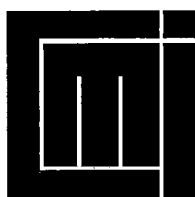


Human Rights Violations and the Paradox of Democratic Transition

A Study of Chile and Argentina

Elin Skaar

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List of acronyms and abbreviations

Argentina

AAA	<i>Alianza Anticomunista Argentina</i> : Argentine Anti-Communist Alliance
APDH	<i>Asamblea Permanente por los Derechos Humanos</i> : Permanent Assembly on Human Rights
CELS	<i>Centro de Estudios Legales y Sociales</i> : Center for Legal and Social Studies
CGT	<i>Confederación General del Trabajo</i> : General Confederation of Labour
CONADEP	<i>Comisión Nacional Sobre la Desaparición de Personas</i> : National Commission on Disappeared Persons
ERP	<i>Ejército Revolucionario del Pueblo</i> : People's Revolutionary Army
ESMA	<i>Escuela de Mecánica de la Armada</i> : Navy Mechanics School
FAP	<i>Fuerzas Armadas Peronistas</i> : Peronist Armed Forces
FAR	<i>Fuerzas Armadas Revolucionarias</i> : Revolutionary Armed Forces
FDDRPG	<i>Familiares de Desaparecidos y Detenidos por Razones Políticas y Gremiales</i> : Association of Families of Persons Disappeared and Detained for Political and Trade Union Activity
HRO	Human rights organization
IMF	International Monetary Fund
MAS	<i>Movimiento al Socialismo</i> : Movement to Socialism
MEDH	<i>Movimiento Ecuménico por los Derechos Humanos</i> : Ecumenical Movement for Human Rights
MID	<i>Movimiento de Integración y Desarrollo</i> : Movement for Integration and Development
NGO	Non-governmental organization
PI	<i>Partido Intransigente</i> : Intransigent Party
PJ	<i>Partido Justicialista</i> : Justicialist Party
PRT	<i>Partido Revolucionario de los Trabajadores</i> : Workers' Revolutionary Party

PS	<i>Partido Socialista</i> : Socialist Party
SCAF	<i>Consejo Supremo de las Fuerzas Armadas</i> : Supreme Council of the Armed Forces
SERPAJ	<i>Servicio Paz y Justicia para América Latina</i> : Service for Peace and Justice in Latin America
UCD	<i>Unión del Centro Democrático</i> : Democratic Center Union
UCR	<i>Unión Cívico Radical</i> : Radical Civic Union
UCRI	<i>Unión Cívico Radical Intransigente</i> : Intransigent Radical Civic Union
UCRP	<i>Unión Cívica Radical del Pueblo</i> : People's Radical Civic Union
UNDHR	United Nations Declaration of Human Rights

Chile

AD	<i>Alianza Democrática</i> : Democratic Alliance
ADENA	<i>Acuerdo Democrático Nacional</i> : National Accord for the Transition to Democracy
AFAREL	<i>Agrupación de Familiares de Relegados y Ex-Relegados</i> : Association of Families of Displaced and former Displaced Persons
AFDD	<i>Agrupación de Familiares de Detenidos Desaparecidos</i> : Association of Families of Detained-Disappeared Persons
AFEP	<i>Agrupación de Familiares de Ejecutados Políticos</i> : Association of Families of Executed Political Activists
AFPP	<i>Agrupación de Familiares de Presos Políticos</i> : Association of Families of Political Prisoners
CCDH	<i>Comisión Chilena de Derechos Humanos</i> : Chilean Commission on Human Rights
CLAMOR	<i>Comité de Defensa de Derechos Humanos en el Cono Sur</i> : Committee on the Defense of Human Rights in the Southern Cone
CNI	<i>Central Nacional de Informaciones</i> : National Information Center
CNCT	<i>Comisión Nacional contra la Tortura</i> : National Commission on Torture
CODEJU	<i>Comisión Nacional Pro Derechos Juveniles</i> : National Commission on the Protection of the Rights of Young Persons

CODEPU	<i>Comité de Defensa de los Derechos del Pueblo</i> : Committee on the Defense of the Rights of the People
COPACHI	<i>Comité de Cooperación para la Paz en Chile</i> : Committee on Cooperation for Peace in Chile
CPRE	<i>Comité Pro Retorno de Exiliados</i> : Committee on the Return of Exiled Persons
DINA	<i>Dirección Nacional de Informaciones</i> : National Intelligence Directorate
FASIC	<i>Fundación de Ayuda Social de las Iglesias Cristianas</i> : Christian Churches' Social Assistance Foundation
FPMR	<i>Frente Patriótico Manuel Rodríguez</i> : Manuel Rodríguez Patriotic Front
IC	<i>Izquierda Cristiana</i> : Christian Left
MAPU	<i>Movimiento de Acción Popular Unitaria</i> : Movement for Unified Popular Action
MDP	<i>Movimiento Democrático Popular</i> : Popular Democratic Movement
MIR	<i>Movimiento de Izquierda Revolucionario</i> : Movement of the Revolutionary Left
MCTSA	<i>Movimiento contra la Tortura "Sebastián Acevedo"</i> : Movement Against Torture "Sebastián Acevedo"
PC	<i>Partido Comunista</i> : Communist Party
PDC	<i>Partido Democracia Cristiana</i> : Christian Democratic Party
PDHAHC	<i>Programa Derechos Humanos de la Academia de Humanismo Cristiano</i> : Human Rights Programme of the Academy of Humanism and Christianity
PDR	<i>Partido de la Democracia Radical</i> : Radical Democratic Party
PIDEE	<i>Protección a la Infancia Dañada por los Estados de Emergencia</i> : Protection of Children Damaged under States of Emergency
PPD	<i>Partido por la Democracia</i> : Party for Democracy
PR	<i>Partido Radical</i> : Radical Party
PS	<i>Partido Socialista</i> : Socialist Party
PSD	<i>Partido Social Demócrata</i> : Social Democratic Party
RN	<i>Partido de Renovación Nacional</i> : National Renovation Party
SERPAJ	<i>Servicio de Paz y Justicia</i> : Service for Peace and Justice
UDI	<i>Unión Demócrata Independiente</i> : Independent Democratic Union
UP	<i>Unidad Popular</i> : Popular Unity Coalition

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Bergen, December 1994

CHILE AND ARGENTINA



Source: Alexander 1969

1. Elites and civil society actors in transitions to democracy

1.1 Introduction

Chile and Argentina form part of what Samuel P. Huntington in his recent writings calls the “third wave”. Southern Europe in the 1970s. Latin America, Africa, and Asia in the 1980s. Eastern Europe in the 1990s. And finally South Africa in 1994. We are talking about democratization; the wave of political change that has swept across the world in the course of the last couple of decades. These sometimes totally unexpected changes have given fodder to political theorists of various brands and ideological convictions. Why have these political changes come about, what are their driving forces, how may one classify them, and what are their outcomes, have been some of the central questions posed within the field. The first theories seeking to explain democratic transition were largely single-factor approaches emphasizing the preconditions for democracy, i.e. trying to identify which conditions were seen as most conducive to the process of democratization. Seymour Martin Lipset based his theory on economic factors, claiming that capitalist development was a necessary condition for democracy to develop. Scholars like Gabriel Almond, Sidney Verba, and Lucian Pye stressed the importance of cultural factors, such as the existence of a democratic political culture, for the successful establishment of democracy. Barrington Moore Jr. favoured an approach assigning weight to historical factors, whereas the fourth group of scholars, like Guillermo O’Donnell in his early works along with Fernando Henrique Cardoso, attributed a lot of significance to external factors, particularly to influence from the United States, in bringing about the process of democratization.

The wide-spread demise of authoritarian rule in a number of Latin American countries in the 1980s did not fit the frame-work of the traditional single-factor approaches, and theorists began to assume that those factors which had formally been regarded as the preconditions for democracy should rather be interpreted as the outcomes of democratic transition. This gave rise to a new body of literature which shifted its focus on to “the strategic calculations, processes, and sequential patterns that are involved in moving from one type of political regime to another” (Karl

1991: 169). In a nutshell, the predominant trend in recent transition theory, departing from O'Donnell, Schmitter, and Whitehead's four-volume study *Transitions From Authoritarian Rule* (1986), has been to emphasize elite action when accounting for the transitions from authoritarian to democratic rule. It is some of the postulates from this body of recent transition literature that I wish to question.

1.2 Three central hypotheses

The overriding general aim of this study is to show that elite-focused theory is a one-sided approach to democratic transition because it leaves out, as I see it, two central aspects of this specific type of political change. The first aspect is the issues around which the transition process revolves, and which the political and military elites consequently have to base their calculated risks and decision-making on; a point barely touched upon in recent transition literature. The second, and equally important, point is the down-playing of the role of civil society in the process of democratic transition in this type of literature.¹ By using the test-cases of Chile and Argentina, I will argue that the issue of human rights violations in particular constitutes the "red thread" in the transition and consolidation processes of these two countries and is important for understanding both the type of transition as well as the alliances made or attempted by the elites in the consolidation phase. My second argument is that closely tied to the human rights issue there was a reaction from and continuous involvement of civil society, in the transition to and consolidation of democracy. The involvement of civil society poses a counterweight to the elite perspective. I will try to clarify these two postulates by using the following three central hypotheses in transition theory as the point of departure for the ensuing analysis:

¹ Given the fact that only 21 out of the 733 pages in O'Donnell, Schmitter, and Whitehead's four volume study of *Transitions from Authoritarian Rule* (1986) are devoted to the role of civil society, it is hardly an overstatement to say that these authors severely downplay the role of civil society actors in the process of democratic transition. The subject of human rights is referred to on a total of 13 pages. The scholars seek justification for their elite focus through arguments like "elite dispositions, calculations, and pacts...largely determine whether or not an opening will occur at all and...they set important parameters on the extent of possible liberalization and eventual democratization" (O'Donnell and Schmitter Vol. 4, 1986: 48).

Hyp. 1: Different modes² of transition lead to different types of democracy (Karl and Schmitter 1991: 269).

Hyp. 2: The mode of transition determines whether or not the emerging democracy will be consolidated (Karl and Schmitter 1991: 269).

Hyp. 3: The case of transition by regime collapse is the one most likely to lead to a fuller, less restricted type of political democracy (O'Donnell 1986: 8-9).

1.3 Authoritarianism, democracy, and consolidated democracy

In academic literature, Chile and Argentina are commonly listed as examples of regimes which passed from being "authoritarian" to "democratic" in the 1980s (O'Donnell, Schmitter, and Whitehead Vol. 2, 1986: 6-8). Such assertions call for clear definitions, taking into account that "the boundary between democratic and non-democratic is sometimes a blurred and imperfect one" (Diamond, Linz, and Lipset 1989: xvii) and that democratic transition is not necessarily a one-way irreversible process. Clear definitions of the concepts "democracy" and "authoritarianism" are needed in order to answer the following important questions: how does one determine when a transition process starts, and when can a transition be said to have been completed? What impact does the form or mode of transition have on the subsequent democratic regime and the process of consolidation?

Definitions are analytical tools used to increase or facilitate the understanding of social phenomena through categorization, analysis, or explanation. The terminology one opts for inevitably influences the conclusions one arrives at. In order to structure a comparative analysis of two different cases of democratic transition, three key definitions are required: one to characterize the pre-transitional regime, a second to mark the end of the transition process by identifying features which set the post-military regimes apart from the military regimes, and a third to evaluate the type of democracy that results from the transition, i.e. the degree of democratic stability or consolidation.

² The mode of transition means the same as type of transition and involves primarily the agreements between different political actors which drive the process of democratization forward.

Authoritarian and totalitarian³ regimes have in common that their rulers cannot be displaced by citizens' free choice among competitors. Both types of regimes are characterized by use of repression in order to control their citizens. However, authoritarian regimes differ from totalitarian regimes on the following important dimensions⁴: in contrast to totalitarian regimes that seek legitimation through popular mobilization by use of ideology and propaganda, authoritarian regimes seek legitimacy by allowing a certain, albeit often very restrictive, degree of pluralism, although not legally codified. The ultimate aim of totalitarian rulers is complete centralization and uniform regimentation of all aspects of political, social, and intellectual life. This extreme form of dictatorship aims at an absolute control of the masses, based partly on terror and partly on propaganda. Totalitarian regimes attempt to mobilize their entire citizenry into active support of their policies. In contrast, authoritarian regimes perpetuate themselves by relying on the support and commitment of a very small minority, notably the armed forces, security services, key civil servants, and technocrats. The rest of the population need only obey the laws and requirements put forward by the authoritarian regime; such obedience is frequently ensured through high levels of repression (Valenzuela and Valenzuela 1986: 10).

These characteristics of authoritarian regimes apply to both Argentina (1976-1983) and Chile (1973-1990). The countries have been classified as having been governed by a sub-species of authoritarian regimes; "bureaucratic-authoritarianism" (BA) (O'Donnell 1986: 6-8).⁵ The main defining features of such regimes, as expressed in O'Donnell's classic 1978 article on the subject, are: (1) an alliance between a narrow segment of national capital (the state) and international capital, which (2) seeks to introduce an economic model requiring a more thoroughgoing bureaucratic organization of the state (a feature which makes BA regimes distinct form

³ Totalitarianism is a political term first used against and by Mussolini in 1923-25. The term was applied to the three radical inter-war regimes of Hitler's National Socialism, Mussolini's Fascism, and the Soviet Union's Stalinism (*The Blackwell Encyclopaedia of Political Institutions* 1987: 614).

⁴ The following discussion on the characteristics of authoritarian versus totalitarian regimes is based on the definitional terms encountered in *The Blackwell Encyclopaedia of Political Institutions* (1987: 34-35, 614-16) and *The Oxford Companion to Politics of the World* (1993: 60-63, 916-17).

⁵ This term was first coined by Guillermo O'Donnell in 1973 in his book *Modernization and Bureaucratic-Authoritarianism: Studies in Latin American Politics* (Berkeley: University of California, Institute of International Studies). O'Donnell has later published several books and articles where this concept is extensively used.

other patrimonial authoritarian regimes). (3) This transformation can only be achieved through the exclusion and demobilization of the popular sector, which again requires a high degree of systematic repression. In Chile the attack on civil society took the form of closing down Congress, banning — or at least severely circumscribing — the activity of political parties, dissolving the national labor federation, suspending national elections, strictly censoring the press, and severely restricting all kinds of civil society activity (Valenzuela and Valenzuela 1986: 2). Nonetheless, in practice and step by step, political space was opened up to various groups in civil society (human rights organizations were from the very beginning, to a certain degree, tolerated by the regime). Pinochet sought legitimation for his personalist regime through institutionalizing his own role as president and by launching a new Constitution, both ratified in plebiscites. The situation in Argentina ran largely parallel to that of Chile, and was characterized by a systematic attack on democratic institutions and by widespread violations of individual human rights.

The post-military regimes of these two were in many respects of a fundamentally different character, and fit Robert A. Dahl's definition of representative democracy or *polyarchy* (Dahl 1986).⁶ His classical definition of procedural democracy denotes a system of government that meets three essential conditions: (1) meaningful and extensive competition among individuals and organized groups (especially political parties) for all effective positions of government power, at regular intervals, and excluding the use of force; (2) a highly inclusive level of political participation in the selection of leaders and policies, at least through regular and fair elections, such that no major (adult) social group is excluded; and (3) a level of civil and political liberties — freedom of expression, freedom of the press, freedom to join and form organizations — sufficient to ensure the integrity of political competition and participation (quoted in Diamond, Linz, and Lipset 1989: xvi). Both Chile and Argentina have post-transitional regimes deserving of the label democratic according to this definition in that they have had presidential, parliamentary, and municipal elections in which candidates from all political parties have been allowed to compete. The

⁶ The term *polyarchy* was first coined by Dahl and Lindblom in *Politics, Economics, and Welfare* in 1953 (Dahl 1986: 229). The concept of polyarchy draws on Joseph Schumpeter's definition of procedural democracy as a system in which the voters may influence the policy of their country by voting for freely competing candidates representing real policy alternatives. The democratic method, according to Schumpeter, is "that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote" (Schumpeter 1965: 269).

adult population in both countries was allowed, without systematic discrimination of any social or political group, to vote in the elections. That the voters turnout was high, is perhaps besides the point, although that turnout underscored the popular legitimacy of the newly established electoral institutions. Nevertheless, what is important for definitional purposes is that people were allowed to freely participate in the elections without having to fear repression, since civil and political liberties were respected.

Dahl's conception of a procedural democracy has been criticized for excluding certain aspects of democratic regimes that many scholars see as important. Among his critics are scholars who believe that formal democracy is a necessary, but not a sufficient requirement for democracy. Adherents of "popular democracy" include a number of substantive properties, either as components, or empirical correlates, of democratic rule. The existence of formal (political) democracy is by "maximalists" seen as a necessary but not sufficient condition for democracy; aspects of social justice and economic redistribution should be included. Between these two extremes lies a wide range of more or less modified definitions of democracy, stressing either the proceduralist or the substantive aspect of democracy, or both. However, Dahl's concept of polyarchy is useful in so far as it clearly sets the Argentinean and Chilean post-transitional regimes apart from past authoritarian systems as well as intermediary forms of government variously referred to as "tutelary democracy" or "liberalized authoritarianism" (*dictablandas*). The concept identifies important liberal democratic features of the post-transitional regimes, in spite of all the political and institutional restrictions inherited by them.⁷ Most importantly, the post-transitional regimes of Argentina and Chile differ from the pre-transitional authoritarian regimes on two dimensions; by the existence of institutions of polyarchy, and by the scope of organizational pluralism (Dahl 1986: 242). Dahl's "minimal", procedural definition of democracy has been used in the bulk of recent transition literature (Diamond, Linz, and Lipset 1989; O'Donnell 1992, 1993; O'Donnell, Schmitter, and Whitehead 1986; Mainwaring, O'Donnell, and Valenzuela 1992). Karl and Schmitter (1991) use a slightly revised version of Dahl's definition. Such a common language creates a solid basis for the empirical testing of hypotheses and

⁷ See Rhoda Rabkin's article "The Aylwin Government and "Tutelary" Democracy: A Concept in Search of a Case?" (1992) for a discussion on the term "tutelary democracy". *Dictablanda* is a term used to denote a kind of sham democracy where authoritarian rulers seemingly allow some form of democratic participation without being accountable to the citizenry for their actions or allowing free and competitive elections. The structure of authority remains unaltered (O'Donnell and Schmitter Vol. 4, 1986: 9).

further development of explanatory theories. Adam Przeworski echoes Dahl when identifying the “procedural minimum” that must exist for a political system to be called democratic: “Contestation open to participation is sufficient to identify a political system as democratic” (Przeworski 1991: 10). I will use the “minimal” procedural definition of democracy because it clearly demarcates the transition process.

It is more problematic to delimit the end of what O’Donnell in one of his later articles refers to as the second transition, defined as the transition from the instalment of a democratic government, in polyarctic terms, to the consolidation of democracy, or the “effective functioning of a democratic regime” (O’Donnell 1992: 18). O’Donnell operates with a definition of democracy which extends into the economic, cultural, and social spheres; i.e. specific conditions for the attainment of what he calls socioeconomic and cultural democratization.⁸ Since — admitted by O’Donnell himself — there are no democracies in Latin America today fulfilling all these requirements, his definition is not conceptually useful for this analysis. For all practical purposes I will therefore stick to a more minimalist definition of consolidated democracy, more in the line of J. Samuel Valenzuela (1992) or Terry Lynn Karl and Philippe C. Schmitter (1991). Which factors should one place the focus on?

We need some criteria up against which to measure the “success” of consolidation. Dahl’s definition of polyarchy, based on Western experience with liberal democracy, has its shortcomings when it comes to discussing the quality or type of a post-transitional democracy in Argentina and Chile. This is due to two facts: we are dealing with an analysis of democratic transition in two countries which belong to a continent where the military as an institution has played a much more central role in politics than it traditionally has in the West, and furthermore, the very meaning of democracy in Latin America differs considerably from the Western ideal of pluralistic democracy. In the Latin American context, as well as in third world countries in general, the meaning of democracy is frequently linked to the democratic government’s performance, i.e. how much the government delivers, both in terms of political equality and in terms of economic

⁸ In essence, O’Donnell’s five criteria for a consolidated democracy are, slightly rephrased, (1) where political democracy or polyarchy exists; (2) where all social and political actors abide by the rules of the democratic game, i.e. subordinate their interests to the institutions of political democracy; (3) where there is a strengthening of these institutions sustaining the outcomes of fair and competitive elections; (3) where political democratic relations are extended into other spheres of social life; and (5) where rulers and officialdom subject themselves to the distinction between the public and the private (O’Donnell 1992: 49).

benefits (which is clearly reflected in O'Donnell's definition of consolidated democracy). This is mainly due to the economic situation of developing countries, where people are primarily occupied with material benefits and improved living conditions first, and with democracy as a political form second. Leaving the difficult discussion on output democracy versus procedural democracy aside, one still arrives at one significant conclusion: however well the governments may perform in terms of political democracy, Latin American democratic regimes are often made unstable by a factor largely absent in the European, or Western, context: the presence of autonomous armed forces. Without civilian control over the military, a democratic regime will be inherently unstable; a point I shall repeatedly return to later in the empirical analysis. Whether the military in fact interferes in politics or not may often be less important than the fact that it has the power to intervene if it so chooses; a possibility no civilian government can afford to disregard. One may say that the military commonly exercises, with respect to civilian authorities, a large degree of "power of anticipated reaction".

Since Dahl's definition of polyarchy fails to capture this crucial determinant of democratic stability in the Latin American context, one important criterion shall be added when speaking of democratic consolidation, namely civilian control over the military forces.⁹ Accordingly, consolidated democracy shall for our purposes be understood as "a set of institutions that permits the entire adult population to act as citizens by choosing their leading decision makers in competitive, fair, and regularly scheduled elections which are held in the context of the rule of law, guarantees for political freedom, and limited military prerogatives" (Karl 1990: 2). Consolidated democracy may also be thought of as a kind of political game in which

a particular system of institutions becomes the only game in town, when no one can imagine acting outside the democratic institutions, and when all the losers want to do is try again within the same institutions that they have just lost. Democracy is consolidated when it becomes self-enforcing,

⁹ This additional condition was introduced by Terry Lynn Karl (1991: 165). She criticizes Dahl and other democratic theorists of not emphasizing civilian control over the military as a defining condition of democracy, or for simply assuming this aspect to be an unstated prerequisite in definitions of democracy (Karl 1991: 184). Karl has been inspired by Alfred Stepan, whose book *Rethinking Military Politics: Brazil and the Southern Cone* (1988), adds the dimension of civilian control over the military as a necessary defining feature of a democracy. Karl's definition of democracy corresponds to Przeworski's definition of consolidated democracy.

that is, when all the relevant political forces find it best to continue to submit their interests and values to the uncertain interplay of the institutions (Przeworski 1991: 26).¹⁰

That means that all the relevant political forces, the military included, agree to comply with the rules of the democratic game. To sum up, “the institutional framework of civilian control over the military constitutes the neuralgic point of democratic consolidation” (Przeworski 1991: 29). As will be shown later in the empirical analysis, the issue which has had the greatest impact on civilian control over the military in the phase of democratic consolidation in Chile and Argentina is the legacy of human rights violations, wherefore this issue forms the neuralgic point of my analysis of the transitions in these two countries.

1.4 Elite focused transition theory

We have now established the definitions of the end points of transition, the authoritarian and the democratic regimes, and shall move on to the process of change from one type of regime to another. O’Donnell and Schmitter’s definition of transition as “the interval between one political regime and another” (O’Donnell and Schmitter Vol. 4, 1986: 6) serves the purposes of this study.¹¹ Transition will be regarded as a twofold process starting with

¹⁰ Przeworski’s definition of consolidated democracy is supported by Schmitter, who defines consolidation as “the process of transforming the accidental arrangements, prudential norms, and contingent solutions that have emerged during the transition into relations of cooperation and competition that are reliably known, regularly practiced, and voluntarily accepted by those persons or collectivities (i.e. politicians and citizens) that participate in democratic governance” (Schmitter 1992: 424). Guillermo O’Donnell has crystallized the requirements for a consolidated democracy into five points (see Note 10), essentially capturing the subordination of conflicting individual interests and preferences to democratic rules and institutions (O’Donnell 1992: 48-49).

¹¹ O’Donnell and Schmitter do, however, partly contradict themselves when they later in the same volume define transition as over when “abnormality” no longer is the central feature of political life, i.e. when the different contenders agree to play according to the rules (O’Donnell and Schmitter Vol. 4, 1986: 65). This is a much vaguer interpretation, as the setting of rules at the time of regime change does not necessarily mean that all major political forces agree to follow these rules. The position of the military is particularly important. Note that there are also scholars who define transition as a long on-going process with no clear end. Dankwart Rustow: “...one generation is probably the minimum period of transition” (Rustow 1969: 347), and Alejandro M. Garro: “an on-going process involving gradual changes of societal mentality or ethos”... “a process of transition to, and consolidation of democracy, is unlikely to take less than a generation

the launching of the process of dissolution of the authoritarian regime and ending with the installation of a new political regime, which theoretically speaking may be a democratic regime, an authoritarian regime, or any other type of regime. The consolidation phase will be treated as post-transitional; not as part of the transition itself. Before proceeding to the essence of recent development in transition theory, it should be stressed that the purpose of this task is not to give an exhaustive presentation of transition theory *per se*, but to provide a theoretical framework for the empirical analysis of the transition processes in Chile and Argentina to be undertaken in Chapter 3. The idea is to identify the elements around which the, basically elite-focused, empirical analysis is structured and highlight central traits of the transitions, with the ultimate aim of in Chapter 4 testing the three hypotheses formulated at the beginning of this chapter.

Maximalists and minimalists alike agree that the form or mode of transition will have an impact on the resulting type of democracy (Mainwaring, O'Donnell, and Valenzuela 1992: 11). Although the outcome of transition may in principle be any kind of political regime, we are primarily concerned with the transition process from an authoritarian regime to a democratic regime. The last decade has witnessed a shift in those theories seeking to explain the emergence and sustenance of democratic regimes from focusing on the more-or-less structural preconditions for democracy to regarding transition largely as a result of strategic choice made by various actors in a structural-historical framework. I shall use the latter approach, based on the theories of O'Donnell, Schmitter, and Whitehead 1986; Przeworski 1986, 1989, 1991; and Karl and Schmitter 1990, 1991.¹² To reiterate, the point of departure for the analysis will be based on testing three central hypotheses, namely that different modes of transition lead to different types of democracy (Karl and Schmitter 1991:

or two" (Garro 1993: 4, 99) are typical representatives for the camp of scholars who consider the consolidation phase as part of the transition process. This vague type of definition makes empirical application complicated.

¹² While I was in the final stages of writing this thesis, I was introduced to Mainwaring, O'Donnell, and Valenzuela's *Issues in Democratic Consolidation. The New South American Democracies in Comparative Perspective* (1992). Basically, the book carries the theoretical discussion on democratic consolidation one step further, rendering outdated some earlier statements made by Guillermo O'Donnell in the four volume study of *Transitions from Authoritarian Rule*, on which many of my own arguments and criticisms are based. I will in my discussion, where relevant, try to point out where I have criticized statements made by O'Donnell, Schmitter, and Whitehead in the mid-1980s, which recently have been modified or even contradicted by the same authors.

269)¹³; that the mode of transition determines whether or not the emerging democracy will be consolidated (Karl and Schmitter 1991: 269), and that the case of transition by regime collapse is the one most likely to lead to a fuller, less restricted type of political democracy (O'Donnell 1986: 8-9).¹⁴

The post-transitional developments in Chile and Argentina cast doubts on the above statements. Based on these two cases I will argue that different modes of transition may temporally lead to different types of democracy; that the consolidation of democracy cannot be explained by the mode of transition alone; and, finally, that transition negotiated in a slow and more careful manner may increase the chances of reaching mutually acceptable compromises, hence heightening the prospects for the long-term reconciliation that is sometimes crucial for democratic stability or democratic consolidation. The importance of this is underscored by the fact that too often in Latin America, instability has tempted leaders to resort to autocratic behavior in order to retain control.

More specifically, it will be argued that chances for democratic consolidation in Chile and Argentina to a large extent rested on the way the democratic governments handled the problem of human rights violations; the most touchy issue in civil-military relations. Relating this to the modes of transition, it is clear that the Alfonsín and the Aylwin governments' policies regarding past human rights abuses were shaped in a political reality full of constraints. Those constraints can partly be attributed to the way the transition processes came about and the shape the transition processes took, i.e. the mode of transition. Directly linked to the mode of transition is also the distribution of power at the time of regime change, which was vital for the framework within which the human rights policies had to be confined. However, as will be argued, the mode of transition alone does not succeed in accounting for the different outcomes in human

¹³ Which mode leads to which type of democracy will be discussed later in this section.

¹⁴ O'Donnell adds that "...because it leaves the dominant classes and the armed forces heavily under-represented in the institutional arenas of political democracy,...the pattern of democratization by collapse is also more likely to lead to the emergence of strong disloyal opposition and to unmediated confrontations between parties, factions, and organized interests. Consequently, this pattern seems more prone to lead to severe authoritarian reversals" (O'Donnell 1986: 8-9). There is clearly an inconsistency here, since a democracy prone to authoritarian reversals hardly can be called a full, unrestricted democracy. However, because it is empirically difficult to state when the danger of authoritarian reversals is over, I shall for practical purposes concentrate on the first part of O'Donnell's argument in this thesis.

rights policy. Therefore, the above hypotheses fail to account for important differences in the consolidation process in Argentina and Chile. Before embarking on the empirical analysis, I want to outline the essence of the theories giving rise to these hypotheses that I am testing.

Transition is a period of great political uncertainty, and the choices made by elites under such conditions help shape the institutions and rules which form the foundation for the new post-transitional regime. The two central characteristics of the transition period is that the rules of the political game are not defined, and various actors are struggling to assert their short-term interests as well as long-term interests by tempting to influence the definition of these rules.¹⁵ The rules under transition tend to shift, as does the balance of power between the various contenders. During the process of transition, what rules there are tend to be under the control of the authoritarian rulers. Who the actors are will depend on shifting alliances in different phases of the transition.

The transition process is normally by political scientists divided into two phases: liberalization and democratization. Liberalization refers fundamentally to the relationship between the State and civil society. Democratization refers fundamentally to the relationship between the State and political society (Stepan 1989: ix). Liberalization may exist without, and in any case precedes, democratization. The transition typically starts when the authoritarian incumbents begin to modify their own rules in the direction of providing more secure guarantees for the rights of individuals and groups. Elite theorists sustain that the beginning of the transition is always the — direct or indirect — consequence of important divisions within the authoritarian regime itself, principally among the fluctuating cleavage between hard-liners and soft-liners (O'Donnell and Schmitter Vol. 4, 1986: 15; Przeworski 1991: 67). O'Donnell coined the original terms hard-liners (*duros*) and soft-liners (*blandos*), signifying two opposing groups within the authoritarian block. Those belonging to the first group believe that the perpetuation of authoritarian rule is possible and desirable, even if it, at worst, has to take place behind some kind of democratic facade. Soft-liners differ from the first group in that they see the unavoidable necessity of introducing some form of electoral legitimation for the regime in order for the regime to survive. To achieve this, the regime has to allow the

¹⁵ The emphasis put on the factor of uncertainty varies from scholar to scholar. In the words of Przeworski, “the process of establishing a democracy is a process of institutionalizing uncertainty, of subjecting all interests to uncertainty” (Przeworski 1986: 58). O'Donnell and Schmitter downplay this aspect, and Karl hardly touches upon it at all.

introduction of at least some measures of freedom to the citizenry. According to Przeworski, what is threatening to the authoritarian regime is not the breakdown of legitimacy but rather the organization of counter-hegemony, i.e. projects for an alternative political system forwarded by the civilian opposition. In his own words, "what matters for the stability of any regime is not the legitimacy of this particular system of domination but the presence or absence of preferable alternatives" (Przeworski 1986: 51-52). Following his line of thought, at some given point, an authoritarian regime, characterized by its intolerance of independent organizations, decides to tolerate autonomous organizations in civil society. Liberalization, therefore, is a result of an interaction between splits in the authoritarian regime and autonomous organizations of the civil society. Emblematic of liberalization is that it makes effective certain rights that protect both individuals and social groups from arbitrary or illegal acts committed by the state or third parties (O'Donnell and Schmitter Vol. 4, 1986: 7).¹⁶

Civil society actors note the fissure in the power bloc and realize that not all political activity will be met by repression. The result is the emergence of smaller or greater spaces for political action, depending on the degree of governmental power and toleration. Transition at this point is still a reversible process. If political action by the opposition is not perceived as immediately threatening by the regime, such activity tends to grow and become institutionalized, thereby raising the perceived costs of repression. Liberalization or *apertura* (opening), at the outset meant as controlled openings of political space, may be encouraged by authoritarian rulers, thinking that by relieving the pressure for democratization they may continue ruling as before.¹⁷ However, liberalization is inherently unstable, as the most instant response to *apertura* is an outburst of autonomous civil society organizations; what O'Donnell and Schmitter refer to as "resurrection of civil society" (O'Donnell and Schmitter Vol. 4, 1986: 48). This popular mobilization dictates the rhythm of transformation, since it

¹⁶ Individual guarantees include the classical elements of the liberal tradition: *habeas corpus*; sanctity of private home and correspondence; the right to be defended in a fair trial according to preestablished laws; freedom of movement, speech, and petition etc. Group rights include freedom of expression; freedom from censorship of the means of communication; freedom of association etc. (O'Donnell and Schmitter Vol. 4, 1986: 7).

