925 were made illegal by the military government, one of the justifications for the military coup was to defend the same constitution.

The Supreme Court took more time than most other institutions to formulate its response to the report; and when it presented its response after two months preparation, the debate on the report got a new start. The response, in the opinion of Raúl Rettig, was "very violent"<sup>48</sup>. The criticism presented in the report was labeled "absurd", "irregular", "politically biased", and "totally lacking even the most insignificant foundations". According to the Supreme Court, it was contradictory that the report should pass judgement on the Judiciary when the decree that created the Rettig Commission had explicitly recognized the absolute autonomy of the courts<sup>49</sup>.

The President of the *Asociación Nacional de Magistrados* (ANM, National Magistrates Association) had already defended the judges overall actuation during the military regime by stating that "one cannot demand that they should be heroes" (Las Últimas Noticias 5.3.1991). In the response of the Supreme Court, it was also emphasized that any seeming anomalies in the functioning of the courts were due to the restrictions created by other actors than the court.

### **Amnesty Law and the Courts**

The acknowledgement of the truth in the Rettig Report can be regarded as accounting to some form of social condemnation of the guilty, even if the guilt was not distributed amongst individuals. The institutional distribution of moral guilt was achieved in the report by clearly stating that the armed forces were responsible for the overwhelming majority of human rights violations. The magnitude of the violations came as a surprise for many Chileans who had been living under the illusions created by the heavily controlled and censored press.

For most Chileans, the publication of the Rettig Report represented an all too weak form of "justice". Even so, some Concertación members interpreted it as a rather adequate substitute of a judicial process (Boeninger 1997:406). After the report was released, the Concertación parties toned down their campaign against the 1978 Amnesty law. The overall strategy of the government had been to remove the question of past



human rights violations from the center of the political stage and delegate most of it to the courts. The problem was that the courts were not able or willing to open charges against any of the perpetrators technically covered by the amnesty law.

The only pre-1978 case explicitly excluded from the amnesty law, the assassination of Letelier, received a lot of world-wide attention when the former Director of DINA Manuel Contreras, together with Pedro Espinoza, were sentenced to 6-7 years of imprisonment in 1993. For many, Contreras and Espinoza were the exceptions that confirmed the rule of impunity<sup>50</sup>. There have also been arguments that sentencing them symbolized a judicial condemnation of the military as a whole, and thereby constituted an important step towards reconciliation.

Since the majority of the human rights violations were made during the first five years of the military regime, the amnesty law has been a central mechanism in the consolidation of impunity. The fact that the law has not been derogated or nullified means that it has been very difficult to bring human rights violators into a court. In many cases, the passing of time has also meant that it becomes increasingly difficult to find evidence that could be used in courts.<sup>51</sup> The detention of Pinochet, however, created a new political context that has already had various legal implications.

One way of overcoming the judicial obstacles of the amnesty law has been the argument that disappearance continues to be a criminal action until the kidnapped person has been found - dead or alive. In this way, even if the person disappeared before 1978 the amnesty law would not protect the guilty because they continue committing the crime of kidnapping until today<sup>52</sup>. Towards the end of the 1990s this argument presented by various human rights lawyers received increasing acceptance in the judicial courts also. Pinochet's detention and subsequent return to Chile strengthened this trend.

Another way to overcome the amnesty law is to argue that many of the human rights crimes are of such nature that international human rights norms prohibit using amnesty. For example, the Inter-American human rights organs have recommended that the government derogate the amnesty law<sup>53</sup>. One of the problems is that many Chilean judges do not want to take international law into account in their decisions<sup>54</sup>. There have, however, been cases where judges challenged the legitimacy of the amnesty law, arguing that international conventions signed by Chile prevail over national laws. These pacts, especially the Geneva Convention and the International Agreement on Civil and Political Rights, state that torture and disappearances cannot be subject to an amnesty law (Garretón

1996).

In 1992, the armed forces exerted considerable pressure on the government for a "full stop law" that would put an end to any further criminal investigations on human rights violations. The government responded by stating that for any move in the direction of a full stop law, the armed forces needed to assume their full responsibility in the human rights violations and ask for forgiveness. The government prepared various drafts of reconciliatory statements for the military, but they were all rejected (Boeninger 1997:413-414). Since 1999, the issues have been taken up between the government and the military and some civil society organizations in the so-called *Mesa de Diálogo* negotiations, but until now no satisfactory solution has been found.

