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The Military and Chilean Democracy, 1990-1998

Introduction

In fits and starts, with tension, confrontation and negotiation, Chile's leaders (like others in most of Latin America) have faced the problem of establishing civilian authority over a military institution that ruled the country until fairly recently. A debate has emerged regarding the success of civilians in this endeavor, with a number of scholars downplaying the continued importance of the military in politics.¹ Yet discussions with policy makers, defense experts, and military officers make clear that *no one* believes that the Chilean military is simply another actor in the perpetual scramble for influence and resources. The armed forces never returned to the barracks. They remain a potent political actor, capable of exerting pressure that changes government policy.

This paper focuses on the period between 1990 and 1998, beginning with the inauguration of President Patricio Aylwin and concluding with the retirement and passing into the senate of General Augusto Pinochet, Commander in Chief of the Army for nearly twenty-five years and formerly leader of the military junta and President of the Republic. It analyzes military interests and the points of contact between the two groups, seeking to unravel the complexities of their interactions, which take place in a number of different areas over a wide range of issues, and which affect the degree of civilian supremacy over the armed forces. It is a period punctuated by civil-military crises and uneasy interchanges. Analyzing these contact points allows us to understand more fully the trajectory of these relationships and, by extension, the strength and durability of Chilean democracy.

We begin with the truism that military interests matter. They are present in any study of Latin American civil-military relations. Whether emphasizing professionalism (be it "new" or not), military prerogatives and contestation, modernization, class identification, bargaining, or constitutions, the military's interests have been an unavoidable factor for any examination of democracy in Latin America.² The armed forces' behavior is, of course, rooted in its interests. The challenge is to unpack them in order to determine their influence.

These interests can be identified systematically and analyzed in terms of how they directly relate to civil-military relations. Most importantly, when civilian governments make policy decisions related to the military, the latter's response is conditioned by the degree of salience the military attaches to the issue. It is possible, moreover, to construct a hierarchy of issues, within which we can understand why and how the military will react. Military interests, therefore, constitute the independent variable.

Zagorski's analysis systematically outlines the different levels of military interests.³ Building especially on Huntington and Stepan, he cites seven broad interests, divided into core and peripheral.⁴ The former include internal discipline, promotions and assignments, and military budget, while civic action and domestic surveillance are core only when instability is seen as a threat. The latter is comprised of salaries and perquisites (except when prestige is threatened) and military direction (except for selected sectors). This typology provides an extremely useful point of departure, as it highlights how the military will perceive civilian policies in differing ways. Nonetheless, other issues require inclusion. Constitutions and their reform are important, since they delineate the military's role and indeed its very *raison d'être* and therefore are core interests. Institutional integrity is also core. Any perceived attempts by civilians to foster dissent within the ranks is anathema to officers. In addition, the purchase of equipment and armaments as well as the formulation of defense policy require more attention, since for the military they reflect its ability to carry out its constitutional role, although their significance does not reach the same level. Soldiers are concerned about the weapons they will be using, but they do not react as strongly to that issue as, for example, when civilians attempt to change their institutional role. In the same vein, foreign affairs and relations with foreign militaries come into play since training and joint maneuvers enhance military readiness and prestige. Therefore, the list needs to be expanded. It is also theoretically useful to go beyond the core/peripheral dichotomy in order to uncover more nuance between the issues. Table one outlines a more comprehensive breakdown.

Table 1

1. Institutional values, missions, and roles (CORE)
 - Constitutional role
 - Institutional integrity
 - Internal discipline
2. Institutional norms and autonomy (HIGHLY SALIENT)
 - Promotions; naming and firing of high-level officers
 - Formulation of military doctrine
3. Defense and security policy (HIGHLY SALIENT)
 - Salaries
 - Equipment and armaments
 - Formulation of defense policy and strategic goals
 - Combating internal subversion
4. Foreign Policy (SALIENT)
 - Relations with foreign militaries
 - Foreign policy related to military issues
5. Domestic policy (PERIPHERAL)
 - Becoming involved in domestic infrastructure projects

The dependent variable is civilian supremacy, which Agüero has defined as “the ability of a civilian, democratically elected government to conduct general policy without interference from the military, to define the goals and general organizations of national defense, to formulate and conduct defense policy, and to monitor the implementation of military policy.”⁵ Civilian supremacy has a specific endpoint, but it is a continuous variable since *some* policies, particularly those related to less salient interests, might be conducted without interference while others will encounter resistance.

Civilians and officers have a variety of contact points through which final decisions on military policy are made, and the nature of these contacts shapes policy outcome. When civilians attempt to formulate a policy with which the military disagrees, they will find it more difficult to do so without interference when the military attaches higher salience to the issue, and less formal contacts will be the result. Formal contacts, conducted through formal institutions, are the most beneficial for civil supremacy and consequently for democracy and its consolidation. Above all, formal contacts engender predictability and establish clear lines of authority. Civil supremacy only holds when the armed forces accept and follow all such institutional rules. Several recent studies have focused more exclusively on institutions that mediate civil-military relations⁶ but it is not enough to analyze those institutions—we need to know how they are perceived by the military, when they are utilized effectively, when they are circumvented or ignored, and what other types of contacts are present.

Depending on salience, contact points will change. They come under two broad headings: formal and semi-formal. **Formal** refers to institutions that have been constructed specifically to mediate civil-military relations and are codified as such by the constitution or by law. There are specific lines of communication and authority, and they are related directly to policy and/or conflict resolution. They are the Ministry of Defense, Congress, the Judiciary, and executive organs created to provide the president with advice on military-related issues (such as a National Security Council). **Semi-formal** contacts are not constitutionally sanctioned. Under this category fall elite interactions and negotiations outside formal institutions, use of the press, public displays intended to pressure one side or the other, and academic conferences or other programs involving both officers and civilians. Some semi-formal contacts, especially conferences, are beneficial to civilian supremacy.⁷ They provide a more relaxed forum to exchange ideas and simply to meet each other. Others, like less formal negotiations, increase uncertainty and give the military leverage, since often the government is intimidated enough to skirt legality by solving disputes outside formal institutions.

Semi-formal contacts, then, are not always detrimental to civilian supremacy. However, during periods of civil-military crises, they increase the uncertainty of the government, which is forced to guess military intentions and to scramble for ways to resolve the conflict. The result is that it is kept off guard, which often leads to conceding to the armed forces' demands.

The four cases examined in this paper are situations when civilians sought to make decisions that affected core military interests. They shed light on the degree to which formal institutions were able to function effectively in very tense situations. They are the military movements of 1990 (the “ejercicio de enlace”) and 1993 (the “Boinazo”), the 1995 imprisonment of Manuel Contreras, and the 1998 constitutional accusation against Pinochet. The outcome of each says much about civilian supremacy in Chile.

The “Ejercicio de Enlace”

In October 1988, Pinochet lost a plebiscite he had believed would keep him in office for eight more years. The transition was underway, and during the next seventeen months there were intense negotiations about its characteristics, including constitutional reform.⁸ Christian Democrat Patricio Aylwin won the presidential election held in September 1989, and the following March the presidential sash was around his shoulder and Pinochet was again only the Commander in Chief of the Army. By the end of 1990, the army had made no bones about the fact that its support of General Pinochet was firm and unquestioned, especially through numerous print interviews with both active and retired officers. Meanwhile, General Pinochet was resisting all civilian efforts either to reform or to judge the military, and his support within the officer corps lent credence to his veiled threats.

