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BA International Studies

**National Political Culture as a Limit to Democratic Intervention;
The Chilean Example**

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Introduction

In the aftermath of the Cold War, the international community put an effort into the establishment of a new global order based on the spread of norms and values to foster a peaceful coexistence. Among these values, democracy was promoted as the ideal political system for all countries to be able to carry out a successful cooperation. The end of the 20th century saw a significant movement toward political restructuring across the developing world. The new set of democratic regimes that arose distinguished themselves from the Western model due to particular structural features, often inherited from the precedent regimes. Latin America, and Chile in particular, constitutes a suitable example in the topic's field of literature.

Though the region's path toward democratization was significantly influenced by the international community, democratic consolidation often did not match international expectations. Scholar John M. Owen's theory of Liberal Transnationalism will be used as the perspective through which this thesis will assess the influence of the international community in the process of democratizing post-authoritarian Chile. The threat of the Cold War served to stimulate the United States to promote a different world order to that of the East, based on cooperation and interdependence for the purpose of maintaining a favorable balance of powers (118). Within this framework, my thesis will thus draw upon the role played by national political culture in constituting an obstacle to the influence of transnational democratic forces at the local level. This will be done by considering the specific path followed by the Chilean government in the period that goes from the re-establishment of the democratic regime in the post-Pinochet era, until the constitutional reform of 2005. This is due to the fact that this reform managed to eliminate the majority of the so-called constitutional enclaves inherited from the authoritarian regime, found to be the major cause behind the troublesome path towards the consolidation of democracy in the country. It will be argued that although the importance of the role of the international community in the process of democratic transition is undoubted, democratic consolidation in the country was ultimately driven by domestic forces.

The amendments made to the Constitution in order to eradicate the authoritarian legacy and tackle the imbalance of civilian-military power in decision making, and comply with international standards will be analyzed together with the recommendations presented by the Human Rights Commission of the United Nations with regards to Human Rights violations. This will be done to assess the degree of influence of both endogenous and exogenous forces in the measures taken by

the government to comply with international standards, and identify the one that played the determining role in establishing the country's current level of democracy.

Before going any further, it is important to further explain the perspective this analysis will take to investigate the processes mentioned above. The spread of values and ideas, such as the ones related to democratization, across geographical borders and cultural contexts, can be clearly understood by posing it within a transnational approach. In the 'AHR Conversation: On Transnational History' it is stressed how, when talking about transnationalism, we refer to the perspective through which information and ideas transcend space and time, and spread regardless of their relation to a *nation-state* (Bayly et al., 1441). Another fundamental aspect presented in the 'Conversation' is that of Chris Bayly, who points out the argument that history cannot be constructed anywhere else than at the local level, because of the 'experience' this brings with itself (1449). This same 'experience' is key to the understanding of the argument that will be formulated in this research; the complex relation between a country's development and its cultural heritage, constitute a real challenge to the diffusion and entrenchment of transnational values into a local context. In order to better understand the relevance of this process to the case study analyzed, it is necessary to narrow this framework down to one of its many approaches.

In the immediate aftermath of WWII, the United States fostered the establishment of a new global order. John M. Owen, in his *Transnational Liberalism and U.S. Primacy*, draws upon the way in which the establishment of international institutions marked the beginning of an era where transnational governance would take the lead over the creation and preservation of a new global order, arguably modeled according to significantly westernized standards (118). After the Cold War, this process contributed to the formulation of a new international discourse that saw democracy as one of the paramount requirements to be eligible to be part of the international system (120-121). Owen's work is used in order to provide the reader with a coherent perspective over the events and processes that will be described and analyzed. It is important to understand that the U.S. played an indirect, yet paramount role in the events that characterized political change in the Latin American region throughout the second half of the 20th century, and in the overall global democratization process (Carothers, 5-6). What Owen fails to acknowledge in his paper is the way in which these information and values were promoted in different contexts, since it is arguably evident that they were based upon a westernized standard that did not take into account the different backgrounds in which they were spread. This thesis will hence draw upon the process of implementation of international law as a means to foster democratization over local contexts and the

national responses bound to it. It will be argued that despite the significant influence played by international norms and values in the new global order, domestic forces continue prevailing.

The thesis will be structured into four chapters, which will gradually guide the reader towards a coherent understanding of the case study analyzed. The first chapter will hence explain the theory and concepts relevant to the topic, by outlining the main features of Robert Keohane and Joseph Nye's 'Liberal Institutionalism'. In relation to this theory, Joseph Nye's concept of 'Soft Power' will be presented in order to clarify the dynamics through which the spread of transnational democratic values takes place amidst international institutions. To make this analysis more consistent in relation to the case study considered, the obstacles and features entailed by the promotion of international law in national contexts will be presented. To conclude, using Juan Linz and Alfred Stepan path 'Toward Democratic Consolidation' (1996), this thesis will try to clarify the role of the state in the process of democratization. This will be supported by the definition of 'Authoritarian Enclaves' formulated by Manuel Antonio Garretón (2009).

The second chapter will place my topic in a historical context. The shift in role of the military from an apolitical to a political actor in the Chilean state will thus be presented. In order to make this analysis more consistent, the institutionalization of the political role of the armed forces during the dictatorship will consequently be assessed, by considering the relative articles present in the Chilean constitution of 1980. Lastly, the development of the power relation between civilian and military authority in the post-dictatorial regime will be briefly considered in order to introduce the analysis of the endogenous and exogenous factors that brought the Chilean government to the elimination of the authoritarian legacy.

The real impact of international institutions on the democratization process in Chile will be assessed in chapter four, by considering the recommendations drafted by the United Nations in the period taken into account. This will be done by using the theories of Robert Keohane and Joseph Nye, in order to understand the outcomes of exogenous forces in the country. The Pinochet Case will be considered as an example of the clash between international and domestic forces in the country. It will be argued that the legalistic nature of the Chilean state was the real cause behind the need to comply with international standards, rather than the latter being the engine behind the state's political change.

Since the democratic government that took charge after the decay of the military dictatorship played a pivotal role in the consolidation of democracy in Chile, chapter three will then consider the measures undertaken by the government to strengthen democratic institutions in

the country. This was mainly done through the elimination of authoritarian enclaves from the constitution. To support this argument I will use Chilean scholar Manuel Antonio Garretón's interpretation of the term 'enclaves' (2009). Hence, the measures taken by the government to limit the political role of the armed forces will be assessed, through an analysis of the constitutional reforms implemented between 1990 and 2005. Following the outline of Linz and Stepan's path toward democratic consolidation, the chapter will conclude that the reform of 2005 determined the end of democratic transition and the centrality of governmental agency in the progress of democratic consolidation.