### **Reconciliation through Reparation**

As José Zalaquett (1992:1432) has stated, the Chilean post-transition government emphasized "forms of justice other than prosecuting the crimes of the past". One form has been the attempt to clarify the truth about past human rights violations, even though the Rettig Commission has achieved this task only partially. Another important way of doing justice is to try to provide some form of reparation to the victims' families.

In February 1992, an organization was created to continue the work of the Rettig Commission, especially from the perspective of reparations. The *Corporación Nacional de Reparación y Reconciliación* (CNRR, National Reparation and Reconciliation Corporation) was managed by a chairperson named by Aylwin and six council members chosen by the Senate<sup>55</sup>.

One of its tasks was to investigate suspected human rights violation cases where the Rettig Report had not been able to arrive at a conclusion. Together with the new cases (not presented before to the Rettig Commission), the CNRR had a total of 2188 cases to investigate. It came to the conclusion that 899 of them had been victims of either human rights violation or political violence, which brought the total number of victims to 3197<sup>56</sup>. Another of the tasks of the CNRR has been to search for the bodies of the disappeared. This has been a process of "low yield", as stated by the CNRR president Alejandro Gonzales<sup>57</sup>. Even though the CNRR ceased to exist officially by the end of 1996, in practice its work continued, albeit with a rather low profile<sup>58</sup>.

The main task of the CNRR was to continue the work of the Rettig Commission in establishing the modes of assigning reparation to the families of the victims of repression. The whole concept of reparation was sometimes questioned by the human rights organizations, because it was

obviously implausible to state that one could give sufficient reparation for the damages done by the human rights violations. The organization of the victims' families also stated that reparation loses its meaning if there is no disclosure of truth and realization of justice. It was explicitly stated that justice would mean "establishing individual responsibilities"<sup>59</sup>.

One of the main forms of reparation was a monthly allowance allocated to the victim's family<sup>60</sup>. The organization of the victims' families stated that it could accept an allowance because it means that the state recognizes the rights of the disappeared person. By taking care of some of the responsibilities of the disappeared towards his (or sometimes her) family, the state would consider him (her) a person with dignity<sup>61</sup>.

Another resolution was the exemption from tuition fee in higher education for the children of the victims. In a country of privatized education and high tuition fees – even in public universities – this has been an important form of support for many families. Another resolution exempts the children from the obligatory military service, a decision sometimes criticized by the army.

## VI. CHALLENGES FOR DEMOCRATIZATION IN CHILE

Despite the apparent, though sometimes doubted, willingness by important sectors of the Concertación governments of the 1990s, the problems of past human rights violations have been very difficult to solve in Chile. During the transition to a civilian government in the late 1980s, the armed forces were able to negotiate rules that institutionalized an environment of impunity. The truth commission headed by Raúl Rettig was not able to break the logic of impunity beyond the limited space it was assigned.

The Rettig Commission did, however, have many positive impacts in attributing institutional responsibilities and establishing a widely accepted interpretation of what kinds of human rights violations were committed during the military regime. In this sense, it was able to establish a shared, intersubjective truth on many issues that had been kept relatively secret until then. Even though some of the general interpretations of the Rettig Commission have been challenged by the political Right, the systematic documentation of cases of extra judicial assassination and disappearance has not been discredited. The policy of excluding all the names of possible perpetrators from the report of the commission means that it does not even attempt to reveal the "full truth", and in this sense there has been an intended division of labor in truth politics between the commission and the judicial courts.

The Rettig Commission also gave many Chileans an opportunity to talk openly and still in confidence about issues over which they had to keep silent many years. This psychotherapeutic dimension of the truth commission may also have backfired in some cases when it soon became clear to the survivors that their stories were not able to break the wall of impunity. The existence of the national flag and the picture of the president in the rooms where testimonies were given sometimes created illusions about finally encountering justice. During the late 1990s, many families of the victims got frustrated with the inability or unwillingness of the Chilean State to make the perpetrators accountable for their actions. The new context created especially by the decision of the Supreme Court of Chile to strip Pinochet of immunity in August 2000 has made the opening of civil cases against human rights violators a more promising mechanism than most people could have imagined two years earlier.