¹⁷ This situation where the authoritarian rulers are not accountable to the citizenry for their actions has been referred to as "tutelary democracy", "liberalized authoritarianism", or *dictablanda*. A situation where some form of limited democracy is allowed, meaning where only some rights are extended to (only some groups) of the citizenry, is given the label "limited democracy" or *democradura* (O'Donnell and Schmitter Vol. 4, 1986: 9).

forces the regime to repress, coopt, or devolve power. Przeworski argues that because these organizations have no institutions where they can present their views and negotiate their interests, “social movements are an ambiguous actor under democracy, and always short-lived” (Przeworski 1991: 11). As a result, the organizations turn to the streets, gradually leading to the rise of mass movements. I believe this is precisely the strength of civil society organizations in that they are visible to everyone, and therefore quickly gather momentum. Facing massive opposition, the regime is left with two options; either to return to strict authoritarianism through increased repression, or continue to the second phase of transition: democratization.

Democratization is the process whereby “the rules and procedures of citizenship are either applied to political institutions previously governed by other non-democratic principles, or expanded to include persons not previously enjoying such rights and obligations,... or extended to cover issues and institutions not previously subjected to citizen participation” (O’Donnell and Schmitter Vol. 4, 1986: 8). In short, it deals with the rights and obligations of citizenship and the accountability of the rulers.

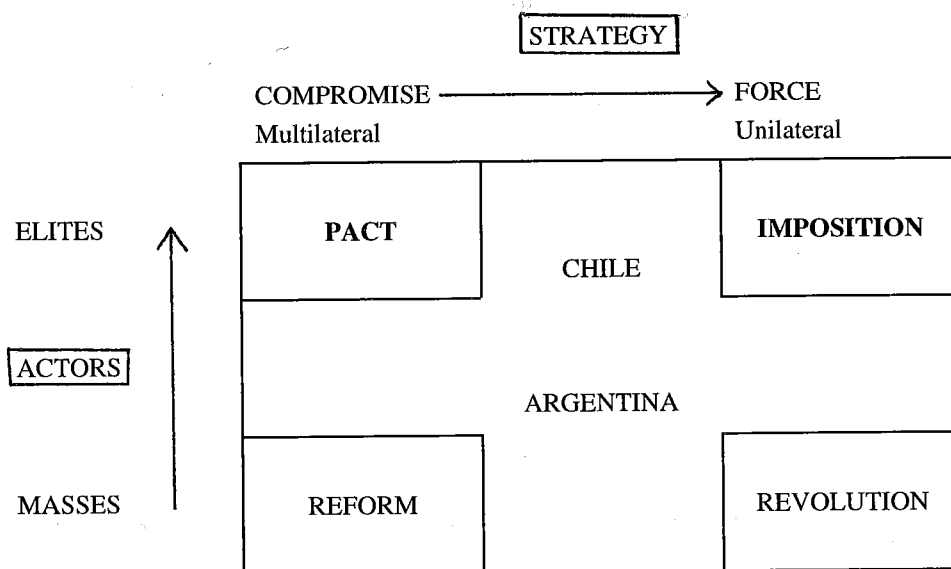
Having roughly outlined the two phases of transition, we shall now turn to the actors and their strategies in their struggle for power in an imagined future regime. One of the central features of recent transition theory is the focus on elite bargaining or interaction. In this presentation the approaches of Schmitter and Karl (1990, 1991) and Przeworski (1986, 1991) will be combined in an effort to clarify the modes of transition, moreover the position of the various actors in the different modes. First a couple of general statements. The struggle for democracy always takes place on two fronts; against the authoritarian regime for democracy and against other civil society actors for the largest possible influence within a democratic set of institutions. Different actors or groups play different roles at different stages in the transition process. At the time of the demise of authoritarian rule, elite factions and social movements (including non-governmental organizations) seem to play the key role. Political parties then move to the central stage during the transition itself. More discrete and specialized activity of interest associations and state agencies may become major determinants of the type of democracy that is ultimately consolidated.

Theories dealing with the modes of transition all place the focus on the individual agreement-making level.¹⁸ It is the specific combination of

¹⁸ It is interesting to note that it is the same scholars — particularly, O’Donnell, Whitehead, and Schmitter (1986) — who in the 1960s and 70s explained the breakdown of democratic regimes by structural macro-level factors only, who later make a 180 degree

actors and their strategies in a certain historic-structural space which define what type of transition has occurred. The actors may be divided into elites and masses, and their strategies can be placed on a continuum ranging from multilateral willingness to compromise to unilateral recourse to force (Karl and Schmitter 1991: 274). Change may take place primarily as a result of “pressure from below”, as when masses take the initiative, or “from above”, as when elites take the initiative to form political openings. The combination of actors and strategy variables produces four ideal-types of regime transition: (1) *Pact*, when elites agree upon a multilateral compromise among themselves; (2) *Imposition*, when elites unilaterally and effectively force through a regime change against the resistance of the incumbents; (3) *Reform*, when masses mobilize from below and impose a compromised outcome without resorting to violence, and (4) *Revolution*, when masses rise up in arms and defeat the previous authoritarian rulers militarily. Between these four extremes lie many mixed types of transition, i.e. the actors participating or the strategies they choose are not easily classified into any of the four corners of the model-table below:

Figure 1
Modes of transition: the property space



Source: Karl and Schmitter (1991: 275-76).

U-turn and resort to purely individual micro-level factors when seeking explanations to the breakdown of authoritarian regimes and the reconstruction of democratic regimes.

Neither Chile nor Argentina fit any of the ideal modes of transition. Because they occupy a kind of unclear middle-category, we shall henceforth concentrate on the two types of modes which they come closer too, namely pacts and imposition. For a more detailed analysis of what brings about these two ideal forms of regime change, it may be useful to single out four political actors on the elite level: Hard-liners and Reformers (or Soft-liners) within the authoritarian bloc and Moderates and Radicals within the opposition bloc (O'Donnell and Schmitter Vol 4, 1986: 15; Przeworski 1991: 67). As mentioned, the transition process is distinguished by a high degree of uncertainty. The strategies adopted by these four forces or groups will result in different alliances or agreements leading to different outcomes. According to Przeworski, some kind of democracy as an outcome can only result from understandings between the Moderates and the Reformers, a process referred to as extrication, meaning a type of transition where the negotiations involve the forces associated with the previous authoritarian regime (Przeworski 1991: xi).¹⁹

As shown in the above table, extrication may take the form of either pact making or imposition. Political pacts are most frequent where the democratization process is relatively slow and controlled. The pacts are agreements among leaders of political parties to divide government offices among themselves independent of election results; fix basic policy orientations; and, if necessary, exclude outsiders. These pacts secure the interests of at least some of the major power groups in the transition process and may hence bode well for the stability of the new regime. Karl maintains that pact making is the best solution in a transition, although pacts are, in essence, "antidemocratic mechanisms bargained by elites" (Karl 1991: 176). If the civilian Moderates opt for an institutional arrangement in which the armed forces remain autonomous, the equilibrium outcome will be a democracy in which the armed forces will exercise control over the democratic process. This particular point is important regarding the human rights issue: if the armed forces can ensure that they will not be purged by the new civil government for crimes committed under authoritarian rule, they are more likely to embark on a extrication strategy. The possibility of extrication is absent when either the armed forces have fallen apart, in which case the civilian opposition controls the democratization process, or they support the transition to democracy.²⁰

¹⁹ The ensuing discussion is based on Przeworski's functionalist approach to the process of transition.

²⁰ The latter has been characteristic of the recent transitions in many Eastern European countries.

The forces struggling against the authoritarian regime are obviously more efficient if they form a united front, but at the same time they are necessarily divided when it comes to their specific interests in the new regime. The democratic forces must be strong enough to ensure a viable alternative to the authoritarian regime, but at the same time they cannot be so strong as to threaten the military and hence run the risk of halting the democratization process.

Although it is the strategies chosen by individual or group actors that produce the changes that lead to transition, it should be borne in mind that these actors do not operate in a vacuum. The modes of transition are determined by historically created structures which may constitute "confining conditions" that restrict or enhance the choices available to the political actors.²¹ Leadership therefore has to be interpreted in a context, where for example economic factors and civil-military relations play important roles and may determine the range of options available to the decision-makers. Those making the decisions may even be predisposed to choose a specific option by the structural frameworks. The arrangements which are crafted by key political actors in a transition process set the new rules of the game, which in turn become the institutions shaping the prospects for regime consolidation in the future. This may concern economic policy, electoral systems, constitutional rules, distribution of power between institutions, and, most importantly, for our purpose, the agreements reached regarding civil-military relations; whether these are confined within or outside of constitutional rule and institutions. In the words of Karl and Schmitter,

informal accords between political parties and the armed forces can establish the initial parameters of civilian and military spheres in ways that deviate from formal constitutional norms. Thus, what at the time may appear to be temporary alliances during the uncertain transition may become persistent barriers to change (Karl and Schmitter 1991: 273).

The mode of transition involves primarily the agreements which drive the process of democratization forward. According to recent transition theory, these agreements are mainly confined to elites. Whenever the *ancien régime* negotiates its way out of power, the optimal strategy of democratization is inconsistent in that it requires compromises *ex ante* and resolutions *ex post* (Przeworski 1991: 51). Negotiated agreements with the old regime tend to

²¹ These historically created structures are mentioned in a general manner by Karl and Schmitter (1991), but are not defined or specified.

drag out the transition process and make it more complicated. Transitions by extrication leave institutional traces; most importantly, the autonomy of the armed forces. Wherever the armed forces have remained independent of civilian control, the military question is a permanent source of instability for democratic institutions. Modalities of transition are believed to determine the features of the new regime; specifically, that unless the armed forces collapse, successful transition can be brought about only as a result of negotiations; pact-making. The political implication is that pro-democratic forces must be prudent; they must be prepared to offer concessions in exchange for democracy.

Karl and Schmitter's line of argument may be summarized as follows: polities undergoing regime change from autocracy do so by a variety of means; these changes can be specified and clustered into a limited number of modes of transition; these modes, to a significant extent, determine which types of democracy will emerge; and whether or not they will be consolidated (Karl and Schmitter 1991: 269). In other words, this kind of theory claims to predict the outcome of transition on the basis of the type of transition. O'Donnell specifies Karl and Schmitter's general approach by stating that it is one specific mode of transition, namely that of regime collapse, which is most favourable to the establishment of a fuller, less restricted type of political democracy. This raises two of the central questions underlying my empirical analysis in Chapter 3. Is it true that modalities of transition alone determine the final outcome? And is it true that regime collapse bodes better for political democracy than does a carefully negotiated transition?

Karl, Schmitter, and O'Donnell assume that it is adequate to analyze the role of elites in the transition process. In fact, the down-playing of the role of civil society has been one of the main criticisms against the recent development in theories seeking to explain democratic transition. It has been mentioned that the liberalization process starts in response to a fissure in the authoritarian block, and that the ensuing liberalization process is largely the result of an interaction between authoritarian elites and civil society. But it is not specified just what this interaction implies, or how it comes about, or who takes part. What, then, is the role of civil society in the democratization process? This is the topic of the next paragraphs, as we turn to the extensive body of literature focusing on another aspect of transition: that of the non-elites.

1.5 The role of civil society in the process of transition

On the role of civil society I want to make two arguments. The study of transition is incomplete if the role of civil society is left out or severely down-played, as is the case in much of transition literature. Secondly, it is important to focus on the role of non-governmental human rights organizations when studying the role of civil society in the transition process. Human rights NGOs have so far only been given scarce attention in the academic debate on transition, while in fact the issue of human rights violations has been a rallying point for the opposition against military rule and a lasting source of continuing civil-military tension in the post-transition or democratic consolidation phase in many Latin American countries.

Two factors were crucial for the fall of authoritarian regimes in Latin America: a severely deteriorating economic situation and an increasingly intolerable level of repression. For the purpose of this analysis, the aspect of economy, although very important, will be kept in the background.²² Nevertheless, it should be borne in mind that the failure of the military juntas in both countries to deliver positive economic results (one of the main stated objectives of the national security doctrine) led to a loss of legitimacy. Przeworski would argue against this, as he claims that liberalization does not come about as a result of legitimacy, but rather due to a split within the authoritarian block between hard-liners and soft-liners (Przeworski 1991: 51). However, Przeworski fails to explain why this split comes about in the first place, which is what interests us here.

The second factor, i.e. high levels of repression, spurred an increasingly audible opposition from civil society, forcing, as will be argued in Chapter 5, the incumbent elites to change their way of action, which eventually resulted in regime change. Gross human rights violations was the one single issue which the opposition against the regimes in both countries rallied around from the very beginning, and it has also been one of the prime issues in both the processes of democratization and democratic consolidation. Non-governmental human rights organizations were the first actors that came to the scene. Moreover, they were the only civil society actors which had human rights as their specific field of action. Because the human rights organizations in Argentina and Chile were heavily influenced by the position of the Catholic Church, and paved the way for the

²² For an account of the Chilean economic development, see Angell 1992; Edwards and Edwards 1992; Foxley 1986; Rabkin 1992; E. Silva 1993; P. Silva 1991; and Vergara 1986. For an account of the economic development in Argentina, see Corradi 1985; Peralta-Ramos and Waisman 1987; Snow 1979; Vacs 1987.

reconstitution of political parties, these three civil society actors will be examined together in some detail. In order to clarify the relationship between these actors and the state, I would first like to place the concept of civil society in a broader theoretical framework.

It has already been stated that non-governmental human rights organizations, the Church, and the political parties are civil society actors. This is not totally unproblematic and straight-forward, as the term civil society has been given a wide range of interpretations through a two century long scholarly debate and political discourse, and no clear definition has so far been arrived at.²³ Scholarly literature usually draws a distinction between the state with its military, policing, legal, administrative, and cultural organs on the one hand and civil society as a market regulated, privately controlled or voluntary set of associations on the other hand (Keane 1988: 3). For our purpose it is sufficient to single out some of the term's core values, settling on a definition which includes the institutions I want to concentrate on. Civil society will therefore be taken to mean those structures that lie between the state and the family, the so-called *meso level*. This refers to networks of voluntary associations which interact with the state while retaining relative financial and organizational autonomy, including such structures as political parties, labor unions, church organizations, NGOs of various kinds, voluntary organizations such as women's groups and student unions, just to mention a few. Finally, civil society is one of the sources for the legitimation of state power; an important point in the transfer from an authoritarian to a democratic regime.

As previously observed, one of the features of authoritarian rule is to severely restrict or even circumscribe the activity of civil society, because if the regime allows for protest it becomes vulnerable to the democratic principle of contestation, thereby risking the erosion of its legitimacy. The democratization process is characterized by the resurrection of civil society, meaning the gradual comeback of non-elite actors to the political arena, voicing their demands to the government and influencing policy formation. Dahl's concept of pluralist democracy adds to the classical concept of polyarchy (political democracy) a dimension of the existence of voluntary

²³ Some of the classical literature on the subject includes works of Aristotle, Rousseau, Thomas Paine, Adam Ferguson, Alexis de Toqueville, Karl Marx, and Hegel. Principal questions in the debate have been whether civil society is indistinguishable from or autonomous from the state, whether it is a theoretical or an empirical concept, and whether civil society should be distinguished from political society. See Rakner (1992: 26-30) for a useful summary of the classical literature dealing with civil society.

organizations operating autonomously from state structures, hence defining pluralism as essentially the civil society aspect of democracy:

Independent organizations are highly desirable in a democracy, at least in large scale democracy. Whenever democratic processes are employed on a scale as large as the nation state, autonomous organizations are bound to come into existence. They are more, however, than a direct consequence of democratizing the government of the nation-state. They are also necessary to the functioning of the democratic process itself, to minimizing government coercion, to political liberty, and to human well-being (Dahl 1982: 1).

In spite of the desirable features of civil society in democracy, the literature on democratic transition (Przeworski 1991; Karl and Schmitter 1990 and 1991; Diamond, Linz, and Lipset 1986; O'Donnell, Schmitter, and Whitehead 1986) which founds the basis of this analysis, has in its almost exclusive focus on elite negotiations and agreements largely excluded the role of civil society. Transitions from below, i.e. either reforms forced on the regimes by pressure from the masses, or revolution brought about by full-fledged mass-mobilization, are in this literature mentioned as possible modes of transition, but practically all the theoretical discussion focuses on transition imposed from above, i.e. transition by imposition or pact-making, as discussed in detail in section 1.4. This in spite of the fact that most scholars consider the existence of a strong civil society an important check on the expansion and abuse of state power. In this sense, the voluntary associations and organizations contribute to the fostering of democratic values by stressing the feature of state accountability, as well as serving as a training and recruiting ground for political leaders (Diamond, Linz, and Lipset 1989). Voluntary organizations also constitute channels of interest articulation outside the electoral field, in which demands on the authoritarian as well as democratic government may be made. The way civil society organizes its survival and carries out governmental resistance under an authoritarian regime is largely a non-explored area in transition theory. We know that there is a mobilization of civil society in the liberalization process, and that once political space is opened up, the possibility of exercising influence on the incumbent regime is enlarged, which in its turn may lead to further mobilization and hence democratization. This mobilization, which O'Donnell and Schmitter refer to as the "popular upsurge", is, however, explained as a response to elite action:

Once something has happened — once the soft-liners have prevailed over the hard-liners, begun to extend guarantees for individuals and some rights of contestation, and started to negotiate with selected regime opponents — a generalized mobilization is likely to occur, which we choose to describe as the resurrection of civil society (O'Donnell and Schmitter Vol. 4, 1986: 48).

They argue that when the cost of engaging in collective action is perceived as being lower, “the former political identities re-emerge and others appear...to expand, beyond anyone’s expectations, the public spaces the rulers decide to tolerate at the beginning of the transition” (O'Donnell and Schmitter Vol. 4, 1986: 48-49). In my opinion, transition theory fails to explain why the split within the authoritarian block comes about in the first place. Why do the incumbent elites suddenly start to tolerate the opposition voicing their demands? It is precisely at this point that civil society is important. Human rights NGOs were crucial in that they were the first to point out the excesses of the authoritarian leaders, i.e. drawing the world’s attention to gross human rights violations, thereby serving to delegitimize the military governments. Contrary to Przeworski’s statement that liberalization always is brought about by splits at the top, I believe one has to take one step back and examine the causes for this split. The authoritarian rulers’ need for legitimation should not be underestimated, even though they can always resort to the powerful weapon of repression. Because we are not dealing with totalitarian but authoritarian regimes (a key defining trait of which is limited organizational pluralism), a study of the transition processes in Argentina and Chile will, in my view, be incomplete if the focus is placed exclusively on the role of the elites. Furthermore, since the issue of gross human rights violations was what spurred the birth of the human rights NGOs and remained a key issue throughout the transition process, I shall proceed to clarify this term.

1.6 Defining gross human rights violations

The following definition of human rights may serve as an appropriate starting point for our discussion of what constitutes gross human rights violations:

The most prevalent conception of human rights draws on a theory of natural rights: human rights are the inalienable entitlement of individuals, based on their nature as human beings (moral persons); they protect those potentials, attributes, and holdings that are essential to life worthy of a human being. In other words, human rights are the rights one has simply

by being a human being. Thus they imply strong *prima facie* moral obligations, even across state boundaries (Donnelly 1982: 575).

Donnelly's definition stresses the essentially normative aspect of the concept. However, for analytical purposes we need to go further and give this inherently normative concept a more concrete empirical denotation. The Universal Declaration of Human Rights (1948) may serve as the appropriate benchmark. The rights contained in this declaration range from civil and political rights, such as freedom of opinion, conscience and religion, press, assembly, free correspondence, and freedom from arbitrary detention, to social and economic rights, such as the right to work, health care, food, education, and participation in cultural life. These rights have been incorporated in the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights respectively. In addition to these "classic" human rights, whose antecedents date as far back as Magna Charta (1215), the declaration of the French Revolution of 1789, and the American Bill of Rights (1797), this century has witnessed the development of a "third generation" of human rights in the form of collective or group rights.²⁴

The main difference between human rights violations and ordinary offenses is that "the subject of the perpetrator of the human rights violation is an *agent of the State*; either a public employee or a person or a group of persons who has the State's assent, consent, or protection" (FASIC 1991: 81). In the moment the State puts the perpetrator before ordinary justice and does not defend him or her, we are dealing with an ordinary offence. Human rights violations are particularly serious because the institution which is supposed to protect its citizens' rights is the offender. The victim accordingly has nowhere to turn for protection. Although it may be argued that all human rights as defined in the Universal Declaration of Human Rights are indeed inseparable and of equal importance, there is a general consensus that the right to life is the most basic right of all.²⁵ I have therefore chosen to exclude economic, social, and political rights in general, and put the main emphasis on what Alex P. Schmid has defined as *gross human rights violations*. They differ from other kinds of human rights

²⁴ For a thorough presentation of the background for and content of the three "generations" of human rights, see Alex P. Schmid, *Research on Gross Human Rights Violations* (1989).

²⁵ See Paul Sieghart's *The Lawful Rights of Mankind* (1987) for an introduction to the international legal code of human rights, and a philosophical debate of the regarding the concept of human rights.

violations in that the state or state agents act as active, not merely passive or indirect, abusers of human rights. More specifically, the above term refers to the violation of three fundamental rights as stated in Articles 3, 5, and 9 of the Universal Declaration of Human Rights:

Article 3: "Everyone has the right to life, liberty and security of person."

Article 5: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 9: "No one should be subjected to arbitrary arrest, detention or exile" (cited in Schmid 1989: 6).²⁶

Gross human rights violations, then, shall in this study be defined as

crimes against the fundamental rights of a person, as a member of humanity, defined in the Universal Declaration of Human Rights. The State commits them — directly, indirectly or by omission — under the protection of its unique power. When this occurs, the state annuls its essential purpose and puts an end to the State subject to the rule of law (FASIC 1991: 81).

The three most common manifest violations of these basic rights, as defined in Articles 3 and 5, are political murder, torture²⁷, and "disappearance". The latter term refers to people who are detained for political reasons and whose detention is repeatedly denied by the authorities, and whose current location remains unknown in spite of all efforts to find them.²⁸ Political

²⁶ All three articles belong to the first generation of human rights, and were incorporated into the Universal Declaration of Human Rights in 1948.

²⁷ According to the 1984 U.N. Convention Against Torture, torture is: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity" (definition used by the Chilean Commission of Human Rights, cited in Schmid 1989: 25).

²⁸ The criteria are based on definitions given by the Chilean Commission of Human Rights. Originally, the term *desaparecido* was coined in Guatemala in the 1960s, when, for the first time in Latin American history, the kidnapping and disappearance of political opponents was employed as a systematic method for ridding the country of troublesome individuals (Guest 1990: 31). However, the antecedent for this particular kind of repression goes back to the Second World War, when Hitler had people who were opponents of the Reich "disappear" in large numbers. For details of the conditions necessarily present in order for a person to be classified as "detained-disappeared", see

murder, torture, and disappearance often occur together, and are considered the “ultimate tools of repression” (Schmid 1989: 6). There are obviously various ways of classifying human rights violations, depending on how the information will be used. The Informatics Network have drawn a distinguishing line between “general” and “specific” human rights violations. Human rights violations may also be classified by concepts, for example by the cause of the act; by the victims’ background; by the version of the act (official or unofficial); by the specific act (the kind of torture) etc. (FASIC 1991: 83).

It is important to be aware of some of the main problems involved in the registering and classification of various kinds of gross human rights violations which, from a scientific point of view, lead to unreliable data. One brief example is the problem of obtaining enough information or “proof” to settle a case, which may involve significant complications. Another obvious difficulty is the inevitable existence of duplication in statistical material due to the fact that the same person may suffer several types of gross human rights violations during the same detention, or the same person may suffer repeated violations at different occasions. How does one for example register a person who has been detained, then imprisoned by arbitrary arrest (both violations of Article 3), then tortured (violation of Article 5), and finally, whereupon given the choice between perpetual imprisonment or exile, the victim chooses exile (violation of Article 9). Should this case be treated as one case since it concerns one individual, or should it be registered and classified as four separate incidents of gross human rights violations? What happens when the body of a person reported as detained-disappeared is found and identified; should the person be transferred from the category of “disappeared” to “executed”? Varying practices in the registration of gross human rights violations by different national or international non-governmental organizations or private investigators result in highly heterogeneous interpretations of the same reality. Depending on which data is used, one may arrive at staggeringly different conclusions. This inevitably leads to the danger of uncritically

Schmid (1989: 26). The term detained-disappeared evolves from the terminology “presumably disappeared” (*presuntamente desaparecidos*), employed by human rights organizations in Argentina (Mejide 1986: 61). Then the organizations started talking about “disappearances”; the government continued denying their responsibility. Finally, when having enough proof that government officials were directly responsible for the disappearance of these people, the organizations introduced the term “detained-disappeared” (*detenidos-desaparecidos*). The terms disappeared and detained-disappeared will be used interchangeably in this thesis.

comparing figures from different sources. Bearing these problems of conceptualization and classification in mind, the figures and numbers presented in the remaining part of this study should not be interpreted as an indisputable truth, but as an approximation to the empirical realities referred to.

Gross human rights violations have been committed by a large number of authoritarian regimes, including those of Argentina and Chile. Democratic regimes, by contrast, have on the whole a much better record of human rights protection. Indeed, the respect for human rights is one of the defining elements of democracy, although the existence of a set of formal democratic institutions does not rule out occasional repression. The ensuing analysis of gross human rights violations in Chile and Argentina will focus mainly on the right to life (Article 3), although violations of the right to personal integrity (Article 5) and personal liberty (Article 9) will be treated in somewhat lesser detail. Given that Chile and Argentina are only two among a large number of authoritarian regimes that have engaged in the widespread practice of gross human rights violations, why have these two particular Southern Cone countries been singled out for this analysis?

1.7 Case selection, method, and sources

Argentina and Chile are theoretically interesting cases due to their centrality in the transition literature. Recent transition theory has largely been based on the empirical experiences of the Latin American, the Southern European, and the Eastern European transitions, and both Chile and Argentina hold a prominent position among the Latin American cases discussed by O'Donnell, Schmitter and Whitehead; Karl and Schmitter; and Przeworski. Nevertheless, in my opinion, development in these two countries over the last two decades challenge key explanatory statements in this literature. If the theories do not stand up to the empirical reality they claim to explain, some revision or alternative thinking may be in place. The comparative analysis of the Chilean and Argentinean transitions undertaken in Chapters 3 and 4 will clarify this point. Chapter 5 will proceed to explore some explanatory variables alternative to those highlighted in elite-focused theory. My comparative analysis has been facilitated by access to a wealth of sources, and in particular by the availability of abundant data on human rights issues. Such data are absent or grossly incomplete in so many other Latin American countries due to inadequate registering or reporting practices. Furthermore, Chile and Argentina have a series of relatively similar background variables, which minimize intersystemic variation, and favour the singling out of the factors I wish to study. In other words, for

my purposes these are two cases which may be regarded as “most similar systems”.

When countries share many economic, cultural, and political characteristics, the number of “experimental” variables, although unknown and still large, is minimized (Przeworski and Teune 1970: 32). Argentina and Chile should come close to this optimal situation for inquiry in the Latin American context. Not only are many of the intersystemic (i.e. domestic) variables similar, but the object for the first part of the analysis — the transition process — takes place within the same international climate, which reduces the variation in those variables (such as historical context) which may have had an impact on the phenomenon we are studying. Some of the common variables shared by Chile and Argentina are culture, religion, the type of and time of independence, the level of technical development, and the international political situation. Furthermore, the countries’ socio-economic structure and political development, although in many ways distinct, are relatively similar compared to analogous development in other Latin American states. In a regional context of more or less underdeveloped countries, Chile and Argentina constitute cases of comparatively early development.³⁰ On the surface, Chile and Argentina seem to have undergone a remarkably similar historical development. In both countries the oligarchic type of government was replaced by a democracy of political parties at the beginning of this century. After a gradual weakening of the party system, both countries entered a profound political crisis in the 1970s. The armed forces staged a coup to restore order and put the economy right. To achieve their aims of “national security”, the military governments entered a practice of excessive human rights abuses. In response to these violations grew a large apparatus of human rights organizations. These organizations played an important role when, after years of authoritarian rule, democracy was restored in both countries in the 1980s.

In spite of their apparent similarities, however, there is one prominent background variable which differs considerably in the two cases, and therefore merits special mention, namely that of the political pre-coup development. Chile is the Latin American country which can boast the longest-standing democratic tradition of this century, virtually unbroken

³⁰ “Early development” is a term translated from *desarrollo temprano* used by María Esther del Campo in “Unas notas sobre el sistema de partidos en Chile y Argentina” (del Campo 1991: 178). It should be stressed that this holds true for the Latin American context. In comparison to Western European countries or North America, Chile and Argentina do, of course, constitute cases of “late” or even “late late” development.

before the coup in 1973. Argentina, in contrast, went through almost fifty years of rapidly alternating civilian and military governments prior to the 1976 coup. I believe it is crucial to keep this factor in mind when exploring the variables which (1) may account for the fact that two diametrically opposite modes of transitions have led to two basically similar types of democracy (in the polyarchical meaning of the word), and (2) may account for the fact that the consolidation processes in Chile and Argentina differ considerably from those predicted by transition theory. In other words, I want to investigate why two so different modes of transition created relatively similar outcomes in type of democracy, but substantial differences with respect to the aspect of consolidation.

The distinct political realities of Chile (1973-1994) and Argentina (1976-1989) in the period we are dealing with, i.e. the period from the onset of military rule to the end of the first constitutionally elected government, may be summarized as follows: at the time of the coup the level of economic development was higher and the trade unions stronger and more autonomous in Argentina than in Chile. On the other hand, Chile enjoyed a higher degree of political stability prior to the coup, with less interference from the armed forces in political matters. The Chilean political parties — built on a European model — had stronger ideological programs than their Argentinean counterparts, which had a much more dominant *partidaria* structure. Argentina lacked a political Right, which was traditionally strong in its neighboring country, but on the other hand Argentina could boast a unique political phenomenon totally absent in Chilean politics: Peronism. Another main difference between the two countries lies in the type of dictatorship that was installed, and linked to this, the duration of the dictatorships. Chile qualifies as a personal dictatorship, whereas Argentina is best described as an institutional dictatorship, ruled as it was by four military juntas. The difference lies in the loyalty to a personal figurehead as against loyalty to an institution. This influenced both the type of repression during the dictatorship, and, subsequently, both the type of response to the repressions from civil society, as well as the solutions that the institutional governments taking over after the military juntas had to find. To sum up, I shall focus specifically on the variation in gross human rights violations; the two different modes of transition; the human rights policies followed in the two countries after the formal restoration of democracy; and, finally, on civil society's (exemplified by human rights organizations, the Catholic Church, and political parties) response to these human rights violations and the attempts at dealing with the problem after the change to civilian rule.

I have used both primary and secondary sources. Secondary sources form the basis for the descriptive and analytical parts concerning the historical-political back-ground to the coups and the periods of transition. Primary sources have been extensively employed in the account for human rights abuses during the dictatorship; the role of the human rights organizations during and after the period of military rule; as well as in accounting for the recent development in the field of human rights. The latter is especially true for the case of Chile, as the first transitional government was still in power when this analysis was started, and the recent development in human rights has not yet had time to enter the formal body of transition literature. The primary sources may be divided into two main categories: written material and personal interviews. During four months of field work in Chile and Argentina during the Spring semester of 1993, I consulted an extensive body of primary sources in the form of newspaper articles, periodicals, and printed material from a large number of human rights organizations. This provided me with insight into the opinions prevailing during the time of the dictatorship regarding the human rights issue; attitudes towards the *Nunca Más* report and the *Informe Rettig*; public opinion of the Argentinean trials; as well as much valuable information hard to get hold of in secondary sources.

The written material was supplemented by about thirty personal interviews carried out in Santiago and Buenos Aires between mid-April and mid-July 1993, which deserve special mention (consult Appendix A for name of interviewees and occupational status). Among the interviewed were representatives, many of whom held central positions, from all the main human rights organizations as well as some of the smaller ones, moreover lawyers, psychologists, and various other people involved in the struggle for human rights during and after the military regimes. These interviews, largely unstructured, were carried out in a relaxed atmosphere and provided me with an invaluable insight into the horrors of the dictatorships, which can only be conveyed through personal experience, not through analytic secondary sources. Cold figures turned into personal tragedies. However, more than painting a vivid picture of the topic of my investigation and supplying me with useful inside-knowledge about the problems involved in transition and consolidation, the information I received through these interviews raised issues which led me on to question the validity of the theoretical material I am criticizing in this study. I was spurred into looking for answers to questions I would not have thought of posing if I had not been confronted with the problems by my informants. Due to the nature of the interviews and the difference in time regarding the end of the dictatorship in the two countries, the information gathered serves more as

a supplement to all the other sources consulted. Needless to say, the information given through these interviews should not be considered objective or neutral due to the inherently politically or emotionally biased position of the informants vis-à-vis the issue of gross human rights violations. The enthusiasm, or lack of such, conveyed by the interviewed human rights activists and lawyers, among others, pinpointed the importance of the time factor. The time span from the end of the dictatorship to I carried out the interviews (ten years in Argentina in contrast to three years in Chile), and, even more importantly, the informants' distance to the most repressive era of the dictatorships at the moment of regime transition, suggested changes in attitude over time — an important reminder when dealing with qualitative approaches and sensitive issues, such as gross human rights violations. Due to the nature of the matter and the personal involvement in the issue of human rights by the persons who helpfully offered me their time and assistance, I had no problems at all gaining the information I was seeking. Only time limits prevented me from fully exploring all the sources available.

1.8 The structure of the analysis

Following this introduction aimed at theoretical and conceptual clarification, the analysis of the Chilean and Argentinean ultimate transitions to democracy is divided into four chapters. Because — as will be argued throughout this study — gross human rights violations was one of the principal reasons for civil society's mobilization against military leadership; further remaining a salient issue for elite negotiation in the transfer to democratic rule; and moreover constituting the greatest potential for authoritarian reversal after the reintroduction of democratic government, this central core around which the analysis is structured receives detailed treatment in *Chapter 2*.

After the “scene of repression” is set, *Chapter 3* offers an in-depth comparative analysis of the Chilean and Argentinean transition processes. i.e. from the moment of political opening till the formal reintroduction of democratic government. Focusing primarily on the elite-actors and their choices and alliances, the aim is to test Karl and Schmitter hypothesis that different modes of transition lead to different outcomes. Is it so that regime collapse is the type of transition most conducive to a fuller and less restricted political democracy?