I. Theoretical Framework

In order to provide a coherent analysis of the events that took place in Chile between 1990 and 2005, with regards to the path towards democratic consolidation, it is important to explain a series of concepts that are crucial to the understanding of the democratization process in the third world. These will shape a relevant framework that will allow for a complete understanding of the dynamics analyzed, from the role of the international community, to that played by the Chilean government. The first concept is that of 'Liberal Institutionalism', as explained in the theoretical framework developed by scholars Robert Keohane and Joseph Nye in their *Power and Interdependence; World Politics in Transition* (1977). The second one, deeply interrelated to the dynamics of Liberal Institutionalism, is the concept of 'Soft Power', as understood according to the work of Joseph Nye (2004). Both concepts are relevant to the case study in that they outline the structure and the working dynamics of the world order that arose during the last years of the Cold War. Furthermore, in relation to the promotion of international norms at a national level, it is important to acknowledge the domestic processes a country must undertake in order to be able to comply with such norms. In order to do this, the 'Democratic Consolidation' path outlined by Juan J. Linz and Alfred Stepan will be considered (1996). For the sake of consistency, the concept of 'Authoritarian Enclaves' formulated by Manuel Antonio Garretón will be presented to define the specific challenge encountered by the Chilean government in this process.

In the creation of a global order, where cooperation between states can take place under the supervision of international institutions, the formulation of a set of common standards was needed in order to make the process easier to control. Democracy was therefore acknowledged as one of the requirements for a developing country to become part of the international system (Carothers, 5-6). In so doing, the new international order fostered by the West, sought to deviate from past patterns of coercion and 'hard power', and endorsed tactics of 'soft power' instead. Before going into detail with what these terms specifically entail, it is important to understand the framework and context they arise from. The wave of political change that characterized Latin America in the 20th century was deeply affected by the influence of external forces (Carothers, 5-6). In relation to this topic, Robert Keohane and Joseph Nye developed the theoretical framework of 'Liberal Institutionalism', which focuses on the role played by international institution in fostering cooperation between states. The authors stress that the creation of a network of international institutions will provide a platform of confrontation for states to collaborate and interact between each other and with non-state actors (Keohane and Nye 25). Hence, the idea is that once governments realize that they can benefit from

cooperation rather than hostility, they will make a joint effort to create such institutions and commit to their authority.

In order to define this shift in international relations, Joseph Nye formulated two terms, namely 'Soft Power' and 'Hard Power' (1990). The realist perception of interstate relations implied the use of 'hard power' in the process of imposing the authority of states over others. By this term is hence meant the idea that states use coercion to change the behavior of others, in order to pursue their own interests (Nye, *The Future of Power*; 11). On the other hand, 'soft power' relates to the practice of stimulating a change of behaviour in other states, through persuasion rather than rivalry, by promoting the pursuit of common interests across borders (Nye, *Soft Power: The Means to Success*; 5). This is done through the formulation of a common set of values, and diffuse them by engaging in practices such as diplomacy and the promotion of international law throughout the world.

The use of international law as a means to promote democratization is key to the understanding of the issue analysed in this thesis, due to its impact on the institutional structure of the countries in which it is implemented. Scholars Gregory H. Fox and Brad R. Roth, in their work 'Democracy and International Law', present this practice as the way in which international organizations attempted to aid national governments in the Third World in the process of eradicating the structural legacies of previous authoritarian regimes from within governmental institutions, and consequently consolidate democracy (334). One of the main problems encountered in the relevant literature when explaining the implementation of international norms into a national body of law is that of sovereignty. Most governments seem to struggle with the process of adaptation of the juridical institutional apparatus to the overarching international legal system (Reisman, 870). This is explained by Néstor Sagues, when pointing out that national law cannot be regarded just as a juridical apparatus, since it reflects a national reality that derives from the socio-cultural development of a state (1). The process of democratization thus entails a significant governmental effort, rather than being solely determined by international pressures.

Although it is undoubted that the influence of the international community played a significant role in fostering a series of changes, the process of democratization is ultimately an inherently domestic one. Linz and Stepan, in their outline of the path towards democratic consolidation, define three features a state must present in order to successfully achieve this goal. First, the state must be accountable as democratic, through the successful implementation of all

practices that define a democracy as such¹. Secondly, the process of democratic transition must be completed. Lastly, the head of the state must act as a democratic leader (Linz and Stepan, 14). For the sake of the coherence of this thesis, the focus will be put on the issue of democratic transition, in that it is the main problem relevant to the Chilean case. This process entails the capability of the government to make use of the three powers of the state in an undisputed and fully democratic manner. In the Chilean example, this has been a troublesome challenge in that the Constitution inherited from the authoritarian regime legitimized military authority within most of the state's institutions. In order to explain the problem deriving from the Chilean constitution, scholar Manuel Antonio Garretón formulated the definition of 'authoritarian enclaves', depicting them as institutional ties to the authoritarian tradition, embedded in the constitutional framework, designed to hinder democratic consolidation in the post-authoritarian state (102).

Taken together, these concepts arguably compose a coherent theoretical framework that allows a better insight on the dynamics that are going to be analyzed in this thesis. The role of international institutions in addressing fundamental issues related to a successful democratization is relevant only up to a certain extent. Thus, it is ultimately due to the measures undertaken by domestic forces that the path towards democratic consolidation can be finalized. Arguably, the agency of soft power is not comparable to governmental action, in that the latter is practically more efficient in tackling domestic issues.

¹ Free and fair elections, legitimate monopoly of force, and citizen's rights must protected by the rule of law (Linz and Stepan, 14)

II. Historical Contextualization

The polarized global dimension that characterized the Cold War period induced the formation of several authoritarian regimes throughout the third world. These were mainly brought about by the fear for political and social instability, together with economic stagnation. In the Latin American region, this process took place mainly between the 1960s and 70s, when the Communist threat echoed by the Cuban revolution provoked a *moto* towards the instauration of what Guillermo O'Donnell named 'Bureaucratic-Authoritarianism' (1988). This concept portrayed the instauration of a military government designed to take control over a supposedly chaotic society, reformulate the economic structure of the country, and pave the way for a correct and efficient establishment of democracy. In Chile, the advent of the military regime took place a few years later than in most countries of the region, in 1973. The military played a protagonist role in this process, reformulating the governmental structure on the basis of its own presence, affecting nearly all institutions composing the three main state's powers – executive, legislative, and judiciary. Throughout the duration of the authoritarian regime, these changes embedded deep roots within the established order, and remained long after the decay of the regime itself, influencing the correct establishment of the democratic government that followed. This chapter will argue that the Constitution itself hence represented the main obstacle to the consolidation of a full, undisputed democracy. In order to do so, the historical development of the role of the armed forces in the period that goes from the end of the 1960s, until the constitutional reform of 2005, will be considered. Its transformation from an apolitical to a strongly political actor will be highlighted, by means of analyzing the articles of the Constitution relevant to the powers and duties granted to the military institution. To conclude, the modifications and constitutional reforms implemented after the decay of the authoritarian regimes and directed at tackling the civilian-military imbalance in the decision making system will be briefly assessed to introduce the relevance of exogenous and endogenous forces in the process of democratic consolidation. This will be done in the attempt to assess the role of the new governments in the process of eradicating the authoritarian legacy from within the institutional structure.