The interpretation of the Chilean judges of the 1978 amnesty law has been going through some changes, and the courts have accepted various cases. The judicial processes opened against Chilean military leaders abroad, especially in Spain, were already getting widespread attention in Chile before Pinochet's detention in London. As regards the search for the truth, the processes abroad have also been able to reveal new information on issues such as Pinochet's direct involvement in criminal actions taken by the security organ DINA. The declassification of the documents of the US government is an important source of new knowledge, but the declassification process has until now been relatively limited.

One of the positive aspects of the Chilean truth commission and actions related to it was the restoration of the honor of many victims who during the military government had been labeled as criminals and subversives. This posthumous restoration has been effected through various reparatory measures, in addition to constructing some memorial sites. Even though one section of the Mothers of Plaza de Mayo in Argentina has systematically rejected all such "symbolic" gestures, most Chilean human rights groups have accepted them as important, though by no means sufficient, ways of dealing with the past<sup>62</sup>. In the official politics of memory, the continued existence of numerous monuments, avenues, on the currency and other celebrated reminders of the 1973 military coup, however, casts a shadow over the relatively modest attempts to honor the victims of the repression.

When the candidate of the Concertación Eduardo Frei Ruiz-Tagle was elected president in 1993, many wanted to see the beginning of his presidency as the final consolidation of democracy in the post-

authoritarian Chile. With a similar number of the votes as his predecessor four years earlier, he was, however, facing many of the same constraints towards democracy as Aylwin. In fact, the list of necessary political reforms in the 1993 electoral program of the Concertación was very similar to their program in 1989 (Frohmann 1996). The Hayekian plan to "protect" democracy had worked reasonably well. The beginning of the reign of the first post-Allende socialist president, Ricardo Lagos, in March 2000 implied a modest increase in the willingness of the government to bring the military more firmly under civilian control. The Lagos government may, however, have very limited possibilities to dismantle the governance structure created by the military government.

There has certainly been some democratic progress during the 1990s. The municipal governments, for example, have been subject to a democratization process. In general, however, Chile is still facing the incapacity of popularly elected governments to make significant changes to a legal framework largely created by their authoritarian predecessor. Even though the origins of this legal incapacity are largely specific to Chile, they are not all that different from various quasi-legal restrictions to democracy that can be encountered in many countries that have not experienced a military regime in their near past<sup>63</sup>. Making the country stable enough for investors often implies that the possibilities for exercising effective majority rule are highly constrained<sup>64</sup>.

In other words, the Chilean government has been facing a double pressure both by its local military and by the transnational investment communities. This pressure has conditioned its possibilities to make moves that might be interpreted as attempts to break the protective walls that prevent democratic politics from expanding into the authoritarian spaces controlled by military honor and capitalist profits.

As the detention of Pinochet has shown, globalization is not only about transnational investment, and some globalizing processes may also have positive effects on democratization. The Chilean debate on Pinochet's prolonged stay in London demonstrated how the relationship between democratization and national sovereignty has changed in Latin American political cultures. Whereas the anti-imperialist Left used to defend national sovereignty against foreign interventions, in today's Chile, Peru, Guatemala and many other countries it is increasingly the Right that uses anti-interventionist rhetoric<sup>65</sup>.

The increasingly visible and often contested role of the Inter-American Human Rights Court and Commission as well as democracy clauses in the regional integration agreements are signs that give reason to

believe that the relationship between democratization and national sovereignty will be on the agenda of various Latin American debates in the near future also. The "Pinochet precedent" is also likely to encourage human rights activists and other concerned actors to press criminal charges against exiled or traveling human rights violators, both in Latin America and elsewhere.

### Notes

- 1 See Forsberg (forthcoming); Forsberg & Teivainen (1998); Mendez (1997); and the path-breaking volume edited by Kritz (1995).
- 2 See Hayner (1994) for an established definition of truth commission as official bodies set up to investigate a past period of human rights abuses or violations of international humanitarian law.
- 3 For some insights on how this ideal has been constituted in a national mythology, see Moulian (1997:155-156).
- 4 For early details provided from within the US administration, see Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities (1975). On later information, declassified by the Clinton administration, see for example "Evidence Was In: US Knew of Pinochet's Terror Tactics in Chile" and *National Archives and Records Administration News Release*, June 30, 1999.
- 5 One of the most famous proponents of this view was Jaime Guzmán, who would later be assassinated by the armed left.
- 6 Boeninger (1997:263). On the separation of the political and the economic, see Teivainen (forthcoming/a).
- 7 *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política* (1996).
- 8 An earlier commission with the same acronym DINA had already been created in November 1973.
- 9 The US government had, for example, already in 1976 visibly criticized the human rights situation of Chile.
- 10 The armed groups themselves often deny the claim that their activities would have intensified the repression. See e.g. *La Segunda* 6.3.1991.
- 11 Based on author interviews in the Vicaría in 1989 and in the archive of the Vicaría in 1998.
- 12 For example, Patricio Aylwin noted in January 1980 that for him the communists are "one of the great adversaries, like the fascists". See Retamar Avila (1990:289).
- 13 Even though the constitution was ratified in a plebiscite on 11.9.1980, it became effective on 8.3.1981.