Using the immediate political outcome of the two transition as a point of departure, *Chapter 4* will proceed to analyze the consolidation of democracy, covering mainly the period from 1983-1989 for Argentina and

from 1990-1994 for Chile. How did the democratically elected presidents deal with the legacy of past human rights violations, what were the reactions to their policies, and how did this affect the process of democratic consolidation? Is it true that the mode of transition determines the prospects for democratic consolidation? If not, one has to turn from elite negotiations and search for other explanatory factors. That will be the task of the fifth and final chapter.

Chapter 5 introduces some alternative perspectives on democratic transition and consolidation by shifting the focus over to civil society's role in these processes of political change. How may one account for the paradoxical outcomes of the Chilean and Argentinean transitions? The analysis of the role of human rights organizations and two other civil-society actors, the Catholic Church and the political parties, has been reserved for the end because it makes the discussion more structured, ties it together time-wise, and brings us back to the note on which the whole discussion starts: the relevance of the issue of human rights violations in the transition to democracy. Finally, some concluding remarks will be made on the empirical findings in relation to the theoretical perspectives constituting the departure for the analysis.

When turning to the context surrounding the establishment of the Chilean and Argentinean authoritarian regimes and the scheme of terror embarked upon in an effort to institutionalize a wholly different kind of economic and social model, the following questions should be borne in mind: how did the implementation of the national security doctrine affect the position of the mentioned civil society actors? To what extent did the systematic use of human rights violations manage to break down the structures of civil society, and to what degree have the same violations constituted a source for solidarity and united action against the government?

2. Gross human rights violations: A central issue in democratic transition

2.1 Why study gross human rights violations?

There are two main issues which provoked mass-reaction under military rule in Chile and Argentina, precipitating the splits within the military ranks and eventually leading to the downfall of the dictatorial regimes: massive human rights violations and, particularly in the case of Argentina, economic mismanagement. The principal justification for placing the focus primarily, but not exclusively, on the issue of gross human rights violations when studying the transitions to and the consolidation of democracy of these two countries is that it has been the main topic for civil-military conflict from the very onset of military rule up to the present, affecting the actions of elites and civil society actors alike. First, repression spurred civil society into action against the military governments, thus marking the onset of the transitions and forcing the military incumbents to make concession to the pressure for widened democratization. Due to the persistent work of the human rights movement, the issue of human rights violations remained a rallying point for all opposition activity against the military regimes all throughout the transition process. Secondly, the issue was a prominent topic for elite negotiation at the time of transfer of power, leaving behind a series of constitutional, judicial, and political restraints on the new democratically elected governments. Lastly, the legacy of past gross human rights violations has constituted a main obstacle to democratic consolidation in the two countries.

That the question of human rights violations has had a profound influence on democratic stability and consolidation in both Chile and Argentina may better be understood by considering the extensiveness of the impact of repression on the two societies. The officially recognized figures for deaths due to gross human rights violations during the last dictatorship in Chile are around 3,000; for Argentina, the figures are close to 10,000. Leaving all disputes of the "real" numbers aside, these figures indicate that

↓
longer need

large sectors of the two societies were affected by repression.¹ The magnitude of the figures also suggests that it is not likely that the deaths were due to arbitrary or unsystematic violence.

The overall objective of this chapter is twofold, namely to explore the issue of gross human rights violation as a contextual and explanatory variable. Contextual in the sense that it sets the scene of repression serving as a backdrop to the empirical analysis to follow in the ensuing chapters; explanatory in the sense that human rights violations provoked reactions in civil society which to a substantial extent explains the onset of the transition in both countries, as well as the difference in outcome of democratic consolidation.

Because the differences between the Chilean and Argentinean “maps” of repression partly account for the variation in organized response, an effort has been made to show how these differences may be attributed to the pre-coup context and military traditions of the two countries. It is essential to comprehend the crises of 1973 and 1976 in order to understand the genesis of subsequent human rights violations and the political development that followed. By directing the attention to the rationale or ideology dominating the military forces at the time of the coups, the cases will also be placed in a larger international context.

2.2 The geopolitical context and the national security doctrine

The latest military dictatorships in Chile and Argentina are located within the same historical framework; that of the Cold War. The coups of 1973 and 1976 took place in an international context of general anti-communism following the Cuban Revolution in 1959. In the wake of the Revolution, Marxist ideas spread all over the Latin American continent. Not only did the United States live in constant fear of such anti-capitalist ideas gaining a stronghold in its so-called backyard. Also, the growing strength of Marxist-oriented political parties and more unorthodox militant left-wing groups worried many national right-wing governments, and the military in particular. One should not forget that the military in Latin America on the whole have held a much more central position in politics than have their

¹ Exact numbers for human rights violations are invariably open to dispute. It is extremely difficult to quantify repression as it deals basically with qualitative phenomena affecting the personal dignity or life of a human being. On the subject of problems involved in quantification, see Orellana 1992.

European counterparts. Right-wing governments have more often than not been backed by the military, and the practice of military interventionism holds long traditions on the Latin American continent. The *national security doctrine* was launched by the right as a new strategy of political violence to combat the perceived threat of Marxist and Socialist ideas.² In the words of the Chilean lawyer and human rights activist, José Zalaquett,

In its essentials, the national security doctrine regards domestic political struggles as an expression of a basic East-West conflict and sees Marxist penetration and insurgency as an all-pervading presence of a new type of enemy fighting a new type of war. Civilians are also warriors, ideas a different form of weapon. Democracy and politics cannot lead the fight against Marxism (indeed, they often pave the way). Neither can they coordinate all national resources effectively so as to achieve modernization and economic development, pillars of a modern notion of national security. It is the professionals of national security — the military — who can ensure that both objectives are achieved, and this can only be done by controlling the power of the state. Since the war on Marxism is an insidious one, unorthodox methods are called for, including torture and extermination of irredeemable political activists (Zalaquett 1985: 18-19).

From the above quote we may deduce that Marxism is the principal enemy of the state, both in terms of ideology and as an alternative economic model. Furthermore, it is the duty of the armed forces to protect the state and the nation against such enemies, as well as to introduce an economic model which makes society impermeable to the doctrine of Marxism. The national security doctrine was explicitly developed in Brazil at the *Escuela de Guerra* (War School) by the military after the overthrow of the populist government of Joao Goulart in 1964, although the antecedents date back to 1954 with *La Declaración de Caracas* (The Caracas Declaration). The Brazilian military's adoption of systematic repression from 1968 onwards introduced a new trend in Latin American military dictatorships in that it assigned a new and important role to the military in what was formerly considered the sphere of civilian politics. In short, the Brazilian military did not see itself as an interim government. It presented, on the one hand, long-term goals for national policy and a model for economic development, and, on the other hand, a strategy to fight leftist opposition and align itself with the West. Thus, the national security doctrine was developed by the military to give ideological justification for its own role in society. The security of

² Accordingly, those Latin American military governments taking an anti-communist stance were likely to be supported, directly or indirectly, by the USA.

the state was placed before the security of the individual. The doctrine was formulated to justify military intervention in civilian politics on the grounds that the military were to protect the “national security” of the country when the country was “threatened”. It is a circular definition in that the army decided both what the content of national security was to be at any time, and also when the country’s security was threatened and hence needed the military’s protection. This new ideological and political alternative to democracy embodied in the doctrine of national security gave the military regimes in the Southern Cone a sense of mission and stature.

In sum, the doctrine of national security launched a two-sided attack. On the individual level, it propagated the extermination of all opposition and installing fear to prevent the recruitment of new opposition.³ On the institutional level, it sought to eliminate all those structures of civil society through which oppositional voices could be formulated, and simultaneously make the population unreceptive to Communist ideas through enabling them to enjoy the benefits of new economic policies. This second goal could only be reached by the military taking full control over the state by destroying existing social and economic structures. In the following paragraphs the concrete effects of the adoption of this doctrine in Chile and Argentina will be examined by specifically exploring the mechanisms contributing to massive gross human rights violations.

2.3 The national contexts

The national context of Chile and Argentina at the moment of military take-over may be summed up in two words: political and economic crises. This was a situation prevailing over much of the Latin American continent. However, most scholars discard the “contagion” effect as the principal reason for the serial overthrows of democratically elected governments in the 1960s and 1970s. Explanatory factors for the coups should be sought for in the national, rather than the international context. This is not to say that the international climate did not have a profound and visible impact on national political and economical situations, as it undoubtedly provided an outer framework for the formation of internal policies. The adoption of the national security doctrine by the armed forces in Chile and Argentina, for

³ This involved uprooting all opposition, including also the destruction of any recruitment ground for potential subversive elements; the so-called “cancer theory” (Dealey 1985). A prevailing opinion within the military — although rarely officially stated — was that it is legitimate to employ unorthodox methods, such as torture and extermination of political activists.

instance, was a direct response to the prevailing climate of increasing ideological and political polarization accompanied by a severe economic crisis in both countries prior to the coups. On the national level, an ideologization of political parties and movements had taken place, favouring complete models of society and leaving little room for compromise. The left-wing side of the spectrum was occupied by militant groups. As a counterweight to the Marxist-inspired economic ideas professed by these groups, the popularity of the neo-liberal model, inspired by the Milton Friedman school in the United States, had risen sharply across the continent, reaching also the Southern Cone. This economic model was also introduced to Chile and Argentina by the military governments in the hope of ending the prevailing chaotic economic situation. In order to be successful, the model required a comprehensive restructuring of society, made possible only through the demolition of many existing political and social structures. Massive human rights abuses was a regrettable, but necessary, price the authoritarian governments had to pay in order to bring about the desired changes. Giving a thorough account of the factors facilitating military intervention in civilian politics in Chile and Argentina in the 1970s is not the task of this study. It may nevertheless be useful to take a brief look at the national pre-coup contexts in order to gain a better understanding of what drove the military into adopting their policies of brutal repression.

2.3.1 Chile

In Chile the growing acceptance of socialist ideas came mainly in response to a crisis of confidence in the model of capitalist development in the late 1960s, accompanied by an increasing political polarization. In fact, the attraction of the Marxist Left in Chile was unusually strong in the Latin American context. The most extreme left-wing party was *el Movimiento de la Izquierda Revolucionaria*, MIR (Movement of the Revolutionary Left), which had early adopted the idea of confrontation in the wake of the Cuban Revolution.⁴ The organizations of the Left united around *Unidad Popular*, UP (Popular Unity Coalition) as the political centre witnessed an erosion. Some of the UP parties, such as the Socialist Party, the *Movimiento de Acción Unificada*, MAPU (Movement for Unified Popular Action), and the

⁴ MIR started of as a Che Guevara-inspired movement which later gave way to the foundation of a formal political party. Although MIR occupied the extreme end of the Chilean political spectrum in the 1970s, it is not as extreme left-wing as for example the *Sendero Luminoso* (Shining Path) of Peru.

Izquierda Cristiana, IC (Christian Left), adopted a similar posture to that of MIR. However, the idea of revolutionary struggle as a strategy was discarded by other UP parties, such as the *Partido Comunista*, PC (Communist Party), the MAPU *Obrero Campesino*, and the majority of the *Partido Radical*, PR (Radical Party), as well as the President himself. Salvador Allende's success in the presidential elections in 1970 introduced a socialist economic experiment, which partly due to governmental mismanagement and partly due to intense, however carefully concealed, pressure from the U.S. government led to economic chaos, spurring a wave of political chaos and violence.⁵ The failure of the UP government's socialist experiment led the country "from partial to total crisis" (Garretón 1986a: 97). The economic chaos accompanied by a fair measure of increasing violence and the growing abandonment of democratic values by the middle classes and the political centre made possible the military intervention in September 1973.

Chilean society now faced a crisis on several levels: profound capitalist decomposition and political polarization as the middle classes underwent a process of fascistization (Garretón 1986a: 98), resulting in the regime's general loss of legitimacy. Some smaller right-wing groups, like *Tacna* and *Patria y Libertad* (Fatherland and Liberty), had openly called for a military coup. The military interruption in civilian politics was initially welcomed by many segments of the Chilean society, including the political centre dominated by the Christian Democrats, and the economically dominant sectors, represented by the parties of the Right. An alliance between the armed forces (submitted to the increasingly personalized hierarchical leadership of Pinochet) and the technocratic group in charge of the state's economy, known as the "economic team" or the "Chicago Boys", formed a hegemonic nucleus gaining control of the state, which remained intact till

⁵ It should be noted that Salvador Allende won the three candidate national elections race in 1970 by a marginal vote; 36.3 per cent of the total as opposed to the Right-wing candidate Jorge Alessandri's 34.9 per cent, and Christian Democrat candidate Radomiro Tomic's 27.8 per cent. In other words, the Left only enjoyed the support of a third of the voting population at the time of the election, and as the political and economic crises deepened, much of the initial support was turned to outright opposition, facilitating the delegitimation of the government. For a historical account of Chile in general, and the run-up to the 1970 election and following political failure of the socialist experiment in particular, see Alexander 1978. Consult Bitar 1986 for an in-depth analysis of the economic aspects of the Allende government.

1981.⁶ Initially, the military did not plan to stay in power, as it declared that it assumed power “only for the time demanded by circumstances, with the patriotic commitment of restoring Chileans, justice and the ruptured institutionality” (*Summary of the Truth and Reconciliation Commission Report* 1992: 30). Their political project was at the outset simply to overthrow the Popular Unity regime and restore political order. However, in March 1974, the military published a manifesto in which they affirmed that the regime did not intend to be “a parenthesis between the destruction of one democracy and the restoration of another” (Garretón 1986a: 107). The issuing of *Actas Constitucionales* (provisional constitutional guidelines) in September 1976 was an attempt at making the military regime permanent by giving the military junta constitutional status and legalize their repressive operations. The ideology of the national security doctrine was now clearly predominant. The material and social reorganization of the country came later. In a sense, one may say that the national security doctrine was not explicitly formulated at the time of military take-over in Chile, although the ideas embodied in the doctrine prevailed in military thinking. Nobody, however, was aware that this break in the country’s more than 150 year democratic tradition would lead to the horrors of a dictatorship which was to last for seventeen years.⁷

2.3.2 Argentina

Similar to the Chilean situation three years earlier, the Argentinean coup against the increasingly unpopular government of President Isabel Martínez Perón in 1976 was a direct response to a domestic situation characterized by a continuous deterioration in the economy and a dramatic upsurge in

⁶ This group of technocrats were followers of the doctrine of Milton Friedman and of the Chicago School of Economics. The essence of this economic doctrine was that economic freedom is the only solid basis for political freedom. The Chicago Boys were charged with the state’s management of the economy, aiming at replacing the economic model of import-substituting industrialization prevailing during the Allende regime by a “new model of outward development” (Garretón 1986a: 102). The monetarist economic experiment of the Chicago Boys collapsed in 1982. For a detailed account of their workings, successes, and failures, see Borzutzky 1987; Foxley 1986; Garretón 1986a; Remmer 1991; E. Silva 1993; P. Silva 1991; and Vergara 1986.

⁷ Chile had enjoyed a virtually unbroken tradition of political democracy between 1830-1973, only interrupted by the dictatorship of Carlos Ibáñez in the 1924-1932 period, which ended with a total breakdown of military discipline, moral, and prestige (Remmer 1991: 122). For a thorough analysis of the factors leading to the 1973 military coup in Chile, see Garretón 1986; Remmer 1991; and Valenzuela 1989.

violence. The 1976 coup was due to economic mismanagement; a non-flattering characteristic of alternating civilian and military governments dating as far back as the 1930s.⁸ The climate of political violence was in part caused by the radical guerilla movements composed of the *Ejército Revolucionario del Pueblo*, ERP (People's Revolutionary Army) and three Peronist groups: *Montoneros* (a radical offspring of the Peronist sector, mostly militant Catholics)⁹; the *Fuerzas Armadas Peronistas*, FAP (Peronist Armed Forces); and *Fuerzas Armadas Revolucionarias*, FAR (Revolutionary Armed Forces) on the one hand, and on the other hand by the state intelligence service known as the Triple A (*Alianza Anti-comunista Argentina*), under Isabel Martínez Perón's command. The Triple A, characterized by Iain Guest as a "right-wing peronist death squad" (Guest 1990: 18), was believed to be organized by Perón's minister of social welfare, José Lopez Rega, in retaliation to guerrilla-sponsored activity, which had the military as its main target. During the period 1970-72, the *Montoneros*, who quickly absorbed the other Peronist guerrilla groups, staged several terrorist actions with the aim of pressing the government to legalize Peronism. This succeeded with the return of Perón from his exile in 1972. The *Montoneros*, with their "highly authoritarian

⁸ The cycle of military coups began in Argentina with the overthrow of President Hipólito Yrigoyen by General José Uriburu in 1930. Uriburu stayed in power only for one year before civilian rule was restored. The next coup, masterminded by Juan Perón, took place in 1943 against President Ramon Castillo. Perón was elected President in 1946, reelected in 1951, and overthrown in 1955. The next civilian President, Arturo Frondizi, served for four years before he was overthrown in 1962. In 1963 a new civilian government was restored under President Arturo Illia, only to be ousted out of office by General Juan Carlos Onganía in 1966. A hard-line Marxist, Onganía's government was the first in Argentine history to adhere to the doctrine of national security. Returning from exile, Perón was elected to his third term as President in 1973. On his death 1 July 1974, he was succeeded by his third wife, María Estela (Isabel) Martínez de Perón (Guest 1990: 449-50).

⁹ The *Montoneros* named themselves after guerrillas who had specialized fighting the Spanish from horseback. Their first public move was to kidnap and murder General Pedro Aramburu, a former President, on 29 May 1970. Throughout the next couple of years the *Montoneros* staged a series of terrorist actions, financing their operations by bank robberies, blackmail etc. The activity of this left-wing guerrilla group was a main reason for the government allowing the Peronist Party, long banned, to participate in the 1973 elections, which resulted in the reelection of Perón after Balbín steeped down (Guest 1990). The ERP was a multi-ideological dominantly Marxist, organization comprised of various left-wing ideologies, founded at the Fifth National Congress of the Workers' Revolutionary Party (PRT; a Trotskyite party) in June 1970. The *Montoneros* wanted a socialist state through revolution and civil war.

command structure”, largely refrained from terrorism while Juan Perón was in power, but resumed their activity after Perón’s death on 1 July 1974 (Rock 1993: 217). The political situation became increasingly chaotic. The Triple A launched their attacks in retaliation to the activities of the left-wing guerrillas, starting on 21 November 1973 with the murder of Hipólito Solari Yrigoyen, a deputy of the Radical Party and a nephew of the former President. The Triple A is believed to be responsible for 19 murders in 1973; a figure rising to 549 for the three first months of 1976 alone (Guest 1990: 20).¹⁰ Although the *Montoneros* and the ERP together at any one time mustered no more than seven hundred combatants, they enjoyed widespread popularity, and succeeded in spreading terror in Argentine society.¹¹ Isabel Perón declared a state of emergency at the end of 1974, passed several anti-terrorist laws and tried to combat terrorism by using the army.

By the beginning of 1976, left-wing terrorism had been greatly surpassed by right-wing terrorism. The military justification for intervention on the grounds that they had to wipe out left-wing “subversion” was accordingly rather weak.¹² However, the military attacked the *Casa Rosada* (the presidential palace) on 24 March 1976 under the pretext of restoring order and creating conditions favourable to the reintroduction of civil government. As this was the sixth in a series of military coups that had alternated with civilian governments since the first coup against the Urriburu government in 1930, the military had acquired an image as a democratic force in many people’s minds. However, it soon became clear that the military junta taking over in 1976 was to employ massive repression in their efforts to create order and introduce a new economic model.

The Argentine military had already towards late 1975, i.e. prior to staging the coup against the government of Isabel Perón, sworn a formal pledge to the national security doctrine and agreed on the tactic of disappearances to strike terror in the population and to prevent the guerrillas from gaining popular support (Rock 1993: 224). This may best be seen as the culmination of the development of ideas which had emerged in Argentina already in the early 1960s. The fundamental ideas of the

¹⁰ The number of disappearances recorded by CONADEP were 19 in 1973, 50 in 1974, 359 in 1975, and 549 in the three first months of 1976. In the previous five years 687 people were reported dead as result of left-wing terrorism (Guest 1990: 454, Note 34).

¹¹ The figures are estimates given by Emilio Mignone, cited in Guest (1990: 19).

¹² The number of “subversive actions” fell from 520 in September 1974 to 22 in January 1976 (Guest 1990: 20).

national security doctrine had been publicly advocated by the military strategist, General Osiris G. Villegas, who proposed the concept of “permanent war” as early as 1963 (Rock 1993: 196).¹³ The 1966 military regime under the fanatically right-wing Catholic Juan Carlos Onganía has in fact been characterized as the first national security regime in Argentina, where the military were taught to believe that the threat posed to Argentina by subversive internal enemies was greater than that of external foes.¹⁴ Guest explains the domination of the armed forces over that of the navy and air force on these grounds (Guest 1990: 16). The traditional isolation of the Argentine military from the rest of society also contributed to their self-perception of being superior to civilian politicians in deciding what was in the interest of their country, which was also true for the Chilean military. In Argentina there was yet another factor contributing to the ferocity employed in the eradication of subversion: the long-standing hate between the armed forces and the Peronists (rather a paradox given the fact that Perón himself started his career by actively participating in the military coup in 1943), and the obsession to keep Perón out of politics before his return to power in 1971 (Guest 1990: 17).

2.3.3 *A comparison of Chile and Argentina*

Due to the timing of the Chilean and Argentinean coups, the international pre-coup context was basically similar. The national contexts had in common a high degree of economic chaos and political instability, but were otherwise distinct in several ways. The extent of pre-coup violence in Argentina was far greater than that in Chile, mainly due to extensive left- and right-wing guerrilla activity resulting from the Peronist/anti-Peronist struggle. Moreover, Argentina had the basic ideas of the national security doctrine firmly incorporated into its military thinking well before the 1976

¹³ According to Emilio Mignone, the doctrine was imposed from outside by the United States (Guest 1990: 16). David Rock on his part argues that the adoption of these ideas by the Argentine military has to be understood on the background of the struggle between the *colorados* (military hard-liners advocating perpetual military rule) and the *azules* (military soft-liners initially favouring civilian rule), both virulently anti-Peronist, and fighting each other after Perón was overthrown in 1955. Rock sustains that the roots of the doctrine of national security may be traced as much to the French influence over Argentine military *colorados* after 1957, as to the U.S. influence over Argentine military *azules* replacing the French presence after 1966 (Rock 1993: 195-96).

¹⁴ For an account of the impact of the national security doctrine in Argentina during the period 1963-66, see O'Donnell 1986; and Rock 1993.

coup, contrasting with Chile, where the imperatives of the doctrine were implemented basically after the coup had taken place. Furthermore, the cyclical pattern of regime changes in Argentina stands in stark contrast to Chile's long tradition of democratic stability. The 1976 coup in Argentina differed from earlier coups in that the military intended to remain in power, based on the ideas in the national security doctrine. In Chile, the entrance of the military on the scene in 1973 was to mark the prolonged interruption of civilian politics. The gradual adoption of the national security doctrine gave the Chilean military a new sense of mission, whose rule proved to be more efficient and long-lived than that of the Argentine military juntas. These factors together would later come to influence the type of repression under the military governments, albeit the repression was legitimized by the same kind of ideology, embedded in the doctrine of national security.

2.4 A general map of repression: Chile

In order to put the following discussion into perspective, I will start by giving a quantitative picture of the overall repression in Chile during the years 1973-89:

Table 1
The pyramid of repression: gross human rights violations in Chile
(1973-1989)

Violation	Persons
Disappeared	999
Executed	2,456
Tortured ^{a)}	114,000
Exiled ^{b)}	247,000
House-searching	483,000
Threats	2,106,000
Detentions	3,253,000

Source: Orellana 1992 and 1993.

a) These figures are specified in Orellana's unpublished paper *La Represión Política en Chile 1973-1989* (1992: 87). b) Estimates of exiled range from 352 (figures recognized officially by the military government representative Carlos Varas) to 1,675,558 persons, reported by INCAMI (Orellana 1992: 220-21). The figures in this thesis, based on official governmental documentation as well as documentation from various human rights organizations, are slightly lower than those presented in Orellana's above mentioned paper (Orellana 1992: 249), and may be assumed to be relatively close to the actual number of exiled.

The pyramid of repression indicates that literally millions of Chileans were affected.¹⁵ According to the ideology outlined in previous paragraphs, repression was one of the weapons used in the battle against Marxism to fulfil the dual aims of eliminating subversion and breaking down all social structures. Both were a link in the strategy of introducing a new economic model and creating a new constitutional framework. These dual aims were implemented simultaneously in Chile by means of individual and institutional repression. The aim of eliminating all opposition seemed clear enough from the very day of the coup. Broadly speaking, the war against subversion in Chile was fought in two parts, first against the Communists (MIR and PC), then against the Socialists (PS). The intensity of the repression can further be divided into three periods: September-December 1973, covering the period of institutionalization of the military government; 1974-1977, covering the DINA period; and 1977-1990, what we may refer to as the transition period.

2.4.1 September — December 1973: Institutionalization of the military regime

Repression in Chile went hand-in-hand with the institutionalization of the military regime. The newly established Junta started its rule by declaring that it had assumed the exercise of the executive and legislative power.¹⁶

¹⁵ The figures are from an unpublished paper by Patricio Orellana, written in Santiago in June 1993. The figures are based on information from all the Chilean NGOs, as well as indirect information obtained from *Carabineros*, *Investigaciones*, and INE. The victims are classified according to the definitions given by *Red de Informática de Instituciones de Derechos Humanos de Chile* (FASIC 1991). It should be noted that the same person may appear more than once in the figures if the person suffered several types of violations in sequence, or suffered repeated violations over a period of time. The figures should therefore be treated as estimates, not as absolute values.

¹⁶ The Junta as an entity held these powers until June 1974, when the executive power was transferred to the President of the Government Junta; the Supreme Chief of the Nation. The position was shortly converted into the President of the Republic of Chile, fusing the position as head of the Armed Forces and President of the nation into one office. The most powerful political office in the history of Chile was held by General Augusto Pinochet. As a result, the military regime ceased to be the direct responsibility of the Armed Forces and the Police as an entity as they became accountable to the President of the Republic-Commander-in-Chief of the Army.

On 11 September 1973, a State of Siege¹⁷ was declared throughout the country, upon which the National Congress and the Constitutional Tribunal were dissolved; heavy censorship on media and institutions of higher education was imposed; trade unions were banned; all political parties, groups, or movements of the Left professing the idea of Marxism were dissolved and declared illegal; and those political parties, groups, and movements not belonging to the first category were first declared to be in recess and later dissolved. Election rolls were cancelled; elected Mayors and Aldermen were replaced by junta-appointees. Obviously, this repression on the institutional level involved the violation of a series of political and civil rights, such as freedom of assembly and freedom of expression. Broad powers were given to the intelligence services of the Armed Forces and the Police, especially in the provinces. The only democratic institution which remained largely untouched and kept its apparent autonomy was the Judicial Power. Given that the majority of members of the Supreme Court sympathized with the new regime, it was unnecessary for the Junta to control the Judiciary (*Summary of the Truth and Reconciliation Commission Report* 1992: 24). Moreover, since the Judiciary is basically a reactive institution handling the cases brought up before it, it had little opportunity to interfere in the scheme of repression that was implemented immediately after the coup. Due to cumbersome special legislation and a general scarcity of resources — lack of police cooperation in particular — and partly due to the biased role of the Judiciary, legal rights, such as the right to due process, were not protected.¹⁸ As will be seen later, the human rights activists organized primarily in response to the judicial system's inaptness

¹⁷ In the Latin American context the term state of siege (*estado de sitio*) is usually considered equivalent to a state of war. A state of siege differs from a state of emergency by being more grave in that the right to legal proceedings is suspended in addition to the suspension of the right to *habeas corpus*. Generally, military authorities take over normal civil powers, and civil and political rights are restricted during both. According to the *Informe Rettig*, Chile was, with very brief exceptions, under either a state of emergency or a state of siege in the period from 11 March 1981 to 27 August 1988. Law no. 18.415 of June 1985 systematized the states of emergency.

¹⁸ For example, out of the 1312 denouncements of torture made by the *Vicaría* between June 1978 and December 1989, not one case led to conviction (Orellana 1992: 70). During this period *Vicaría* also presented 8,906 petitions of "habeas corpus" (based on cases of detention) to the courts. The courts accepted only 30 of the petitions (*Apsi*, No. 380, March 1991, p.12). For an account and criticism of the role of the courts martial and the civilian courts during the authoritarian regime, see *Summary of the Truth and Reconciliation Commission Report* (1992: 35-40).

to provide legal protection for the victims of gross human rights violations, thus giving birth to the human rights movement.

Repression directed at individuals was at its highest during the three first months following the coup, when the military was trying to root out all opposition or “subversion” while simultaneously consolidating its power. At the outset, repression seemed largely unorganized and arbitrary, but it rapidly gained a well-planned and systematic character. During the first few days after the coup, thousands of people were rounded up in the streets and gathered in public places. Although it was a relatively bloodless coup and armed resistance to the new power-holders was sporadic, there were several confrontations between civilians and armed police, mainly in the capital, causing several deaths.¹⁹ Wide-scale detention and imprisonment took place all over the country. Due to inadequate facilities, places unorthodox to receive prisoners, such as Army barracks, ships, sports stadiums and other places, also served as provisional prisons.

Most of the prisoners suffered various forms of torture; a widespread practice referred to as the “master key” or “vertebral column” of repression, occurring throughout the dictatorship (Orellana 1992: 17, 80). This practice was legally facilitated by the passing of Decree Law 3168, which permitted the military to keep a person incommunicado for 20 days, thus leaving sufficient time for both torture and the recovery of physical wounds in cases where the prisoner was later released. Poor registration practices and the nature of torture itself makes it difficult to exactly determine how many suffered from torture, and estimates vary considerably.²⁰ It is assumed that roughly 80-90 per cent of those detained during the three first months were subjected to some form of torture at some point. This period was characterized by extensive, massive and indiscriminate practice of torture,

¹⁹ These are listed in the *Informe Rettig* as deaths due to “violations of human rights perpetrated by private citizens under a political pretext”, subclassified as deaths due to political violence and deaths during confrontations, referring principally to uniformed personnel killed in armed confrontations on the day of the coup and the days immediately afterwards. Strictly speaking, these kind of deaths fall outside the limits of our definition of gross human rights violations. The majority of victims “perpetrated by private citizens under political pretext” (a total of 30 victims in the entire country for the period 11 September-31 December 1973) were killed on the day of the coup and the days immediately following. The figures are taken from the *Summary of the Truth and Reconciliation Commission Report* (1992: 58).

²⁰ For the problems involved in the registration of torture and details regarding Orellana’s estimates of 114,000, see Orellana (1992: 80-87).

carried out by Armed Forces groups or civilian groups at their service.²¹ Torture was carried out individually, in groups, in isolation, or in the presence of relatives. The long list of types of torture shows a shrewd sense of inventionism on the part of the torturers. Methods were developed and perfected by the intelligence services to avoid leaving traces on the body. Testimonies from tortured victims show that many of them were given good food and medical care for weeks or months before being set free, in order to heal the wounds and scars.

Primarily, torture was a method applied to extract information from the detained. A second objective was to break down the physical and moral courage of the prisoner, and a third to scare eyewitnesses or other people, like family members, who heard about the torture. There were also cases where pure sadism was the only apparent reason. In these cases the treatment was considered "cruel, inhuman, and degrading" (Sieghart 1985; Donnelly 1986).

The majority of prisoners were released after shorter or longer periods of imprisonment and torture. Those who were not, constitute the large bulk of deaths and disappearances in Chile which took place in the three months following the coup. The practice of detained-disappearance was a method employed by the state to elude responsibility and manifest the extreme imbalance of power between itself and the individual. The majority of deaths and disappearances following detention were actions carried out against people having close affiliations with the Allende regime, such as high-ranking and mid-level officials, political leaders of left-wing parties and militant activists. Non-militant sympathizers with the deposed Allende government formed another main-target group. In addition, people were killed for alleged criminal activity, or died from excessive use of force. The procedures involved in the killings ranged from supposedly courts martial (believed to be just an excuse for illegal execution), shooting (single or multiple shots in the head or the back), stabbing by knife etc. According to the findings of *Informe Rettig*, none of the accused and sentences in courts martial in 1973 enjoyed the rights to due process (*Summary of the Truth and Reconciliation Commission Report* 1992: 48). In about five per cent of

²¹ More refined torture methods included widespread practices of various forms of sexual torture; application of electric shock to sensitive parts of the prisoner's body; prolonged exposure to extreme heat, cold, isolation, or total darkness; deprivation of medical care, food, sanitary facilities etc.; submersion in water, foul-smelling liquids, excrement, and the like; prolonged painful postures, such as the *paude arará* (parrot's perch; whereby the detainee is hung by wrists and ankles which are tied behind his back); simulated executions, and so on.

the cases, the so-called *Ley de fuga* or Law of escape was employed, whereby prisoners were executed on the pretext that they had tried to flee. Dead bodies were disposed of in rivers; dropped from helicopters into the sea; contained in secret mass graves; buried in cemeteries marked NN; or simply left in the street.²² In the latter case the bodies were frequently mutilated beyond recognition.

There was a further intensification in the repression after the forerunner of DINA, the “DINA Commission”, was formally set up by the military government in November 1973. This was an intelligence organization firmly committed to the principles of the national security doctrine.²³ This first period of massive repression, without any great coherence or technical coordination, directed at all militant leaders and UP government sympathizers, was succeeded by a period of more selective repression, designed primarily to instill fear.