For the sake of a coherent analysis of the role played by the military in the creation of this complex national condition, it is important to consider the events that took place even before General Augusto Pinochet's rise to power. By the end of the 1960's, Chile was an exception to a series of military coups that had swept through Latin America. At the time, in Chile, the army was considered as a "legalistic, constitutionalist, and professional" institution (Sigmund 242). In the 1925 Constitution, one of the most important in the country's political history, the armed forces had

been labeled as an *apolitical* actor within the state. Nevertheless, towards the end of the 1960s, a set of events turned out to be disadvantageous in maintaining this status. The country burst into political unrest, due to both internal and external factors that deeply influenced the status quo. The global ideological conflict between capitalism and communism, the Cuban Revolution, and a possible “spill-over” effect from other countries, were elements that possibly affected Chile and these could be considered as exogenous factors² contributing to the chaos that characterized the country during those years (Wright & Zuñiga, 32-33). Domestically, the political center of the state, divided between Santiago and Valparaiso, was entangled in a power struggle between the three main parties that monopolized the political system at the time; Unidad Popular (UP), Democracia Cristiana (DC), and the recently formed Partido Nacional (PN). This severe polarization constituted a political environment that failed to concretely represent the interests of the population, fostering the spread of popular discontent. With the election of Salvador Allende, in 1970, the situation became increasingly more arduous. The leader of the UP had been elected as president by a minority³, leading to increasing political turmoil. Moreover, the economic instability experienced after the first year of Allende’s charge only contributed to a decline of its popularity, and to an increase in social unrest (Valenzuela, pp. 115-141).

In this condition, all the premises for a military intervention were established. Political and social turmoil, together with the unfavorable economic condition, intensified the threat of a military coup. Nevertheless, the army’s commander, General Schneider, took a fundamental position within the conflict, by stating that as long as the government proved to be constitutional, the armed force would not intervene. The constitutionalist stance taken by the General contributed in guaranteeing Allende’s government extra survival time. This statement, based on the mutual exclusivity of the military and political sector, was later named the ‘Schneider Doctrine’ and was adopted as such even after the General’s assassination, in 1970, by his successor General Prats (Agüero, 252-255). This was arguably the last moment in which the armed forces in Chile maintained their constitutionalist feature before the coup d’état. In fact, it became clear that General Schneider’s stance on the conduct of the armed forces represented a significant obstacle for the opposition, the Partido Nacional, in the attempt to overthrow the government in charge (CIA, 2000) . Hence, with the decease of Schneider, the military found itself in a dangerous situation. The political sphere was

² Chilean military officers had even been sent to the US in order to receive the relevant training in order to face the communist world threat (CIA, 2000).

³ Salvador Allende’s election was not majoritarian as meant to be according to the electoral law, it was instead achieved by simple majority. Thus, it needed the approval of the Congress, in order to take final charge. Due to the political context of the time, this put him in a precarious position. Moreover, Allende also constituted a minority within his own party, in that most of its components saw his political program as being too moderate in comparison to the ideals behind the UP (Valenzuela, 128-130).

caught up into a vicious circle of endless negotiations and social unrest due to the deceptive economic conditions of the country represented an additional destabilizing factor.

In 1972, the negotiations between political parties were deemed to have failed, the role of state institutions had started to deteriorate, and the intervention of organs such as the Constitutional Court and the Republic's General Controller (Controlaría General de la Republica), contributed to the final politicization of the armed forces (Valenzuela, 219-221). They "rose as the only 'neutral' power with a sufficient legitimacy and a real capability to mediate between the forces in conflict" (Valenzuela, 221). Despite the attempt made by Allende to incorporate the military forces into his cabinet, their presence within the government constituted a significantly destabilizing factor, which proved to be determining for the definitive politicization of the military institution (Valenzuela, 221-222). In September 1973, under the lead of General Augusto Pinochet, the military took over the presidential palace, *La Moneda*, starting the authoritarian regime that would affect the country with its legacy for most of the following years.

Once in place, the military regime focused on the achievement of two major goals. First, the elimination of any possible form of dissidence within the country, mainly in terms of forced exclusion of the representatives and perpetrators of the opposition parties and values. In this process, the armed forces, and specifically Pinochet's counter-insurgency force, the DINA, played a paramount role in carrying out the eradication of the supporters of the Leftist movement in Chile and abroad, through various means (Wright & Zuñiga, 34). Secondly, once the repression of the opposition was thought to be completed, the military Junta concentrated their efforts in the formulation of a new political Constitution of the Chilean state.

Augusto Pinochet organized a committee designed for creating an outline of the new document, the Comisión Ortuzar. This was in charge for drafting a constitution that reflected the institutional future imagined by the Junta. In 1977, in what became known as the 'Chacarrillas' speech', Pinochet presented the new institutional program that had been elaborated for the country. Its main goal was that of achieving a new democracy, supposedly "authoritarian, protected, conciliatory, technocratic, and purely based on social participation" (El Mercurio, 10th July 1977). The contradictory nature of this definition anticipates the characteristics that the new constitutional document would incorporate, and the influence it would have exerted on the entire country. Crucial, in his speech, was the role assigned to the armed forces, of guarantors of the institutional order even

once the authoritarian rule would come to an end⁴. It is important to mention, that in order to make the promulgation of the new constitution legitimate, the Junta decided to establish a plebiscite, labeled as an electoral fraud, for the population to deliberately choose for the enactment of the new jurisdictional body (Couso, 410).