- 14 Cited in Moulian (1997:212). Two years before Hayek, another of the gurus of economic liberalism, Milton Friedman, also visited Chile in 1975. One of Friedman's demands during his visit was that two political prisoners of Jewish origin should be liberated. The problem was that they already been killed by the government. His other - and more famous - message to the government had much better luck: less than one month after his visit the government announced an economic policy plan that followed Friedman's recommendations. See *Qué Pasa* No 1403, 20.2.1998.
- 15 In the binominal system, two candidates get elected from each electoral district. In the Chilean case this would - and came to - mean that even in times of democratic majorities and free elections, the supporters of the largest minority (the supporters of the military) needed to get only a 34% of the vote in each district in order to get equal number of elected representatives than the majority (the democratic coalition) that would get 67%. In a binominal system, it is also very difficult for third and smaller minorities (such as the Communist Party in Chile) to get represented in the parliament.
- 16 The "no" side received 55% of the vote, whereas Pinochet secured only 43 %.
- 17 The most powerful of these interpretations is Moulian (1997).
- 18 Aylwin got 55% of the vote, against the 29% obtained by Pinochet's chosen successor Hernán Büchi.
- 19 Even though this situation can easily be regarded as a democratic deficit, from a more "pragmatic" approach it is also possible to consider that in transition contexts "winner-take-all elections can delay the achievement of stability, reconciliation, and political development". See Ball and Halevy (1996:108).
- 20 *La Segunda* 6.3.1991; *Las Últimas Noticias* 6.3.1991. See also Popkin and Roth-Arriaza (1995:274). It has also been noted that the Supreme Court's interpretation is in contradiction with the Article 413 of the Penal Code. See *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política*.
- 21 On limits to democracy created by investor-friendly "new consitutionalism" in Latin America, see Teivainen (forthcoming/a).
- 22 Unlike in many other bicameral countries such as the United Kingdom, in Chile both houses of the parliament play an important role in the making of all laws.
- 23 Decreto Supremo No 355 of the Ministry of Internal Affairs, published on 9.5.1990. See also Kenny (1996:39-58).
- 24 That is, such cases that did not lead to the death of the tortured.
- 25 Author interview with Alejandro González 27.1.1998. For criticism of the exclusion of the individual cases of torture from the CNVR's mandate, see CODEPU (1996:74).
- 26 See *Nunca Más* (1984). One of the reasons for the strong impact of the Argentine report is also the fact that the president of the Argentine National Commission on the Disappeared, Ernesto Sabato, is one of the best writers of the continent.
- 27 Raúl Rettig Guissen, Jaime Castillo Velasco, José Luis Cea Egaña, Mónica Jiménez de La Jara, Ricardo Martín Díaz, Laura Novoa Vásquez, Gonzalo Vial Correa, and José Zalaquett Daher. Rettig, Castillo, Jiménez and Zalaquett were generally regarded as "pro human rights", whereas the other four had been associated with the military regime.
- 28 Author interview with Raúl Rettig 29.1.1998.