2.4.2 January 1974 – August 1977: the DINA period

Dirección Nacional de Informaciones, DINA (National Intelligence Directorate) was created on 14 June 1974 by Decree Law No. 521 in response to the technical requirement for the coordination and specialization of repression. According to the decree, DINA had three main functions: to gather all information at the national level needed by the government for the formulation of its policies; to take measures to promote the protection of national security; and to take measures to foster the development of the country (*Summary of the Truth and Reconciliation Commission Report* 1992: 64). Although predominately a government intelligence organization,

²² The military’s involvement in the disappearance of people was “proved” by the disclosure of several mass graves containing bodies which were identified as those registered as disappeared. The large majority of persons who were identified in the mass graves of Lonquén, Mulchen, Laja-San Rosendo, Paine, Tocopilla, Temuco, Vicuña-Angostura, Pisagua, and Calama were people who had disappeared in 1973. After 1973, the government took much greater care to conceal the bodies (Orellana 1992: 118).

²³ The DINA had its roots in a highly cohesive group of Army majors and colonels, who began to act in the Military School from 11 September 1973. In November 1973, they became the “DINA Commission”, and finally, in June 1974, all the intelligence forces of the Armed Forces were united into DINA. The core group had from the start been committed to the principles of the doctrine of national security and assigned itself to the liquidation of the extreme Left, its principle targets being MIRists. After 1974, the DINA was given the formal power to carry out searches and arrests through secret articles incorporated in the same decree that created it.

DINA was also actively engaged in the repression of perceived political enemies. DINA was formally controlled by the Government Junta, but in practice it answered only to the Presidency of the Government Junta, and later to the President of the Republic. The years during which the DINA operated was the period in which the method of forced disappearance of persons was officially established. This was closely linked to the practice of selective and technical torture, which is presumed to have caused many deaths, in spite of the frequent presence of medical personnel in order to control how much the victim could support. According to witness reports from surviving victims, torture was universally employed by DINA and organizations specialized in torture (Orellana 1992: 79). Unlike the partly chaotic couple of months immediately following the coup, the gross human rights violations taking place in the DINA period, and specifically those of detained-disappearances, were distinguished by a high level of central planning and coordination. A whole range of other intelligence services from different branches of the Armed Forces and the Police were also operating, first separately, and later together in the so-called Joint Command. This was an organization created for political repression, in which the Air Force was predominant.²⁴ The Joint Command was in operation from the end of 1975 until the end of 1976, mainly in Santiago, and targeted at the repression of Communists. The intelligence was also extended beyond the Chilean borders. In 1976 DINA took the initiative of organizing a collaboration among the intelligence services in the Southern Cone countries Chile, Argentina, Uruguay, and Paraguay, setting in motion the so-called *Condor* plan which aimed at the elimination of political opponents.²⁵

²⁴ For details on the structure and command of the different intelligence services, see *Informe Rettig* 1990.

²⁵ Archives from this period have recently been found in Paraguay, including documentation of both the atrocities taking place in Paraguay during the regime of Alfredo Stroessner (1954-89) and extensive documentation on the collaboration activities among the intelligence organs in the Southern Cone countries. These archives are considered unique in the Latin American context in that they include documents signed by police officers and other people directly partaking in gross human rights violations. The *Condor* data net includes all information regarding political refugees from the dictatorships in Argentina, Bolivia, Brazil, Chile, Paraguay, and Uruguay, as well as detailed documentation on Argentinean politicians who disappeared in Paraguay. A peoples tribunal of representatives of a wide number of human rights organizations in South America have asked the United Nations to send a commission to inspect the archives and secure them for future use (*Dag og Tid*, No. 34, 26 August 1993).

The great majority of victims during this period were leftist militants (from MIR, the Socialist Party, the Communist Party, MAPU, and the Christian Left) who disappeared after their detention. Most of them were young; many highly educated. A small percentage, estimated at roughly 4.5 per cent by the Rettig Commission, were women, nine of them pregnant. In 1976 the leadership of the Socialist Party was targeted, and many more disappeared. The practice of forced disappearances had the obvious double motive of killing and concealing. The DINA took great pains in concealing its actions by studying the habits of the victim prior to the abduction, making sure there were no eyewitnesses in order to elude accountability.

During the period 1974-77, the *Informe Rettig* has reported 560 cases of deaths produced by violations of human rights and by political violence (*Summary of the Truth and Reconciliation Commission Report* 1992: 71). The total figure for this three-year period is less than half of the figure from the three first months after the coup, meaning that on the average the repression was twenty times higher during the three first months than in the succeeding period. Nevertheless, the number of detained-disappeared as a percentage of the total number of victims dead from human rights abuses increased from less than a third of the total for the period September-December 1973 to more than eighty per cent for the period 1974-77, thus indicating a marked shift in the military's strategy against subversion. The second period had only a handful of cases of "deaths perpetrated by private citizens under political pretext".²⁶ Instead, also in contrast to the first period, there was a number of human rights violations resulting in death taking place outside the borders of Chile, principally in Argentina. With the dissolving of DINA in August 1977, yet a new pattern of repression was initiated.

2.4.3 August 1977 — March 1990: the transition period

This period, characterized by the interaction between counter-organization and governmental repression, may be subdivided in two parts. The first part was distinguished by a low level of repression, followed by an upsurge in violence after the initiation of public protest actions starting in 1983. Human rights organizations had been active since the onset of military rule and had succeeded in forming a coherent, well-organized movement. This

²⁶ The *Informe Rettig* reports four such cases, all determined to be attributable to MIR, in which six people died; three military, two *Carabineros*, and one agent of *Investigaciones* (*Summary of the Truth and Reconciliation Commission Report* 1992: 72).

in turn had strengthened the political parties, which due to the massive repression directed at its members had kept a very low profile during the first few years after the coup. The relatively rapid decrease in repression after 1974 gave the political parties an opportunity to fortify their damaged structure and encouraged a gradual mobilization of civil society in general. One of the principal reasons for change in governmental policy was pressure from within and public outcry from abroad, principally in response to the murders of Orlando Letelier and Ronni Moffitt in Washington D.C. on 21 September 1976, in which DINA agents were believed to have been directly involved. Public pressure forced Pinochet to dissolve DINA in July 1977. However, DINA was immediately replaced by another intelligence service organ, the *Central Nacional de Informaciones*, CNI (National Information Centre). This was a specialized military organization linked to the government through the Ministry of the Interior, as opposed to the DINA's direct link with the President. CNI aimed at overseeing the normal development of national activities and maintaining the established order. One of its tasks was to defend existing institutions. Although bearing a different name, the new intelligence organ employed largely the same staff and the same methods used by its predecessor, the DINA, with one notable exception: the discontinuity in the practice of disappearances. This may be attributed to the profound delegitimation of the military regime as a result of both international, including massive UN, pressure and increasing national pressure from human rights organizations; a point which will be discussed in more detail in the final chapter.²⁷

The third and last period of repression may be divided into various stages, roughly fleshed out as follows: the CNI initially retained the same practices as DINA the first few months after its creation. Then followed a period (November 1977 – mid-1980s) of decreased repression and a radical reduction in the numbers of disappeared as the CNI directed itself more towards political intelligence. Encouraged by this relative relaxation of repression, MIR returned into operation after a period of virtual inactivity. Two new political left-wing groups, *Frente Patriótico Manuel Rodríguez*, FPMR (the Manuel Rodríguez Patriotic Front) and later the “Lautaro Group” (offspring of MAPU), were organized. There was a wave of public protest and demonstrations during the years 1983-85, partly in response to repression and partly in response to an economic crisis. The CNI, guaranteed impunity and given extended powers to combat this increased

²⁷ The UN, supported by 81-96 countries in each case, had repeatedly condemned Chile for its use of torture in 1975, 1976, and 1977, and were to file more complaints in 1978, 1979, 1980, and 1981 (Orellana 1992: 71).

political “subversive” activity, retaliated by resorting to repression, which lasted throughout the rest of the period. There was a renewal of selective disappearances after 1981. The methods employed were now of a different character. The overwhelming majority of victims belonged to MIR, the FPMR, and the Communist Party. People were either killed in real or simulated confrontations, or, in a smaller number of cases, selectively kidnapped and executed by throat-slitting or shooting. The total number of victims has been estimated to 160 for this last period of repression during Pinochet’s regime, marking a substantial decrease in gross human rights violations in comparison to the previous two periods. The number of detained disappeared dropped to about a quarter of the total of victims, approaching ratios comparable to that of the first three months, although on a much lower scale (*Summary of the Truth and Reconciliation Commission Report 1992*).

In order to clarify the above discussion, the gross human rights violations in the form of deaths and disappearances in Chile are summarized in the below table so as to give an impression of the ratio between deaths and disappearances within each period, and also the variation in the intensity of repression between the three periods. It should be stressed again that the figures vary considerably from source to source and should accordingly not be taken as absolute values.²⁸ The different trend of repression between the three periods in question should, however, be clear:

Flytte diagrammet hit?

²⁸ Due to discrepancies between subtotals and the total figures of numbers of victims given in the governmental report used here as a source, there are inaccuracies in this table. The total figure for victims due to death, detained-disappearance, political violence, and citizens acting under political pretext is 2,279. Excluding the two last categories, which are left out of this table because they strictly speaking fall outside our working definition of gross human rights violations, the number of deaths and detained-disappearances give a total figure of 1,885 victims. Adding this figure to the number of victims of the excluded categories (254), there is a discrepancy of 140 victims unaccounted for in the detailed analysis of the *Summary of the Truth and Reconciliation Commission Report* (1992: 1-93).

Table 2
Deaths and detained-disappearances in Chile 1973-1990

<i>Period</i>	<i>Length of period</i>	<i>No. of deaths</i>	<i>No. of det. disappeared</i>	<i>Total no. of victims</i>	<i>Victims per month</i>
Sept.- Dec. 1973	3.5 months	753	403	1156	330
Jan. 1974- Aug. 1977	43 months	119	480	599	14
Aug. 1977- March 1990	152 months	97	33	130	<1

Source: *Summary of the Truth and Reconciliation Commission Report* (1992: 1-93).

To sum up the main trends of repression, we see that for the first period the number of deaths is about twice as high as that for detained-disappeared, strikingly shifting to only a quarter of the number of detained-disappeared for the second period. The pattern is reversed again for the last period, tripling the predominance of deaths over disappearances. The main conclusion to be drawn from this is that the method of detained-disappearance was far preferred to execution in the DINA period. As regards absolute numbers of victims, it is clear that repression in Chile was at its peak right after the coup, considerably declining in the second period, and almost levelling off in the third and last period of the dictatorship, which also is by far the longest period in terms of time. That means that when democracy was reintroduced in Chile in 1990, roughly seventeen years had passed since the height of repression. As I will argue later, this created an emotional distance to the events of repression for a large part of the public which contributed favourably to the spirit of reconciliation. For a year-by-year account of the cycles of repression, see Appendix B. Having dealt with the two most grave types of gross human rights violations, it may now be appropriate to turn to another distinctive feature of the repression carried out in Chile under Pinochet.

2.4.4 Exile

In accordance with our definition of gross human rights violations given in Chapter 1.6, a separate short notice is due on the violation of the human right to live in ones country (Article 6 of the UNDHR), as it effected large parts of the Chilean population and also had the unforeseen consequences

of facilitating civil society opposition.²⁹ Exile took place in two waves. Immediately after the coup this was manifested by thousands of people seeking asylum in embassies, which played an active role in the evacuation or smuggling out of Chilean citizens.³⁰ Many embassies worked closely together with local non-governmental human rights organizations (NGOs). The second wave of exile was a direct result of government policy. Due to the pressure from many NGOs and the international community, Pinochet was forced to set free a number of political prisoners. A great number of these were offered exile as an alternative to imprisonment, and were later joined by their families abroad.³¹ This method was deliberately used to rid society of troublesome elements. It was safer and cheaper than keeping people in prison, and involved less risk than having them disappear. Moreover, those who sought exile were portrayed as traitors living in luxury abroad while leaving their fellow citizens behind to fight. In the beginning, most Chileans fled to Argentina or other Latin American countries. When the dictatorship proved itself to be long-lived and one refuge country after another suffered military coups, increasing numbers of Chileans were forced to flee to Europe.

The exact number of exiled people is hard to certify for at least two reasons. Firstly, there are the difficulties involved in distinguishing between political and economic exiles. It has been discovered that there were groups in Chile specializing in smuggling people out of the country by providing them with false identification papers and promising them an economically prosperous future in Europe — in return for a great sum of money. Some of these economic *exiliados* were sent back to Chile by the governments of the countries in which they sought refuge, whereas others were accepted as refugees for humanitarian reasons. Should they be included in the statistics of political exiles? They did not flee for political reasons, but they have certainly suffered the hardships of living in exile, as well as the associated

²⁹ Estimates vary considerably. This is due both to registration problems and classification problems. Usually, one draws a line between political and economic exiles. Based on official registers of migration and other official statistics, Orellana has arrived on an estimate of roughly 225,000 for political exiled and 150,000 for economic exiled. During the period 1973-89, a minimum of 30,000 Chileans living in exile are thought to have returned to Chile (Orellana 1991: 249).

³⁰ A detailed account of the role of the Norwegian embassy in Santiago in helping Chileans and other people fearing for their lives leave the country, with references also to the work of other European embassies, is to be found in Nilsen 1993.

³¹ During the period 1973-75, 777 persons were expelled in accordance with Decree Law 81 (Orellana 1992: 218).

traumas of those who later have chosen to return to Chile; the so-called repatriates. A further registration problem is how to quantify those living and returning from exile. Should family members who left Chile to join their politically exiled husband or son be counted as political refugees? What about the children born in exile? For these as well as other reasons, only rough estimates of those exiled and returners can be given. What we know is that a substantial part of the Chilean population was directly or indirectly effected by exile. Not only did it deprive the country of a large part of its intellectual and organizational elite, but also of an able part of its young population. Argentina faced similar problems to those of Chile, only of a different character and on an even larger scale.

2.5 Gross human rights violations in Argentina

The following words of a retired army general may serve as an introduction to the political climate prevailing among the military hard-liners in Argentina anno 1976:

First we kill all the subversives; then we kill their collaborators; then their sympathizers; then those who are indifferent; and finally we kill all those who are timid (Snow and Manzetti 1993: 33).³²

When mapping out the broad lines of the Argentine repression, particular emphasis will be placed on those aspects which differ from the repression carried out in Chile. As the nature and aims of the various forms of gross human rights violations have already been discussed in some detail, repetition will be sought avoided.

In line with the ideology of the national security doctrine, *el Proceso* in Argentina was initiated with the replacement of the constitution by the "Statute for the Process of National Reorganization", published by the military government on 31 March 1976. By this, the Junta assumed the right to enact laws, amend the constitution at its pleasure, as well as granting itself extensive judicial, legislative, and executive powers (Guest

³² José Zalaquett believes that this kind of statement only helped reinforce the myth about the Argentinean repression being targeted arbitrarily at all segments of society. Zalaquett holds the opinion that the vast majority of the victims of gross human rights violations in Argentina were singled out by the military juntas due to involvement in opposition activity at some level. The top leaders were marked for death; those less involved for exile; and a large number of collaborators or sympathizers were imprisoned and tortured. Information was given in an interview with the author in Santiago in July 1993.

1990: 456, Note 11). The Junta sought to implement three basic objectives: improvement of the economy, the elimination of subversion, and the creation of a new institutional framework (Snow and Manzetti 1993: 31). We shall focus on the second objective, as this is the point most directly related to the form and type of civil opposition during the transitions, as well as the sore point in civil-military relations reflected in the human rights policies followed by the democratically elected presidents after ended transitions.

The 1976 coup in Argentina was in many ways a continuation of the militarization dating back to 1930. However, the official launch of the First Junta's "war against subversion" marked a new period in Argentina's turbulent history, distinct from previous military regimes by the immense increase in repression, both in scale and in brutality. This dirty war was used as an excuse for committing gross human rights violations on a large scale, greatly superseding pre-coup figures for violence that could be traced to either left- or right-wing terrorism, which is believed to have caused the death of some 1,660 people. The aim of eliminating terrorism was achieved relatively early. The ERP ceased to function by 1978, and the *Montoneros* were virtually wiped out by 1980. The official numbers of persons assassinated by the ERP and the *Montoneros* declined from about 1,500 in 1976 to perhaps 700 in 1977, and to around 30 in 1978 (Snow and Manzetti 1993). Given the relatively small number of left-wing guerrillas and the vast number of recorded victims of gross human rights violations, it is clear that the intensity of repression was outrageously disproportionate to the perceived threat of "subversion". How did the military juntas actually legitimate the onset of large-scale repression?

The overall aim of *el Proceso* was to totally reorganize society by crushing down all direct or indirect opposition to the introduction of the neo-liberal economic model. The armed forces were put in charge of the dirty war against terrorism, in which the goal justified the means, while the newly appointed minister of the economy, José Alfredo Martínez de Hoz, was given the task of reforming the Argentine economy.³³ In line with the ideas of the national security doctrine, the model was seen as a counter-

³³ A series of neo-conservative economic policies were set to work between 1976 and 1980. The first couple of years saw an improvement in the economy, only to be followed by a severe economic crisis and widespread social discontent and unrest. Martínez de Hoz was asked to leave office early in 1981. The drastic reduction in the value of the peso is an indicator of the total flop of his economic experiment. When Martínez de Hoz took office in 1976, there were 140 pesos to the dollar; in 1981, there were 2,300. Also, the cost of living in this period had increased some 18,500 per cent, and the foreign debt had tripled. For details on the economic fiasco, see Snow and Manzetti 1993.

balance to Marxism-Leninism, and was to be imposed on Argentinean society, irrespective of its immediate costs. Unlike its Chilean counterparts, the first Argentine Junta had no intentions of later handing over power to a civilian government. Rather, it aimed at institutionalizing its power and securing the road to true authoritarianism by establishing its own rules and seeking new principles for legitimacy. This is probably related to the firm anchoring of the doctrine of national security within the armed forces, as well as to the repeated negative experience with civilian governments in the past.

The peak of gross human rights violations in Argentina followed immediately after the coup during the imposition and institutionalization of the military regime, but was maintained at a high level during the first couple of years, unlike Chile, where there was a sharp decline in and change in character of repression already three months after the coup (consult Appendix C). There was a steady decline in repression, not marked by renewed cycles of repression, as was the case in Chile. This may be attributed both to the shorter duration of the dictatorship, as well as to the better organized repression from the very beginning in Argentina. The latter forms a stark contrast to the Chilean military's trial-and-error approach to its perceived enemies prior to the effective installation of the DINA. There was no Argentine equivalent to DINA, or later, the CNI. Argentina was divided into a given number of security zones, where the various branches of the Armed Forces, represented by high-ranking officials, were given the command over a certain territory. This is what has led some scholars to claim that repression was the responsibility of individuals, thereby discarding the notion that repression was centrally planned and coordinated. However, the magnitude and systematic character of the Argentine repression makes it very unlikely not to have been master-minded by the Juntas, although it may well be that the individual officers in charge of the various geographic zones were given relatively free hands in how to implement the objectives of the national security doctrine.

The types of violations in Argentina and the reasons for them are similar to those of Chile, but with notable exceptions. Most importantly, the disappearances were effected on a much larger scale and greatly outnumbered the victims of extrajudicial executions. Secondly, the proportion of women was much higher in Argentina than in Chile. Thirdly, and related to the second point, was the disappearing of children; a phenomenon unique to Argentina. These three points shall now be examined in some more detail, as they produced different effects in the two countries and thus conditioned variation in the response from civil society in general, and the organization of human rights groups in particular.

2.5.1 *Detained-disappearances*

Disappearance following detention constitutes the most extensive and gravest form of gross human rights violation in Argentina. Cases of detained-disappeared were known in the country long before the military coup in 1976,³⁴ but this type of repression was practised with unprecedented ferocity under the military juntas governing after 1976. Nobody knows for sure how many families were affected, how many bodies were dumped into rivers or the sea, or how many civilians were disposed of in mass graves. A large number of such graves have been excavated in the course of the past decade. The biggest graves have been found to hold up to 200 bodies, including those of several children. Only a small percentage of the bodies have been identified.

Exile and execution were presumably used on a much smaller scale than in Chile.³⁵ The main reason for this is believed to be the lessons learnt from Chile. The Argentine generals avoided carrying out massive public roundups, which in Chile had attracted the attention of foreign journalists and left its government open to international criticism. Also, the Argentine Junta did not send thousands into exile, thus avoiding one basis for well-organized opposition abroad which might have drawn unwanted international attention. In stead, the Junta employed the tactic of detained-disappearance from the first day of the coup. The figures climbed to over 4,000 for 1976 alone. The effects were several. This massive attack on private individuals paralysed all opposition and resulted in widespread fear. At the beginning, those affected supposed that the victims were imprisoned and would soon be released. The families therefore refrained from

³⁴ Only the year before the coup, under the government of Isabel Perón, the operation *Independencia* carried out against the armed guerrillas in the province of Tucumán resulted in claims of about 600 disappearances.

³⁵ No reliable data on the number of victims of execution or exile in Argentina has been encountered. Most written and oral sources have generally asserted how infrequent execution was used as a method by the military juntas in Argentina in the war against subversion, which in that sense was much more "dirty" than the corresponding war in Chile or other countries, such as Brazil or Uruguay. Consequently, there is reason to believe that the problem of gross human rights violations in the form of execution was relatively small in Argentina. However, *Nunca Más* makes a note on the dramatic increase on the number of cremations in the cemetery "La Chacarita" for the 1976-79 period. The number of cremated people rose from about 15,000 in 1975 to more than 30,000 in 1978, indicating that large number of these persons may have been illegally executed and hence belong to the disappeared (*Nunca Más* 1991: 238-39). Due to poor reporting and recording practices at the beginning of the dictatorship, it is hard to assert any absolute figures.

protesting, lest their involvement would slow down the process of releasing the detained. When inquiring about the abducted victims, they were always met with the same answer: the government knew nothing of the disappeared' whereabouts, or they reported that the victims had been detained but later released, or that they had fled the country.³⁶ The tactic of large-scale detained-disappearance created non-people and gave the military government an image of being omnipotent. Besides spreading terror in the society — nobody could be sure about who would be the next victim — having people disappear was a very efficient way of getting rid of opponents. Nobody can be proved responsible for the disappearance as long as the body remains undiscovered, wherefore the Argentine military personnel went to great lengths to conceal their crimes. Few mass-graves were found during the period of authoritarian rule, thus making it extremely difficult to attribute guilt to any specific institution or individual.

In the absence of a clearly administered secret DINA-style service system, there have been ongoing discussions on whether the gross human rights violations committed in Argentina should be attributed the government, or whether they should be considered individual criminal acts, committed beyond the control of the president of the military junta.³⁷ However, the methods employed so systematically with such precision and refinement from day one, leave little scope for believing that the killing of some 10,000 people was arbitrary. In all, the government's investigation committee CONADEP reported the existence of 340 clandestine torture centres, spread all over the country. Out of the 8,960 people who have been registered as disappeared, about 1,300 have at some point been observed by eye witnesses in the clandestine centres before their disappearance (*Nunca Más* 1991: 479). In special cases the military let the disappeared occasionally communicate with their family members in order to keep up their hopes, add to their frustrations and confusion, or simply to blackmail the families, offering information about the detained in return for large sums of money.

³⁶ 62 per cent of the detentions happened at night (*Nunca Más* 1991: 25). The person was dragged out of the house at their most vulnerable, asleep in the dark. This procedure had the double effect of adding darkness to the sinister situation, and having the family members witnesses the brutal kidnapping of the victim, thus increasing their fear.

³⁷ The latter is the position of the editor of *La Opinión*, Jacobo Timerman (Timerman 1982).

2.5.2 *Who were the victims?*

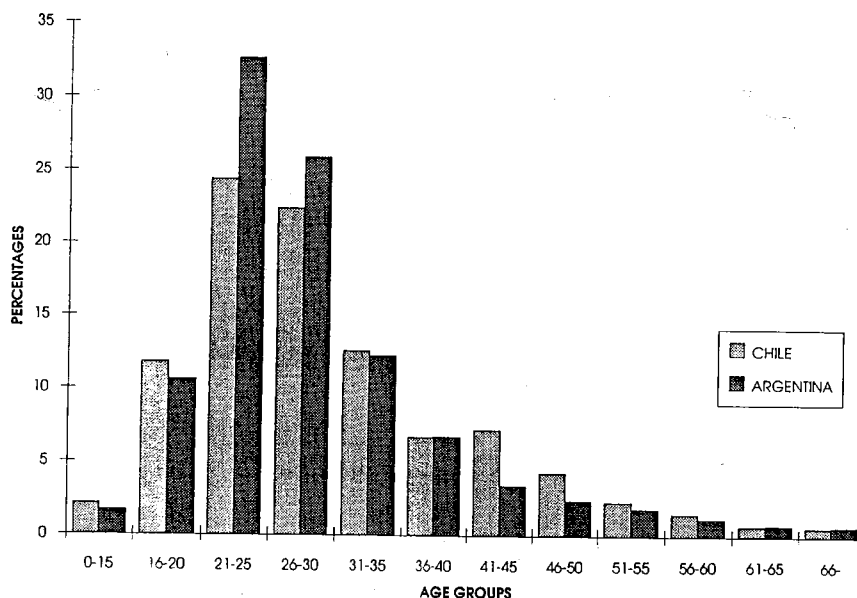
Among the detained-disappeared were all kinds of professions, but primarily socialist and trade union activists.³⁸ The distribution for the various professions is similar to that of Chile (*Summary of the Truth and Reconciliation Commission Report* 1992: 94). In absolute numbers, workers and peasants constitute the largest category of victims. In proportion to their relative numbers in society, however, the middle class in Argentina — defined as people in professional occupations — suffered more. This is not surprising, as the level of political consciousness is generally higher among this segment of society. Moreover, the ideas of Marxism struck more sympathy among the professionals than among workers, where Peronism was the dominating ideology. The Communists suffered much less than in Chile. In fact, the Argentine Communist Party supported the military government at first. The paradox of this situation can partly be explained by the positive attitude the Soviet and Chinese regimes held to the Argentinean military Juntas, due to trade agreements, reflected in the fact that China and the Soviet Union systematically abstained from voting in UN resolutions condemning the human rights violations in Argentina. Most of these victims are not believed to have been subversives, as they are reported to have no known political affiliation. Moreover, the majority of terrorists went into exile or died in combat operations. Accordingly, the Holy war to protect values of Western Christianity turned into indiscriminate repression and business. The wide-spread practice of looting homes and the selling of babies are but two perverse effects of this doctrine.

Characteristic of the Argentine map of repression was the high proportion of women; 30 per cent, as opposed to only 4.5 per cent in Chile. This is generally explained by the structure of the opposition. It was much more common in Argentina for couples to be involved in so-called subversive activity together, therefore both the man and the woman were targeted. As shown in the figure below, another distinctive feature of the victims in Argentina, is that the proportion of young people (in the age groups 21-25

³⁸ The CONADEP reported that the victims fall into the following categories: blue-collar workers 30.2 per cent of total, students 21 per cent, white-collar workers 17.9 per cent, professionals 10.7 per cent, teachers 5.7 per cent, self-employed and others per cent, journalists 1.6 per cent, actors and performers 1.3 per cent, nuns and priests 0.3 per cent (*Nunca Más* 1991: 296). It is unclear whether the percentages refer to the victims of detained-disappearance only, or whether they include all victims of gross human rights violations. Nevertheless, there is no reason to believe that the groups targeted by the various forms of gross human rights violations should vary significantly. These distributions may therefore be regarded as representative, if not absolute.

and 26-30) was substantially higher than for Chile, whereas the number of victims in the age groups 41-45 and 46-50 was almost twice as high in Chile as in Argentina. This may in part be accounted for by the same reason as mentioned above; the more massive targeting at professionals and revolutionary couples in Argentina.

Figure 2
Victims of death and detained-disappearance in
Chile and Argentina according to age



Sources: *Nunca Más* (1991: 294) and *Summary of the Truth and Reconciliation Commission Report* (1992: 93).

The Argentine military was also more ruthless than its Chilean counterpart in its elimination of potential recruiting grounds for subversion. Many professionals working in presumably “suspicious” fields, like medicine or psychology; people openly criticizing the regime, such as journalists; or people openly trying to help victims of repression, for instance lawyers, were vulnerable targets. Due to the higher proportion of professional women in Argentina than in Chile, women as a group were more victimized. As a result, many children also became victims of the dirty war.

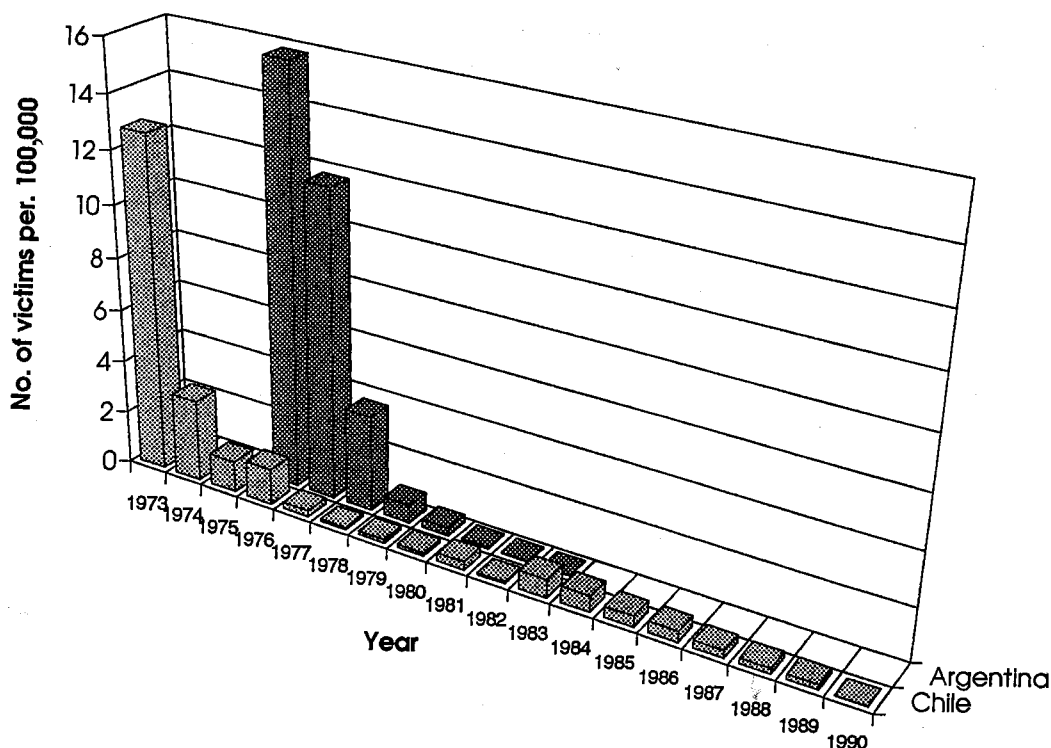
The disappeared children in Argentina merit special mentioning, because they illustrate the particular ruthlessness and perverse logic of the regime: children of subversives were likely to become subversives too, therefore they must be eliminated, or taken away from the context which may influence them in the wrong direction. Children born in captivity, when not killed with their parents, were frequently adopted by military personnel and raised as their own children. 217 children have been reported among the

disappeared; a large number of them unborn. The unique Argentine phenomenon of abducting children and highly pregnant women was to give rise to an equally unique human rights organization, *Abuelas de Plaza de Mayo* (Grandmothers of Plaza de Mayo).

2.6 Why Argentina was worse

The figure below shows that even when using the lowest estimate for detained-disappearance and other gross human rights violations, Argentina comes out far worse than Chile both in actual numbers of victims, as well as in percentage of the population affected.³⁹

Figure 3
Repression in Chile (1973-1990) and Argentina (1976-1983).



Sources: Sikkink (1993: 427); *Summary of the Truth and Reconciliation Commission Report* (1992: 93); *United Nations Demographic Yearbook* (1984: 152; 1992: 129).

³⁹ For Chile, the total figures for detained-disappeared and executed are 2,279, according to conservative *Informe Rettig* estimates (*Summary of the Truth and Reconciliation Commission Report* 1992: 93), and 3,458, according to Orellana's estimates (1992: 109). For Argentina, the officially accepted figures for detained-disappeared alone is estimated to 8,960 (*Nunca Más* 1991: 16). Several of the human rights organizations, backed by a large number of scholars (*Keesing's* 1982, Veiga 1985, Guest 1990) believe the true number of detained-disappeared to be closer to 30,000. No certain figures for executed have been found.

It should be noted that only the number of detained-disappeared are included for Argentina, due to the lack of reliable figures for deaths as a result of gross human rights violations. The figures for Chile include victims of both death and detained-disappearances. Repression in Argentina was therefore in reality even harsher than indicated here. Note particularly the difference in repression between the two countries in the second year after the military coups.

The Argentine juntas also surpassed the Chilean military government in the grossness and brutality of the methods employed in their fight against subversion.⁴⁰ The reasons for this are many; ideology may be one. The Argentine military, whose organization was based on the Prussian model, had always contained a streak of fascism. Such tendencies were strengthened during the rule of Perón. Peronism has by several scholars been characterized as in many ways a fascist ideology (Guest 1990; Veiga 1985). The elimination of thousands of human beings was based on the military's conviction that they were fighting a war against internal enemies for the glory of their country. Having a large Jewish population, anti-semitism has a long tradition in Argentina. Witness reports accounted for in the *Nunca Más* (1991: 69-75) indicate that Jewish prisoners were treated in a particularly brutal manner.⁴¹ In contrast to the Argentine military, the military in Chile had a long tradition of non-interference in civilian politics, and prided itself on its professional character. In spite of this, it is evident that changes had taken place also within the Chilean military ranks prior to the coup. The ideas of national security were developed and perfected during military rule, enabling the implementation of practices of repression and terror as mapped out above.

Geography is a second explanatory factor to the dissimilarities in repression. The sheer vastness of Argentina made it easier for the Juntas to carry out their crimes. To use political prisoners as an example, the prisoners were systematically kept in detention centres as far away from their families as possible in order to minimize any kind of communication. A prisoner from Buenos Aires would risk being sent to Tucumán, whereas

⁴⁰ María Isabel de Miriam, a representative of the Grandmothers of Plaza de Mayo, told me she had lost nine of her family members: her husband, four daughters, two sons-in-law, one three-year old grandchild, and a second grandchild to be born a month after its mother was abducted. They all remain disappeared. Information was given in an interview with the author in Buenos Aires on 2 July 1993.