Through a series of articles, the new constitution highlighted the attempt to create a constitutional legal order, with the armed forces being at the highest levels of the governmental ladder in most state institutions. As mentioned above, the constitution granted the armed forces the role of guarantors of the constitutional order, making the politicization of the army official (1980 Political Constitution, Ch. X, Art. 90). Moreover, besides being part of the government's cabinet, high representatives of the armed forces composed the top sphere of organs such as the National Security Council (COSENA) (1980 Political Constitution, Ch. V, Art. 45). This implied that most of the executive power of the state was subject to the control of the armed forces, at different levels. In addition to this, Article 80 established that the exercise of juridical power was to be carried out in conformity with the Military Justice Code (Ch. VI, Art. 80A). Although, most of these articles were subject to reform at the end of the authoritarian regime, several implications remained active providing the armed forces with a degree of institutional power that, even if consistently limited, does not pertain to the role of the military in customary democracies. Furthermore, another article should be mentioned to stress arbitrary power assigned to the institution of the armed forces, focused on the agency of military justice. The topic of terrorism is regarded, in the 9th article of the constitution, as representing a severe violation of human rights, and that a law promoted by a qualified quorum, will determine what consequences a terrorist action will imply (Ch. I, Art. 9). If considered in relation with the articles mentioned above, the 'qualified' quorum is clearly directly dependent on the agency of military courts in the country, and therefore subject to arbitrary judgements, when considered within the Chilean context. It is then possible to state that in the original constitution of 1980, the role of the armed forces was established to have complete control over the decision making of most governmental institutions. This role came to change progressively as from the beginning of the democratic government, but its institutional nature remained so deeply entrenched in the state's jurisdiction, that its complete eradication proved to be a challenge.

The norms regarding the power and duties of the armed forces were implemented and perpetrated until the decay of the regime, marked by the Plebiscite of 1988. With the establishment of the democratic government, significant efforts were channeled towards the elimination of the

⁴ the main points of his constitutional reform are contained in the *Revista Chilena de Derecho*. Vol 8(1-6): 88-106

dictatorship's institutional legacy. Towards the end of the authoritarian rule, the military junta had made a significant effort in modifying the constitutional document, so that the upcoming government would find it problematic to completely change the institutional system created by Pinochet. Hence, a set of negotiations between the military and the opposition faction that formed during the last years of the dictatorship started, in order to reconsider the constitutional text and make it more appropriate to the establishment of democracy. Through another plebiscite in 1989, the population voted for the incorporation of the needed amendments, and the democratic regime was finally ready to take its first steps (Couso 413-414). Nevertheless, most of the institutional changes made by the authoritarian regime constituted a legacy of its existence even after its conclusion, hampering the correct development of the new democratic state. It is important to mention that in order for the constitutional reforms to be implemented, the Pinochet constitution demanded parliamentary majority, which makes the process significantly difficult to be undertaken due to presence of a substantial amount of right wing representatives in the Parliament (Santos, 4). For this reason, they were labeled with the term "enclaves" by scholar Manuel Antonio Garretón, due to their permanence within the institutional system, and the difficulty encountered in attempting to eradicate them (2009). Throughout the years, the role of the military was increasingly limited by the constitutional reforms enacted in the following years, but its freedom of action was still wider than in many other democratic states. This has been a widely recognized topic in the international community, which motivated international institutions such as the United Nations to file recommendations directed to the Chilean government mainly on the topic of violation of Human Rights, highlighting the fallacies in the institutional structure of the state.

A thorough establishment of an undisputed democracy in the Chilean state was also in the interest of supra-national organizations, such as Inter-American Court of Human Rights and the United Nations, through the agency of departments such as the United Nations commission for human rights (OHCHR). These have attempted to enforce international law on human rights in the country, in order for the process to be successfully completed. The OHCHR had been supervising the country, and listed a considerable amount of reports on the topic of violation of human rights, both referring to the period in which the authoritarian regime was in place and to the years that followed (OHCHR, Countries: Chile). In 1998, another set of reforms was carried out, in order to reconfigure the role of the Supreme Court, the functioning of criminal procedures, and to eliminate the death penalty. Nevertheless, the most important one was the constitutional reform of 2005, through which most of the above mentioned "enclaves" were thought to have been eliminated (Fuentes, *Democratizando Chile*; 87). The following chapters will elaborate on the dynamics that brought Chile to this fundamental stage of democratic consolidation, in order to assess whether the

main engine behind this success was the Chilean government or the influence of the international community. The next chapter will hence draw upon the measures undertaken by the Concertación governments to limit the decision making power of the army within the state's institutions. A focus will be put on the obstacle represented by the need for reaching parliamentary majority, when trying to reform articles of the constitution.

III. The Impact of International Institutions

The process of democratization in Chile is one of significant interest when considering the Latin American context and the influence the international community has had on the entire region, with regards to the consolidation of international standards on local bases. As stressed above, the authoritarian tradition has been pivotal in the modernization of most countries in Latin America. Authors such as Guillermo O'Donnell have elaborated on the crucial contribution some dictatorial regimes have made to the development of countries in the region. Such regimes did so by developing a system that the Argentinian scholar has named 'Bureaucratic Authoritarianism'(1988). Because of the significant influence these regimes had in the creation and consequent administration of state's institutions, it can arguably be stated that most of the problems encountered by developing countries in the process of democratic consolidation are a consequence of the authoritarian legacy in the political system. The role of international institutions as a guidance in the elimination of dictatorial legacies can then be justified in the effort to create a global structure based on equal political and economic features. International law and diplomacy were hence used as the main instruments to orchestrate this development in a new world order characterized by cooperation. This chapter will thus draw on the influence of international institutions in the country, in terms of the effects of the use of 'Soft Power' in order to provoke changes within the Chilean institutional system. It will be argued that the compliance of the state with international law does not determine the effectiveness of the latter in determining the democratization process.

It is important to mention that, already in the Plebiscite of 1988, the international community contributed significantly in supporting the transition to democracy, raising awareness over human rights abuses in the country (Wright and Zuñiga, 44; Montes, and Vial, 12). Once democracy was established, one of the main problems encountered by the international community in carrying out its activity in the Chilean context was that of the inapplicability of some norms of international law into the county's body of jurisdiction, as a consequence of the authoritarian nature of its constitution. Nevertheless, the international community was significantly active within this context, as proven by Pinochet's indictment in London, and by the dramatic number of UN recommendations drafted on the topic of violation of human rights in the country. This is mainly related to the importance of this issue both in the domestic context, due to the political implications it has brought with itself, and in the international one. This chapter will hence consider the recommendations published by the Human Rights Commission of the United Nations, and try to identify a correspondence in the actions undertaken by the government to tackle the issues previously mentioned. Furthermore, an in depth analysis of Pinochet's indictment will be carried

out, to stress the conflict between international and national law in this matter. The framework of Liberal Institutionalism developed by Keohane and Nye, applied through an analysis of the use of ‘Soft Power’ by international institutions in Chile will be used to assess the efficiency of international forces in the democratization process.