The first crisis faced by the Aylwin government was sparked by a congressional investigation into a check fraud scheme involving General Pinochet’s son, Augusto Pinochet Hiriart. Since before the inauguration, Pinochet knew that the government placed a high priority on finding a way to force him out as commander in chief.⁹ The so-called “pinocheques” appeared to offer the perfect mechanism for achieving this end, since proof of impropriety would seem to leave Pinochet no choice but to resign. These efforts caused concern within the army: political attacks against Pinochet were perceived as assaults on the army’s institutional integrity, a core interest.¹⁰ The firing or forcing out of high-level officers is not a core issue, but Pinochet was an exception unique in Chile and, perhaps, all of Latin America. No other military officer had stayed in power for an extended period of time while continually increasing his prestige to the point that he embodied the military’s honor. The armed forces felt they had saved the country from becoming a Soviet satellite and then their regime had constructed an economy envied worldwide. Pinochet was the principal architect of these achievements, and as a consequence their honor was intertwined with him.

The origins of the checks went back over ten years: Pinochet Hiriart became a partner in a company that ultimately was sold to the army for several million dollars. In October 1990, the House of Deputies took up the issue, assigning a Special Commission to investigate why Pinochet Hiriart had been paid by the army. The bottom line for the commission was that through questionable means the army had been able to make a tremendous profit by purchasing a well-functioning company for very little money, and that Pinochet Hiriart had personally benefited as well. The combination was damaging for General Pinochet because it left the clear impression that his position of president and

commander in chief of the army was being used to line the pockets of members of his family. The mere participation of Pinochet Hiriart was illegal, since public officials cannot conduct business with relatives of the president.

Concurrently Pinochet had been contemplating the possibility of negotiating his retirement, reasoning that he would continue to exert influence in the army and would also be able to give his opinion more openly and forcefully about political matters. He was committed to remaining in his post until after the release of the Rettig Commission's report on human rights violations (which was expected to be released in early 1991) in order to act as official spokesman for the army. Furthermore, he did not want to appear as if he were resigning because of the check scandal, and wanted to retire around the same time that president Aylwin left office, thus avoiding the appearance of having been forced out and also allowing the new president and commander in chief to come to power simultaneously.

Pinochet sent General Jorge Ballerino, the head of his Advisory Committee,¹¹ to speak personally with Defense Minister Patricio Rojas on December 19 in the Defense Ministry, since Aylwin had insisted to Pinochet that Rojas be the interlocutor for the army. The meeting was short and to the point. Ballerino relayed the commander in chief's intentions, and was told that Pinochet must resign immediately. Ballerino refused and the army was left convinced that Rojas' primary goal was to bring Pinochet's head on a platter to the president.¹² Formal contacts had failed to help alleviate the tension caused by what in the army's opinion was a concerted effort to fire him and to discredit the institution. In response, that evening Pinochet called for a quartering to barracks of every army soldier in the country, a measure traditionally associated with ensuring readiness for battle, but also often a precursor to military rebellion.

The atmosphere was tense and uncertain, especially since the government had been taken completely by surprise. The two established institutions intended to mediate and resolve conflict were the Defense Ministry and the National Security Council, but the army had circumvented both. Aylwin had conceded to Pinochet's insistence that Rojas be left out, and could not convoke the National Security Council because the balance of civilians and officers might lead to a tied vote and a stalemate, which would reflect badly on the government's effectiveness. Initially, Aylwin's only available strategy was to gather his advisors and information. Quickly it was ascertained that only the army was involved, though the attitudes of the other branches were not known. Without established points of contact, the army's intentions were not clear, and Aylwin faced the problem of trying to sustain formal institutions (i.e. utilizing Rojas as intermediary) while facing an intransigent commander in chief.

The first contacts came from Ballerino, who made phone calls to two members of the House of Deputies, José Antonio Viera-Gallo (Socialist Party and also President of the House) and Andrés Chadwick (right-wing Unión Democrática Independiente, or UDI). Without explaining precisely what was happening, he informed them that rumors of "occupation" of the Building of the Armed Forces were false, and that the situation

was “normal.”¹³ Later in the evening, Vice Commander in Chief General Jorge Lúcar called Rojas to explain that the army’s actions had constituted an “exercise of security, readiness and coordination,” (“ejercicio de seguridad, alistamiento y enlace”) a term that apparently had been dug out and dusted off since initially no one knew what it meant. Technically, it was less than a confinement to barracks, though it had the same effect. Soldiers were ready to move and the government could do little but wait.

The following morning, formal contacts were functioning but they lacked substance. Before Pinochet met with Aylwin, Ballerino had gone to Rojas’ office. In both meetings, the army sought to downplay the exercise while reiterating the institution’s concerns about attacks made against it, while the government emphasized the questionable nature of the exercise and made the point that issues such as Pinochet’s resignation were being blown out of proportion. Both sides walked a fine line. Pinochet wanted to avoid the appearance of having subverted his own constitution by defying the president, while Aylwin did not want to give the impression that the government had no control over the army.

That afternoon both houses of congress passed declarations to show support for democracy. Congress was cautious, and worded the declarations carefully to avoid specifically mentioning the army and to ensure the support of the right. The senate, for example, passed unanimously the following statement: “It [the senate] reaffirms its adhesion to the Political Constitution of the State, to the strict observance of the functions that it and the law establish for each organ and institution that comprise the State of Law. It reiterates its confidence that with patriotic spirit the process of democratic consolidation, which is the responsibility of all Chileans, will continue to advance.”¹⁴ After the fact, everyone involved denied that they were worried about the possibility of a coup, but at the same time no one knew what might happen. On everyone’s mind were the military uprisings in Argentina. The so-called “carapintada” revolts had plagued Argentina since 1987, and the fourth and final rebellion took place on December 3, 1990, a mere sixteen days prior to the “ejercicio de enlace.”¹⁵

Resolution of the conflict was reached in an ad hoc manner, outside the auspices of the Defense Ministry, excluding Rojas altogether. The two protagonists were Ballerino and Enrique Correa, the General Secretary of the Government. This working relationship underlined a seemingly contradictory situation: the armed forces had a much better working relationship with the Socialist Party than with the Christian Democrats. During Allende’s administration, many Christian Democrats—some of whom, like Aylwin, were once again active in government—supported and even courted military intervention, and so the armed forces believed them to be hypocritical for denouncing the military regime.

An important decision involved the congressional commission investigating the general’s son. Viera-Gallo agreed to help guide the commission and the formulation of its final report in order to prevent another crisis, which meant noting that Pinochet was not involved and had no knowledge of any illegal activities. Jorge Schaulsohn agreed not

to call Pinochet to testify. The case was sent to the Council on State Defense, which would decide the appropriate charges, then to the state Comptroller, which would examine those charges to ensure they were all legally valid. The assumption was that the entire process would take years, and that the government would be able to control the relevant state agencies to take the matter out of the public eye and to protect Pinochet's son from prosecution, at least in the near future.

As these negotiations developed, the army wished to make its opinion even more clear and public. On January 8, the day when the commission was expected to make its report known, the director of the War Academy, Colonel Juan Emilio Cheyre, made a public declaration in which he said that the army "categorically rejects all of the attempts that—based upon maliciously employed pretexts—seek to create divisions between the institutions of national defense as well as within them, particularly within the Chilean Army."¹⁶ In addition, he reaffirmed the army's "indestructible institutional cohesion regarding Captain General Augusto Pinochet Ugarte and the unyielding loyalty to his management of his command" and expressed the army's confidence that "this irresponsible and systematic form of aggression will be put to an end, since not only do they affect the institution but they also entails a grave threat to national security."¹⁷ Once again, the army expressed the idea that attacks on Pinochet were the same as assaults on the institution itself. This individual/institution fusion provided Pinochet with tremendous protection to the extent that, as Cheyre noted, national security was at stake when the general was threatened.

The events culminating in the "ejercicio de enlace" had taught the military, though most prominently the army, that formal institutions could be circumvented fruitfully. Eschewing relations with a Defense Ministry it considered hostile and a National Security Council that might prove too unpredictable, it resorted to ad hoc means to make its concerns and complaints known. Retired officers continually pounded the government through the press and the army movement in December was entirely successful, since the government acceded to all demands. Nonetheless, the growing number of semi-formal contacts were allowing civilian policy makers and military officers to gain confidence in each other. These point of contacts would bear fruit in the future. However, for the time being the army dictated the semi-formal points of contact and the government played only a reactive role.