⁴¹ Cases have been reported where metal tubes were introduced to the vagina of Jewish women, into which live rats were forced, gradually destroying the internal organs of their victim in their frantic search for an exit (*Nunca Más* 1991; Guest 1990).

a person from the north usually ended up in a prison camp in the extreme south.⁴²

Timing is a third variable explaining the differences between the two countries. The fact that Argentina had learned from the Chilean experience, made the Juntas employ the policy of massive detention followed by disappearance rather than execution or exile. This was a particularly traumatic experience for Argentina, both physically through the elimination of many of its young and able people, but also psychologically.⁴³ Mourning is difficult when there is no tomb to mourn by; the known is always easier to deal with than the unknown. That is why the terror produced by disappearance is often considered worse than that produced by visible death (Meijide 1986: 62).⁴⁴ As long as the body of the detained-disappeared is not recovered, there is always a possibility that the person may still be alive somewhere. This particularly brutal method of repression left thousands of Argentinean family members vacillating between hope and despair for years, breaking them down psychologically and weakening their potential for protest and mobilization. Due to its nature, the practice of disappearance has produced ongoing problems in both societies up till today. The magnitude of this practice, however, has produced greater sufferings in Argentina than in Chile. The practice of abducting children has been particularly traumatic, as a group of the children's grandmothers are still doing what they can to trace them and, where possible, restore them to their biological families.

The purpose of this chapter has been to give an account of and explanation to one of the main characteristic features of the Chilean and Argentinean dictatorships in the 1970s and 1980s, because it is important for the rest of this analysis to have an idea of the trauma repression inflicted on the two societies and what reactions it provoked. No society can be left unmarred by the psychological, physical, intellectual, and political effects of gross human rights violations of the type and scale suffered by Chile and Argentina. The situation was worse in Argentina than in Chile due to the extensive practice of disappearance and a higher level

⁴² Several of the persons I interviewed who had suffered imprisonment, including representatives of the Mothers of the Plaza de Mayo or families of the disappeared, stressed this fact. Many families did not have the opportunity or financial means to visit their imprisoned family members. I talked to a woman who had to drive 18 hours to see her husband; something she was permitted to do only twice a year.

⁴³ For an account of the psychological effects of repression, see Kordon et al. 1988.

⁴⁴ For the effects of repression of society, see *Summary of the Truth and Reconciliation Commission Report* (1992: 93-103); Kordon et al. 1988. For the psychological effects of repression in particular, see Lira 1986.

of repression. Deep damage was caused to individuals and their families. Civil society structures, such as political parties and trade unions along with a wide number of other voluntary organizations, were seriously weakened, even partly destroyed. In spite of all the negative effects of repression, however, there was one positive outcome: individuals joining forces to protest against the ruthlessness of the military rulers and the absence of state of law constituted the seed of a new social structure, namely the human rights organizations. I will argue that it is precisely the organized protest around the normative and politically explosive issue of human rights which initially caused cracks in the military leadership, leading first to a careful political opening in the liberalization phase, which gave way to widespread mobilization as the human rights organizations were joined by other civil society actors helping them carry the banner of human rights. The military were forced to respond to this criticism during the transition phase. Due to continued domestic as well as international pressure, neither the military, nor the political elites could afford to ignore the issue of human rights when bargaining about the rules for the future democratic game. And finally, in the ensuing consolidation phase, civil society in both Chile and Argentina made sure the matter was not allowed to rest.

In spite of the apparent importance of the human rights issue, it has barely been mentioned in transition theory, which focuses primarily on form, not on substance. Leaving the role of the human rights organizations in the transition to democracy for detailed treatment in the final chapter, the ensuing chapter will proceed to analyze the Argentinean and Chilean transition from primarily an elite-focused point of view. The aim is to see what this theoretical perspective offers in terms of explaining the transitions to democracy in our two cases. What is the form of transition, and how does it affect the political outcome?

3. The form of transition

3.1 From theory to reality

Drawing on the theoretical discussion in Chapter 1.4, we will now embark on an analysis of the transition processes of Chile and Argentina, starting with the formal onset of transition and ending with the restoration of democracy. The aim is to test the hypotheses that different modes of transition lead to different types of democracy (Karl and Schmitter 1991: 269) and that the case of transition by regime collapse is the one most likely to lead to a fuller, less restricted type of political democracy (O'Donnell 1986: 8-9). Was Argentina a fuller and less restricted democracy than Chile at the time of regime change, and if yes, in what ways? Some central issues for the discussion are: what spurred the transition processes? How did the various actors make calculated risks, given that uncertainty is an inherent feature of democratic transition? Was there a pact between the outgoing military elites and incoming democratic elites? If so, how were the elites allied? How long was the transition, and in which ways did the length of the transition have any effect on the resulting power constellations?

3.2 Military defeat and transition by collapse in Argentina

Argentina is the classic example of transition by regime collapse. O'Donnell has called it an "all or nothing situation"; a country which was simply precipitated into democracy (O'Donnell 1986: 8). The transition was characterized by suddenness, lack of control, unexpected outcomes, and discontinuity. That is why there was no clearcut division line between the liberalization and democratization phases. The one barely preceded the other, and there was no phased or guided interaction between the two processes. In the following empirical analysis I will therefore refer to these two phases combined as transition, divided into two stages. What spurred the transition?

3.2.1 *The first stage of transition. Apertura: March 1981 — June 1982*

The crushing defeat suffered by the Argentine armed forces in the Malvinas/Falk-lands war in 1982 is usually considered to be the catalyst for the collapse of the last authoritarian regime, marking the end of the first stage of transition in Argentina. It may be interesting to ask why the military junta decided to bring the Falkland Islands back under Argentinean rule in the first place.¹ What were the events leading up to this crisis?

The *apertura* or the onset of the Argentine transition process, meaning what Przeworski refers to as liberalization, is for practical purposes usually dated to early 1981, when General Videla was succeeded in the highest office by army commander General Viola. This reshuffling at the top came as a direct response to a failure to handle the socioeconomic crisis that had exploded in March 1980, when triple digit inflation and a financial crash created a crisis which rapidly spread to other sectors. As such, one may say that the crisis was due to elite mismanagement. In a more nuanced perspective, however, one will notice that the formal opening was preceded by a gradual strengthening of civil society running parallel to a gradual delegitimation² of the military regime, due not only to a deepening socioeconomic crisis and rumours of widespread corruption within the armed forces, but also to growing domestic and international criticism of large-scale gross human rights violations. After three years of massive repression, the Argentine people had started to pick up strength and mobilize against the military government. Labour unions mounted mass rallies against the regime's policies in July and November 1981 — for the first time since the beginning of *el Proceso*.³ The granting of the Nobel Peace Prize the year before to the Catholic activist, Adolfo Pérez Esquivel,

¹ Just a short historical note: there has been an ongoing century long dispute over who discovered the Falklands/Malvinas islands; the Spanish, the English, or the Dutch. Argentina declared sovereignty to the Falklands by inheritance from Spain in 1820 and administered the islands till 1833, when Britain occupied the territory. The issue has remained a wound to Argentine national pride and a sore point in Argentine-British relations ever since, eventually leading the Argentineans to invade the islands in 1982 to free them from what they claimed to be Britain's illegal occupation. See Burns 1987 for a detailed account of the war, its preconditions, and aftermath.

² The legitimacy of a given political order can be guaranteed by a belief in its validity or by the expectations of specific benefits, or both. See Weber 1969.

³ *El Proceso* is the Spanish abbreviation for "The Process of National Reorganization", referring to the policy line of the juntas after the coup in 1976. Its ideological basis was the national security doctrine, with its twofold aim of ending subversion and creating economic prosperity.

along with the support of international organizations and foreign governments had given courage to a number of human rights groups, which began to organize rallies against the government. In other words, the mobilization of opposition was due partly to economic dissatisfaction and partly in response to massive repression.

The fact that the military had to respond to visible opposition meant that its implementation of the model set forth by the national security doctrine had failed on two points: it had failed disastrously to improve the economy, thus breaking its promise of delivering economic performance superior to that of previous civilian governments. More importantly, it had failed to curb all opposition, although it had been relatively successful in eliminating guerrilla terrorism and severely damaging democratic institutions. As a result of this double failure, the military junta did not succeed in its initial plan of establishing permanent military rule, i.e. transform the military regime into a truly authoritarian regime.⁴ The response of the new government to this upsurge of civil society activity was not uniform, since “military circles were still divided on what form their regime should” (Snow and Manzetti 1993: 35).

There was a careful attempt at liberalization by not strictly enforcing the ban on political activity. The Junta, headed by Viola, initially tried to relax the rules of the authoritarian regime by inviting former party leaders and union bosses to participate in formal discussions; in other words, an attempt by military soft-liners to enter negotiations with civilian Moderates. These moves were meant to diffuse criticism, but had the unintended consequence of creating the impression that the government was weak and lacked resolve. This careful attempt at *apertura*, aimed at creating political stability, was interpreted by the civilians as a golden opportunity to press the regime into holding elections. According to Przeworski's theory, the military now had two options: either give in to the demands for more liberalization thus risking to let the situation get out of hand, or resort to repression (Przeworski 1991: 63). The hard-liners, headed by the new army commander, General Leopoldo Galtieri, won. Strongly opposed to any kind of political opening, they responded to Viola's softening by turning the careful *apertura* into renewed repression, especially targeted at politicians

⁴ While the economy was still in good shape, the military junta had in 1978 released a document about “the political basis for national reorganization” in which they proposed the creation of an officialist party. This party would be the essential element in the gradual transfer of some political offices to their civilian allies through carefully controlled elections in which one of the traditional parties would be allowed to participate. This project of legitimizing a kind of semi-authoritarian regime failed due to the sociopolitical crisis (Vacs 1987).

and trade unionists. The hard-liners were supported by the Liberals, who severely criticized the policies of Viola's new economic team and hoped to return to power after Viola's expected fall.

In spite of renewed repression, the junta did not succeed in halting the process of transition. The new military government lacked the support of important socioeconomic groups and political parties, which were pressing for a faster speed of liberalization and setting a firm date for new elections. Encouraged by the timid attempts at democratization made by Viola, the groups of the old *Unión Cívico Radical*, UCR (Radical Civic Union) for the first time in twenty five years joined forces in a campaign for elections to be scheduled for 1984.⁵ Later, the Radicals and the Peronists joined three smaller parties of the centre and left of the political spectrum in an ad hoc multiparty alliance called the *Multipartidaria*, agreeing on three restrictions: they would not collaborate with the military government; they would not lend their consent to a tutored or partial "democracy", or to a civil-military government; and they would oppose the creation by the state of an official party (Corradi 1985: 146). Viola, well aware that the military was no longer in control of the political development, tried to strike a civil-military pact with the *Multipartidaria* in November 1981, but the latter rejected his conditions. In other words, the attempt at pact-making between the military soft-liners and the civilian Moderates failed. The same month, about 50,000 people staged a peaceful protest march demanding peace, food and work (*Paz, Pan y Trabajo*). The military made a new attempt at tightening their grip. Proposed elections were called off, and the military announced its intention to remain in power. Squeezed between the military hard-liners and the discontented opposition, the Viola administration collapsed. Viola was deposed in a palace coup in December 1981, and Galtieri took over.

The new government had two main objectives: to stop the political opening initiated by Viola and to restore the economic policies followed by the first military junta of the *Proceso*. Suspension of political activity was again strictly enforced by the security forces. The attempts at improving the economy by the new economic team headed by orthodox neo-liberals were not very successful, and the splits between the hard-liners and the soft-liners within the armed forces deepened. The nationalistic sectors of the

⁵ There are two main political parties in Argentina: the Peronists and the Radicals. The original Radical party was in 1980 split in three groups, the Radical Civic Union, UCR (*Unión Cívico Radical*) headed by Ricardo Balbín, the Movement for Integration and Development, MID (*Movimiento de Integración y Desarrollo*) headed by Arturo Frondizi, and the Intransigent Party, PI (*Partido Intransigente*) led by Oscar Alende. Together these three groups make up what will be referred to as the Radicals.

officer corps were unhappy with the return to Martín de Hoz-like economic policies.⁶ Other military soft-liners considered their mission completed with the defeat of terrorism, and favoured a retreat to the barracks while the armed forces were still in a position to negotiate an exit on favourable terms. Political parties, disregarding the renewed ban on political activity, continued to protest against the government. They demanded changes in economic policy and a rapid return to democracy. The multiparty alliance was supported in its claims by trade unions and large middle-class sectors. The human rights organizations' demands that the authorities explain the fate of the disappeared and pressure to restore civil liberties continued to grow. This was the first united civilian front tolerated by the regime. News about corruption in military circles started to circulate openly in the press. On 30 March 1982, the clandestine General Confederation of Labour (CGT) called for the first general strike since the onset of military rule in 1976; a strike that paralysed the country.

In early 1982 rumours would have it that president Galtieri was planning to ally with right-wing political leaders and union bosses in order to form a conservative movement that would enable him to contest future elections (Snow and Manzetti 1993: 37). Galtieri could choose between several strategies. With the popularity of the regime having hit a low, the holding of free elections would most surely bring the Peronists back into power. Controlled elections meant that a weak government would only inherit the pressing economic and social problems. If the military junta remained in power and did nothing, internal splits would eventually destroy their ability to rule. Finally, if the hard-liners had their way, another bloodbath was likely to result. In short, there seemed to be only two ways of saving the regime: either find a rapid solution to the economic and social crisis, or find an issue around which the nation could unify. Attempts at the first had repeatedly failed, so Galtieri turned to the second option.

The Argentine transition process was hastily speeded up by the watershed event of the Malvinas/Falkland war.⁷ On 2 April 1982, an Argentine task

⁶ This quick-moving political drama was accompanied by high-pace changes in the economy. The catastrophic economic development had the junta replace Martínez de Hoz with Lorenzo Sigaut, but also he failed in curbing the inflation significantly. Galtieri, once in office, appointed Roberto Alderman his new minister of economy. Economic policymaking took a U-turn in less than a year. See Snow and Manzetti 1993 for a more detailed account of the economic development.

⁷ Apparently, this was a move that had been long planned by the Argentine armed forces. The navy had been pressing for an invasion of the islands since the beginning of the military regime. Already in 1977, Admiral Massera, then navy chief, had insisted on an invasion, but had not been able to transfer this into action. See Corrade 1985.

force took control over this group of islands far off the South Atlantic coast that the British had occupied and ruled as a colony since 1833.⁸ Galtieri had correctly calculated that the invasion would lead to a much hoped-for outburst of nationalism. Dissidence practically disappeared, and support to the military came from religious organizations, labour unions, and political parties covering the ideological spectrum from left to right. Even parts of the population who from the very beginning had been strongly against the authoritarian regime, such as the Mothers of Plaza de Mayo and Argentine Socialists exiled in Mexico, supported the invasion (Rozitchner 1985: 16). Most scholars believe Galtieri staged the invasion specifically to divert attention from domestic trouble by arousing nationalistic feelings and thereby strengthen the dwindling support for his government, and also to restore to the military the institutional prestige they had lost through economic mismanagement and the dirty war.⁹ The war presented a pretext for the Argentine as well as the British government to revert attention from domestic problems, although there may have been much more at stake in this conflict, such as economic, political, and strategic interests (Rozitchner 1985; Snow and Manzetti 1993).

The outcome proved fatal to the Argentine government. Had the emotional involvement of the Argentine population been less, it might have been easier to accept the military's defeat when they were forced to capitulate to the British on 14 June.¹⁰ The disillusion and disappointment in the Argentine population was complete. The military, now stripped of all legitimacy and support, had but one option left: to throw in the towel. An infuriated civil population reacted to military defeat by staging a wave of violent demonstrations against the government and the armed forces in general. Already existing splits between the army on the one hand and the air force and the navy on the other hand, now exploded into open conflicts. The air force and the navy withdrew from the junta, leaving all the political responsibility to the army. Galtieri was forced to resign under strong

⁸ The population, all English speaking and mainly descendants of Scottish settlers, counted about 1,800 people when the Argentines invaded the islands in 1982. The issue of the Malvinas/Falklands had been a topic for dispute for years, becoming particularly intense in 1967-68, when the Labour government in Britain appeared ready to open negotiations with Argentina over the status of the islands; a suggestion that did not materialize (Rock 1993: 211).

⁹ Galtieri apparently remarked, after he had been ousted from power, that his intention had been to call elections after the final victory over the British. He himself would be the presidential candidate in the elections he was confident of winning (Vacs 1987: 28).

¹⁰ See Corradi 1985 and Burns 1987 for thorough and analytical accounts of the Malvinas/Falklands affair.

civilian pressure, and on 22 June 1982 the junta set up a provisional government headed by retired General Reynaldo Bignone. His only purpose was to hold elections and ensure the return to constitutional government. Bignone started by lifting the ban on political party activities and to promise elections before the end of the year. In fact, the second stage of the transition process to civilian rule was to take 18 months. Ironically, by losing the Malvinas war, the Argentine population won the domestic battle against repressive authoritarianism.

3.2.2 The second stage of transition. The failure of negotiation attempts: June 1982 – October 1983

Following upon the Malvinas disaster started a hectic period of attempts at bargaining and negotiations. Interestingly enough, it was not the economic situation that worried the military most. Rather, their prime concern was to negotiate their exit from power in an orderly way which would ensure them immunity for the crimes committed during the so-called dirty war. Accordingly, the military tried to make the political parties agree on three negative conditions: not to investigate the state-terrorist actions; not to investigate the sources of mismanagement and corruption; and, not to reorganize the armed forces or curtail their power in matters related to external defense and internal security (Vacs 1987: 30). The *Multipartidaria* refused to have these restrictions imposed on the next civilian government and accordingly rejected the *pacto de salida* on 16 December 1982 (de Brito 1992: 40). Some parties went even further and declared they would positively investigate these issues, dismantle the repressive military machinery, and put the military under total civilian control. The military was unable to gain concession from the political parties for at least two main reasons. Firstly, the armed forces were virtually incapable of acting collectively. Not only were the navy and the air force incapable of cooperation with the army, but they were also internally split. Secondly, there were few incentives for the opposition to enter into agreements with a rapidly collapsing and illegitimate authoritarian regime that had killed thousands of people, plunged the economy into a deep crisis, and suffered humiliating defeat in war. The only “success” the military juntas could point to was the eradication of subversive activities; a policy that had produced deep divisions and open wounds in society, resulting in a mobilization of civil society which, in my opinion, was highly contributive to the dismantling of the military regime.

In spite of splits over the mismanagement of the Malvinas/Falklands war, the military displayed an impressive internal cohesion in the question of the dirty war against subversion. When failing to seal their interests through negotiated compromises with the political parties, the military reverted to other less orthodox methods in order to safeguard their position. The outgoing government headed by Bignone took several steps to avoid accountability for human rights abuses. Firstly, on 28 April 1983, the military presented their *Documento Final*, or Final Document on the War against Subversion and Terrorism, in which human rights abuses were mentioned as “errors committed in all wars”, adding that those disappeared who were not in exile or dead should be considered dead “for all legal and administrative purposes” (*Keesing's* 1983: 32553). Secondly, on 23 September 1983, only a couple of weeks before the general elections scheduled for 30 October, the military proclaimed a self-amnesty in the form of Law of National Pacification (*Ley de Pacificación Nacional*, Ley 22.924), which granted full amnesty to members of the security forces who had either carried out or given orders during the “period of exception”: 25 May 1973 (the date for amnesty for political crimes) to 17 June 1982 (the date of Galtieri's resignation). Amnesty was also granted to detainees, but not for members of “illegal terrorist or subversive associations”, nor for people already convicted (*Keesing's* 1983: 32554). This law also prevented the exercise of civilian justice in cases referring to repression on the part of the armed forces. Thirdly and lastly, there were rumours of Bignone issuing a decree ordering the destruction of the documentation related to the military repression.¹¹

The public was infuriated and reacted against these measures by staging massive protest demonstrations. On 20 May 1983, for instance, about 40,000 people rallied in Buenos Aires, protesting the Final Document (*Keesing's* 1983: 32553). Human rights groups, who by this time had gathered important numerical strength, also immediately rejected the self-amnesty law. The relatives of the disappeared challenged the law's legality on the grounds that criminals could not grant themselves amnesty. They were supported by some political parties, including the Radicals, who promised to repeal such a law if they came to power. Frightened by the massive opposition, the military's next move was to establish a corporatist pact with sections of the Peronist party and labour movement in an attempt to guarantee that the so-called law of national pacification would not be

¹¹ This decree was never made public. Zalaquett, in an interview with the author in Santiago on 7 July 1993, claimed that it is very unlikely that the Argentine military have destroyed all copies of valuable documentation.

repealed by the constitutional government. The deal struck with the Peronists, whom the military were convinced would win the free elections, was as follows: in return for restoring the trade union organizations (which were the real backbone of the Peronist movement) to the same labour leaders who had been displaced after the coup, and moreover lifting the ban on the political activities of Isabel Perón and other important members of the party who had been suspended in 1976, the military received a satisfactory assurance from the Peronists that the amnesty law would remain in force and that no investigations would be undertaken (Vacs 1987: 30-31).¹² These explicit and implicit guarantees made by the Peronist Moderates to the military soft-liners kept the military fairly happy during the rest of the election campaign.

The military had never calculated that the Peronist would lose the national elections held on 30 October 1983. In fact, this was the first election lost by the Peronists since the party was formed in 1946. The Radical Civic Union unexpectedly got a substantial majority of 52 per cent of the national vote against the Justicialist National Movement's (the Peronists) 40 per cent. Raúl Alfonsín was elected president for a six-year term.¹³ The Radical's unpredicted victory had suddenly wiped away the military's security ensured by the pact with the Peronists, forcing the military to leave the political scene without obtaining any guarantees. The Radical landslide clearly upset the military's plan of a carefully negotiated exit. Why the Radicals, who for a long time had gathered no more than 25 per cent of the vote, won against all odds is an intriguing question seen in the light of Argentine political history. Basically, the Radicals ran a more successful electoral campaign than did the Peronists after the regime collapse following the Malvinas/Falklands disaster. In 1983, both the presidential candidates centred their campaigns on the necessity for the construction of a stable democracy based on popular sovereignty and constitutional legality. By launching slogans like "return to the constitution" and denouncing the military-union pact, the Radicals managed to widen their traditional base of support. A vast proportion of the electorate disapproved of the deal struck between the military and the Peronist, and

¹² Some Peronista sectors benefitted directly from this deal, because they were dreading the investigation of Peronist-supported terrorist acts carried out against the opposition before the coup, as well as investigations into their far from clean record of corruption and mismanagement.

¹³ Alfonsín was chosen by a 600-member electoral college. The electors in turn were chosen on the basis of proportional representation so that each electoral district would have twice as many members of the college as the combined number of senators and deputies.

voted for the Radicals simply because they wanted justice, not indemnity for the military forces. The Radical victory also resulted from popular rejection of authoritarian tendencies in the Peronist Party and public memory of the nightmarish administration of Isabel Perón. The Peronist candidate, Luder, failed at bringing the fragmented Peronist party together. Alfonsín, on the other hand, successfully exploited several strengths: an attractive style, an emphasis on honesty and firmness, his reputation as a reformer of internal workings of the old Radical party, his clear record of opposition to the military regime, his focus on human rights, his purpose of restructuring the state, and his condemnation of the military adventure in the South Atlantic War (Cavarozzi 1986: 47).¹⁴

The Radicals began to demand a rapid transfer of power right after the elections. The military, anxious to buy time so that it could negotiate a deal guaranteeing that no investigation of human rights violations would take place, wanted to retain the original schedule of inaugurating the new administration in March 1984. However, the military was too weakened to be able to cut such a deal. The hard-liners' threat of staging an internal coup and nullifying the elections should an agreement not be reached was not credible and never materialized. The military simply lacked the cohesion needed for such an action and were forced to accept an acceleration of the transition process. The new constitutional government was inaugurated on 10 December 1983, without having offered the military any explicit guarantees. Thus, the weakness of the military at the moment of regime transfer presumably left the democratically elected government headed by Raúl Alfonsín quite free to choose its policies on past gross human rights violations.

3.3 Electoral defeat and negotiated transition in Chile

As opposed to the short and painful transition in Argentina due to military defeat, the transition process in Chile took much longer and was in many ways more planned, controlled, and democratic. Unlike Argentina, there was no specific external factor spurring the transition. Rather, it evolved through a gradual weakening of the military regime, paralleled by a strengthening of the non-governmental human rights organizations and the

¹⁴ Although Alfonsín won the presidency and the majority in the House of Representatives, the Peronists won the majority in the provincial governorships, as well as a majority in the Senate. Having two large parties in stead of the traditional one opened up political space for minority parties, which after the 1983 election had to obey the rules of the democratic game in order to exercise pressure.

political parties, which finally led to the democratic victory in the 1988 plebiscite. Whereas the latest democratic transition in Argentina joins neatly into a historical pattern of regular alternations between civil and military governments (see Vacs 1987), the Chilean democratic transition is often considered a paradox in the Latin American context. Chile is perhaps the country which has had the historical conditions most favourable to the restoration of democracy, such as a long tradition of democratic regimes, a relatively strong nationwide party apparatus, and broad political participation with an equally broad civil society associated with it. Still, compared to many other Southern Cone countries, including Argentina, Chile seemed to lag behind in the redemocratization process. Suggested reasons for the unexpectedly slow democratization process include the deep crisis preceding the military intervention, the continuous and severe repression, and the nature of the regime's project of transformation (Valenzuela 1989). Since Argentina too suffered a deep pre-coup crisis and repression that was even more cruel and extensive than in Chile, it seems like the main factor accounting for the different speed of the democratization process has to be sought for in the type or mode of transition.

The question in the following empirical analysis is not primarily why the Chilean transition took so long, but rather how the shifting alliances during the long transition led up to the final power distribution at the presidential takeover in March 1990, thus setting the framework for the human rights policy to be outlined by the future Aylwin government. The Chilean transition may conveniently be divided into two main periods: the liberalization period from 1980-1988, and the democratization phase from October 1989 to March 1990. The liberalization process is divided into two sub-periods, covering the years 1980-1983 and 1983-1988 respectively. In the initial liberalization 1980-83 phase, the military seemed to have full control, whereas the national protests starting in mid-1983 marked the onset of more visible opposition to the authoritarian regime.¹⁵ According to our discussion in Chapter 1.4, Przeworski maintains that the struggle for democracy always takes place on two main fronts; against the authoritarian regime for democracy and against other civil society actors for the largest possible influence within a democratic set of institutions (Przeworski 1991: 66). The main focus of the following analysis will therefore be placed on

¹⁵ The 1980-83 phase is here included in the transition period because the 1980 Constitution issued by the Pinochet government marked a decidedly new period in the government's policy, lining out the time frame and aims for the transition which subsequently was to take place.

the relationship between the military and civil society on the one hand, and on the splits and factions within the two main blocs on the other hand.

3.3.1 Phase 1. First stage of liberalization: 1980-1983

A new Constitution, approved of by 67 per cent of the voters in a carefully controlled plebiscite in 1980, marked the beginning of a new period in Chilean politics. By formally establishing a “period of transition” (Frühling and Orellana 1991: 31), this political move may be interpreted as the onset of what I will term the liberalization process in Chile.¹⁶ Pinochet, in reaction to international criticism of his authoritarian regime and an increasing internal split within the military, launched the Constitution in order to strengthen and intensify his personal rule (Garretón 1986a: 108).¹⁷ This plebiscitarian “democratic” exercise legalized Pinochet’s power; a move quite in harmony with the strong Chilean legal tradition. Again, this seems to me a classic example contradicting Przeworski’s argument that liberalization is always initiated from above and is spurred entirely by internal splits between hard-liners and soft-liners in the authoritarian power block. There had been a deepening disagreement between the hard-liners, who were in favour of an infinite extension of the military regime, and the soft-liners, who, although accepting the military regime’s prolonged extension, favoured the gradual introduction of democratic elements in order to overcome the political and economic problems caused by international isolation. The international isolation of Chile was due to heavy criticism from the world community following the massive repression after the onset of military rule in 1973, taking the form of repeated UN resolutions condemning gross human rights violations, visits to Chile of international NGOs such as Amnesty International¹⁸ and the Interamerican Commission of Jurists, and reductions in financial aid from the United States. One may therefore interpret the fear for further delegitimation of the military regime as the main underlying cause for the split in the higher military ranks.

¹⁶ Manuel Antonio Garretón disagrees with this view. He dates the onset of the liberalization process in Chile to the massive public protests starting in 1983 (Garretón 1989: 152).

¹⁷ The following discussion is largely based on Garretón’s analyses of the Chilean democratization process (Garretón 1986a, 1986b, 1987, 1989).

¹⁸ Amnesty International sent a mission to Chile almost immediately after the coup in 1973. On the basis of their findings they issued a report which, according to Iain Guest, “was devastating to Pinochet” (Guest 1990: 79).

However, the military agreed on one thing: nobody questioned Pinochet's leadership. The debate was therefore limited to whether it was necessary to institutionalize the leadership of Pinochet or not, and if yes, what the time limits should be. Pinochet could no longer put off this decision in 1980, and chose the soft-liners' proposal of a constitutionally limited presidency. One may, of course, question the democratic value of a plebiscite held under strictly controlled conditions, where no alternatives were presented. Pinochet had announced on 10 August that, if approved, the new Constitution would enter into force six months later (i.e. on 11 March 1981), and that he would then remain in office for an eight-year period of "slow and gradual evolution" towards a democratic form of government (*Keesing's* 1980: 30619). In particular, the Constitution prescribed that at the end of the eight-year "transitional" period, in 1989, the junta would nominate a single presidential candidate. If confirmed by plebiscite, this candidate would remain in power until 1997, when free presidential elections would take place. However, if the candidate was rejected, President Pinochet would remain in office for another year and would call such elections within that time. During the "transitional" period the main provisions of the Constitution would not enter fully into force, but 29 "transitional provisions" would be effective.

The 1980 Constitution was thus written so as to secure the objectives of the national security doctrine while simultaneously formally introducing a period of transition. On the one hand, the new Constitution increased presidential authority, reduced the autonomy of legislative bodies, enabled the president to appoint several members of the Senate, created a National Security Council, prohibited "totalitarian" groups and the expression of support for doctrines that are based on "class struggle" or that "violate the integrity of the family", while allowing some political parties to resume activities only after the end of the transitional phase. On the other hand, The Council of State also proposed a number of transitional provisions, calling for a return to democracy and open presidential elections by 1985; a proposal Pinochet rejected. They agreed on a compromise whereby the Commander-in-Chief of the Armed Forces and the *Carabineros* would, in late 1988 or early 1989, select a presidential candidate who had to be approved or rejected by the public in a new popular plebiscite.

Pinochet was confident he would win the elections. In other words, the Constitution guaranteed the continuation of the same power structures and Pinochet's authority till February 1989. In effect, he had prepared the way for the introduction of a political model which on paper meant the restoration of a full democracy, but which in fact was intended to be an authoritarian regime with very restricted political freedoms. Space was

opened for restricted representation, but the Constitution rendered political activity almost irrelevant. The 1980 Constitution specifically exempted Pinochet by name from the provision barring Chilean presidents from succeeding themselves. It consequently established *de jure* Pinochet as the most powerful leader in Chilean history.

The launch of the 1980 Constitution was probably one of the most important factors contributing to the longevity of the Pinochet regime, as it temporarily solved the internal crisis caused by factionalism within the military ranks and set a framework for further negotiations. The referendum, in spite of its irregularities, was a success for the military government, since it confirmed the government's capacity for social dislocation and the effectiveness of its propaganda concerning the terrors and traumas of the past, its continuing ability to raise doubts about the existence of any viable alternatives, and its skill in manipulating passive conformism. The tight control of mass media and the physical and psychological intimidation of opposition groups played a major part in all this.

Bliss did not last. The 1980 referendum marked the high point of the Pinochet regime's political institutionalization, launched as it was at the height of economic prosperity, resulting from the successful policies of the so-called "Chicago Boys".¹⁹ The regime enjoyed support from large sectors of Chilean society due to its demonstration of a high degree of economic success. The favourable impression of the neo-liberal economic policy was probably strengthened by the failure of the socialist experiment under Allende. However, the fragility of the regime's economic base became visible only a few months later. Chile was struck by a severe economic recession and crisis in 1981, spurred by the collapse in March 1981 of a leading financial group resulting in a speculative wave, which in turn provoked a general panic among entrepreneurs (Silva 1991). In response, the military adopted a series of stop-gap policy measures which turned out to be internally contradictory. The dominant economic groups

¹⁹ The "Chicago Boys" (monetarists who were strongly against state intervention), took over the economic administration in Chile from the end of 1974. They were educated abroad in the United States under Professor Milton Friedman and on returning, they introduced the ideas of neo-liberal policies to Chile. When in control of ODEPLAN they tried "shock treatment" to the Chilean economy. The "Chicago Boys" also played a key role in the institutionalization of the dictatorship. After a severe economic crisis and strong reactions to the neo-liberal policies by important sectors of Chilean society which were affected, Pinochet in 1984 reshuffled his cabinet, and the "Chicago Boys" were largely out of the game. See Patricio Silva's article "Technocrats and Politics in Chile: from the Chicago Boys to the CIEPLAN Monks" (1991) for a thorough analysis.

and the military itself disintegrated into several factions. Unconditional loyalty to the regime evaporated.

The crisis leading to deepening splits within the military regime in mid-1983 was swiftly followed by relative political liberalization, which broadened the base for political opposition. Although opposition groups and parties had been weakened and fragmented by authoritarian rule, they had survived. The human rights organizations under the protection of the Catholic Church had been active from the very onset of authoritarian rule, and little by little civil society had been strengthened by the revival of old party structures as well as the creation of new organizations taken on by student groups and popular organizations, such as labour and neighbourhood associations. The beginning of the second stage of liberalization was marked by the sudden public appearance of these so far largely latent civil society structures.