3.1. The Issue of Human Rights

The agency of international organizations in Chile within the time frame considered, has mainly taken place with regards to the issue of human rights. In specific, the Office of High Commissioner for Human Rights (OHCHR), the United Nation’s department designed to tackle this issue, has been carrying out a significant set of activities throughout the region. The department was established in 1955, in order to promote and provide support on the topic of human rights throughout the world. This process, called ‘Program for Technical Cooperation’, aims at supporting governments in creating institutions and infrastructures designed for the protection of human rights, and democratic consolidation. Moreover, it also fosters the incorporation of international norms on the topic into the main national body of law. It is a mainly noninvasive practice, in that it consists of consultancy projects and workshops designed towards the creation of awareness on the issue⁵. This can be seen as a significant example of the flow of information described by Keohane and Nye as deriving from the establishment of a network of international institutions (25). Moreover, the main features of this program match the features of the dynamics that Nye’s concept of ‘Soft Power’ entails. Its noninvasive agency, together with its deep relation with the implementation of international law, are evidence of this relation. In order to assess the activity of the OHCHR in the Chilean state, several recommendations have been considered, mainly focusing on topics that involve the authoritarian legacy. Unfortunately, most of the documents accessible to the public date back to as far as 1998 (OHCHR – *Chile, archivo de noticias*). Hence, the chapter will analyze examples of the publications available, in order to highlight a few crucial points that the United Nations have stressed on the issue of human rights violations, and the suggestions they have formulated accordingly.

In 1999, the Human Rights Committee assessed Chile’s Fourth Periodic Report, which mainly focused on the limitations imposed by the Chilean constitution on the process of democratic consolidation. A series of examples, primarily related to the Amnesty Law of 1978⁶, were used to

⁵ The *modus operandi* of the department is included in the section ‘Programa de Cooperación Técnica’ of the OHCHR website. Can be accessed via <http://www.ohchr.org/SP/Countries/Pages/TechnicalCooperationIndex.aspx>

⁶ The ‘Amnesty Law’ was a decree-law promulgated by General Augusto Pinochet, in 1978, which stated that every act of human right abuse committed between 1973 and 1978 was exempted from being prosecuted. This, because since the coup, the state was declared under a state of siege, which granted complete freedom of action to the army.

stress this matter, such as: the Pinochet case, and the conflictive nature of the general's position within the Chilean state; and the topic of military justice being in conflict with civilian jurisdiction on a series of matters that implied the indictment of military officers. Nevertheless, the committee stresses throughout the whole report the significant commitment displayed by the Chilean state in the process of democratic consolidation and in the compliance with international standards, also proven by the ratification of most international treaties on human rights. Moreover, it further emphasizes that the difficulties encountered in making the process effective, were related to the authoritarian nature of the Constitution, rather than to a lack of interest in the government. Another interesting document is the review of the Third Periodic Report of Chile, made by the Committee against Torture (2004). The issue of torture has been one of the main topics discussed with relevance to human rights abuses during the dictatorial regime. In the review, it is recognized and stressed that human rights are fundamental in Chilean policy-making at both the national and international levels, and that the state's responsiveness to most United Nations committees displays its commitment to international obligations. Although the document is not available online due to the date of its publication (1997), the review states that in the Third Periodic Report, the government mentions several measures undertaken within the legal system, to implement the obligations established by the Convention against Torture. The reform of the legal system would supposedly bring the country to a more efficient development of democratic institutions. The review plausibly presents the standard procedure of international organizations delineated in the theoretical framework.

Diplomacy, as exemplified by the relation between the state and the UN department, and international law, are the main means by which soft power is exerted over countries in the attempt to provoke a change within a country's structure or context. Nevertheless, there are a few substantial limitations to this practice that hamper its efficiency. These are mainly related to the fact that the agency of soft power is mainly indirect and cannot therefore ensure the implementations of the changes it fosters. This is deeply connected to the limits of international law, in that its main flaw is found into not being legally binding but just a mere question of *opinio juris*⁷. A state's compliance with international norms does not necessarily mean it will be effectively implemented (Guzman, 1834). An example of this is, in the same report, the statement made by the government's representative when affirming that measures had already been taken in 1990 to modify the 1980's constitution (OHCHR, 2004). However, in the following chapter it will be demonstrated that those changes had not managed to alter the country's situation. Most reports drafted by the OHCHR

⁷ *Opinio juris sive necessitates* is a legal term that refers to "general and consistent practices conducted out of a sense of legal obligation (van Aaken, A., 294).

present Chile as displaying a significantly high level of compliance with international law, but as proven above, this does not necessarily constitute a proof of the efficiency of this tool in the implementation of changes within the state's institutions. In the following paragraph, the case of Pinochet's indictment in 1998 will be considered as another example of the relation between international and national law in the Chilean context.

3.2. The Pinochet Case

In 1998, General Augusto Pinochet was indicted and consequently arrested in London, as a result of an incrimination by a Spanish court, and specifically by Magistrate Baltasar Garzón, on serious human rights' abuses. As specified by scholar Cath Collins, 'the jurisdictional basis of the complaint was, essentially, the invocation of universal jurisdiction over certain internationally defined human rights crimes'(82). This meant that the Spanish court could consequently appeal to international law and demand to be able to judge Pinochet for his crimes rather than have the Chilean jurisdiction do so. While the first judicial pronouncement ruled the General's sovereign immunity⁸, the judicial committee of the British House of Lords declared that the violations he had been indicted for were not pertinent to a head of the state's responsibilities (Evans, 209). To Chilean authorities, both civilian and military, the question appeared to be threatening, in that the case would have raised the international community's interest in the actual democratic condition of the Chilean state and possibly spoil its international status (Collins, 82). UN High Commissioner for Human Rights, Mary Robinson, stressed the importance of the General's indictment, as representing a turning point for human rights defense in the history of humankind. This was due to the fact that international law had overcome the sovereign immunity of the Chilean general (Robinson, 1998). Nevertheless, Pinochet was brought back to Chile, following a request of the Chilean government because of the General's supposedly bad health conditions, where he was going to be tried by domestic jurisdiction (Evans, 210).