- 29 Author interview with Alejandro Salinas 28.1.1998. See also statements by María Eugenia Oyarzún in *La Tercera* 31.3.1991.
- 30 Author interview with Gonzalo Vial 29.1.1998.
- 31 The professional staff was chosen by the whole CNVR, whereas the lower-ranking staff was selected by its president Rettig. See *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política* (1996:4).
- 32 Author interview with José Zalaquett 2.2.1998.
- 33 Author interview with Gonzalo Vial 29.1.1998.
- 34 Sebastián Pinera, Ignacio Pérez Walker, Máximo Pacheco and Laura Soto. See *La Segunda* 18.12.1990.
- 35 Author interview with Raúl Rettig 29.1.1998.
- 36 References to the speech are from Aylwin (1991).
- 37 See also *La Nación* 4.3.1991.
- 38 The expression is borrowed from Bronkhorst (1995:24). See also *La Segunda* 28.4.1991.
- 39 On the response of the navy, see e.g. *La Cuarta* 28.3.1991. On that of the army, see e.g. *Fortín Mapocho* 29.3.1991.
- 40 See e.g. *El Mercurio* 29.3. 1991; 30.3.1991.
- 41 *La Tercera* 31.3.1991.
- 42 E.g. the President of the Christian Democratic Youth, Sergio Micco, stated that any reconciliation process needs to start with Pinochet's resignation. *El Mercurio* 9.2.1991.
- 43 See Pinochet's long interview in Correa & Subercaseaux (1989:118, 142). See also his cynical statements in *Las Últimas Noticias* 28.3.1991
- 44 Julio Dittbom in *Las Últimas Noticias* 8.3.1991. Especially outside of Chile, one can still find presentations of the number of mortal victims much higher than that established by the Rettig Commission. As an example, see the otherwise excellent Rodríguez (1996:11n).
- 45 Bronkhorst (1995:24). See also Comisión Chilena de Derechos Humanos: *Proposiciones para una política sobre la violencia* (1991:15-17).
- 46 In the Law Decree No 1 given on the day of the military coup, 11.9.1973, the military government guaranteed "the full efficacy" of the Judicial Power, even though it also stated that this would only happen to the extent that the situation allows. See *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política* (1996:95).
- 47 For more details, see *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política* (1996:95-104).
- 48 Author interview with Raúl Rettig 29.1.1998.
- 49 The references are to the letter sent by the Supreme Court to Patricio Aylwin as a response to Rettig Report (photocopy of the letter, from the archive of the Vicaría de la Solidaridad, Santiago de Chile).
- 50 This interpretation that he is basically a scapegoat imprisoned in order to protect the more powerful Pinochet seems to have become increasingly clear to Contreras himself.



In December 1997 he, for the first time, stated to a court that Pinochet was in fact responsible for the actions of DINA.

- 51 Author interview with Alejandro González 27.1.1998.
- 52 Author interview with Claudio Troncoso 29.1.1998.
- 53 Author interview with Alejandro González 27.1.1998.
- 54 Author interview with Hugo Gutiérrez 28.1.1998.
- 55 When the decision to establish CNRR was made public in November 1991, it was sometimes referred to as a "new Rettig Commission". See e.g. *Qué Pasa*, 25.11.1991; *La Segunda* 26.11.1991.
- 56 See *Informe sobre calificación de víctimas de violaciones de derechos humanos y de la violencia política*. The real number of the disappeared is almost certainly higher than that presented by the CNVR and the CNRR, though the difference is most probably not as high as for example in Argentina where the Truth Commission found some 9000 cases but the human rights organizations estimate the real figure to be 3-4 times higher. See e.g. CODEPU (1996:76).
- 57 Author interview with Alejandro González 27.1.1998. In February 1998, some of the frustrations were channeled through Bono, the lead vocalist of the world famous rock group U2, who caused controversy during his concert in Santiago by asking publicly that Pinochet should tell the mothers of the disappeared where the bodies of their children are.
- 58 It would have not been possible to get the Senate accept another official term for the CNRR. From the beginning of 1997 the funding for the CNRR has been organized as one part of the budget law. Because it forms part of a larger political package, it is more difficult for the right-wing to veto it. Author interview with Alejandro González 27.1.1998.
- 59 *Respuesta de la Agrupación de Familiares de Detenidos-Desaparecidos a la Comisión Nacional de Verdad y Reconciliación* (1990).
- 60 At the beginning of 1996, the monthly allowance was about USD 213 per family, plus an additional 7% for health services.
- 61 *Respuesta de la Agrupación de Familiares de Detenidos-Desaparecidos* (1990:21).
- 62 Author interview with Fabiola Letelier 17.10.1999.
- 63 For a general analysis of these constraints see e.g. Gill (1995:399-423); Teivainen (forthcoming/b).
- 64 In the words of the ex-Director of the Chilean Central Bank: "a free society cannot operate without respected and persisting rules. These can be inadequate, but they need to be changed only with time and almost unanimously"; Bardón (1998). On the political implications of persisting rules in monetary policy, see also Teivainen (1997).
- 65 See Teivainen (forthcoming/a).

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