3.3.2 Phase 1. Second stage of liberalization: 1983-1988

The water-shed came in mid-1983, when “days of national protest” initiated by the labour movement and joined by human rights organizations and other social structures were massively and spontaneously organized all over Chile in response to the economic crisis. Garretón has called this the beginning of the “emergence of a mass movement” (Garretón 1986a: 113). O’Donnell and Schmitter would surely refer to this event as a clear indication of “the resurrection of civil society”. The public appearance of the opposition, its new more rooted groupings, and the massive manifestation of discontent and protest challenged the stability of the Pinochet regime. For the first time since 1973, governmental and opposition forces were operating in the same arena in Chile, and the government was forced to explicitly respond to the opposition. At the request of the Church, the regime first tried to open a dialogue with the opposition. When this careful attempt at political opening failed, the regime initially answered to continued public protest by imposing a state of emergency and initiating a new wave of repression. 117 people died in public protests between May 1983 and September 1986, and thousands were arrested during the same period (Orellana 1989: 1-4). International pressure, especially from the United States, forced Pinochet to lift the state of emergency in mid-1985. This did not stop the continuation of intimidation, terror, and repression, like cutting the throats of five Communist leaders in 1986 and assassinating

twelve persons in one day in 1987 (Garretón 1989: 154).²⁰ As we know, Pinochet regained control, and the regime survived.

One may justifiably pose the question, why didn't the Chilean regime collapse immediately in 1983, the way it did in Argentina? The Pinochet regime was so weakened that had circumstances been slightly more favourable, liberalization might have speeded significantly up and lead the way to genuine democratization. The political opposition was too split to take full advantage of the chaotic economic situation, and Pinochet through his extensive supportive apparatus gradually regained political control. He reacted to the crisis by trying to concede some room to the political opposition, accompanied by new wave of repression when the opposition took advantage of the newly created political space. He legalized political parties and convened a Congress. The one and only project of the regime now after the economic failure was pure survival — even at the cost of making “democratic” concessions to the opposition. Pinochet succeeded in this due to three main factors: (1) he still benefitted from a degree of legitimacy within the dominant bloc conferred by the 1980 Constitution and was determined to retain his power; (2) the armed forces conserved their unity and remained loyal to the regime, and (3) the ambivalence of redemocratization in the political Right sector left no political class capable of expressing discontent with the regime and thus pressing for its dissolution. In the words of Przeworski, there was “an absence of preferable alternatives” to Pinochet's regime (Przeworski 1986: 52).

Why did the opposition fail to grab this golden opportunity to topple the regime? The human rights organizations and other opposition groups in the social sector had a great mobilizing effect, but, for obvious reasons, they presented no political alternative to the authoritarian regime. The political parties were still disorganized. Broadly stated, the opposition actors to the military regime had four goals: survival and organization, overthrow of the regime, elaboration and preparation of an alternative to the military regime, and introduction of democracy. Until 1980, the Chilean opposition had given priority to survival, maintenance, and reproduction of its organizational apparatus, and to the creation of a front which could present itself as an alternative to the military regime. The goals of overthrowing the regime and the organization of social movements were played down. This resulted in the absence of any real political debate during 1973-80 period. The parties of the Left, especially those of Popular Unity, were severely affected by the repression. Most of their leaders were either killed,

²⁰ The throat-slitting case, or *Caso degollados* caused uproar among the opposition in Chile. This particular case will be treated in more detail in the next chapter.

disappeared, imprisoned, or in exile. Those still free and in Chile lost their work and were forbidden to carry out political activity.

The crisis in 1983 finally encouraged the opposition to focus on how they could overthrow the regime and present a viable alternative to military rule, but they were seriously split on how to achieve their aims. The political parties now came to the fore. Using O'Donnell's terminology, the Moderates in the opposition block favoured a strategy of defeating the military by political means, as opposed to the Radicals, who advocated toppling the regime by, if necessary, violent means. The Moderates consisted of a highly heterogeneous block, dominated by *Alianza Democrática*, AD (Democratic Alliance). The alliance was formed in 1984, when the Christian Democrats decided to cooperate with the moderate wing of the Socialist Party. The Christian Democrats, who had originally supported the coup and lent technical assistance to Pinochet's regime, had moved into opposition by mid-1974 (i.e. ten years earlier), joining the parties of the Left in their strong criticism of the regime's human rights abuses and in redrafting the nation's institutional structures. By the late 1970s, the Christian Democrats had established a dialogue with the Left.

They also tried to create a broader alliance by including the small groups of the Right as well in order to structure a proposal for an alternative government which would force the armed forces to negotiate. The fact that the Christian Democrats suffered directly from repression and also had a long tradition of being critical of capitalism, made them wary of any alliance with regime soft-liners. At the same time, long-standing ideological differences stood in the way of stable agreements with the Left. After the 1980 referendum, the Christian Democrats realized that they had limited support. That spurred a lengthy debate about the party's leadership and structure, resulting in the formation of the mentioned Democratic Alliance. Its goal was to turn the 1980 Constitution's limited political liberalization into full-fledged democratization, demanding free competitive elections with full citizen participation and civil guarantees by 1985. That again, in the words of Silva, meant stripping Pinochet of his power, abrogating the perpetual state of emergency, rescinding the restrictions on political party activity, allowing exiles to return, and restoring political rights to Marxist parties (Silva 1992/1993: 85).

The Radicals within the opposition block, called the *Movimiento Democrático Popular*, MDP (Popular Democratic Movement), was made up of more radical parties of the Left, mainly the Communist Party and a faction of the Socialist Party. Both the Communists and the Socialists were deeply internally divided, making a united front difficult. The Communist

Party, strongly supported by exiled Communist Party leaders, was chief among those who opted for armed struggle.

Although both the Moderates and the Radicals participated in the monthly protests starting in May 1983 as a direct response to the economic crisis, the Democratic Alliance distanced itself from the Popular Democratic Movement and at the outset refused all offers of working together. This serious split within the opposition played directly into the hands of the military regime, constituting another important reason why the opposition failed in 1983. The Democratic Alliance gradually realized that the only way to a smooth, rapid transition to democratic rule would be through negotiating with the military and with the conservatives, i.e. enter a form of pact-making. To achieve a broadened social base, they needed to ally with parts of the business or landowning elite, convincing the military and the entrepreneurial class that they would stick to the framework of the 1980 Constitution and not return to the kind of socialism associated with the Popular Unity government. In the course of 1983 the Democratic Alliance publicly committed itself to the capitalist road to development. The alliance of Moderates believed that by mitigating its economic position it could attract the support necessary to negotiate a transition from Pinochet's authoritarian regime to a regime more democratic than permitted under the 1980 Constitution. To sum up, regime opponents decided to concentrate on political change (democratization) rather than economic change. One dominant reason for this was the belief that in order to achieve any change at all, whether justice in the issue of human rights violations, economic redistribution, or changes in the 1980 Constitution, one first needed to construct a political framework for negotiation acceptable to the military so as to avoid reversals in the democratization process. The gradual softening of the position of the Democratic Alliance was also a tactical move to gain increasing support from the middle class, who now no longer saw the ideology of the Left as threatening to their economic interests.

Important sectors of the Right consequently joined with the centre and moderate Left in signing the *Acuerdo Democrático Nacional* ADENA (National Accord for the Transition to Democracy) in 1985, whereby they called for free elections and significant modifications to the 1980 Constitution. This fragile alliance failed (Valenzuela 1989: 195).²¹ Some

²¹ "The Group of Eight", consisting of *Democracia Radical*, *Movimiento Avanzada Nacional*, *Movimiento Social Cristiano*, *PADENA*, *Partido Nacional*, *Talleres Socialistas Democráticos*, *Unión Demócrata Independiente*, and *Unión Nacional*, was formed in 1984. They proposed to approve of democratic laws in 1984, carry out a plebiscite in 1985, and elect a National Congress in 1986. They lost strength when ADENA (*Acuerdo*

groups accused the Right of trying to halt mobilization in Pinochet's favour; others accused the Left of trying to undermine possible negotiations with the armed forces while alienating middle-class support for the opposition. Anti-democrats on both sides (strong Marxist Left and the Rejuvenated Right) made it difficult for centrist forces to pursue concerted policies. Moderate Socialists feared that too many concessions to the regime would lead to a loss of support from those who might be more attracted by the militant line of the Communist Party or socialist groups affiliated with them. The democratic Right feared that they would be isolated and outflanked by Pinochet supporters who argued that compromise with the opposition amounted to extending the influence of the Communist Party. The Christian Democrats were immobilized by sharp internal divisions over fears that the party might move too close to either the right or the left. In short, internal divisions within the opposition blocks slowed down the transition process.

In 1986, the military regime speeded up the process of liberalization by passing a series of laws aiming at normalizing political life in Chile by restoring some democratic rights and thereby pacifying the opposition. The Law of Electoral Registration was passed at the end of September 1986.²² The following year the government authorized political parties to engage in public activities.²³ Soon after, in July 1988, Pinochet announced that a plebiscite on whether he should serve another term was scheduled for 5 October 1988. Having been split for so long, the entire opposition front, except the Communist Party, finally agreed to try to confront the military regime electorally by forming the *Concertación por el NO* (Party Agreement to Vote "No") in February 1988 (Garretón 1989: 205). The Communist Party, although first strongly objecting to "participate in the legality of the regime", changed its position and join growing ranks of those advocating the "no". A series of smaller and larger political parties of the Left and the Centre-Left had banded together to form the multiparty

Democrático Nacional) was formed, as UDI, PN, and PADENA refused to cooperate with ADENA (Garretón and Contreras 1987: 343).

²² Other laws were *Ley 18.460 del Tribunal Calificador de Elecciones*, *Ley 18.556 de Inscripciones Electorales*, and *Ley 18.700 de Votaciones Populares a la oposición* (Garretón and Contreras 1987: 354).

²³ Decree Law No. 18.606, published in *Diario Oficial de la República de Chile*, Santiago, 23 March 1987. Although political activity was now permitted, there were several strings attached, such as various obligations and restrictions imposed on the political parties; the right of the military junta to suspend parties for not complying with the law; and trade union leaders not being allowed party affiliation.

alliance *Concertación de Partidos por la Democracia*.²⁴ The effort to defeat Pinochet pulled the opposition in the direction of centrist, moderate policies, modifying its economic program. It publicly accepted the neoliberal model and declared that distributional issues would be addressed solely within its confines. The *Concertación* also stressed the need for social and political reconciliation in a deeply divided and traumatized polity, rather than press for redress of the abuses committed during the military dictatorship. To be able to do anything at all in the field of human rights, the opposition needed to assure that the military would actually sit down at the negotiation table with them. They knew that their ability to push through changes was limited to how far the military was prepared to go. The political centre therefore dominated in the political struggle culminating in the 1988 referendum promised by Pinochet in the 1980 Constitution, though the opposition's social backing came mainly from left-wing sectors.

In a massive voters turnout in the plebiscite on 5 October 1988, the "no" unexpectedly gained 54.7 per cent as opposed to 43 per cent voting "yes" to Pinochet in the virtually fraud-proof elections.²⁵ There is a curious parallel between Pinochet's disbelief at losing an election masterminded by himself and the Argentinean military's surprise at having their carefully planned pact with the Peronists destroyed by the Radicals' unexpected victory in the 1983 elections. The "no" victory in Chile was partly due to a fantastic mobilization through effective use of the media and door-to-door campaigns one month before the election.²⁶ Also, elements in the military and the political Right expected a fair contest and would not have tolerated any disruption of the process, as "legality" was still prevailing over loyalty to the Commander-in-Chief. Finally, the opposition leaders were successful in persuading voters to abstain from engaging in violence while awaiting

²⁴ The *Concertación* was a Centre-Left multi-party alliance dominated by the Christian Democrats, but supported by the Socialists and a broad range of smaller parties, like the Radicals, MAPU, and the Christian Left. The Communist Party and MIR did not take part (Garretón and Contreras 1987: 360).

²⁵ 97 per cent of the registered voters representing 92 per cent of the eligible population went to the polls. The opposition won in all but two of the country's twelve regions.

²⁶ "No" came to symbolize bright future, while "yes" held connotations of a troublesome past. The "no" command received considerable international support, particularly through the U.S. National Endowment for Democracy, channelled through the National Democratic Institute for International Affairs, which contributed important resources for the media campaign and for the computer system designed to monitor the electoral count.

the election results, and to celebrate peacefully the next day. The Communist Party played an important role by insisting that its own militants resist organizing street demonstrations, thus refraining from giving the police and military an excuse for violent reaction. The vote of “no-confidence” marked the beginning of the second period of the Chilean transition. Presidential and congressional elections were scheduled for 14 December 1989, and the transfer of office was set for March 1990.

3.3.3 Phase 2. October 1988 – March 1990. Democratization

The year that passed between the “no” plebiscite and the Presidential elections was a period of intense diplomacy and hectic negotiations. Although the democratic forces had won the plebiscite and were formally in a position to demand changes in the 1980 Constitution, they could not risk putting forward demands which by the military would be perceived as so unreasonable that they would withdraw from the negotiations. The democratic forces therefore planned and discussed every move in great detail. During the summer of 1989, Minister of Interior Carlos Cáceres negotiated a package of 54 constitutional changes with Aylwin and the leaders of the two pro-Pinochet parties. The result was a long list of compromises. The most significant change in favour of the democratic forces made the Constitution easier to amend: the earlier requirement that 3/5 of the members of both houses of the legislature, in two consecutive Congresses, must approve of any amendment, was replaced by a needed majority of 2/3 of the legislature for making many changes. It was also important that Article 8 of the Constitution, aimed at restricting the activity of Marxist parties, was altered to prohibit the activity only of groups that employed, or incited, violence. In the area of civil-military relations, changes were made to down-play the role of the National Security Council, making it primarily advisory and expanding its board to include another civil member, so that the total number of civilians (4, including the President) now balanced the number of military. Furthermore, the presidential term was reduced from 8 to 4 years. The negotiators also agreed to reduce the number of appointed senators from 12 to 9, and increase the number of elected senators from 26 to 38. After the reforms, though, Pinochet was to remain the Head of the Armed Forces till 1997.

It was the human rights issue which worried the military most. Still holding the formal position as Head of the Armed Forces in addition to his title as the President of Chile, Pinochet spent his time well. He passed a series of “tying-up” laws (*leyes de amarre*) which ensured that it would be difficult for the next government to change the Constitution or to influence

the behaviour of the military. Pinochet safeguarded his own position through the Organic Law of the Armed Forces (*Ley Organica de las Fuerzas Armadas*), which guaranteed his remaining Commander-in-Chief of the Armed Forces, and also made the armed forces virtually independent of civilian control. Pinochet's main aims were to secure his own personal power as the Commander-in-Chief, strengthen the position of the military in the pyramid of power, secure impunity for the military, limit the democratic institutions' control over the military, and secure for himself a personal influence in civilian matters. Przeworski lists ten points summing up the price extorted by Pinochet for his consent to free elections:

- * permanent office for the current commanders in chief of the armed forces and the police;
- * protection of the "prestige of members of the military and the police";
- * an "energetic struggle against terrorism";
- * respect for the opinions of a national security council to be formed by four military representatives and four civilians;
- * maintenance of the amnesty covering political crimes committed between 1973 and 1978;
- * abstention by the political authorities from intervening in the definition and application of defense policies, including not modifying the powers of military courts, the command structure, and the military budget and not interfering in the promotion of generals (normally a presidential prerogative);
- * the right to name nine members of the Senate;
- * autonomy of the central bank, the president of which was chosen by the military;
- * acceptance of privatization conducted during the last months of the military regime without investigation of how they were conducted; and
- * automatic allocation of 20 per cent of copper revenues for the military budget (Przeworski 1991: 78).

All ten points directly or indirectly strengthened the position of the military vis-à-vis the civil government, thus decreasing the chances of the military being held responsible for the human rights violations committed under authoritarian rule. Furthermore, Pinochet depended on the Supreme Court to uphold the legality of the amnesty, and on the Senate, where the "institutional senators" were likely to form a majority together with those elected from the Right, thus blocking any political initiative to overturn Pinochet's carefully negotiated terms of ensuring military indemnity. These terms were submitted to the voters on 30 July 1989, in which 85.7 per cent voted for the changes in an extremely high electoral turnout. In order to

strengthen the position of his supporters in the forthcoming elections, Pinochet had a new electoral law passed in early 1989, which introduced an electoral system favouring the candidates from the Right.²⁷ After intense negotiation between the opposition parties, Patricio Aylwin from the Christian Democratic Party was chosen as the presidential candidate of the multi-party alliance *Concertación*. Various parties of the Left agreed to support his candidacy, resulting in a strong Centre-Left coalition.²⁸

In the March 1990 elections Aylwin received 55.2 per cent of the vote to the representative for the coalition of conservative parties, Hernán Büchi's 29.4 per cent, and Francisco Javier Errázuriz' 15.4 per cent, campaigning on an independent ticket.²⁹ Although the *Concertación* had been able to bring about a few reforms, their majority in the elections was not great enough to neutralize the power of the Right in the legislature.³⁰ Stated broadly, the democratic opposition traded away economic reform in return for political democratization. At the heart of this implicit "pact" was the commitment of the reformist political parties (representing the middle class and some sectors of labour) to pragmatic neoliberalism in return for a promise from the businessmen, landowners, and conservative political parties accepting limited political change. Aylwin knew that to gain a majority over the Right, the parties of the Centre and the Left had to assure some support of Centre-Right wing forces. There were other important trade-offs too, particularly affecting the human rights issue. Before proceeding to the success and failures of the human rights policies of Alfonsín and Aylwin in the following chapter, it is in its place to again

²⁷ The traditional proportional representative system was replaced by the "binomial" system, and district lines were redrawn. See Rabkin 1992 for a fuller account of the new electoral law which was to be used in forthcoming presidential elections.

²⁸ One should keep in mind that the two largest parties of the *Concertación*, the Christian Democrats and the Socialists, were subject to their own internal political factionalism; the Christian Democrats due to disagreements on presidential candidate, and the Socialists were divided on ideological differences (Rabkin 1992).

²⁹ The coalition of conservative parties, *Democracia Progreso*, included *Renovación Nacional* (RN) and *Unión Demócrata Independiente* (UDI).

³⁰ Out of 120 seats in the lower house the *Concertación* gained 55 and the right-wing alliance, the Democracy and Progress Party (*Democracia y Progreso*) gained 40. The *Concertación* gained 17 out of 38 seats in the Senate to the Right's 8, plus 4 independents. The Right's majority was strengthened by the presence of 9 non-elected senators designated by Pinochet, and obviously sympathetic to the incumbent regime. Four of these were ex-commanders of each of the branches of the armed forces and the Carabineros (de Brito 1992: 32).

stress the main differences between the transition processes of Chile and Argentina.

3.4 Comparing the two transitions

The transition from “bureaucratic-authoritarian rule” to constitutional democracy in Argentina and Chile differ on at least two central dimensions: the duration of the transition and the way regime change came about. Although the two transitions to democratic rule started at about the same time, i.e. early 1980s, the Argentine transition was of remarkably shorter duration; barely three years as compared with Chile’s nine. Due to its speed, the Argentinean transition process was distinguished by overlapping stages of liberalization and democratization. In Chile, the two stages were clearly identifiable. It is of particular relevance that the Argentine armed forces had less than two months from the presidential elections until the formal presidential inauguration in which to take measures to secure their own interests and influence the new civilian government regarding its prospective human rights policy. By contrast, the time span of sixteen months from Pinochet lost the plebiscite until Aylwin actually received the presidential insignia, gave the military in Chile ample opportunity to carefully prepare its departure by securing its interests through various legal and constitutional measures.

This closely links up with the different manner in which the military government handed over its power to the civilian government. In Argentina, the military government was more or less forced out of power by an increasingly discontented and massive opposition, who were weary of brutal repression and economic mismanagement over time, and spurred into action by the total disillusion after the crushing defeat suffered by the military in the Malvinas/Falklands war. The Argentine military failed to strike a deal with the Peronists and were to a large extent forced to leave their future position at the mercy of the democratically elected government. The Chilean transition was much more lengthy and accordingly also more controlled. Pinochet thought he had the Chilean situation totally in his hand, until he unexpectedly lost the plebiscite in 1988. Ironically, the Chilean transition to civilian government was an unintended consequence of Pinochet’s attempt at institutionalizing personal power by searching plebiscitarian ratification of the 1980 Constitution. Since he had set the rules (i.e. promising presidential elections in 1988), it was practically impossible for him to refuse the transfer to constitutional government after the plebiscite. Pinochet did, however, retain one of the most important post

in the Chilean power game: that of Commander-in-Chief of the Armed Forces.

To sum up, we are dealing with two clearly distinct modes of transition. Neither fits any of the ideal modes given by Karl and Schmitter in Figure 1, section 1.4. The main features of the Argentine transition were the speed of the process, the overlapping stages of liberalization and democratization, the high level of mass mobilization during the transition, and the absence of pacts between civilian authority and the armed forces (Karl 1991: 179). Argentina accordingly contains elements of several modes of transition, but may be aptly summarized as a transition by collapse. Chile is characterized by a slow and carefully negotiated transition with clear stages of liberalization and democratization, a lower level of mass mobilization during the transition, and the presence of a number of agreements between the outgoing military and the incoming democratically elected elites, although there was no formal pact of the type *Club Naval* in Uruguay.³¹ Chile may be best described as an mixture of pact-making and imposition, where the latter dominates. To use Karl and Schmitter's terminology: Chile constitutes an example of extrication.

What were the outcomes of these two so different transitions? The Argentine military's failure to strike a pact with the Peronists gave them few opportunities to influence the rules of the new democratic game or secure that they would not be prosecuted for gross human rights violations committed during their rule. The weakness of the military at the moment of transition should therefore theoretically speaking leave the new civil government quite free to choose its policies on past human rights violations, thus standing a good chance of bringing the military under civilian control and ensuring democratic consolidation. Internally split and divided into countless competing factions, the Argentine military initially represented a feeble opposition to the Alfonsín government. In Chile, on the other hand, the democratically elected government inherited a political system full of constitutional and judicial constraints legalized by the 1980 Constitution. Moreover, the democratic government knew it would have to deal with a still highly potent and coherent military, with Pinochet as its

³¹ *Acuerdo del Club Naval* of November 1984 was an explicit political pact signed by representatives of the armed forces and most of the opposition parties. The pact was never implemented (O'Donnell, Schmitter, and Whitehead Vol. 2, 1986: 6). It may be added that this so-called Naval Pact made the Uruguayan transition to democracy one of the most clear-cut cases of pact-making, using Karl and Schmitter's definition as outlined in Chapter 1.4.

top leader and many of his men in important governing positions within the state, the judicial, and the administrative apparatus.

Ergo, our analysis of Chile and Argentina's transitions lends support to both of the hypotheses we set out to test at the beginning of this chapter. We may conclude then that different modes of transition do lead to different types of democracy (Schmitter and Karl 1991: 269), and that the form of the Argentine transition supports O'Donnell's hypothesis that "the case of transition by regime collapse is the one most likely to lead to a fuller, less restricted type of political democracy" (O'Donnell 1986: 8-9).

At least, this is true for the moment of transition to democratic rule, but what happens when taking one step further to the consolidation phase? Is it still true that regime collapse bodes better for a full and less restrictive type of democracy? The immediate conclusion to be drawn from the above discussion would lead one to think that the newly established democracy in Argentina would stand a better chance in bringing about democratic consolidation than Chile. We may agree that the modes of transition indeed do set the framework for democratic consolidation, in that the democratically elected government inherits a smaller or larger amount of judicial, constitutional, and political constraints from the outgoing military government. Nevertheless, as I will argue in the following chapter, the process does not stop there. In order to determine what type of democracy will follow after a transition, one has to take into account the policies pursued by the new democratic governments, as well as what kind of support these policies are given by civil society. Regarding the role of civil society, I will assert that human rights organizations and political parties played a more pragmatic and coordinated role in Chile than in Argentina, as the defeat in the Malvinas literally brought people to the streets in tens of thousands. In the long run the electoral victory won by the civilian opposition in Chile came to favour democratic consolidation, whereas the total military defeat suffered by the Argentine military brought civilian rule back in alright, but left behind a split and largely uncoordinated opposition. Moreover, I will argue that one has to take into account reversals in power distribution and political alliances posterior to the reintroduction of democratic rule when accounting for the process of democratic consolidation in Chile and Argentina. Perhaps the connection between the mode of transition and democratic consolidation is not as straight-forward as predicted by Karl, Schmitter, and O'Donnell.

4. Consolidation? Moral idealism versus political realism

4.1 “Truth”, “justice”, and “reconciliation”

Does transition by regime collapse favour civilian control over the military in the long run? It has repeatedly been mentioned that the pending variable in establishing a consolidated democracy in the Latin American context is to ensure civilian control over the military. Furthermore, it has been argued that the issue causing the greatest strain in civil-military relations in the cases of Chile and Argentina has been the legacy of past gross human rights violations. This brings us over to the central dilemma faced by democratically elected governments: the paradox of democratic consolidation is, on the one hand, to press for a fuller democracy by bringing the military under civilian rule, which inherently involves resolving the legacy of past gross human rights violations, and, on the other hand, to refrain from provoking the military into staging authoritarian reversals.¹ Pursuing these arguments, the main objective of this chapter is to account for how this dilemma has been resolved in the cases of Chile and Argentina by analyzing the policies followed in the field of human rights after the reintroduction of democratic rule.

So far, we have focused mainly on the form, i.e. the mode, of transition. It is time to turn to the substance of the transition, meaning those matters mostly affecting the balance of power and alliances made between different groups in society in the process of reconstructing democracy. As argued in the previous chapter, the rules or framework for the human rights policies to be followed were largely set at the transition from one regime type to another through agreements, or the lack of such, between outgoing military and incoming civilian elites. Evaluating the relative strength of the military

¹ The essence of this *problématique* has been brilliantly captured by Manuel Antonio Garretón in his article “Human Rights in Processes of Democratization”, where he sketches the conflicting aims between the “ethical-symbolical logic” proposing a radical solution to the legacy of past human rights violations on the one hand, and, on the other hand, the “political-state logic” in which avoiding authoritarian regression is the main objective of the post-transitional government (Garretón 1994: 223-24).

forces versus the civilian authorities in a transition situation does indeed bear on the form of the transition, but it fails to point out the reason why these positions of relative strength should be studied.

Both the Argentinean and Chilean democratically elected governments were under intense pressure from the civilian population to confront the legacy of past gross human rights violations. The issue was first raised by human rights organizations, and later taken on by the political parties. How can a country overcome a legacy of a dictatorial rule and massive human rights violations if the new government is subject to significant institutional and political constraints? How may a country under such circumstances succeed in harmonizing the conflicting objectives of justice and social peace? (Zalaquett 1990).

Linked to this ethical-political dilemma there are three emotionally laden concepts which have been salient in the human rights debate in both Chile and Argentina, namely "truth", "justice", and "reconciliation". When discussing an emotive issue like human rights violations, it is clearly difficult to remain neutral. Obviously, there is no such thing as an objective "truth", as all facts are open to interpretation. Nevertheless, "truth" was actively used in the human rights debate to mean the revealing of facts about human rights violations committed by the outgoing military regimes. The public had two main claims. The first was to know what had actually taken place; how many people had been victims of violence and to what type of violence, as well as learn the fate of thousands who had disappeared. Disappearance had, as we know, been systematically denied by the military governments in both countries. Moreover, people demanded to have the names of the perpetrators revealed. The attainment of both these aims will henceforth be referred to as "complete truth". The term "justice" refers to holding the violaters of human rights responsible for their crimes by taking them to court and having them convicted, i.e. ensuring legal justice. Closely linked to "truth" and "justice" is the term "reconciliation". Strictly speaking, the term "reconciliation" has no precise meaning, but has been frequently employed in the human rights debate to denote the spirit of unity and cooperation, i.e. bring both a split civilian population together and harmonize civil-military relations in an effort to ensure democratic consolidation. To a large extent, the possibility of reconciliation has rested on the measures taken to establish the facts about past gross human rights violations and secure justice in the form of criminal punishment. It should be added that the Church has advocated yet another way to obtain reconciliation: through forgiveness and pardon.

4.1.1 Policy measures in the field of human rights

An efficient human rights policy should have two main functions: prevent similar crimes from taking place in the future and repair the wrongs committed in the past (Zalaquett 1991: 151).² All three terms discussed above form part of preventive and reparational measures. The two main criteria for revealing facts about past human rights violations are thoroughness and public disclosure in order to take just action and insure against arbitrariness or mere revenge, and also to prevent further abuses from happening. Furthermore, knowing the facts is also an imperative for promoting national unity, which is to a large extent based upon a common understanding of the past. Disclosing the “truth” is in itself a measure of reparation, in that the victims and their families are taken seriously by the new government and thereby have their dignity publicly restored. Finally, publicizing the “truth” represents an attempt to restore a sense of national dignity and faith in democratic government and institutions, largely destroyed by the authoritarian government, and essential to the survival of political democracy (de Brito 1992: 1).

Once the facts about the human rights violations committed in the past have been established, the new democratic government may move on to deal with other measures seeking the objectives of prevention and reparation. In many cases, such as those of murder or disappearance, total reparation is obviously an impossibility, since one cannot restore life to the dead. Neither can one erase years of uncertainty and fear. However, the democratic government may take economic, legal, and medical measures to compensate the victims and their families for crimes committed against them in the past, thereby facilitating the resolution of some legal, administrative, and practical matters, such as remarriage or inheritance. Apart from material or legal benefits, symbolical gestures may also serve the purpose of reparation. The most controversial issue related to the objective of prevention is that of ensuring justice. Punishing perpetrators for their crimes is a necessary part of the process of reconciliation and restores confidence in democratic mechanisms, especially the judicial system. When dealing with the sensitive issue of gross human rights violations, it is particularly important to take the following points into consideration in order to minimize military protest: (1) criminal responsibility is individual, not institutional or collective; (2) nobody should be tried by special

² The following largely theoretical discussion draws heavily on Zalaquett's (1991b) article “Derechos Humanos y Limitaciones Políticas en las Transiciones Democráticas del Cono Sur”.

commissions, but by previously established tribunals; and (3) the trial should be in accordance with accepted rules of justice (presumption of innocence, right to defence, public process etc.). Moreover, one should ensure the respect of international law (Zalaquett 1991b: 156-57).

Zalaquett claims that clemency (in the form of amnesty laws, pardons, or reduction of jail sentences) may also have a preventive function in situations where pacification through political stability is conducive to an increased respect for human rights, rather than running the risk of upsetting the democratization process through pressing for punishment of the criminals. However, the long-term historical effects of clemency cannot be foreseen. In cases where there are measures of clemency, one should check whether the content of the human rights policy is in accordance with International Law.³ The problem of individual responsibility may be posed in the following question: when soldiers or police, obeying superior orders, commit atrocities in times of war or violate human rights, can they be held responsible for their actions? The principal international norm for guidance in these matters is the hotly debated fourth principle of the Nuremberg, which affirms that obeying orders does not necessarily constitute a foundation for exempting criminal responsibility.⁴ However, the interpretation of this inter-national principle of *obediencia debida*, or “due obedience”, has on many occasions proved to be difficult, as will be seen when discussing the Argentinean case.

To sum up, the two most central points in the above discussion is that disclosing the facts about past human rights violations is a necessary first step in obtaining other measures of reparation or prevention, and that reaching justice in the form of criminal punishment is perhaps the most

³ In December 1946, the U.N. General Assembly asked the International Law Commission to draft a set of legal principles based on Nuremberg; an initiative which materialized in 1950. The sixth principle contains three separate categories of “international crime”: crimes against peace; war crimes; and crimes against humanity (Guest 1990: 473; Conot 1983: 520).

⁴ The debate over the principle of “due obedience” dates back to the Nuremberg trials after the Second World War, when the guilt of under-officers and subordinates in the Holocaust was disputed. In the verdict of the generals it was concluded that “due obedience” was no reason for mitigation and that “the defense of superior orders can be valid only when a person has no volition to refuse, or no capability of forming an independent judgment” (Conot 1983: 513). Goebbels himself is reported to have said the following: “It is not provided in any military law that a soldier in the case of a despicable crime is exempt from punishment because he passes the responsibility to his superior, especially if the orders of the latter are in evident contradiction to all human morality and every international usage of warfare” (Conot 1983: 513).

controversial issue that newly elected democratic governments have to deal with. After an authoritarian period of systematic human rights violations, a new democratically elected government is usually faced with the expectation of fulfilling one or more of the following goals: (1) reach a certain degree of national unity and reconciliation; (2) create or reconstruct institutions conducive to a stable and just political system; and (3) secure an economic policy which will sustain the two first objectives, as experience shows that economic prosperity markedly contributes to political stability. The following analysis of the consolidation processes in Argentina and Chile will focus primarily on the first point, that of reconciliation, and the preventive and reparational measures taken to obtain this goal. Other policy goals outside the field of human rights will be dealt with only briefly. The aims, on the one hand, of promoting truth and justice and, on the other, outlining a policy which does not upset civil-military relations so much that the military can find an pretext for staging another coup, may to some degree be incompatible. To what extent have Alfonsín and Aylwin been able to successfully cope with this dilemma?

4.2 Moral obligations and presidential promises

Truth, justice, and reconciliation were all central concepts in the election campaigns of Aylwin and Alfonsín, whose stances on human rights issues accounted for the large support they mobilized. The massive claim for truth and justice presented by the Church, the human rights organizations, numerous individuals, and the international community forced the two presidents to place the human rights issue on top of their political agendas. The presidents were, perhaps more than anything else, set on achieving reconciliation, since they saw this as vital to democratic stability and hence to their own position in power. To quote Burns, "...months before Alfonsín came to power, human rights had become *the* issue in Argentine politics", and "...by the end of the military regime human rights were a source of public debate in Argentina which could no longer be ignored" (Burns 1987: 158-60). In Chile too, the human rights question had been a unifying issue for the opposition after 1978 (Orellana 1991c: 118). The two presidents had to walk a very fine line between satisfying the demands of the people for truth and justice, and at the same time not go so far in their concessions as to provoke a reaction from the military. The strategies opted for by Alfonsín and Aylwin show that what was actually achievable in terms of truth and justice was severely limited by a series of judicial, constitutional, and political constraints.