However, the situation in the country had evolved. As mentioned above, by the end of the 20th century the armed forces had gotten back into a semi-constitutionalist position, and did not take action against the government. To complicate the situation, while the Chilean courts were taking up on the challenge of indicting the ex-dictator, Pinochet became life senator, according to his own Constitutional plan⁹. This contributed to increase the already troublesome quest of trying the

⁸ As mentioned above, most human right's violations were committed under the 'state of alert' declared by the armed forces after the coup. This meant that, in the opinion of the court, Pinochet's actions were driven by the duties of his office (Evans, 209).

⁹ In Chapter V, article 45, it was established that once terminated his charge, the head of the state was to enter the senate as a life senator.

General, in that the charge of life senator implied parliamentary immunity (Constitution Política 1980; Ch. V, art. 45). During a brief return of Augusto Pinochet to Britain, the Spanish court tried to find a way to make the general stay in the country enough time to call an effective extradition. Here, an interesting and crucial divide arose. On the one hand, President Frei wanted the ex-dictator to be taken back to Chile on the basis of national sovereignty. On the other hand, the Spanish court demanded his trial would take place in Europe due to ‘the unlikelihood that any domestic prosecution in Chile would prosper’. (Collins, 84). However, Pinochet was eventually taken back to Chile, where he was never successfully taken to trial, due to his death in 2006. Hence, this example proves the undeniable conflict existing between international and national law, and the significantly debated question on whether the former can ever prevail over the latter. Moreover, it is an additional indicator of Soft Power’s lack of coercive capacity. No matter the ratification of international treaties or the formal compliance with international law, a country will always decide what level of commitment to put into international obligations depending on the case (Guzman, 1856). Arguably, although compliance with international obligations implies significant advantages in the international system, states will ultimately commit to them depending on the consequences these obligations will bring.

Taken together, the role of international institutions is determining in raising awareness over issues that are to be necessarily tackled by democracies in the international system. This process takes place through the use of Soft Power, in that changes in the institutional body of the state are needed to consolidate a degree of democracy that can grant access to the international arena. Nevertheless, examples such as the Pinochet case highlight the lack of coercive power this medium entails. Being a mainly noninvasive practice, the promotion of international law does not ensure the implementation of international norms within a state. This implies that in order for international forces to be efficient by means of Soft Power, the state needs to significantly commit to their implementation, regardless of the consequences they may bring. It can then be stated that the influence of external actors in the process of democratic consolidation was mainly indirect. Moreover, that it was primarily related to raising awareness over issues that determined the lack of democratic efficiency of Chilean institutions, rather than being determining in the application of structural changes within the state. The following chapter will thus analyze the role of the Chilean state in the process of democratization, in order to assess its efficiency in the consolidation of democratic institutions.

IV. Governmental Efforts

Once in place, the government of the Concertación undertook a series of measures needed to allow the correct establishment and functioning of a democratic regime. The first and most substantial challenge for the newly established government was dealing with the great imbalance, in political decision making, between civilian and military authorities. Governmental organs such as the Supreme Court and the National Security Council (COSENA) were in fact established during the dictatorship to legitimize the military's complete control over the main state's powers; executive, judiciary, and legislative. As mentioned above, during the last months of its charge, the outgoing military government created series of legal obstacles within the constitution, designed to hamper democratic consolidation. Hence, between 1990 and 2005, the government of the Concertación promoted a series of constitutional reforms specifically aimed at the elimination of the authoritarian legacy. It is important to note that in order for these reforms to be successfully implemented, the constitution demanded that the decrees received the approval of the parliamentary majority (Santos, 4). Considering the still significant presence of right wing representatives in the Parliament, this was an undoubtedly challenging task (Fuentes, *After Pinochet*: 115-116; Santos, 12). This chapter will hence present a definition of the term 'enclaves', according primarily to the interpretation of Chilean scholar Manuel Antonio Garretón (2009). Furthermore, an analysis of the governmental approaches to the issue will be provided. These will be divided into Presidential Action and Constitutional Reforms. It can be stated that the problematics related to human right's abuses in the country are crucial to the understanding of the tension between civic and military authorities, and therefore the troublesome path towards democratic consolidation. Through the use of Linz and Stepan framework of the path toward democratic consolidation, the chapter will assess whether this was successfully achieved by governmental efforts. The chapter will also aim to stress the role of the Chilean government as main engine in the process of democratic consolidation.

4.1. Authoritarian Enclaves

The Chilean condition of limited democracy has been stressed by several Latin American authors. The Chilean author Manuel Antonio Garretón has coined the term "enclave" in order to justify this condition. According to the definition provided by Francisco Fernandez Fredes in his "La Constitución Chilena de 1980: Enclaves Autoritarios y Cerrojos Institucionales", the term enclaves indicates those institutions created by the authoritarian regime, whose powers are legitimized by the state's constitution and hence capable of influencing the process of democratic consolidation (195). Garretón complements this definition, pointing out that this influence is created

through a power game of political forces, between dictatorship and democracy (Garretón, 102). Those institutions that by definition can be considered as enclaves can therefore affect the decision making of democratic institutions. In the Chilean case, this was particularly visible in the imbalance between civilian and military authority in the decision making process. Thus, the government of the Concertación made a significant effort in trying to limit military power within the political sphere. This was done through different approaches, namely according to the orientation and behavior of the president in charge.

The official end of the military regime was marked by the Plebiscite of 1988, in which the population had the possibility to choose between the permanence of the military regime or the establishment of a democratic government. The Junta had thus secretly elaborated a series of structural obstacles within the constitution that would have hampered the process of democratic consolidation (Santos, 5). Hence, with another Plebiscite, in 1989, a set of negotiations was carried out between the two factions to apply the needed modifications to the constitution, in order to allow for the establishment of a democratic government (Silva, 378). Nevertheless, the constitutional ‘enclaves’ remained in place for a substantial amount of time, requiring the new regime to limit the significant presence and authority of the armed forces within the political sphere. As stated by Stepan, this was a troublesome burden, in that the ‘military as an institution assumes they have an acquired right or privilege, formal or informal, to exercise effective control over its internal governance, to play a role within extra-military areas within the state apparatus, or even to structure relationships between the state and political or civil society’ (93). According to Linz and Stepan the establishment of the democratic government through a national plebiscite, and the negotiations carried out with the military to ensure a correct development of democratic institutions can be seen as a preliminary accomplishment of the first necessary requirement for the consolidation of democracy. As mentioned above, this consists of the successful implementation of democratic practices (17). Free and fair elections were in fact carried out to ensure the transition to democracy. The negotiations between military and civic powers highlighted the need for the monopoly of force to be exercised in a democratic manner, and every member of the state to be accountable to the rule of law. The first three governments of the Concertación hence performed a significantly hard task when relating to the military institution by maintaining themselves within the constitutional framework, while trying to limit the arbitrary power granted to the army by the constitution itself. In the following paragraphs, the strategies used by Patricio Aylwin (1989-1994), Eduardo Frei (1994-2000), and Ricardo Lagos (2000-2005), in the approach with the armed forces will be considered, followed by an analysis of the constitutional reforms implemented during their charge.