The "Boinazo"

The second major political-military crisis of the decade began on May 28, 1993. Like the "ejercicio de enlace" its immediate cause was the investigation into the checks received by General Pinochet's son while other matters served as detonators. In late May and early June, Aylwin was traveling through northern Europe, simultaneously touting the consolidation of Chilean democracy and reminding the Europeans that Chile's stable and prosperous economic conditions offered the ideal backdrop to investment. On May 27, he responded to a Finnish reporter by saying, "what I can say is that he [Pinochet] has acted in a subordinate manner to the President of the Republic and respectful of the

democratic institutionality; that he has not intervened arbitrarily in politics, but rather has remained concentrated on his professional functions within the Army, and that the functioning of democracy in Chile has not been disturbed by his presence in that position [as Commander in Chief]"¹⁸ These words were not merely pabulum to be delivered to foreign audiences--to a considerable extent they reflect Aylwin's perception of his first three years in office. He was determined to leave office having settled all the major disputes between the government and the military and, as he would later admit, that desire tended to cloud his appraisal.¹⁹

In addition, a long term factor was the failure of the Defense Ministry to process a number of army documents, including payments for promoted officers, signatures of authorization for the promotions themselves, requests of authorization to leave the country (from officers designated to foreign embassies), and sales of armaments. The army claimed they were languishing in the office of the Subsecretary of War, Marcos Sánchez.²⁰ It was perceived as an attempt to create discontent within the ranks which would, if the strategy held, put pressure on Pinochet to resign. The army distrusted both Defense Minister Rojas and Sánchez. Pinochet, along with his Advisory Committee, grew increasingly disgusted. If indeed Rojas had intended to create fissures within the ranks, his effort backfired. Slightings against the army and against Pinochet were inseparable, and therefore it was not possible to "entice" the Corps of Generals or even junior officers to force Pinochet's resignation.

On the morning of May 28, the army's corps of generals arrived at the Armed Forces building across from La Moneda for a meeting called by Pinochet to discuss the possibility of officers being called to testify about the check scandal. Such meetings are not common, since they require these officers to be flown in from the lengths of Chile, but neither are they necessarily ominous. However, Pinochet had seen a headline in *La Nación*, the newspaper tied to the Concertación, stating that the case of the checks was being reopened and that active generals would be called to testify which, in Pinochet's opinion, suggested he had knowledge of the illegal proceedings. On April 24, the Council on State Defense had decided that the evidence was sufficient to initiate judicial proceedings and therefore presented accusations to the Fifth Criminal Court, and *La Nación* was simply reporting on this fact. Three other papers had reported on the same issue in previous days, but *La Nación's* explicit ties to the government signified to Pinochet that there was a renewed effort to oust him. The Council on State Defense is autonomous from the president, but the army doubted whether such autonomy held in practice. It believed that a bargain had been struck in the aftermath of the "ejercicio de enlace" to bury the issue permanently, and that the deal had been broken. In fact, the Comptroller had quickly reviewed the case and sent it (as a matter of routine) to the Council without assigning responsibility to anyone for any possible crimes committed. Two years later, its reappearance reinforced long-standing suspicion within the army that it was under attack.

As a result, this meeting was different because a company of soldiers (approximately forty commandos) were deployed in front of the building, carrying

automatic rifles and bazookas. They were dressed in camouflage fatigues and wore black berets ("boinas negras"). The affair would become known as the "Boinazo." Later in the afternoon, the Communications Department of the army issued a statement to the effect that "the meeting of the body of generals of the Army today...was carried out in conformance with the period of military planning."²¹ The government also denied that any crisis existed. The intention of both of the army and the government was to downplay the incident publicly while seeking channels to solve it.

Once again the government had been taken completely by surprise. It did not correctly gauge either the degree of continued army unrest or the potential effects of attempting to follow through on the investigation of the check scandal. In addition, Aylwin had been vocal in advocating reform of the military organic laws and planned to introduce a bill that would allow the executive to exert more control over promotions and retirements, but was not prepared for the intensity of the resistance he would encounter. The military considered it a slippery slope that would culminate in allowing the president to force commanders in chief to retire, which the armed forces in general considered a dangerous prerogative for its politicizing effect on the institution and more specifically the army believed it to be a direct assault on Pinochet. By catching the government off guard, the army was able to control the direction of events. Simultaneously making contact with government officials and making statements to the press (through the Communications Department of the army), it held a tight grip on the flow of information, using uncertainty and ambiguity to its advantage. The timing of the action also worked to the army's advantage. Not only was Aylwin in Europe, but Enrique Correa was in Antofagasta. Enrique Krauss, designated as Vice President, was in charge of overseeing the functioning of the government during Aylwin's absence, and from the Interior Ministry he was receiving very little political intelligence regarding the armed forces.

The government's reaction followed a familiar pattern. Given the army's distrust of the Defense Ministry, both Rojas and Sánchez were excluded from the process of conflict resolution in favor of negotiations by other government officials. On May 30, Pinochet and Ballerino met with Krauss and Correa so that the government could finally learn the army's precise complaints. After hearing the army's concerns, Krauss agreed in principle to forge a compromise solution that would end the tension.

Once again, a private meeting between Correa and Ballerino would be the key to resolving the conflict. Although Ballerino had left the Advisory Committee to re-enter the chain of command (and promotion) as Inspector General, his familiarity with Correa made him a better choice than the new chief of the Advisory Committee, General Jaime Concha.²² The two met numerous times between May 30 and June 1, and elaborated a plan of action.

The enunciated points are remarkable in scope, covering a broad range of issues.²³ Perhaps even more notable is the absence of any direct references to the Defense Ministry. The first point referred to an agreement to create a "working group" with Interior Ministry official Jorge Burgos representing the government and officers from the

General Auditor's office in the army. This group would have the task of organizing private testimony for officers in human rights cases and of determining the best way to expedite processing of all pending cases. Other agreements were to treat every case individually without a general plan, to facilitate rapid trials (Correa assured Ballerino that every effort would be made to leave no pending cases for the next government), and to retain a moderate approach that would facilitate reconciliation.

The proposed working group would meet periodically in the following months and would culminate in Burgos replacing Sánchez as Subsecretary of War. The decision to establish such a group under the auspices of the Interior Ministry was a major victory for the army, since the government was admitting that the Defense Ministry was not an effective point of contact. The army was therefore able to go around formal institutions and work only with specific individuals within the government, regardless of their position (e.g. the Interior Ministry has no formal link to the military). Not surprisingly, Patricio Rojas was angry at being excluded. Krauss lamented that the proper channels were not being followed: "This type of informal relation, this thing of let's sit around a table and talk, let's have a drink...it seems that it has been tremendously detrimental."²⁴ Within the government, this strategy was not desirable but appeared unavoidable.

Taken together, the various agreements on how to deal with the issue of human rights demonstrate no capitulation on the part of the army whereas the government felt obliged to agree to some elements that contradicted the Concertación's platform. Giving officers the chance to give testimony at times convenient to them and even admitting that a new amnesty was not out of the question did not correspond to public rhetoric about the need to find the truth and prosecute according to the law. Furthermore, the government's new policy of attempting to process all cases before the end of Aylwin's term was a 180 degree turn. It was certainly beneficial to the military, since a new president would take office in less than ten months, and more time would be needed to collect evidence for crimes committed years before. However, the government was not simply caving in to army pressure. By the second half of the administration, Aylwin had decided that the country's best interests would be served by taking care of all such cases, which would advance Aylwin's goal of ending the transition.²⁵ In this vision, the end of his administration would also be the end of the transition and political-military relations would be normalized. After his return from Europe, Aylwin admitted that he had been mistaken in 1991 when he proclaimed the end of the transition, but still believed that it could be completed by March 1994 when a new president would take office.