Alfonsín devoted much of his election campaign to political issues related to human rights, political democratization, and the consolidation of democracy.⁵ He wanted to recreate faith in the democratic institutions, which had been severely eroded during authoritarian rule, and establish “the rules of the game”. As previously argued, it is the universal acceptance of these rules that forms the basis for a functioning democracy (Przeworski 1991: 26). In order to achieve his aims, it was of crucial importance to Alfonsín to gain the support of the political opposition parties and the sceptical economic interest groups, as well as that of his adherents; not an easy task in a party system as polarized as the Argentinean. Alfonsín cautiously tried to include the opposition in the policy-making process in order to ensure respect for the rules and so as not to encourage the opposition to once again turn to the military if things turned out not to go their way. One element in Alfonsín’s strategy was to promise to restore to Congress its importance in the discussion of political matters, which would increase the opposition’s say in the political process. The lawyer Alfonsín further promised to respect the independence of the judiciary and to abide by the rule of law. This meant that those military men and terrorists guilty of human rights violations would be brought to justice. Alfonsín specifically called for an assessment of the excesses committed in the dirty war to establish “the responsibility of those who made the political decisions, the responsibility of those who in that struggle went beyond the orders received, and the responsibility of those who in that struggle found themselves subject to orders that led them to believe that their actions were legitimate”.⁶

In the field of civil-military relations, Alfonsín made several promises. If elected, he would repeal the amnesty law passed by the military, reform the armed forces, and, once and for all, bring them under civilian control. In his address to the Radical Party (UCR) on 31 July 1983, he declared that he would abolish compulsory military service; curb military spending to within 2 per cent of the gross national product as opposed to its then

⁵ In the field of economics, Alfonsín promised to revitalize the economy by putting emphasis on economic growth and making a tough stand on the renegotiation of the foreign debt with the International Monetary Fund and the foreign banks, and bring down inflation to tolerable levels by adopting stabilization measures whose cost would be equitably shared by everyone. The Argentine president also promised to reform the statute regulating the internal organization of the unions and their rights before the state, including their right to strike, unions’ internal elections, and the control of unions’ dues and welfare benefits. See Snow and Manzetti 1993 for Alfonsín’s policy on labour unions.

⁶ Speech given by Alfonsín on 28 June 1983 (*Keesing’s* 1983: 32554).

present level of about 10 per cent; reform the code of military justice to bring it more in line with civil justice; and create a special body to make available "privileged information" to organizations dedicated to the defence of human rights (*Keesing's* 1983: 32555). Alfonsín was prepared to walk the political tightrope. Human rights would not be ignored, but the President also had to take into account the seemingly irreconcilable positions of the two extremes of the political spectrum. In the words of Burns, "to govern and survive would require some political fine-tuning: a sense of ethics but also a good dose of pragmatism" (Burns 1987: 163). Compromise and bargaining were thus indispensable, but Alfonsín still tried to stick as closely as possible to his original policy program.

In Chile considerable social conflict and political instability was anticipated to accompany the return to democracy. The need to confront human rights abuses during the military government was a potentially explosive political issue. Few people believed that the multiparty coalition *Concertación*, headed by president elect Aylwin, would hold together well enough to govern (Rabkin 1992: 119-20). Aylwin therefore had to be careful with his promises to the nation. The parties of the Left and Centre-Left who supported his candidacy were actively involved in setting up a human rights agenda already during the presidential campaign (de Brito 1993: 586). Many of the party members of the *Concertación* had experienced political repression, which made them prone to consider human rights and democratic institutions as indispensable in a democratic system. Shortly after the presidential inauguration, Aylwin consulted human rights organizations, relatives of victims of human rights violations, and representatives from a broad range of political parties for their recommendations. Rather than pursuing justice through full-fledged military trials, Aylwin advocated a strategy of constitutional reform as a way to gradually re-establish a return to democratic self-government. The President stated two main objectives: to repair the damage caused by human rights violations, both to individual victims and to society as a whole, and to prevent such atrocities from ever happening again (Zalaquett 1990: 1).

Because he needed support from the party leaders of either of the two right-wing parties closely associated with Pinochet (RN and UDI) for his policy in the legislature, once in office, Aylwin chose to concentrate on labour law reform, tax reform, and municipal democratization, postponing such difficult issues as increasing presidential power to dismiss military service chiefs, eliminating designated Senators, and reintroducing proportional representation. This was clearly a pragmatic political manoeuvre. In the field of human rights, Aylwin had given promises of reparation and prevention, chiefly through giving "the whole truth, and

justice to the extent possible". The difficult part was how to achieve these goals. Aylwin, in implementing his policy, had to take several important factors into consideration. The nature and extent of human rights violations would influence the investigation process. Further, the restrictions imposed by existing laws and institutions had to be taken into account when assessing what was feasible to attain in the form of legal measures. The likely reaction of the military forces had to be reckoned with. Chile had the experiences of its two neighbouring countries, Argentina and Uruguay, to draw on. Argentina had emphasized truth-telling through the issuing of a thorough report on disappearances. The report was accompanied by the trials of a handful military generals, but the verdict was later reversed, setting the generals free. In Uruguay some measures of reparation were taken. However, since forgiveness was the main Uruguayan policy line, no substantial governmental fact-finding reports were issued and no prosecutions held.⁷ When dissatisfied citizens pressed for a referendum on the issue of repealing the law which precluded prosecutions, the outcome was negative, leaving a bitterly divided society. The Aylwin administration was therefore more realistic — and pragmatic — in its choice of policy. It should be a policy that could be sustained.

To what degree was it possible to keep promises of "truth, justice, and reconciliation" in a political reality full of constraints? How did the two presidents deal specifically with the issues of truth and justice, which together were aimed at contributing towards national reconciliation and to the consolidation of democracy? Political reality and presidential performance is the central topic of the discussion to follow, starting with the attempts at establishing the facts regarding gross human rights violation carried out by the preceding military regimes.

4.3 "Truth": *Nunca Más* and *Informe Rettig*

The "truth-telling", or fact-finding, projects in Argentina and Chile were initiated after the restoration of civil rule, when hopes for justice and reconciliation were at a peak. Two weeks after coming to power, Alfonsín announced that the *Comisión Nacional Sobre la Desaparición de Personas*, CONADEP (National Commission on Disappeared Persons) would be set

⁷ *Latin American Weekly Report* reported that amnesty was chosen "as a lesser evil" in Uruguay when an amnesty bill for the military and police officers implicated in human rights crimes was passed on 22 December 1987 (*Latin American Weekly Report*, WR-87-1: 8).

up.⁸ He appointed a thirteen member fact-finding committee.⁹ Headed by the writer Ernesto Sábato, the committee was to be assisted by a staff of sixty. They worked for nine months to complete the 500 pages of the so-called *Nunca Más* report, which was published in November 1984.¹⁰ It was the first report of its kind and came to serve as a model for other Latin American countries, as similar reports were soon issued in Uruguay, Brazil, and finally Chile in 1991.¹¹ Aylwin copied the Argentine model by appointing the eight-member Rettig Commission, named after its president Raúl Rettig.¹² A six-month limit, later expanded to nine months, was initially set for the Rettig Commission to present its findings. The so-called *Informe Rettig* was issued in February 1991.¹³ The well-defined and

⁸ The CONADEP was created by Decree Law 187/83 on 15 December 1983, ordered by the National Executive, as part of the two-fold strategy of "truth-telling" and justice.

⁹ Alfonsín asked the two Houses to send three representatives to integrate the Commission, but only the House of Deputies did. Deputies Santiago Marcelino López, Hugo Diogenes Piucill, and Horacio Hugo Huarte, all from the Radical Party, were sent on 6 March 1984. Members of the Peronist Party and central representatives of human rights organizations, such as Adolfo Pérez Esquivel and Augusto Conte McDonnell, refused to join the CONADEP. Dr. Emilio Mignone (head of CELS) turned down a request to give legal advice.

¹⁰ The official name of the report is *Argentina Nunca Más: El Informe de la Comisión Nacional de Desaparición de Personas*. 1984. Buenos Aires: Editorial Universidad de Buenos Aires.

¹¹ In Chile Supreme Decree Law 355 of 25 April 1990 ordered the creation of *Comisión Nacional de Verdad y Reconciliación* (National Commission for Truth and Reconciliation), as the key element in the governments' human rights policy. Different from the report projects in Uruguay and Brazil, the report projects in Argentina and Chile were directed by government appointed committees of notables working together with human rights non-governmental groups and specialists. In general, the reports of Chile and Argentina differ considerably from those of Brazil and Uruguay in terms of who took the initiative, when the reports were worked out (during or after the military regime), how long the projects took, what their aims were, who supported the projects, funding, staff, whether the commissions had access to military archives or not, the context of publication etc. (de Brito 1992).

¹² Alfonsín was careful to invite people from other political persuasions than his own. The Right sympathetic to the Pinochet regime were represented in the Commission by Cea Engana, Novoa Vasquez, Gonzalo Vial, and Martin Diaz, who had been a Minister of the Supreme Court under Pinochet. Some people from the political right, such as the *Renovación Nacional* members Ricardo Rivadeneira and Fransisco Bulnes, refused Aylwin's invitation.

¹³ The full name of the report is *Informe Rettig: Informe de la Comisión Nacional de Verdad y Reconciliación*. Volumes 1 and 2. 1991. Santiago: Talleres de la Nación.

relatively brief time limit set for the completion of both reports showed the governments' intentions of taking the human rights matter seriously, while at the same time giving itself a grace period before it had to deal with the results of the reports and give recommendations for further action.

4.3.1 Support

The birth of the CONADEP was opposed by members of the democratic opposition and several of the human rights organizations, since many Argentineans wanted an independent commission. Two of the eight human rights organizations, the Mothers of Plaza de Mayo and the Liga, positively refused to cooperate with the Sábato Commission in making the report. The Mothers of Plaza de Mayo accused the committee appointed by Alfonsín of being partial and marched on Congress on 3 January 1984 to protest the passing of the military code reform and to demand the setting up of a bi-cameral investigating commission into the fate of the disappeared. The centrality of the Mothers in the human rights movement made their radicalization colour the relationship between the government and the human rights organizations in general (de Brito 1991: 42) There was no room for conciliatory politics in Argentina since many of the human rights organizations, led by the Mothers, believed in the institutional guilt of the armed forces; a point I will return to in the final chapter.

The Rettig Commission in Chile, unlike its Argentinean counterpart, was not faced with a vocal and activist democratic opposition from the Left. Without exception, all the human rights organizations supported the commission and offered their cooperation. *Informe Rettig* was based on the same fundamental principles as the *Nunca Más* report, but in many ways greatly improved on it, since the Commission had learned from the mistakes of its role model. The fact that four of its eight appointed members were representatives of the right-wing parties, made the end product more credible, because people knew it was not an entirely one-sided report. In his strategic move of insisting on an even-numbered committee with representatives from all sides of the political spectrum, Aylwin assured that it took the cooperation of more than half of its members to get anything done. This gave the commission a quality of legitimacy from the very start.

4.3.2 Aims

The aims of these reports were quite similar, expressing a common hope for justice and a renewed commitment to democracy after the regime transition. Most importantly, the reports stated in their introductions and concluding remarks the wish to contribute to the prevention of repetition of history by not allowing the past to be forgotten.¹⁴ They aimed to counteract the silence of the military regimes by disclosing the facts about their crimes. More specifically, the Chilean Commission's task was to

establish the most complete picture of the most serious violations of human rights resulting in death and disappearances perpetrated by agents of the state or by private citizens with political motives; gather information that would permit the identification of the victims and establish their fate and whereabouts; recommend just reparation measures; and (outline) those rules which should be adopted to prevent and deter the commission of new violations (*Summary of the Truth and Reconciliation Commission Report 1992: 11*).

The *Nunca Más* stressed that its mission was not to investigate the crimes of the military regime, but to strictly investigate the fate of the disappeared, indicating the main concern in the field of human rights in Argentina.¹⁵ As mentioned in section 2.4 when presenting the "repressive map" of Chile, the Chilean report interestingly included violations committed by private non-state individuals "for political reasons or pretexts", considered terrorist acts when "they are acts against indiscriminate victims, as well as selective attacks, when these involve no risk, against agents of governments" (*Summary of the Truth and Reconciliation Commission Report 1992: 15*). Strictly speaking, these do not qualify as human rights violations according to our working definition, but Aylwin felt it was necessary to include "terrorist acts" in the report in order to make the picture of violation as complete as possible. Public concern with terrorism was high in Chile, and this tactical move was probably an attempt to distribute guilt between the Right and the Left, in order to avoid being criticized as one-sided.¹⁶

¹⁴ This is particularly reflected in the title of the Argentine report, which similarly to its Brazilian and Uruguayan counterparts, bears the name *Nunca Más*, or "Never Again". Hopes for truth and reconciliation are embedded in the title of the Chilean report.

¹⁵ "Nuestra misión no era la de investigar sus crímenes sino estrictamente la suerte corrido por los desaparecidos..." (*Nunca Más 1991: 11*).

¹⁶ The assassination attempts of General Leigh and General Enrique Ruiz on 21 March 1990, only ten days after Aylwin had taken office, showed that the new president had

Finally, both reports aimed at playing a positive role in the process of social healing and national reconciliation.

4.3.3 *The findings of the reports*

The commissions received documents from human rights organizations and testimonies at central offices which were set up all around the country in order to give all people a fair chance to present their complaints. Requests for information were sent to national and international public bodies, including the military, ministries, and embassies. Members of the commissions also travelled abroad in order to receive testimony from foreigners and nationals in exile. Given the financial and moral state sponsorship, the two commissions enjoyed a high degree of credibility and were able to work efficiently, as documented by their voluminous findings. The majority of the details of the findings of the two reports as far as victims are concerned, are presented in Chapter 2 in the section outlining the repressive maps of the two countries. To avoid repetition, I will therefore only give a brief account of the contents of the reports, so as to indicate their central elements.

The Sábato Commission in Argentina had focused especially on the issue of detained-disappeared. The first part of the report gave an overall picture of the repression taking place under military rule. It focused on the sequence kidnapping-disappearance-torture by giving a detailed account of how kidnapping was carried out; what kind of torture was employed; and where the torture took place.¹⁷ A large section was devoted to a detailed description of the 340 detention centres spread all over Argentina. The first part of the report also touched upon the attitude of certain members of the Catholic Church towards governmental repression and placed the repression in a Latin American context. Based on thousands of witnesses' reports (many of them cited in the report) and official documentation from most human rights organizations, the second part of the *Nunca Más* report

to lead a "balancing act between moral commitment and political prudence" on the issue which was "potentially the most de-stabilizing for a successful transition" (de Brito 1992: 35-36).

¹⁷ In the introduction of the report the authors state that "...nos autorizan a aseverar que existió una metodología represiva concebida para producir actos y situaciones como los que en adelante se informarán, cuya secuencia *secuestro-desaparición-tortura*, será analizada en los capítulos siguientes" (*Nunca Más* 1991: 15).

documented the disappearance of 8,960 people.¹⁸ Among the disappeared were people of all ages, from all sectors of society, and from a diversity of occupational backgrounds: pregnant women, children, youth, religious people, conscripts, journalists, workers, just to mention some of the groups that were attributed special treatment in the report. The third part of *Nunca Más* was devoted to the role of the judicial power in period of forced disappearances. It covered such aspects as *habeas corpus*; the treatment of detained persons by the courts; and the forced disappearance of lawyers and other people taking active part in the defence of victims of gross human rights violations. There were also some brief remarks on the attitude of the international community. Finally, there was a section on the creation and organization of the CONADEP, the doctrine of national security, and a few pages on recommendations to reparative measures.

The *Informe Rettig* was, as earlier mentioned, modelled on the *Nunca Más* report. Learning from the shortcomings of its predecessor, the *Informe Rettig* was in many respects an improved product. It covered a greater spectrum of gross human rights violations by including victims that died as a result of execution, torture, disappearance, and political violence. In addition to the widely accepted types of gross human rights abuses, the Rettig Commission investigated cases where people had been killed by non-statal agents for political reasons. Ninety such deaths were recorded and documented. In all, the Rettig Commission investigated a total of 2,920 cases of deaths and disappearances. 2,115 cases were recorded as victims of gross human rights violations, and 164 cases were recorded as victims of political violence. No conclusions were reached in the remaining 641 cases, due to insufficient sources of documentation. The names, ages, occupation, and political affiliation of all victims were registered and painstakingly listed case by case in the third volume of the *Informe Rettig*. Besides this thorough documentation of individual victims, large parts of the two first volumes of the report were devoted to giving a picture of the political context of the coup; the different stages of repression; the types of repression; who the repression was aimed at; and the reaction to the repression by various actors, such as political parties, the human rights

¹⁸ The figure indicates the number of people who were still missing when the report was written in 1984. The names of all the victims belonging to the category of detained-disappeared whose cases have not been resolved are listed in a separate annex to the *Nunca Más* report. It is stated in the report that the list of names is not exhaustive, as the Commission assumes that many cases of disappearance were never reported: "Esta cifra no puede considerarse definitiva, toda vez que la CONADEP ha comprobado que son muchos los casos de desapariciones que no fueron denunciados" (*Nunca Más* 1991: 479).

organizations, the Catholic Church etc. *Informe Rettig* also included a substantial section on recommendations for financial recompensation, on which all the human rights organizations were invited to give their opinion.

In Argentina, as well as in Chile, people who had not dared to give testimony during the dictatorship were offered a new opportunity by the commissions set up by Alfonsín and Aylwin. One may argue that ignorance of the existence of these commissions, fear, or the lack of confidence in the new government and hence in the purpose of the commission, kept people from testifying, hence the big variance in accepted figures on the disappeared. The discussion of who is right and who is wrong is not a subject here. Arguments on both sides are included to give an impression of how difficult it is to operate with cold numbers on an emotional topic such as the inhuman policy of disappearances.

4.3.4 *Reactions to the reports*

Alfonsín's support of the CONADEP increased public awareness of the report. The publication of military crimes in Argentina shocked large parts of the middle and upper classes, who had mistakenly believed that the "war against subversion" had only been targeted at Marxists and terrorists. On the day of the launching of the *Nunca Más* report, an estimated 30,000 people from all major political groups and human rights organizations marched outside the *Casa Rosada* (the Pink Palace, where the President held residence, close to the *Plaza de Mayo*) in support of the report. The situation became polarized in that important groups, such as the Mothers of Plaza de Mayo and the General Confederation of Labour, refused to participate in the march. The human rights organizations were not satisfied with the *Nunca Más* report, but the dissatisfaction was less over the report's quality than over its inadequacy. The more radical groups criticized the report for being a biased product revealing only half-truths; a report issued by a government obviously interested in placating the military. Anything less than total justice was felt to be an affront to the victims of repression. The claims of the Mothers continued: *aparición con vida, castigo a los culpables* (appearance with life, punish the guilty). Most organizations questioned the figures for victims. Many claimed the real number was double or triple those officially recognized by the Alfonsín government.¹⁹

¹⁹ José Zalaquett believes this is not particular for the Argentinean case. In all situations where there have been massive abuses, there is a tendency to inflate the number on both sides. The perpetrators try to diminish the numbers, and the public and the human rights organizations heighten the numbers in order to gain sympathy. The numbers are often

However, in spite of its deficiencies, most human rights organizations saw the *Nunca Más* report as a symbol of triumph over the lies propagated by the military regime.

The report was universally rejected by the military, who saw it as an attack on the honour of the armed forces. Convinced as they were of simply having done their duty in saving the nation from subversion, they did not think they were guilty of any crimes. In the words of General Luciano B. Menéndez (in charge of the Córdoba region under the juntas), the nation should be grateful to the military rather than vilifying it because “we acted in defence of society, meeting our obligations as soldiers” (Rock 1993: 232). Just five days after the release of the report, the Supreme Military Tribunal supported the military’s not-guilty claim, as it refused to admit that the junta had done anything beyond the bounds of decency.²⁰ Regarding the political parties in Argentina, the human rights agenda resulted in increased polarization between the Right and the government, who had not succeeded in reaching an agreement on the contents of the report. The radical position taken by the Mothers intensified the criticism of the right-wing parties, especially the Peronists. The report was well received by the Left, most of which participated in the march. Only the Trotskyists (MAS) and the terrorist Left (who were inactive and under prosecution by Alfonsín), sided with the Mothers in opting out. Pressure and expectations increased during the nine months in which CONADEP carried out its work. The disappointments it caused made “the report appear not as a step towards reconciliation, but as the beginning of a long period of conflict” (de Brito 1992: 46). The *Nunca Más* report was only the beginning of a long process in search for justice, culminating not in the releasing of the report itself, but later with the holding of trials.

In contrast to what happened in Argentina, the time span of nine months in Chile functioned as a safety valve, “giving the new government a period of grace in which tempers could cool on both sides before the terrible truth was publicly recognized and announced by the government” (de Brito 1992:

genuinely believed. However, it is beside the point whether the actual number is twice as high as that given in the report, as it magnifies the scale of the brutality, but does not change the fact that an extensive and centrally organized crime actually had taken place. “We are not counting beans, but human beings, you know”, said Zalaquett in an interview with the author in Santiago 7 July 1993.

²⁰ Only the CEMIDA (*Centro de Militares para la Democracia en Argentina*) offered any positive response to Alfonsín’s human rights policy by approving of the trials, but felt there should be no violation of the principle of *obediencia debida* (de Brito 1992: 57-58).

39). In this period, tension was well managed by the president. When the commission finally presented its findings, the number of victims documented in the *Informe Rettig* was accepted by all the human rights organizations as well as by the political parties and the public in general. This was very much due to the prestige of the *Vicaría de la Solidaridad* (the largest and most prestigious human rights organization in Chile), who had lent the commission its full support from the very start and let the commission use its archive and documentation section, which is considered among the best and most complete in all of Latin America. The fact that human rights abuses had been recorded from the very beginning of the dictatorship in Chile, made the numbers presented in the *Informe Rettig* probably more accurate, and certainly more credible, than the number of cases presented in the *Nunca Más* report.

Some of the more radical groups voiced their disappointment with the *Informe Rettig* because the report did not include all the victims of repression (only those who had died as a result of it), and because it did not list the names of the perpetrators. Unlike Argentina, however, there were no political parties willing to mobilize under the banner of "total justice". The democratic Left were faced with a dilemma: on the one hand they had to please their natural constituency, the human rights activists, and on the other hand, they were committed to the rule of the law and had to recognize the problem of adopting a morally-based intransigent position. The Communist Party was the only political party that adopted a critical stance, but it had little impact. The renewed terrorism further strengthened the Right's criticism that there was an undue concern with human rights violations. Although the political Right in Chile had the strongest position in the Southern Cone, the *Informe Rettig* was still successful in establishing some kind of recognition of the facts, in that it forced the Right to meet with the opposition on the issue. The retired military generals released a public statement questioning the validity and truth of the *Informe Rettig*, but on the whole, the military saw the report as less life-threatening than public trials (*Análisis*, 18-24 March 1991). The *Informe Rettig* accordingly provoked a more mixed reaction from the military than had the *Nunca Más* report in Argentina. Some within the Chilean armed forces were forced to face up to the crimes, but like the Argentine military, they defended their critical role in saving their country from totalitarianism (*Análisis*, 18-24 March 1991). The Army was the least repentant section of the three military branches. It showed no signs of regret.

The general impact of the *Informe Rettig* on Chilean society may be summed up in the words of de Brito: "The launching stood out as the single most important governmental gesture of reparation and reconciliation,

and the end of the ceremony was both a relief and an anti-climax” (de Brito 1992: 48). However, the positive impact of the report was, regrettably, soon to be overshadowed by the assassination of one of the most brilliant leaders of the Right, who had collaborated with the Pinochet regime. Ex-Senator Jaime Guzmán was murdered on 1 April 1991 in Santiago, less than a month after Aylwin’s public speech on the Rettig report. This shifted the focus to left-wing terrorism and further weakened the position of the extreme Left.²¹

4.3.5 *Evaluating the importance of the reports*

The issuing of *Nunca Más* and *Informe Rettig* were attempts at political catharsis through “global truth telling” in the transition to democracy. They were projects designed to reveal the truth about military-led state terrorism. The act of giving testimony was for many people an absolutory experience; for the first time they were taken seriously by government representatives. The reports were a form of emotional and political recompense, and no doubt marked some form of symbolic watershed in the transition to democracy. Furthermore, the reports were accompanied by measures of social and financial compensation to the victims and their families (*Informe Rettig* 1990: 823-26; *Nunca Más* 1991: 477-78). To start with their positive achievements, both reports were successes in terms of informing the general public on the facts of repression. The facts were publicly established and disseminated, as the reports rapidly became bestsellers in both countries and were given widespread media coverage. The “truth-telling” marked a positive break with the repressive past, and those of the Left were given an opportunity of clearing themselves of the accusation by the military and the Right of having been responsible for the breakdown of the democratic order. But to what extent were the reports’ stated aims of “global truth telling” and impartiality fulfilled?

Neither report succeeded in establishing all of the facts. The reports consciously listed the names of the victims of gross human rights violations, but failed to account for a large number of other serious violations, such as torture and exile, which affected large parts of the population. Even more importantly, the reports failed to reveal the names of the perpetrators. There were three reasons for this omission: the military

²¹ Perpetual jail sentences have been proposed by the “fiscal” of the Court of Appeal in Santiago, René Clavería, for the two members of the FPMR, Ricardo Palma Salamanca and Mauricio Hernández Norambuena, who have been accused of being responsible for the terrorist assassination of Guzmán (*La Tercera*, 17 November 1993, p. 5).

in both countries refused to give the commissions access to their files, and the military personnel systematically failed to give testimony. Secondly, even though the commissions received documentation sufficient to attribute guilt to specific persons, they had no judicial mandate to publicize their names.²² Even if the commissions would have had the data and the judicial mandate to make the names of the avowed criminals public, it is still doubtful whether Aylwin or Alfonsín would have been willing to run the political risk of accusing the military publicly of gross, systematic, and large-scale human rights violations without first giving the military a chance to clean up their act. The reports thus effectively established political and ethical, but not juridical, responsibilities for acts of repression.

The *Nunca Más* report received more severe criticism for being partial to the military than did its Chilean counterpart. This may be accounted for by the fact that the Rettig Commission, due to its politically more heterogeneous composition, enjoyed a higher degree of legitimacy than did the CONADEP. Also, the greater severeness of the repression in Argentina and the tense political climate which existed at the time of transition created higher expectations among the public than the *Informe Rettig* did in Chile, where people knew the military was controlling the transition, hence leaving Aylwin with less room for manoeuvre. This, I believe is a very important point. Due to their, perhaps unrealistically high, expectations, the Argentineans were all the more disappointed with the limited achievements of the report. The absence of groups demanding "total justice" in Chile made *Informe Rettig* politically more successful in contributing to the healing process of the transition. Aylwin has repeatedly been praised for his political craftsmanship, probably very much due to the fact that Aylwin was more successful at expectation management than Alfonsín.

It should be emphasised again that the various forms of judicial, constitutional, and political constraints resulting from the form of transition in the two countries did to a large extent impose limits on the initial choices available to the two presidents after the formal restoration of democracy. However, it should be equally stressed that these structural constraints were not permanent. Each president had a certain degree of

²² The commissions were executive, not judicial. In spite of CONADEP having no judicial mandate to publish the names of those presumed guilty, this was actually discussed as a possibility in Argentina up till five days before the publishing of the report. A list with the names of 1351 alleged perpetrators of gross human rights violations made it to Argentinean newspapers in September 1984, causing strong reactions from the military (*Página 12*, 20 August 1991, p. 17).

political space in which to carry out his policy. As will be seen in the further discussion, the initial constraints were open to challenge and therefore also to change. The response the two presidents got from their respective societies was crucial for their further policy choices in the field of human rights. As concluded in the previous chapter, the limitations imposed on Aylwin were in many ways stronger and more numerous than those imposed on Alfonsín. Perhaps precisely for that reason did people expect more in Argentina. And where expectations are high, the possibilities of becoming disappointed are also high. The hope of achieving less in Chile may have had another positive effect; namely that people agreed to achieve whatever was possible within the limits. Where the stakes are higher, there is also a larger tendency towards squabbling, as the Argentinean case clearly shows. It was crucial that Aylwin enjoyed unanimous support from the human rights organizations, while the Argentine president was challenged from all sides of the political spectrum. Alfonsín was not only pressed by the military, but also by important parts of civil society, who were split in their support for the new president and his policies in the field of human rights. It is not sufficient, then, to look only at the limitations of choice imposed by the mode of transition when accounting for the success or failure of a human rights policy. I will maintain that it is of equal importance to look at the consequences human rights policies produce in a society, and why. It may well be that factors which at the outset seem favourable to the process of reconciliation in fact may act as impediments in given situations.

To sum up, the two governments of Argentina and Chile chose basically the same strategy of "truth-telling", but the strategies rendered significantly different results. The government's attempt at revealing the facts about past gross human rights violations had a largely positive (reconciling effect) in Chile, and the opposite effect (increasing the divisions in the opposition) in Argentina.²³ Analyzing the position of civil society is crucial in understanding these effects. Because of the tight military control of the Chilean transition, the human rights movement and the political parties set their hopes to the publishing of the *Informe Rettig*, and gave the commission their full support. In Argentina, in contrast, the *Nunca Más* was only seen as a step on the road to "total justice". The publication of the names of the disappeared was therefore perceived as an insufficient

²³ Rabkin disagrees with this view, claiming that the practical effect of the historical reexamination brought about by the *Informe Rettig* "was not to promote reconciliation but, instead, to renew recriminations and (even worse from a political point of view) highlight historical divisions within the governing coalition" (Rabkin 1992: 148).

measure. People had hoped for much more, they had been promised much more, and they were determined not to let the process end with the publishing of the *Nunca Más*.

In many ways the publication of the reports formed only a small part of the processes of re-democratization. Nonetheless, the human rights issue should not be down-played, as this was the one issue political parties and human rights organizations of different orientations were able to unite around in their struggle against authoritarianism. I may well be argued that both the governmental initiatives to issue the reports as well as the diffusion of the actual findings of the two commissions were highly significant in staking out the line the presidents were to follow in the field of human rights. The diametrically different reactions given to the reports in the two countries were an indication of the unity of civil society achieved so far, and an omen of how Alfonsín and Aylwin were to fare in their subsequent attempts at achieving reconciliation. The short-term function of the *Informe Rettig* was to give people a feeling of finally being taken seriously by the government. In this it contributed to the restoration of faith in democratic institutions. In Argentina, in contrast, the *Nunca Más* report seemed to produce the immediate effect of general dissatisfaction and demands for further action. These short-term effects would come to be counterbalanced as other issues gained predominance. The long-term effect of the reports is probably their most important function. In line with Zalaquett's arguments, the reports are historical records which form a valuable part of the history archives of these countries for the use of future generations. Although the reports became surrogates for legal justice, they did represent an important symbolic turning point in the "resurrection of civil society" and in the commitment to democracy. We shall now proceed to see how the quest for justice in Argentina took a decisive step forward with the holding of the military trials.

4.4 "Justice": the road from military trials to impunity in Argentina

Hermelegm? " One of the most difficult dilemmas confronted by the first transitional government of Argentina was whether to bring to trial military and police officers suspected of perpetrating human rights violations during the dictatorship, or to declare a blanket amnesty for the purpose of achieving what many perceived as a necessary and prompt reconciliation between civilians and the military (Garro 1993: 9). "

The dilemma embedded in democratic consolidation became explicit in Argentina with the holding of military trials. Since principled commitment to the rule of law had been one of Alfonsín's major electoral appeals, investigation and punishment of the gross human rights violations committed by the military were ethically required. Aylwin knew that the prosecution of military personnel was likely to unleash political conflict; a dangerous situation in an extremely fragile democracy. On the other hand, failure to ensure justice would place the military above the law, with strong implications for the legitimacy of future democracy. Punishment would demonstrate that similar crimes would not be tolerated in the future. Alfonsín concluded he could not embark on a wide purge of the military, or use his authority as a Commander-in-Chief to force the disclosure of secret information (Zalaquett 1985: 21). He was, however, determined to curb the influence and power of the military. The Code of Military Justice was rewritten in February 1984, and with the support of the opposition, Congress passed the Law for the Defense of Constitutional Order, which introduced stiff penalties against military and civilians plotting against the government. Alfonsín's administration cut the defense budget by half; carried out drastic reductions in the size of the armed forces (two-thirds of the army generals and one-third of the navy admirals were forced to retire); and discharged three-quarters of the conscripts, due to lack of funding. Most of the high-ranking officers deeply involved in *el Proceso's* policies were among the retired. Many military officers were also dismissed from state enterprises. The overall reduction of the armed forces' numerical and economic strength, together with forced internal reorganization of the armed forces, resulted in growing resistance to Alfonsín's policies within the military.

Already before forming the fact-finding commission CONADEP, Alfonsín had ordered the trial of nine generals heading the three first juntas. At the same time, he also ordered the arrest of seven members of left-wing guerrilla organizations. As touched upon earlier, terror and counter-terror had been controversial issues in Argentina since long before the military coup in 1976, and Alfonsín wanted to give the impression of being "fair". The message given to the public was that terrorism was to be punished along the same lines as state crime. The reaction of the military juntas to this move was not favourable. They resented being grouped together with "terrorists", their enemies in the dirty war, and saw the whole CONADEP initiative as partial.

Initially, Alfonsín offered the military a chance to try their own people for human rights violations; yet another attempt at being fair. After repealing the national security doctrine and the military's self-amnesty law

of September 1983, Alfonsín ordered the prosecution of military generals by presidential decree.²⁴ The government responded to public pressure by leaving it to the military to prosecute its alleged criminals in military courts, headed by the Supreme Council of the Armed Forces (SCAF). The military was given six months to complete this, but nothing happened. The term was extended another six months, again without results. The military tribunal declared its inability and unwillingness to complete the proceedings against the junta leaders, and added that the orders issued by the junta during *el Proceso* to combat terrorism were unobjectionable (Snow and Manzetti 1993: 42). Increasing pressure on the government from the public, as well as from the international community, finally forced the government to recognize the failure of the military to complete its mission, and on 4 October 1984 the government handed the cases over to civilian courts. Many human rights organizations criticized this delay, since it meant that the case was losing its initial momentum. On their part, the former commanders complained that this was violating their constitutional rights to be tried exclusively by a military tribunal. The Supreme Court dismissed the complaint and upheld the civilian court's assumption of jurisdiction.