4.2. Presidential Action

When facing the challenge of restricting the military's arbitrary power in order to consolidate the democratic rule, the first presidents of the Concertación have taken different approaches. According to scholar Claudio Fuentes' interpretation of political strategies used to contrast military power, three approaches can be identified that define the priorities of the governments in charge when aiming at the achievement of their best interest. First, the 'noncooperation' approach: based on openly contrasting the military institution by implementing policies designed to limit their authority (*After Pinochet* 119). Secondly, the 'engagement' strategy: seeks to limit the influence of the armed forces by creating a system of significant cooperation (*After Pinochet*: 119-120). Lastly, the 'division of spheres': considers the two powers as acting in an autonomous way without interfering with each other's activities (Fuentes, *After Pinochet*; 119). Each President considered in this analysis applied one of the approaches presented, with different extents of success in doing so.

Being the first president of the newly established regime in 1989, Patricio Aylwin faced the troublesome challenge of re-implementing the democratic order. The democratization of Chilean institutions was hence his main priority, together with reshaping the role of the military within the political sphere (Fuentes, *After Pinochet*: 120; Silva, 380). Due to the evident lack of institutions at disposal, and the difficulty of implementing constitutional reforms, the government decided to contrast the military forces by strengthening the presidential symbolic authority (Fuentes, *After Pinochet*; 121). The president hence publicly refused to recognize the political role of the armed forces in several instances, such as ignoring the National Security Council and the army's chiefs in matters that went beyond their mere competence (Silva, 381). Moreover, the publication of the 'Rettig Report', in 1991, highlighted the importance given by the Chilean state to military violation of human rights during the dictatorial regime. The report was not recognized by the armed forces as a valid document, in that it portrayed the military as the guilty party in human rights violations, rather than these being the natural outcome of a 'war'. This hindered the efforts made by "the executive to pass its human rights agenda through the legislature" (Evans, 219). Likewise, the military displayed a similar behavior, hence the label of 'noncooperation'. It is important to point out that despite the decay of the military regime, General Augusto Pinochet had remained the army's commander, and would remain within the political sphere until his detention in London in 1998. From his dominant position, the General hence refused to publicly display the subordination of the armed forces to civilian authority. This was done by avoiding public events in presence of the President, and refuse to cooperate with the ministry of defense. Moreover, what is striking is that

during Aylwin's presidency, the army openly challenged the President's authority in a few instances, by declaring a state of alert in the entire country (Fuentes, *After Pinochet*; 121-123). Both episodes were solved without major implications, but they stress the tension that characterized the relationship between the two powers throughout this first presidential period.

The tensions that arose through the legal and institutional battle between the two powers during Aylwin's government slowly decreased during the government of Eduardo Frei, who adopted a completely different approach to the one of his predecessor. The main priority of Frei's government was that of the insertion of Chile within the international system, and a boost in the modernization of the country (Silva, 384). Hence, Frei decided to reduce the conflict by carrying out an 'engagement' approach to the armed forces, which consisted in fostering cooperation between technicians from the ministry of defense and military officials to formulate a new defense policy (Fuentes, *After Pinochet*; 128). This translated into a decrease of governmental interest over the topic of violation of human rights (Collins, 80). However, in several occasions, mainly related to the violation of human rights and the judicial management of cases involving the military forces, the tensions between civic and military power were still evident. The arrest of Augusto Pinochet in London, in 1998, provoked an incredible change in this relationship. For the first time after the pre-dictatorial period, the armed forces 'maintained a calm and subordinate attitude with respect to the government' on the matter (Silva, 397).

General Pinochet had been accused by a Spanish court on the jurisdictional basis of 'the invocation of universal jurisdiction over certain institutionally defined human rights crime'¹⁰ (Collins, 82). While the Chilean government managed to obtain the repatriation of Pinochet, the military demonstrated to respect the civilian authority by not intervening. This constituted 'the most important advance in restoring respect for constitutionalism, legality, and civilian control of the military' (Sigmund, 247). This event is pivotal in the understanding of the problematic related to the implementation of a rule of law accountable for everybody in the Chilean State. Linz and Stepan stress the importance of the state of law, in order for a state to function efficiently in a democratic manner (17). The Pinochet case is just the most blatant example of the troublesome path toward democratic consolidation. The only way in which Pinochet could be effectively charged for his crimes was through international law, since the Chilean constitution was designed to protect him. Nevertheless, the national government still opted for the repatriation of the ex-dictator, to make him be tried by their own jurisdiction. The specific role of external influences over these issues will be

¹⁰ This means that the court was availing itself of the rule of international law, in order to be able to judge Augusto Pinochet in their own country, rather than allowing him to go back to Chile, where his senatorial position would grant him impunity.

discussed more in detail in the following chapter, in order to gain a consistent insight over the clash between international and domestic forces.

The Pinochet case did not come at a favorable moment for the upcoming presidential elections, since soon to be President Ricardo Lagos was the first exponent of the Socialist Party running for this charge after Salvador Allende (Collins, 85). Nevertheless, his symbolic victory was the start of a presidential charge, crucial for the democratic consolidation of the Chilean state. It is interesting to note that Lagos took a clear stance over the topic of human rights violation, by stating he would not deal with the issue himself. It was a specific duty of the Supreme Court to investigate the case, and of the military forces themselves to be responsible for the officers that could possibly be involved. A similarity can be found in this approach with that of the ‘division of spheres’, which relates back to the civil-military relations before the advent of the military coup (Fuentes, *After Pinochet*; 119). This allowed him to ease the tension between civilian and military power, and consequently ‘made clear that he wanted the armed forces to pursue the path of professionalism and modernization’ (Silva, 389). The best example of the success of President Lagos in this process can be found in the first agreement ever reached between civilian and military authority in the ‘Mesa de Dialogo’¹¹. The armed forces publicly acknowledged the human rights abuses committed between 1973 and 1988. Moreover, that these abuses were legitimized via the institutional framework established by the dictatorial regime.