Public declarations, interviews and calls to members of Congress and the executive branch clarified the army's key concerns. First, it believed the check scandal was a threat to institutional unity and wanted the government to make it disappear. Judge Alejandro Solís was visited by several members of the government and within days declared the case to be outside his jurisdiction.²⁶ Second, as already noted, it wanted the departure of Rojas and Sánchez. The government refused to fire Rojas since that would be a very public and prominent submission, but Sánchez would leave his post the

following month. His failure to process and sign all the documents that came across his desk made him a perfect scapegoat and his removal placated the army.

Unlike the "ejercicio de enlace," there was a public discussion about whether the National Security Council should be called. From a juridical standpoint, it was not clear whether "national security" or the "bases of institutionality" had been at stake.²⁷ Arguments could easily be made either way, since the CSN's charter is vague. More important were the political ramifications of convoking it. The army did not wish it to meet, because from the beginning of the "boinazo" assurances had been made that the troop movement was entirely normal. The army's goal had been to pressure the government while claiming that nothing was out of the ordinary. Convoking the CSN would therefore be counter-productive. The executive branch did not want the CSN to meet either. Calling its members together would represent an admission that national security had been at risk as a result of military disobedience, an admission the administration refused to make. Furthermore, Aylwin did not want to engage in a duel with the army. Convoking the CSN would be tantamount to measuring paces, and at some point one or both parties would get injured. If the representatives from the other two branches and the national police chose to take the army's side, a crisis worse than the "boinazo" could be in the offing.

Soon thereafter, Aylwin moved to solve the ever-problematic issue of human rights. He had always advocated uncovering the truth and pursuing justice within the context of what was possible (especially given the amnesty) and the need for reconciliation. This attitude had been dubbed the "Aylwin Doctrine." He was also dedicated to resolving all pending human rights cases before the end of his administration, and in August announced a proposed law he would send to Congress, which closely resembled the agreement made by Correa and Ballerino. Its primary objective was to speed up the process of investigation and deliberation to avoid drawing out the painful process. One of its most controversial aspects was the assurance of secrecy regarding the names of those charged with human rights violations. The inclusion of this article was clearly aimed at assuaging the military's concern about active officers being called to testify under highly publicized conditions, which would damage the institution's prestige. The bill came under fire immediately from within the Concertación, especially the Socialists, who viewed it as a blow to uncovering the truth and pursuing justice. With little support, on September 2 Aylwin himself conceded defeat and the bill never came to a vote.

Human Rights: The Case Against Manuel Contreras

In November 1993, Supreme Court Justice Alfredo Bañados officially opened the case against retired General Manuel Contreras, who headed the DINA during its entire existence (1974-79), for the murder of Orlando Letelier in Washington D.C. in 1976. In early 1995, there were signals that by March the Supreme Court would issue a formal judgment for both General Contreras and Brigadier Pedro Espinoza. Contreras claimed

he would respect the Court's decision since it would be in his favor, as he believed it was clear that Letelier was assassinated by the CIA because he had discovered covert arms operations.²⁸ The government waited warily, quashing any public suggestion by Concertación members that would lead the army to believe that all cases covered by the amnesty would be reopened. Separating the two officers from the institution as a whole was the principal priority of the government. Public discourse centered on assigning responsibility to two individuals who broke the law rather than on judging the military, the army, the DINA or the military regime. Meanwhile Pinochet periodically made comments suggesting that he might be unable to control the reaction of the officer corps, and although some government officials deemed it a bluff the military movements of previous years were not far from anyone's mind.

Prosecution of human rights abuses always represents a core interest to the military. It affects both institutional integrity and internal discipline. By relinquishing control over them, the military fears further disintegration, revolts from junior officers, and general damage to its ability to carry out its constitutional and moral prerogatives. As a consequence, the government was in an extremely delicate situation. Nonetheless, in this particular case it had three factors in its favor. First, President Eduardo Frei's Defense Minister, Edmundo Pérez Yoma, enjoyed excellent relations with all three branches as well as with Pinochet personally. Therefore it was likely that at least to some degree the armed forces would be willing to channel their complaints through the Defense Ministry. Second, the United States government was eyeing the case with much interest. Years before, recognizing the degree of international pressure Pinochet had excluded the Letelier case from the general amnesty. Relations between the US government and the Chilean military were antagonistic, but all three branches were in the middle of modernization programs that involved purchasing new equipment and the United States blocked all but limited arms transfers as long as Contreras remained free. Given the size and quality of the US defense industry, prohibition from entering that market was a military liability. Third, because of the high profile nature of the case, it had obtained symbolic status. Even the son of Orlando Letelier, now a member of Congress, said that a sentence would contribute "to closing the transition in a good manner."²⁹ This symbolism contributed to the idea that once a conviction was reached, popular opinion would be satisfied and no more cases would achieve the same status.

On May 30 the Court issued its decision. Contreras was guilty of being the "intellectual author" of the homicide of Letelier and received a sentence of seven years in jail. Espinoza was sentenced to six years for the same crime.³⁰ In a public statement, Frei reiterated yet again that no matter the decision, it did not represent a judgment against the armed forces, and at certain points it sounded much like a call for calm within the ranks.³¹ Contreras gave two television interviews, claiming that he would not go to jail given the absence of "real justice" and that he had "friends" within the army who supported him.³² The order from the Court was for the two men to begin their sentences within 48 hours, but the army resisted.

They were to be incarcerated in a new prison in Punta Peuco, which would not be run by the military but which would hold officers only, but the army claimed it lacked the necessary security (presumably from terrorist attacks) and that it was unacceptable that they were to be handed over to a head of guard who was socialist.³³ This line of reasoning was unconvincing, especially due to the fact that since 1990 the military had found Socialists easier to negotiate with than Christian Democrats, but it served to justify the failure to comply with the court order. Neither went into custody, and the government did not immediately force the issue. Within two weeks of the sentence, with the assistance of a large army contingent that included several generals, airplanes and helicopters, Contreras went to Talcahuano (central Chile), where there was a naval hospital. He complained of problems with a hernia. Espinoza, meanwhile, had indicated that he had accepted the outcome but he went to the army's Telecommunications Headquarters. Therefore both were guarded by the military as the army continued its resistance to sending them to the designated prison.

From the army's perspective, the delay served two purposes. First, it demonstrated to the government as well as to the military rank and file that the armed forces maintained considerable autonomy. Second, it provided time to elicit assurances from the government that once Contreras and Espinoza were in jail, the human rights issue would cease to be a public policy concern. Once again, the army ignored the formal point of contact, which was the judicial system. The constitutional route was unambiguous: the Supreme Court's decision was binding, and therefore the army should discuss with the court and the prison police nothing more than the details of transporting the sentenced to the appropriate location. Instead, discussions were held exclusively with the Defense Ministry, which had no jurisdiction over the case. The Minister of Justice, Soledad Alvear, played a key role in cabinet meetings convened to discuss the problem, but did not engage in direct contacts with the army.³⁴ Her position, like that of Patricio Rojas in the past, was decidedly in favor of forcing the military to accept the government's demands, and as a consequence the armed forces did not negotiate with her.

Finally, on June 19 Espinoza entered Punto Peuco. Whether Contreras would follow the same path was uncertain. Giving up Espinoza suggested that the army had decided to end its stonewalling, since the incarceration of one put an end to the notion that no officer would ever be judged by civilians.³⁵ However, Contreras remained in the naval hospital, and the army claimed that he was too ill to be released and would need an operation. Haven gained time, the initial argument against the prison was dropped, and a new one added. The army argued that someone of Contreras's stature should not be placed in a common prison. In any case, the army argued to the Appellate Court of Concepción that Contreras' should remain at the naval hospital until his recovery from the hernia operation (which took place on August 18), which could require several months. With such an argument, the army could claim that it was not violating the constitution.

The possibility that Contreras would avoid imprisonment for months after his sentencing posed a serious problem for Frei, as it would damage the government's credibility. The left was clamoring for a resolution, and a lack of resolve could lead to splits within the Concertación. Moderate Christian Democrats, who followed the more conciliatory attitude of Pérez, were at odds with the Socialist party and the PPD, which believed that justice was being subverted. In this context, Frei made a concession intended to placate Pinochet. In the name of the national interest, he ordered the Council of Defense of the State to cease any further investigation into the check scandal.³⁶ In this manner, he hoped to make a personal gesture that would be reciprocated. Already, on a Saturday in late July approximately one thousand military officers had gathered outside the prison at Punta Peuco for a "picnic" as a sign of solidarity. Pinochet had the authority to end all such demonstrations, and therefore a gesture in his direction was expected to achieve results. For his part, Pinochet called a meeting of the entire Santiago Garrison (1,400 officers) to inform them that the crisis was abating. Pérez subsequently met with all three Commanders in Chief to update them.

In late July, the Concepción court ruled against Contreras. In its opinion, Contreras' health was strong enough to allow his transfer to prison. The army, however, insisted that his hernia condition was so serious that any move would have serious consequences for his well-being. It also decided to present the case to the Supreme Court. Over the objections of Soledad Alvear, the government offered to allow "mixed" custody: Contreras would go to Punto Peuco but would be guarded by army officers, who would be given honorary contracts to act as prison guards (military personnel cannot legally assume such responsibilities). Pinochet insisted that the prison be transferred to the control of the Defense Ministry.³⁷ In addition, he brought army salaries into the negotiations, arguing that they needed to be increased at least fourteen percent, which according to him would bring army salaries more in line with other government employees. The Ministers of Defense and Treasury met to determine if an increase was feasible.

September came and still no solution had been reached. Pérez held a press conference late in the month to accept responsibility for that fact. He then met with the commanders in chief to announce that he was tendering his resignation in light of his inability to break the stalemate.³⁸ In so doing Pérez had in fact helped to put an end to that very stalemate. The government had little leverage over the armed forces, and Pérez' presence proved critical. The military was alarmed at the news, since he had been the primary link to the government and was often sympathetic to its concerns. In particular, within the government he was the most vocal in advocating restraint on human rights prosecutions. If he resigned, the government could very possibly name someone with less affinity to the military. The following day, Pinochet personally informed Pérez that the army accepted the offer of mixed custody and that Contreras would enter Punta Peuco within a week. The path to a successful end to the negotiations was also greased the previous week, when the army was told it would be granted an eight percent raise, less than requested but still significant.³⁹ Contreras went without resisting. Not only were his legal avenues exhausted, but he had met several times with the head of Pinochet's

Advisory Committee, General Víctor Lizárraga, who transmitted the Commander in Chief's thoughts on how his imprisonment was unfortunate but ultimately beneficial to the army.⁴⁰

The government considered the result a success. Despite the delays, even the left felt victorious.⁴¹ Aside from Pinochet himself, Contreras was the most notorious architect of repression during the military regime, and bringing him to justice was a victory. This achievement should not be dismissed, but in terms of civilian supremacy its cost was very high. A Supreme Court order was ignored for over four months, and since the army did not trust the Justice Minister its chosen contact point was the Defense Ministry. Although the Ministry of Defense's constitutional role is to mediate military-executive relations, it has no jurisdiction over the judicial system. As a result, the army succeeded in demonstrating its ability to resist decisions made by civilian authorities. Its acquiescence came only after Frei ordered an end to the check scandal, a pay raise was granted, mixed prison custody was offered, and the army was satisfied that handing over Contreras represented the final chapter in human rights prosecutions. The threat of Pérez resigning may have sped up negotiations, but they already had a firm base in government concession.

The Constitutional Accusation

In January 1998, five Christian Democrat deputies announced that they were planning to lodge a constitutional accusation against Pinochet when he assumed the post of lifetime senator.⁴² The announcement caused consternation both within the army and the party. Pinochet decided to exercise his right to retire at the last possible moment (March 10), instead of stepping down a few months early to ease General Ricardo Izurieta's assumption of command.⁴³ Meanwhile the Christian Democrats began an intense debate over whether the accusation should be allowed to prosper.

The primary strategy of the army was to remove Izurieta as far as possible from the situation and to emphasize to the government and congress that the accusation should be defeated. General (and Vice Commander in Chief) Rafael Villaroel became the de facto spokesman, making calls and public statements.⁴⁴ He was close to Pinochet, and as he was retiring he was going to become an advisor to Pinochet in the senate. The role of go-between was made more challenging by the fact that Pérez distanced himself and refused to act as mediator, stating that the accusation was a political, not military, matter and therefore was out of his sphere of authority. Villaroel worked instead with Interior Minister Carlos Figueroa. Consequently, such semi-formal contacts had their roots in the refusal of the Defense Minister to intervene. Izurieta did not attend the scheduled meeting of all army generals held on January 5, saying he was on vacation and that he was leaving Santiago. Neither the government nor the armed forces wanted Izurieta to be forced into the position of making political pronouncements, and if the accusation continued the army felt certain that eventually he would have no choice.

A constitutional accusation was the sole manner by which Pinochet (or, indeed, any general or admiral) could be judged by civilians. The constitution had been structured to prevent political judgment of officers, and offered only a narrow avenue through which politicians could exert authority. Article 48 outlines the functions of Congress, and part 2(d) grants them the right to present an accusation against any general or admiral “for having gravely compromised the honor or security of the Nation.” The opposition was quick to point out that the constitutional accusation was a juridical tool being utilized for political reasons and, in fact, no one disputed that assertion. On the eve of Pinochet's departure from the office of the commander in chief, there were two choices. One was to accept passively his retirement and re-entrance into the political world. The other was to repackage political accusations into juridical ones in a last ditch attempt to prevent or at least to postpone it from happening.

Even supporters were forced to admit that the accusation had limits that made its passage more difficult. The most important was that Congress could not accuse Pinochet of any wrongdoing dating before March 11, 1990. The Constitutional Organic Law of Congress, enacted during the military regime, prohibited it. Therefore, admissible evidence was confined to those political-military crises in the postauthoritarian era when Pinochet's actions were deemed to have damaged national honor. Even so, it was impossible to set aside completely the sixteen and a half years of Pinochet's rule. Emotions still rode high and the wounds of that period were still open. The opposition made much of this, since the accusation seemed to utilize post-1990 evidence to condemn Pinochet for pre-1990 deeds. The fusion of the juridical/political and the military regime/postauthoritarian era made the constitutional accusation a complex matter that generated considerable confusion and political disarray.

The accusation was also a final endeavor to separate Pinochet from the military institution. Such efforts had proved futile in the past and, especially in the case of the "ejercicio de enlace," brought the armed forces behind Pinochet in support. As long as his fate remained so closely intertwined with the institution, he could not be attacked politically without risking a military backlash. The accusation was very carefully constructed so that it clearly impugned Pinochet alone and did not seek to cast doubt on the integrity of the armed forces as a whole. Its first section asserted that "It is necessary to state precisely that we are not accusing the Army, but rather one of its retired generals. The facts that constitute the grounds [of the accusation] that we attribute are personal; they were committed by the accused, not by the institution that he commanded...[I]n the same manner that by accusing a Minister of State is not to accuse the entire government, by accusing a general is not to accuse the institution to which he belonged."⁴⁵ In this manner, its authors hoped that the armed forces would allow it to go forward.