Taken together, it can then be stated that, among the three considered, Lagos’ presidency was the most successful in the process of democratic consolidation. However, all three governments proved to act mainly in the pursuit of the establishment of a state of law that could provide for the strengthening of democratic practices. Linz and Stepan state that the democratic orientation of a leader can be seen from its compliance with state’s institutions (18). In this case it is important to understand that most of these institutions were embedded by the authoritarian legacy, whose power needed to be substantially limited. Nevertheless, all three presidents arguably managed to engage with these in the most democratic way possible. At times, this was evident in the limitation of their power rather than through an actual engagement with these institutions. The success of this process was mainly evident in the constitutional reform that the government managed to implement in 2005, which focused on the elimination of the constitutional enclaves.

¹¹ The ‘Mesa de Dialogo’ was a roundtable summoned by President Frei in 1998. This set of meetings saw as main protagonists the highest representatives of both the civilian and the military forces. The main purpose was that of finding victims of human rights abuses, or at least receiving information over their death (Silva, 387; Ministerio del Interior y Seguridad Publica).

4.3. Constitutional Reforms

Before going any further, it is then important to go over the main constitutional reforms implemented during the time frame considered. The negotiations that took place in the immediate aftermath of the transition enabled the implementation of two main constitutional reforms, in 1989 and 1991. Among other goals, these increased the amount of senators democratically elected, and reduced the centralization of presidential power (Siavelis, 205). It must be mentioned that few other attempts were made, between 1992 and 1993, of laws designed to limit the army's authority. By cause of the impossibility to modify the constitution without parliamentary majority, these proposals were rejected (Silva, 382). Frei's presidency was, in this sense, more successful, due to the increase in number of institutions at his disposal. Eight constitutional reforms were implemented during his term, of which the most important regarded a change in the composition of the Supreme Court. Most supreme judges were in fact replaced, reducing significantly the amount of judges appointed by the military regime (Collins, 81; Nogueira Alcalá, 333). This was crucial for the improvement of the efficiency and fairness of the judicial system of the country. Finally, during Ricardo Lago's charge, a significant goal in the struggle against the dictatorial legacy was achieved. In 2005, a constitutional reform aimed at the elimination of most constitutional enclaves was finally implemented. It consisted of several important points, which were agreed upon after five years of negotiations. The main constitutional changes included the removal of designated senators, the abolishment of a series of military prerogatives, a significant reduction of the National Security Council's power, and the possibility for the President to remove the chiefs of the armed forces from office. Moreover, a series of institutional elements were also reformed, among which the reduction of the presidential term to four years, with the impossibility to be elected for two terms in succession, and the reduction of the possibility of the executive power to influence the legislative one (Sehnbruch, and Siavelis, 87). Overall, it can be stated that Lagos' presidency proved to be the most successful in the process of democratic consolidation, though it must be acknowledged that his predecessors played a fundamental role in the struggle against the military legacy. The implementation of the constitutional reform of 2005 arguably concluded the process of democratic transition. According to Linz and Stepan's theory on consolidated democracies, democratic transition is concluded once all state's institutions and the three powers of the state are capable of exercising democratic practices without being hampered by authoritarian obstacles (14). The amendments implemented in 2005, eliminated the main 'authoritarian enclaves' present in the constitution, thus allowing for a complete development of democracy.

Taken together, this analysis has arguably verified three major points. Primarily, that the constitution proved to be the main obstacle to the process of democratic consolidation, as planned by the outgoing military Junta. Secondly, that the governments of the Concertación put a strong effort, between 1990 and 2005, in reestablishing a fair balance between civilian and military power. This was proven by the implementation of the 2005 constitutional reform, which has been identified as the end of the democratic transition. Lastly, that the topic of human rights was a crucial obstacle in the struggle between the two factions, thus hampering the effectivity of the democratization process. While in most Latin American countries this process was mainly endorsed by the aid of international institutions, this chapter has highlighted the centrality of the Chilean government in carrying out an democratic consolidation.

Conclusion

Taken together, in the attempt to identify the determining force behind the process of democratization in Chile, this thesis has highlighted a few fundamental issues. First and foremost, the authoritarian regime that has been in place in Chile for seventeen years (1973-1989) has significantly reshaped the institutional structure of the state, hampering the correct development of democracy in the aftermath of its decay. This has provoked an increasing interest in the international community over the path undertaken by the Chilean government in the attempt of eliminating the authoritarian legacy by channeling information into the country over the formulation of an anti-authoritarian discourse. Mostly, this effort was focused on the issue of human rights violation, a matter that made the country significantly known in the international sphere. Nevertheless, the analysis carried out has highlighted the prominent effort of the domestic government in facing the process of democratic consolidation autonomously. This has been mainly related to two fundamental issues. Primarily, the agency of international institutions, by means of Soft Power, lacks effective capacity to implement changes within a state. The compliance to international obligations displayed by the legalistic nature of the Chilean state has proven to not be determining in their implementation. A significant example of this is the indictment of Pinochet on the basis of international jurisdiction, which was consequently refused by the Chilean government on the basis of national sovereignty. Hence, and this constitutes the second fundamental point of this thesis, it has been argued that the process of democratic consolidation is an inherently domestic one. This has been demonstrated through the activity and efforts of governmental actors, which have proven a significant level of efficiency in tackling directly the problems related to completing the democratization path. However, the path towards democratic consolidation has proven to be troublesome and challenging in its completion. The outgoing regime had in fact formulated a series of constitutional ‘enclaves’ designed to hamper the consolidation and efficiency of the upcoming democratic regime. In order for these obstacles to be eliminated, parliamentary majority needed to be achieved in the process of promulgation of constitutional reforms. The great divide between the two main political factions made this practice nearly impossible. This was also due to the ever-going struggle between civilian and military authorities on the topic of human rights abuses. International institutions, such as the United Nation Office of the High Commissioner for Human Rights, have also highlighted the importance of reforming the state’s jurisdiction in order for these violations not to be unpunished. Hence, between the end of the 20th century and the beginning of the 21st, the government has formulated significant constitutional reforms in order to allow for a consistent development of democratic institutions and the elimination of the above mentioned

'enclaves'. A concrete turning point was only achieved in 2005, under Ricardo Lagos' presidency, after a long process of negotiations between military and civilian authorities. Hence, it has been argued that democratic consolidation was achieved in the country mainly as a consequence of domestic actions, rather than because of external influences.

The influence of international institutions proved not to be a determining factor in this process. Despite the great level of compliance the Chilean government has demonstrated with international obligations, examples such as Pinochet's indictment in 1998 prove the higher relevance of domestic forces to the process of democratic consolidation. The legalistic nature of Chile is hence undeniable in the international context, but its compliance within the international system did not determine its successful path towards democratic stability.

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