The right immediately charged that the Concertación was trying to make up for losses in the December congressional elections. President Frei's reaction was immediate and negative. He sent cabinet members in an effort to convince the deputies as well as the parties to desist in their efforts, and Interior Minister Carlos Figueroa gave a radio interview in which he stated that “the conviction of the government is that an accusation

of this type is inconvenient in political terms.”⁴⁶ The Frei administration’s public declarations on this matter often contained variations on the word “convenient.”⁴⁷ From this perspective, the deputies were morally and constitutionally justified in launching the accusation, but the timing was unfortunate and inconvenient. A light at the end of a very long tunnel was finally in sight, since Pinochet would step down and the government could initiate new relations with the new Commander in Chief. The accusation stirred up the army precisely when normal relations were desired.

The most pressing problem for Frei was that not only would the army make its concerns known (in what manner it was impossible to guess) but that Izurieta would be forced to take a hard line against the accusation, thus complicating government-army relations. Shortly after the announcement, the Commander in Chief of the Navy, Admiral Jorge Arancibia, as well as the General Director of the National Police, General Manuel Ugarte, told Frei that politicizing Izurieta would be a major mistake.⁴⁸ The Frei administration as well as members of Congress were also soon receiving numerous contacts from military officers, all of which were intended to prevent the accusation from occurring or at least to defeat it if it were introduced.⁴⁹ Semi-formal contacts were used extensively, and many civilians opposed the accusation precisely because it would possibly lead the army to once again avoid formal contact points.

On January 16, in the midst of the turmoil, Pérez resigned, a decision that had been rumored since November. Frei named Raúl Troncoso, a long-time friend and Christian Democrat (he was Secretary General of the Government under President Frei Montalva and under Frei had been director of the National Bank), as his replacement. Troncoso moved quickly to make himself known to the military and to re-establish the Defense Ministry as the nexus of the effort to defeat the accusation. He also sent his sub-secretaries to speak to members of Congress. Rumors would emerge that he met with the corps of generals and received veiled threats of army reactions if the accusation went forward.⁵⁰

The key moment for the government was the meeting of the National Council of Christian Democrats on March 9. It had been convened to vote on whether Christian Democrats should be allowed to support the accusation. The president of the party, Enrique Krauss (previously Minister of the Interior under Aylwin), did not support the accusation and urged it to be voted down. President Frei had already made public his opposition to the accusation, and a vote to approve its continuation would represent a direct challenge to his authority. In addition, Aylwin himself had already publicly declared his opposition. However, a negative vote would be an insult to the consciences of those deputies who wished to judge the former dictator and might suggest at least tacit support for Pinochet's entrance into the senate. But by a 21-20 vote, the council allowed party members to support it. The following day, an announcement was made that the accusation would be presented on March 16, only a few days after Pinochet assumed his position as senator.⁵¹

As the constitution required, the essence of the accusation was that Pinochet had gravely compromised the honor and security of the nation. It separated his actions into

three "chapters," explaining, "All of them configure a conduct of contempt for the values that give glory and reputation to our country in the concert of nations."⁵² The chapters were separated into different types of infractions. The first was "To be the cause of and responsible for grave damage to the international image of Chile, gravely compromising the honor of the nation," which referred to statements made by Pinochet criticizing other countries as well as foreign governments' pronouncements about him. The second was "To be responsible for and the cause of acts and omissions that have sought to break the operation of the State of Law, gravely compromising the security of the nation." This referred to such civil-military incidents as the "ejercicio de enlace" and the "Boinazo," in addition to those instances in which Pinochet violated the military "no deliberation" clause by emitting political opinions. It gathered facts referring to Pinochet's negligence in the exercise of his command, which compromised the security of the nation, which included failure to sanction certain officers who had insulted President Aylwin in the first year of his government. The third was "To be the cause of and responsible for offenses to the memory of the victims of human rights violations, gravely compromising the honor of the nation." It asserted that Pinochet failed to understand that human rights was an essential element of national institutional integrity, which in turn called into question his ability to act as commander of an armed body dedicated to protecting institutional order.

Pinochet contracted a lawyer, former designated senator Olga Feliú, to construct his defense. It began by asserting that a constitutional accusation should be purely juridical, untainted by political biases, which were present in the case of Pinochet.⁵³ Throughout, it relied heavily upon technical interpretations of constitutional articles and organic law, and criticized the accusation at points for lacking the same level of detail. Subsequently, it contained three primary lines of argument. First, Commanders in Chief of the armed forces were exempt from constitutional accusations. Second, no military action, Pinochet comment, or international response represented a valid reason for presenting a constitutional accusation. Third, the accusation itself contained elements that pertained to the period before March 11, 1990 and therefore were inadmissible.

The first line of reasoning claimed that while the constitution allowed for a general or admiral to be accused, that rank should not be confused with Commander in Chief: "The words 'general' and 'Commander in Chief' are both clear terms. They are not synonyms."⁵⁴ Commanders in Chief have very different functions from other generals (or admirals) and therefore the constitution treats them in distinct ways. The 1980 constitution explicitly stated that Commanders in Chief were "immovable," a completely unambiguous term, and therefore they were exempt from constitutional accusation. Otherwise the constitution would contain a double standard, which was an unacceptable interpretation. This argument raised considerable unfavorable comment that resulted in its being rescinded shortly after its presentation.⁵⁵ In this sense, it contributed to the confusion over whether the case was juridical or political. If the case was solely juridical then the first argument would suffice, yet despite its claims to the contrary the defense recognized that political arguments would intervene, thus making it necessary to continue.

The second part claimed that in no way could any action during the time under inspection be considered a grave compromise of the honor and security of the nation. The most important aspect to consider was international. Nations live or die according to how well they interact with other nations, and at no time did Chile ever suffer in that respect. There was never a threat of war or any other type of international action that might have threatened the country. Furthermore, Chile complied with all international agreements, so national security was never at stake and national honor was upheld. To underscore this assertion, it noted that the National Security Council had never been convened as a result of the matter under inspection, thus demonstrating that not even the civilian powers had been concerned. Finally, no evidence prior to March 11, 1990 could be admitted. As a consequence, any discussion of human rights was invalid since the issue was rooted in the military regime and thus was outside the accusation's legal scope. Pinochet's defense therefore attempted to employ purely juridical arguments while tacitly agreeing that the matter was political. For this reason, the argument against accusing Commanders in Chief was removed without any dissent at all. That sort of juridical debate would be attacked vigorously in the political arena and would thereby detract from other, less controversial, juridical bases of defense.

As a further sign on army discontent, on March 6 the corps of generals announced that they had proclaimed Pinochet to be Commander in Chief "Benemérito."⁵⁶ The government did not immediately know what the title's legal ramifications were, but its symbolic implications were obvious. Even though Pinochet was retiring from the army, it still supported him fully.⁵⁷ In other words, the constitutional accusation's attempt to separate him from the institution was not succeeding. The new title meant that although Pinochet would be a senator, in the eyes of the army he would always be seen as Commander in Chief. The government summoned constitutional scholars to determine the juridical content of the new title, and concluded that it was purely honorary. Neither the 1980 constitution nor the organic laws of the armed forces ever referred to it.

The Chamber of Deputies created a five member committee, chosen by random draw, to investigate the matter and to call witnesses. Its purpose was not to judge, but rather to gather all the facts to provide a detailed account for the entire chamber. Many major political figures from both the Aylwin and Frei governments were called, including Aylwin himself. The committee, however, rejected Olga Feliú's request to call a number of military officers, such as ex-commanders in chief, hoping to avoid further politicization of the three branches.

As congressional debate continued over the accusation, a new theme emerged. Congress had the option of making the vote secret, which required forty votes. Members of the right pushed hard to approve this measure, and ultimately were successful. Retired general and current designated senator Julio Canessa personally lobbied individuals within the two rightist parties to pass it and given his close relationship to Pinochet, the latter was assumed to be behind the effort, which annoyed some RN deputies.⁵⁸ Opponents of the accusation favored a secret vote because it would allow members of the Concertación to protect themselves if they too opposed it. The combined votes of RN

and UDI succeeded in forcing a secret vote. The army continued to send unmistakable signals. On April 7, retired general and former vice commander in chief Guillermo Garín granted an interview. He wore his military uniform, a very unusual decision for a retired officer, and after stating that he was an very close friend of Izurieta he maintained that every general who had served under Pinochet--which included Izurieta--would feel that, if approved, the accusation would be aimed at them as well.⁵⁹

The secret vote was carried out on April 9. Pinochet emerged the winner, with 62 votes against the accusation, 55 in favor, and one abstention (from Gutenberg Martínez, the Christian Democrat president of the Chamber of Deputies). Despite the secrecy, many members showed their votes to the gallery. The result was not a surprise, as head-counters had been agreeing for weeks on the probable outcome.

The accusation against Pinochet had sparked a number of different semi-formal contacts, although Congress' right to pursue the accusation was never challenged. Semi-formal contacts were more often used as veiled threats about military reaction to a positive vote on the issue. This pressure, combined with the reactions of those deputies loyal to the commands of Presidents Aylwin and Frei, was critical in assuring that the accusation would not prosper.

Conclusion

The ability of the Chilean military to pursue its interests successfully in the face of opposition from civilian policy makers demonstrates that the road to civilian supremacy is long and the end is not clearly in sight. Especially when core military interests were at stake, by utilizing semi-formal contact points the armed forces were able to circumvent the formal contacts established by the constitution. To be sure, the Aylwin and Frei administrations did achieve notable successes. In particular, the fact that Manuel Contreras is currently in prison cannot be discounted. Nonetheless, the army ignored the judicial system for months and extracted several concessions from the government.

To achieve civilian supremacy it is critical for the military to consistently utilize formal points of contact, even when its core interests are involved. Some types of semi-formal contacts can be useful for establishing personal relationships that bridge the gap between officers and civilians. However, these personal relations are beneficial only when they engender greater military confidence in formal contacts in general. The negotiations between Ballerino and Correa in the early 1990s were central to conflict resolution but they also undermined the Defense Ministry's authority. The military worked well with Defense Minister Pérez but it is not yet clear if that will lead to greater confidence in the Ministry itself.

The four cases in this paper demonstrate the difficulties Chile has faced in re-establishing civilian supremacy. When the armed forces left power, they did not simply return to the barracks.⁶⁰ Even though they do not have complete freedom of action (since

the constitution was conceived by the military regime its letter, if not its spirit, is always a restraining factor) there is no doubt that civilian governments are not able to conduct policy without considerable interference. While that situation holds civilian supremacy in Chile will remain incomplete.

¹ See Wendy Hunter, "Politicians Against Soldiers: Contesting the Military in Postauthoritarian Brazil." *Comparative Politics* (July 1995): 425-443; "Continuity of Change? Civil-Military Relations in Democratic Argentina, Chile, and Peru." *Political Science Quarterly* v. 122, n. 3 (1997): 453-475, Michael Gold-Biss and Richard L. Millett, "Introduction." In Gold-Biss and Millett (eds.), *Beyond praetorianism: The Latin American Military in Transition* (Miami: North-South Center Press, 1996); and Rhoda Rabkin, "The Aylwin Government and 'Tutelary' Democracy: A Concept in Search of a Case?" *Journal of Interamerican Studies and World Affairs* v. 34, n. 4 (1992-93): 119-194. The most forceful example, however, is the following: "Now that the Latin American armed forces have become just one more interest group—though with greater coercive power than others—the study of the Latin American military will probably be less important for political scientists in the future." Paul Sigmund, "Approaches to the Study of the Military in Latin America." *Comparative Politics* v. 26, n. 2 (1993): 121-2.

² For a sampling of these different perspectives, see Wendy Hunter, *Eroding Military Influence in Brazil: Politicians Against Soldiers* (Chapel Hill: The University of North Carolina Press, 1997); John L. Johnson, *The Military and Society in Latin America* (Stanford: Stanford University Press, 1964); Brian Loveman, "Protected Democracies and Military Guardianship: Political Transition in Latin America, 1978-1993." *Journal of Interamerican Studies and World Affairs* v. 36, n. 2 (1994): 105-189; Deborah L. Norden, *Military Rebellion in Argentina: Between Coups and Consolidation* (Lincoln: University of Nebraska Press, 1996); José Nun, "The Middle-Class Military Coup." In Claudio Veliz (ed.). *The Politics of Conformity in Latin America*. (London: Oxford University Press, 1967); Frederick Nunn, "The South American Military and (Re) Democratization: Professional Thought and Self-Perception." *Journal of Interamerican Studies and World Affairs* v. 37, n.2 (1995): 1-56; Alfred Stepan, *The Military in Politics: Changing Patterns in Brazil* (Princeton: Princeton University Press, 1971); Alfred Stepan, *Rethinking Military Politics: Brazil and the Southern Cone* (Princeton: Princeton University Press, 1988)

³ Paul W. Zagorski, *Democracy vs. National Security: Civil-Military Relations in Latin America* (Boulder: Lynne Rienner Publishers, 1992).

⁴ *Ibid.*, p. 65

⁵ Felipe Agüero, *Soldiers, Civilians, and Democracy: Post-Franco Spain in Comparative Perspective* (Baltimore: The Johns Hopkins University Press, 1995): p. 19

⁶ e.g. Hunter op. cit.; David Pion-Berlin, *Through Corridors of Power: Institutions and Civil-Military Relations in Argentina* (University Park: The Pennsylvania State University Press, 1997).

⁷ It should be noted that academic conferences might at times be organized under the auspices of formal institutions. Nonetheless, they are semi-formal contacts since they are not constitutionally mandated contact points.

⁸ For an analysis of these changes, see Mark Ensalaco, "Military Prerogatives and the Stalemate of Chilean Civil-Military Relations." *Armed Forces & Society* v. 21, n. 2 (1995): 255-270. With regard to the military, the most important reform was to add a civilian to the National Security Council, thus balancing the number of civilians and Commanders in Chief.

⁹ President-elect Aylwin said, "General Pinochet has been for fifteen years the principal politician of this country. And it is an obvious fact that his name divides Chileans. It is not good either for the country or for the Army for the commander in chief to be a politician whose name divides." *Hoy* June 19-25, 1989.

¹⁰ See Brian Loveman, "¿Misión Cumplida? Civil Military Relations and the Chilean Political Transition." *Journal of Interamerican Studies and World Affairs* v. 33, n. 3 (1991): pp. 42-3.

¹¹ Pinochet created the Advisory Committee to the Commander in Chief, an organism intended to provide him with political advice. Its existence was controversial and it was sometimes described as a "government in the shadows."

¹² General Jorge Ballerino, interview with the author, Santiago, April 20, 1998.

¹³ "La noche de los teléfonos," *Hoy* March 16-22, 1998.

¹⁴ *Diario de Sesiones del Senado, Sesión 28*, December 20, 1990.

¹⁵ Despite the coincidence of military unrest in the same month, there are no indications that the Chilean army wished to use the Argentine example as a further threat, especially since the rebellion was put down effectively.

¹⁶ "El león insomne," *APSI* January 14-21, 1991.

¹⁷ *Ibid.*

¹⁸ "El President Aylwin asegura que Pinochet no interviene en politics" *La Epoca* May 28, 1993.

¹⁹ See "Maquillando la transición," *Hoy* n. 831, June 21-27, 1993. An analysis of the civil-military discourse during this period is Claudio Fuentes, *El discurso militar en la transición chilena*, Nueva Serie FLACSO, Santiago (1996), especially pp. 34-7.

²⁰ For an account of the competing claims, see Rafael Otano, *Crónica de la transición* (Santiago: Planeta, 1995), pp. 306-320. The War Subsecretary's role is to coordinate relations between the army and the Defense Ministry. Sánchez argued that much of the problem was that a small staff was attempting to make reality of a ministry that historically had existed only "on paper," while facing of military intransigence. Marcos Sánchez, interview with the author, December 1, 1997.

²¹ "Ola de Rumores por Conferencia de Generales," *El Mercurio* May 29, 1993.

²² Ballerino's political role had repercussions for his transfer. The Defense Ministry delayed signing the authorization of his appointment as Inspector General because Rojas resented Ballerino's penchant for ignoring the proper chain of command. In addition, it was rumored that Ballerino left the Advisory Committee due to rumblings within the army that he was not following the army's chain of command either. See "Perfume de poder," *APSI* June 1993.

²³ See "Correa versus Correa," *Las Ultimas Noticias*, April 4, 1998.

²⁴ "Esto se veía venir," *Hoy* June 14-20, 1993

²⁵ For an interesting view written by one of Aylwin's cabinet members, see Edgardo Boeninger, *Democracia en Chile: Lecciones para la gobernabilidad* (Santiago: Editorial Andrés Bello, 1997).

²⁶ The Fifth Criminal Court's jurisdiction included the Bank of State, which was initially considered the source of the problem since the checks originated there. The judge decided that Corfo, not the Bank of State, was the origin, since it had granted credit. Therefore the Second Criminal Court had jurisdiction. The change meant that it was no

longer possible to force Pinochet to testify, since he was never considered to be involved in giving credit. See "De Vuelta al Tunel," *Hoy* July 5-11, 1993.

²⁷ For the observations of several constitutional scholars, see "Expertos opinan sobre posibilidad de citar al Consejo de Seguridad," *El Mercurio*, June 2, 1993

²⁸ "Contreras afirmó que acatará fallo," *El Mercurio*, February 25, 1995.

²⁹ "El fallo del caso: los intocables," *Hoy* n. 926, April 17-23 1995.

³⁰ "Suprema ratificó condena contra Gral. (r) Contreras," *El Mercurio*, May 31, 1995.

³¹ "[T]his sentence neither can nor should be used to judge the institutions of national defense. They are essentially obedient and non-deliberating. The respect that the country has for its Armed Forces is based on their professionalism, hierarchy, discipline." In "Fallo debe ayuday a plena reconciliación de Chilenos," *El Mercurio*, May 31, 1995.

³² "No voy a ir a ninguna cárcel," *El Mercurio*, May 31, 1995. He continued, "I have always believed in justice, but not in the justice being carried out at this moment, and therefore I would like to emphasize the irregularities and abnormalities of this political process and also to denounce the form in which the same communists, socialists and all the Marxist ilk who betrayed the Fatherland continue co-governing this country and act without risk fundamentally in search of the destruction of the Armed Forces and National Police."

³³ "Dos estrategias para la Moneda," *Hoy* n. 935, June 19-25, 1995.

³⁴ For her importance, see "El largo camino a Punta Peuco," *Hoy* n. 938, July 10-16, 1995.

³⁵ The army did, however, continue to insist that the government's ability to judge the military was limited. An article published about the same time in the army's journal asserted that the armed forces "are not the property of those governing and they are not subordinate to people or classes, but rather to the juridical order of the Nation-State." Lt. Col. Hugo Harvey, "Estado-Nación y FF.AA.: Algunas reflexiones," *Memorial del Ejército de Chile* n. 446 (1995): p. 94. For a similar view from the navy, see also Captain Miguel A. Vergara Villalobos, "Las Fuerzas Armadas en la constitución política de 1980," *Revista de Marina* v. 113 n. 830 (1996): 58-62.

³⁶ "Perdón, olvido y reajuste," *Hoy* n. 940, July 24-30, 1995.

³⁷ "Ni por las malas ni por las buenas," *Hoy* n. 941, July 31-August 1, 1995.

³⁸ "La operación de Pérez," *Hoy* n. 950, October 2-8, 1995.

³⁹ The army used 1982 figures to determine the relation between army salaries and those of the public sector, a time when military salaries were at an all-time high. The government countered with more recent comparisons (see *ibid*).

⁴⁰ "El preso no. 2," *Hoy* n. 952, October 23-29, 1995.

⁴¹ Vicente Sota, former President of the Defense Commission of the House of Deputies, interview with the author, May 6, 1998.

⁴² Article 45 of the 1980 constitution grants such a seat to any president who has served at least six years.

⁴³ Pinochet had planned to retire on January 26, some six weeks before the transitory articles of the constitution required him to do so, to take his senate seat and to allow General Izurieta the chance to establish his authority as quickly as possible. Transitory article 8 of the constitution stipulated that Pinochet's tenure would extend four years from

the end of the first presidential term, which would be March 11, 1998. It was the last such transitory article to be fulfilled.

⁴⁴ For example, see "Recepción al rojo vivo," *Qué Pasa*, January 10, 1998

⁴⁵ "Texto completo: Acusación constitucional en contra de Augusto Pinochet Ugarte," *La Hora*, March 17, 1998, p. 2

⁴⁶ See "Gobierno persuade a alianza para que se desista de la iniciativa," *La Epoca*, January 7, 1998.

⁴⁷ Perhaps the best summary of this line of thinking comes from a press interview with Foreign Relations Minister Miguel Insulza: "The threat of a constitutional accusation makes more difficult the process of political transition; therefore the appeal made by the deputies lacks sense, although the position of these parliamentarians is very respectable and they are within their right." "Canciller dijo que es inconveniente acusar constitucionalmente al general Pinochet," *La Epoca*, February 7, 1998.

⁴⁸ "Pinochet al estrado," *El Mercurio* January 11, 1998.

⁴⁹ Senator José Antonio Viera-Gallo, interview with the author, May 11, 1998.

⁵⁰ "Ascencio denuncia presión militar" *La Epoca*, April 14, 1998

⁵¹ "El lunes presentarán acusación contra el general (r) Pinochet," *La Epoca*, March 11, 1998.

⁵² "Texto completo..." op cit., p. 8.

⁵³ The full text can be found in "La defensa del senador Pinochet," *La Tercera*, April 2, 1998.

⁵⁴ *Ibid.*, p. 5

⁵⁵ The assertion that commanders in chief were immune from constitutional accusations was immediately attacked on all sides. Aside from its juridical validity, the right believed that maintaining such a stance would increase the chances of the accusation's passage. It would shift attention from Pinochet to the constitutional prerogatives of the chamber of deputies. As a consequence, on April 6 Feliú informed the congressional committee that the entire section should be removed. There was no precedent for doing so, but there was no dissent from the Concertación.

⁵⁶ "Pinochet, comandante benemérito del Ejército," *La Epoca*, March 7, 1998

⁵⁷ The army's support was made as explicit as possible, as Villaroel stated that the army's intention was "to show in this way the obligation of gratitude, backing, and support forever." (*ibid.*)

⁵⁸ "Diputado Longton (RN): "No nos podemos sacudir la tutela militar," *La Epoca* April 10, 1998

⁵⁹ "Lobby avasallador," *Qué Pasa*, April 11, 1998

⁶⁰ The army made this explicit: anyone who believed that the army would return to the barracks "absolutely ignored everything done in the last sixteen years." Col. Carlos Molina Johnson, "La constitución política, la obediencia y la no deliberancia militar," *Memorial del Ejército de Chile* n. 434 (1990): p.22. Or, as another officer put it, "Today the army represents one of the spiritual and moral reserves of the Fatherland (*Patria*)." Brigadier Martín Muñoz Baeza, "Servir a la Patria constituye un objetivo superior," *Memorial del Ejército de Chile* n. 444 (1994): p.190.