The world famous trial that followed in April-December 1985 of the nine junta generals who had governed Argentina between 1976 and 1981 had the trial of the Greek generals in 1975 as its only role model, although the precedents of the principle of these kind of trials go as far back as the Nuremberg trials.²⁵ The Greek case was still different from that of Argentina in that the risk of trying the generals was less in Greece due to the lack of a tradition of military intervention in civilian politics, and hence the new democratic government had a freer hand in the matter (Burns 1987: 156). The Nuremberg trials constituted a different case altogether in that they were not organized by the Germans, but by the victorious Allies. As the internationally defeated military had lost both power and their weapons,

²⁴ Law No. 22924 issued 22 September 1983, providing for an amnesty for abuses committed in the battle against domestic terrorism, was counteracted by Law. No. 23040 27 December 1983, prescribing that the military government's self-amnesty law was absolutely "null and void". The prosecution of military generals was ordered by Decree No. 158/83 on 13 December 1983, A.D.L.A. (Garro 1993: 13).

²⁵ A full account of the Argentine trials is to be found in the *Texto Completo de la Sentencia: Camara Nacional de Apelaciones en lo Criminal y Correccional de la Capital Federal*. 1987. Buenos Aires: Imprenta del Congreso de la Nación. During the trial, the proceedings were recorded verbatim in a publication called *El Diario del Juicio*. Editorial Perfil, March 1985 to January 1986 (de Brito 1992: 2). See also Amnesty International's report on the trial of the former junta members, *Argentina. The Military Juntas and Human Rights* (1987).

it meant that the victorious powers did not have to worry too much about the internal effects of a trial on the defeated nation.²⁶ The Argentine trials would have been analogous to those of Nuremberg only if the British Navy had pursued the Argentinians all the way home to the Argentine mainland and defeated them there, whereupon the British had imposed a treaty of Peace ordering the trial of Argentine military personnel. In Argentina the military had lost a war outside its territory, but they still controlled the arms, meaning that “the government was certainly not in a political position of a victorious power investigating and trying the crimes of authorities whose military power might have been destroyed” (Zalaquett 1985: 21-22). Moreover, they were being confronted with the alleged crimes by the government of their own country, rather than that of a foreign power. Alfonsín correctly considered it an impossibility to purge all those involved in human rights abuses during the rule of the juntas, as that would have involved the dismantling of the entire military institution altogether. This was not desirable for several reasons, the main one being Argentina’s need for a national army to protect itself against traditional external enemies, such as Chile and Peru. Furthermore, the armed forces had traditionally enjoyed the position of being considered the guarantor of democracy when civilian governments lost control — as they had done repeatedly this century. Finally, the military had always been considered a source of national pride. For these and several other reasons, Alfonsín ruled out the option of massive military purges.²⁷ Regardless, he did have to satisfy the widespread popular demand for justice, so he settled for a second-best option: selective trials.

Based on about 700 cases, only five out of the nine prosecuted generals were finally convicted of crimes ranging from “aggravated homicide to robbery”, while they were acquitted of charges for which there was not sufficient evidence. The remaining four generals were found not guilty on these charges, but were tried and convicted by a military court for

²⁶ For a detailed and comprehensive account of the entire Nuremberg trials, see Conot 1983.

²⁷ There are few historical examples of deep-ploughing revision of the armed forces following a transition to democracy. The replacement of Somoza-supported Armed Forces by new FSLN Armed Forces in Nicaragua after the Sandinista Revolution offers one example. Another case is that of Cuba in 1959, when Fidel Castro cleansed the existing military system, replacing Batista personnel by his own supporters. However, these are both examples of transitions “from below”, i.e. revolutions initiated by the people, rather than elite-dominated transitions, which form the focus of this analysis.

mismanagement of the war against Great Britain.²⁸ The sentencing of General Ramón Camps (former chief of Buenos Aires police) to 25 years of imprisonment and shorter terms given to three other army and police officers in December 1986, marked a second stage of the trials (*Latin American Weekly Report*, 8 January 1987, p. 8).

Following the trials was an outburst of optimism, resulting in the filing of new complaints against hundreds of middle-ranking officers. The threats of prosecution made the military set aside their previous splits and close ranks. Universal military discontent forced the Alfonsín government to follow an exceedingly conciliatory policy line. By the end of 1986, Alfonsín had Congress push through a statute setting a sixty-day period for the submission of new complaints of crimes committed during the “dirty war”; the so-called *Ley de Punto Final* (“full-stop law”).²⁹ *El Punto Final* proved unsuccessful, because well-organized human rights organizations and individuals managed to issue thousands of complaints in spite of the short time limit.³⁰ Some 400 officers were indicted. The Radical administration tried to calm an increasingly alarmed military by arguing that few officers would be convicted and sent to prison, and that in most cases the only crime that could be proved was kidnapping, for which there was a maximum sentence of six years.

Military dissatisfaction over the prosecutions that followed manifested itself in a barracks uprising during the Easter Week of 1987 (*Semana Santa*,

²⁸ The generals of the three first juntas, Jorge Rafael Videla, Emilio Eduardo Massera, and Orlando Ramón Agosti, were sentenced to life imprisonment without the possibility of parole. Roberto Eduardo Viola and Armando Lambruschini were also given life sentences, whereas Leopoldo Galtieri and Omar Rubens Graffigna were given fifteen years each; Jorge Isaac Anaya twelve years; and Basilio Lami Dozo ten years (Garro 1993; Zalaquett 1985).

²⁹ Law No. 23492, 23 December 1986, A.D.L.A. 192 (1986). The law was not conclusive, meaning that it set a time-limit on filing charges against military officers for human rights violations, but it did not stop human rights trials (*Latin American Weekly Report*, 18 December 1986, p. 4).

³⁰ According to the lawyer Alicia Oliveira, *el Punto Final* was enforced at the most inconvenient moment, namely at the beginning of December, when the Argentinean courts are closed for holidays, thus leaving very few lawyers available for receiving complaints. In spite of this, as she sees it, tactical move by the government, human rights activists managed to mobilize a stunning support and public interest for the matter. Information was given in a private interview with the author in Buenos Aires, 21 June 1993.

15-22 April), headed by Lieutenant-Colonel Aldo Rico.³¹ The so-called *carapintadas* (named because of the face paint they wore) were later the same year and the following year responsible for three similar revolts, spurred by discontent with the development in human rights matters, cuts in military spending, and the critique brought against the military. Each protest, as it turned out, gave way to new concessions. The *Semana Santa* mutiny led a highly pressed Alfonsín to ask Congress for a drastic reduction in the prosecutions. Alfonsín now had to exploit the principle of accountability in an attempt to cool down military-civilian tension. Congress immediately passed *Ley de Obediencia Debida*, or “due obedience law” on 4 June 1987, eliminating all pending indictments against junior officers, but not stopping the prosecution of the colonels and generals of the military regime (*Latin American Weekly Report*, 28 May 1987, p. 4).³² The new law presumed that, with some exceptions, military officers who followed orders, carried them out under a state of coercion without any possibility to inspect, oppose, or resist such orders (Garro 1993: 16). That meant that the fourth principle of Nuremberg could not be applied, i.e. criminal responsibility was being exempted on the grounds that those obeying orders had no moral option to refuse. The passage of *Ley de Obediencia Debida* was hoped to appease the new army high command, whose members were junior officers during the dirty war, thus easing tension within the barracks. However, it failed to calm the senior retired officers who still faced prosecution. Although *Ley de Punto Final* and *Ley de Obediencia Debida* were largely felt to be unconstitutional interference in judicial matters, it was perhaps the only way Alfonsín could hope to ease civil-military tensions and thereby avoid a serious military threat of interference with constitutional rule. Caught between his sense of moral obligation and a political reality full of demands from all sides, Alfonsín put higher priority on retaining political stability by appeasing the military than on keeping his promise of justice by pressing for large-scale punishment of the alleged human rights violators.

The issuing of the Due Obedience Law did not cure Alfonsín’s headache. Instead, the President’s move to placate the military provoked tens of thousands of people all over Argentina to protest, for several days, the military’s rebellion and Alfonsín’s concessions to their demands for

³¹ Aldo Rico, a decorated veteran of the Malvinas war, was known as “a sympathizer of the extreme right” and is known to have had close links with a national terrorist group, *Alerta Nacional* (National Alert), who the police cracked down on in April 1988 (Rock 1993: 235).

³² Law No. 23521, 4 June 1987, A.D.L.A. 1548 (1987).

amnesty (*Clarín*, 25 June 1987; *Página 12*, 25 June 1987). In other words, the President lost much of the initial support he had enjoyed among the civilian population, leaving him with increased opposition from large parts of the civil population as well as from the military, who were both dissatisfied with the turn of events in human rights matters. “The combination of the proliferation of civilian lawsuits against junior officers, low salaries, lack of new equipment, and an unclear governmental policy about the armed forces’ new mission, all contributed to creating unrest in the army” (Snow and Manzetti 1993: 42), resulting in two new military mutinies; one in December 1987 (led by the mentioned Aldo Rico), and the second a year later in December 1988 (led by Colonel Mohamed Ali Seineldín).³³ The uprisings were settled through Alfonsín’s careful negotiation, but they showed the discontent spreading within the army. Economic development was yet another important factor contributing to Alfonsín’s growing unpopularity. Hyper-inflation exploded from February 1989 onward. As a counter-measure, Alfonsín launched the so-called Spring Plan and made a last attempt to schedule the presidential elections for May 1989, when, according to the Spring Plan, inflation would have been brought to its lowest.³⁴ The plan fell apart well before mid-May, when the Argentines went to the polls once again. The Peronist Party’s candidate, Carlos Menem, got 47 per cent of the vote, as compared with the Radical Party’s candidate Angeloz’ 37 per cent. Alfonsín received heavy criticism for the way he had handled the elections, which coincided with skyrocketing inflation followed by food riots and shop looting. The government was forced to impose a thirty-day state of siege. Order was restored by 16 June, leaving several people dead, hundreds injured, and over 2,000 under arrest (Snow and Manzetti 1993: 47). Alfonsín had lost his final hope of becoming the first president since 1928 to complete his term in office, and agreed – albeit reluctantly – to step down in July and allow Menem to take office six months early. The inauguration of Menem

³³ The December 1987 mutiny was a direct response to the government’s reluctance to promote Navy Lieutenant Alfredo Astiz on recommendation from the Navy. The federal court had a year earlier acquitted Astiz on charges of the kidnapping and disappearance of the Swedish-Argentine girl Dagmar Hagelin in 1976; a case which drew widespread international attention. The passage of the Due Obedience law blocked proceedings against Astiz for involvement in the abduction and torture of two French nuns. A number of military generals threatened to resign if Astiz’ promotion was refused (*Latin American Weekly Report*, 25 November 1993).

³⁴ See Snow and Manzetti 1993 for details regarding Alfonsín’s last and desperate attempt to stabilize the Argentine economy.

on 8 July 1989 marked Argentina's first constitutional transfer of power since 1916 from one democratically elected president to another.³⁵

Only three months after taking office, Menem conveniently "closed the matter" of human rights on 10 October 1989 by issuing sweeping presidential pardons which released from prison practically all the officers who were still serving jail terms for human rights abuses, including Videla, Viola, Massera, and Camps. In order to placate the Left, Menem also pardoned 60 Montoneros in jail for "terrorism". One of the arguments Menem used was that it was necessary to forgive past trespasses — he himself had been a prisoner of the military junta for two years — and look to the future. The end result was that the generals were set free, and Alfonsín's human rights at ensuring justice was brought back to square one. Constitutionally, Menem's move was suspect. Nevertheless, in spite of the reversal of Alfonsín's policy, the holding of the trials had in itself a positive effect in that the policy carried out during the dirty war was once and for all officially condemned. Menem was heavily criticized for his decision to let the convicted generals off the hook. More than a hundred thousand people marched in the capital in protest against the presidential pardons (*Página 12*, 9 September 1989). Elements within the military were also not completely satisfied. In December 1990 Menem was faced with a new coup attempt organized by many of the same *carapintadas* officers who had earlier revolted against Alfonsín. However, Menem, retained the loyalty of the bulk of the armed forces and succeeded in crushing the military uprising. Twenty-six days after the rebellion, Menem pardoned the remaining twelve military officers who were serving sentences for human rights violations. A civilian court tried and convicted the leaders of the uprising in 1991. Menem thus gave the impression of being tougher on the military than Alfonsín. Many people who had felt betrayed by Alfonsín's wavering policy line were even more disappointed with Menem's pardons. On the whole, however, Menem has not been offered much opposition, in spite of a number of widely unpopular measures and controversial policies.

³⁵ Menem took over during a grave economic crisis. He ruled the country by presidential decree to sidestep Congress with his economic program of privatization, which succeeded to stop hyperinflation and introduce a certain degree of economic stability and growth. The negative side effects were an increased level of governmental corruption, a badly discredited judicial system, and an increasing distrust of the administration's genuine commitment to the rule of law. Menem's conservative policy line concentrated on economic issues and labour, downplaying the issue of human rights (Garro 1993).

The Argentine people seem disillusioned with politics in general, and with human rights policies in particular.³⁶

4.5 Why the lack of justice?

As the above discussion has shown, the classic dilemma faced by the transitional governments in Argentina and Chile has been, on the one hand, placating the military by not prosecuting those responsible for committing crimes of human rights violations, while simultaneously risking continuous deep splits in the civilian population, and, on the other hand, bringing the criminals to justice and thereby risking military protests and political instability. Dealing with the planners and commanders of gross human rights violations does not necessarily ensure legal justice or political stability, as the initial approach chosen in Argentina shows. People were not satisfied with having only the top generals, the *cúpula*, punished. When the public pressed for trials to be extended to those directly responsible for the abuses, the military reacted very strongly. The magnitude of the abuses shows the impossibility of punishing all those involved in gross human rights violations without the risk of destroying the military as an institution. To what extent has the consolidation of democracy in Argentina and Chile been limited by political reality? Slightly rephrased, the questions are: why did the attempt at justice fail in Argentina, and why was there not even an attempt at holding trials in Chile? What were the specific legal, constitutional, and political constraints limiting the quest for “truth”, “justice”, and reconciliation in the two countries? To what extent have the transitional governments tried to press further for justice — or altered their originally staked-out policies?

4.6 The failed quest for truth and justice in Argentina

The political situation at the moment of regime transition in Argentina favoured the implementation of fact-finding and legal justice in at least one respect: given the defeat of the Argentine military in the Falklands/Malvinas war, the democratic government did not have to pay too strong attention to the wishes of a fractured and uncoordinated military. Alfonsín's

³⁶ An SIP survey carried out in Argentinean urban centres in the time period May 1984-June 1988 shows a general downward trend in people's satisfaction with government policies and future expectations. Few people expressed hope of solving the legacy of human rights violations. For details, see Catterberg 1991.

limited success in ensuring justice through military trials therefore poses the intriguing question: why didn't he play his hand better, given the favourable situation of military collapse? In essence, Alfonsín failed because he promised much more in his presidential campaign than he was able to deliver. Given the initial weak position of the military, expectations were heightened by the President's promises that were out of proportion to what proved realistically possible to achieve. Whether due to mismanagement, or cowardice, or the lack of political support to carry out his policies; Alfonsín failed repeatedly. His economic policy failed. The party system, the Congress, and the judiciary remained relatively weak compared to the interest groups which continued to exercise a substantial degree of influence on political decisions. To make the situation worse, the return of democracy had coincided with the worst economic recession in Argentine history. However, the economic failure cannot entirely be attributed to Alfonsín's economic mismanagement alone, since the large foreign debt was not created by his administration.³⁷ Most importantly, the "military problem" remained unresolved. Why?

4.6.1 Judicial constraints

In Argentina the outgoing military government, headed by General Reynaldo Bignone, had, as mentioned in the preceding chapter, taken three specific measures to avoid accountability for human rights abuses. The Final Document on the War Against Subversion and Terrorism stated that all human rights abuses which had occurred under military rule were "errors committed in all wars", and that the disappeared should be considered dead "for all legal and administrative purposes" (Zalaquett 1985: 20). Through the Law of National Pacification the armed forces granted themselves amnesty for all crimes committed during the period of 25 May 1973 to 17 June 1982. There were also unverified rumours that Bignone had issued a secret decree ordering the destruction of the documentation related to military repression (Zalaquett 1985: 20). One of Alfonsín's first

³⁷ On the positive side, under President Alfonsín Argentina rejoined the international community after having suffered a decade of isolation due to its human rights violations and the military experiment under *el Proceso*. Progress was made in the field of human rights by the signing of several international treaties. Alfonsín also strengthened regional ties with traditional rivals, such as Brazil, and settled a territorial dispute over three islands in the Beagle Channel with Chile. Relations with the United States and the European Economic Community were improved, although relations with the United Kingdom remained cool after the Malvinas/Falklands war.

moves in the field of legal matters after coming to power was to have Congress annul this self-imposed amnesty law.³⁸ The end result was that the military did not succeed in judicially guaranteeing that they would not be held responsible for human rights abuses committed during the rule of the juntas. The military's failed attempt at judicially disclaiming responsibility may principally be attributed to their initial weak position vis-à-vis the civilian government, due to the mode of the Argentinean transition. Thus, there remained no legal obstacles at the outset that prevented Alfonsín from prosecuting the military for their crimes. Were constitutional impediments to Alfonsín's policy equally absent?

4.6.2 Constitutional constraints

First, it deserves mentioning that the constitutions taken over by Alfonsín and Aylwin respectively were of a very different character. Argentina is still ruled by its Constitution from 1853, which has not undergone any serious revision beyond a string of minor amendments. During the period of military rule, the 1853 Constitution was simply replaced by the "Statute for the Process of National Organization" (*el Proceso*), promulgated 31 March 1976 (Guest 1990: 456, Note 11), but it was rescinded at the moment of regime transition in 1983. Although the military passed around 1,500 new laws and decrees during its rule from 1976-83, due to the mode of transition, the military did not take specific measures to guarantee the future position of the armed forces, or indeed their impunity. Hence, there were no constitutional restraints as such to the prosecution of alleged perpetrators of gross human rights violations. In the political field, though, the Alfonsín government faced several obstacles in the implementation of its proposed human rights policy.

4.6.3 Political constraints

Alfonsín had many political opponents at the time of his inauguration. The labour movement, traditionally Argentina's strongest political movement, remained under the control of the Peronists, who were long-standing rivals of the Radicals, and therefore naturally opposed to the new government. Also, the business community and the Church were not particularly friendly towards the Radicals. In the field of economics, the International Monetary

³⁸ Law No. 23040, 27 December 1983, prescribed that the military government's self-amnesty law was "absolutely null and void" (Garro 1983: 13).

Fund prescribed economic policies that left the Alfonsín government with little room for manoeuvre. Most importantly, the military, although defeated at sea, kept their forces intact on the main land (Zalaquett 1985: 17).

Due to the initially weak position of the military, the main obstacle to ensuring justice in Argentina seems to have been political, as there were few judicial or constitutional restraints. This may be explained by the strengthening of the military forces after the return to civilian rule, mainly in reaction to the government's giving in to public pressure of widening prosecution of the military beyond the generals already put on trial in 1985. The military answered by closing ranks and staging an uprising, to which the civilian government immediately responded by encoding in law new limits upon its own scope of action. This was done through the issuing of, first, *Ley de Punto Final*, soon to be followed by *Ley de Obediencia Debida*, as already mentioned. Further attempts to press for justice were met with another uprising in 1990, which resulted in Menem granting the famous amnesty through *Ley de Impunidad*. At present, therefore, there exists a set of judicial constraints which make the process of ensuring justice almost irreversible. It is of crucial importance that these laws have been created by the civilian government over time after the formal transition to democracy, and must therefore mainly be attributed to the post-transitional shift in the balance of power between the military and the civilian forces. The Alfonsín government's acceptance of clemency, followed by Menem's final granting of total pardon, shows that there has been a steady drift away from implementing the promises made in the election campaign in 1983 of establishing the "truth" and ensuring "justice" to the nation. Before discussing how this has affected the reconciliation and consolidation processes in Argentina, let us turn to the post-coup politics in Chile.

4.7 Why no mass-trials in Chile?

Although the programme drawn up by the multiparty alliance *Concertación* had explicitly called for the derogation of the 1978 amnesty law and prosecution of those responsible for atrocious crimes against lives, liberty, and personal integrity, it soon became apparent that Aylwin would adopt a strategy of reconciliation, mixing ethical obligations with political pragmatism. Aylwin never seems to have considered the possibility of holding large-scale military trials. This may be largely due to the civilian government's limited control of the transition process. According to Rhoda Rabkin, "Pinochet's main political value was his ability to intimidate civilian politicians from instigating Argentine-style trials", promised as he

had that “the day any of my men are touched, the state of law is over” (Rabkin 1992: 144). Most scholars, Rabkin included, believe that it was highly unlikely that the political parties of the Right would have supported the military in a new coup, but the fact that Pinochet still controlled the armed forces left the civilian government insecure. Aside from the indirect threat from the military, there is a purely practical obstacle to staging mass-trials in Chile in that 90 per cent of today’s military personnel have at some stage passed through the security service DINA; the institution in charge during the worst period of repression in Chile. As argued by Przeworski, one cannot purge the entire military without simultaneously destroying the institution altogether (Przeworski 1991: 77). Another practical reason for the unfeasibility of staging massive purges of the military is that Aylwin did not have the legal, constitutional, or political means to do so.

The absence of large-scale military trials in Chile can therefore be attributed to several factors. There has hardly been political space in Chile for that kind of manoeuvre, given the looming presence of Pinochet and the institutional strength of the armed forces. Secondly, Aylwin has had the advantage of learning from Alfonsín’s mistakes.³⁹ If Argentina failed to bring justice to the people through trials, Chile was no more likely to succeed in adopting a similar strategy. Moreover, there has been a series of judicial, constitutional, and political restraints in Chile, absent in Argentina, which is our next topic.

4.7.1 Judicial constraints

The main legal obstacle to prosecuting the perpetrators of human rights violations in Chile has been the above-mentioned Amnesty Law of 1978, which granted amnesty for criminal offenses (including disappearances, extrajudicial executions, and torture) committed by uniformed agents between 11 September 1973 and 10 March 1978.⁴⁰ Criminal justice therefore had to be limited to offenses committed after 1978 and to the only pre-1978 crime which was exempted from the amnesty; the Letelier case (details to follow). Given that the vast majority of human rights violations

³⁹ According to Chile’s ambassador to Great Britain, Jorge Heine, the learning experience of Chile from its neighbour Argentina is the single factor having the largest explanatory power in accounting for the Chilean “success story”. Lecture given during the Annual Conference of the Society for Latin American Studies (SLAS) in Liverpool, 25-27 March 1994.

⁴⁰ The Chilean Government Junta issued the wide-reaching amnesty through Decree-Law No. 2191, published in *Diario Oficial* No. 30042, 19 April 1978 (Garro 1993: 12).

took place in the period covered by the amnesty, it has been almost impossible to bring any of the alleged criminals to justice. Some attempts have been made at prosecuting military or police personnel alleged to have committed crimes after 1978, but the military has persistently refused to open their files. Thus, the lack of evidence has aborted these efforts. Even if evidence proving the guilt of the military personal had been presented, the Amnesty Law would prevent the prosecution of human rights violators.

Due to the judicial restrictions outlined above, Aylwin made a special effort in pressing for the solution of the single case which has permitted open investigation. The assassination of ex-Canciller Orlando Letelier, former Foreign Minister in the Allende government, together with his secretary Ronni Moffitt, has been a cause for strain in U.S.-Chilean relations ever since the crime took place in Washington on 21 September 1976. After two years and four months of investigations, General Manuel Contreras (ex-chief of the DINA) and Brigadier Espinoza were in November 1993 sentenced to seven and six years of prison respectively for being responsible for the assassinations (*El Mercurio*, 14 November 1993, C2). In many ways, the Letelier-Moffitt assassination has become a symbolic case in Chile's efforts to come to terms with the past. The successful trial is therefore considered a victory of the judicial system in Chile, and an important contribution to the issue of justice as well as to the process of reconciliation.⁴¹ The government has repeatedly asserted that the sentences do not imply the complicity of the army, solely the individual guilt of the two condemned, who have enjoyed the right to legal defense. The rules of the democratic game have been respected. It is therefore not believed that this case is going to affect civil-military relations in the sense that it poses a threat to political stability. Both President Aylwin, the Minister of the Interior, Enrique Krauss, and the convicted General Contreras expressed agreement on this. Whether or not the Supreme Court will uphold the sentence after the appeal, which started in March 1994, remains to be seen.

Returning to the more general judicial constraints involved in establishing criminal justice, there would, hypothetically speaking, be still another legal

⁴¹ Eduardo Frei, then presidential candidate for the *Concertación*, was quoted saying that "there is a justice which, when functioning, protects the security of the country, and this is very important for the democratic system". The presidential candidate for the Democratic Movement of the Allendista Left (*Movimiento Democrático de Izquierda Allendista*), Eugenio Pizarro, on the other hand maintains that "in Chile there is no justice", and that the sentences meted out in the Letelier case "is a farce and treason to the people" (*El Mercurio*, 14 November 1993, C2).

obstacle to prosecuting alleged perpetrators of crimes committed between 1973 and 1978 in Chile. According to Chilean law, one cannot open cases against a suspect if twenty or more years have passed since the crime was committed. That means that the crimes committed at the height of the repression, i.e. between September and December 1973, have now passed the twenty year limit. As long as Pinochet stays in power, which he will do at least till 1997, there is little hope of changing the Amnesty Law. If there is a change in the Amnesty Law in 1997, most of the crimes protected by the law will have surpassed the time limit for opening cases. This is with the exception of the crime of disappearance, as some human rights lawyers argue that this crime can be exempted from the general twenty year-rule on the grounds that the date for the crime cannot be set as long as the evidence — the body — is missing.⁴² This is a purely hypothetical situation, however, because it would require major changes in the legal and constitutional structures, as well as a military willing to cooperate by giving access to archives in order to accomplish this.⁴³

Aylwin has made a tactical move to bypass the amnesty law. His proposed new bill of 3 August 1993, the so-called "*Ley Aylwin*", was an attempt at speeding up the judicial processes concerning murder, torture, and disappearances during the toughest years of repression under Pinochet.⁴⁴ In short, Aylwin tried to strike a deal with the military by offering them complete immunity (in the form of total secrecy of witness reports as well as promising no punishment) in return for granting information which could lead to the clarification of cases of gross human rights violations (Article 3 of the proposal). Aylwin suggested the appointment of 15 new judges to work specifically with these cases for a period of two years. Article 3 in particular caused much debate in all

⁴² Information given by lawyers Hugo O'Campo and Hector A. Salazar in interviews with the author in Santiago, 28 May 1993 and 9 July 1993 respectively.

⁴³ The facts forming the basis for this discussion were given to the author in an interview with lawyer Hector A. Salazar in Santiago, 9 July 1993.

⁴⁴ Opinion polls show that 74 per cent of Santiago's citizens agreed with Aylwin's proposal regarding human rights. In an investigation carried out through telephone interviews by the *Asimerc* on 4 August 1993, two hours after Aylwin's official proposal on television and in radio, 12 per cent of those asked were against the proposal and 14 per cent did not answer. To the question "who has yielded more in the field of human rights", 54.31 per cent responded the government, 8.63 per cent responded the military, and 35.03 answered both. To a question regarding whether civil-military relations had improved, 57.36 per cent thought yes, 30.46 per cent thought no, and 12.18 per cent of those asked did not respond (*La Epoca*, 5 August 1993).

sectors of Chilean society. The left-wing of the *Concertación*, PS and PPD, together with the Communist Party and several of the human rights organizations, were opposed to the proposal on the grounds that it was yet another extension of the immunity already granted to the military by the 1978 Amnesty Law. Sola Sierra from the Association of Families of Detained Disappeared Persons (AFFDD) went as far as calling the attempted compromise with the military a deliberate pact between the Christian Democrats and the right-wing forces which left no hope for truth, justice, or reconciliation (*La Nación*, 19 August 1993). After much debate and serious fears of a split *Concertación*, Article 3 of the proposed "*Ley Aylwin*" was voted down in the Chamber of Deputies on 19 August 1993. The paradoxical alliance between PS-PPD and the Right (who also voted against the proposal, but for diametrically opposed reasons), gave the no-vote 56, versus 38 for, and 4 abstentions (*La Nación*, 19 August 1993). Even if the proposal had been accepted by the deputies, it might have been rejected by the Senate, where the Right, as mentioned before, has the majority. Aylwin in any case failed to please either side. The final result was that the proposed "*Ley Aylwin*" was withdrawn on 2 September (*Dagens Næringsliv*, 10 September 1993). Yet another opportunity was lost to introduce a measure which might have resolved at least some cases of human rights violations.

Pinochet's reform of the Supreme Court before he handed over presidential powers to Aylwin constitutes yet another factor restricting the meting out just punishment. Pinochet simply offered all nine supreme judges large monetary compensation for stepping down in favour of younger judges (*El Mercurio*, 14 November 1993, C2). Five of the judges accepted the offer, ensuring that the highest judicial office in Chile will most likely be dominated by Pinochet-friendly judges for many years to come. It is therefore difficult to consider the highest judicial organ in Chile independent.

The only realistic hope for human rights lawyers in Chile today is to achieve a limited kind of justice by trying to put on trial state agents responsible for crimes committed after the Amnesty Law was passed. There has been a positive development in this field lately. After almost nine years of investigation, the Chilean lawyer, Milton Juica, on 28 September 1993 raised a case against seventeen former policemen for the killing of three human rights defendants and professional Communists in 1985.⁴⁵ Six of

⁴⁵ The three were Manuel Parada (then head of the Department of Analysis of the Catholic human rights organization *Vicaría de la Solidaridad*), Manuel Guerrero, and Santiago Nattino, all assassinated by *Carabinero* officials on 30 March 1985.

the policemen were accused of kidnapping and murder, while the remaining eleven persons were accused of kidnapping and conspiracy (*Aftenposten*, 30 September 1993). The Chilean press reported on 1 April 1994 that the so-called "*Caso Degollados*" (the "Throat-slitting Case", due to the way the victims were killed) had been brought to court. Three of those accused received life sentences; three more received long sentences; and the remaining ten received shorter sentences.⁴⁶ *Carabineros*, in a public notice on 1 April 1994, informed the Chilean nation that they had no comments on the ruling of the court, and that they as an institution had offered all possible help during the process of the investigation (*La Nación*, 1 April 1994).

This has been considered a test of the Chilean judicial system's ability and will to condemn those responsible for violations of human rights under the military rule of Pinochet. After the sentencing of Contreras and Espinoza for the Letelier murder, this is the second time in Chilean post-coup history that members of the security forces have been jailed for the violations committed between 1973 and 1990. Hector Salazár, the principal lawyer working on the "*Caso Degollados*", expressed in an interview the hope that this case will encourage human rights activists and lawyers to press for the resolution of similar cases (*La Nación*, 1 April 1994). There has already been a lot of pressure on the courts as well as on the President himself, to prosecute the general director of the *Carabineros*, Rodolfo Stange, together with four other high officials, for giving orders and hiding information in the mentioned "*Caso Degollados*", which has been assigned a lot of symbolical value. The secretary publisher of one of Chile's leading newspapers notes that the case will "turn into a compulsory point of reference in Chilean judicial history" (*La Nación*, 1 April 1994). The successful court rulings in the "*Caso Degollados*" proves that the Chilean judicial system, so carefully designed by Pinochet to protect the military, is not impermeable, after all. However, in spite of the recent positive developments, Argentine-style prosecutions of the military *cupula* remains highly unlikely.

⁴⁶ Those receiving life sentences were major Guillermo González Betancourt, captain Patricio Zamora, and Alejandro Sáez. Miguel Estay Reyno and José Fuentes Castro received sentences of 18 years each, and Claudio Salazar was sentenced to ten years of imprisonment. The remaining ten were given shorter sentences, ranging from forty-one days to five years of imprisonment (*El Mercurio*, 3 April 1993, D4). All were *Carabineros*, except Miguel Estay Reyno; a civilian ex-Communist who changed sides in the conflict and became an informant for the "illegitimate terrorist organization which was created within the ranks of the *Carabineros*" (*La Nación*, 1 April 1994, p. 2).

4.7.2 *Constitutional constraints*

The Chilean Constitution, in contrast to Argentina's, has gone through several changes; the last one in 1980 with Pinochet issuing a totally new Constitution. Through a number of laws, the 1980 Constitution strengthened the position of the military in general and that of the Commander-in-Chief (Pinochet) in particular. The constitutional restraints against implementing a tough human rights policy were therefore much stronger in Chile than in Argentina. It should be stressed again that Pinochet had a year to make amendments and constitutional changes in the period between losing the plebiscite and handing over power to Aylwin. The political parties in the *Concertación de los Partidos para la Democracia*, headed by Patricio Aylwin, tried to negotiate on several points in the 1980 Constitution. No major changes were made. In spite of the democratic forces' limited victory in reducing the number of designated senators from twelve to eight, Pinochet still controls the Senate because his eight appointed senators, along with the elected senators from the right-wing parties, constitute a majority. The right-wing bloc in the Senate has therefore been able to veto any constitutional reform proposal which threatens to erode their privileged position. Within this category fall all attempts at annulling or changing the Amnesty Law from 1978 and legal reforms designed to ease the prosecution of perpetrators of crimes during the dictatorship.

4.7.3 *Political constraints*

The political situation in Chile at the time of return to constitutional rule was very different from that of Argentina. The Chilean military had been defeated in elections for which they had themselves made the rules. As a result, the military was very much intact, and with Pinochet-friendly forces controlling the Senate, the Supreme Court, the regional governments, and the top position in the military, one may at best be able to call the transition government in Chile a "limited democracy", although free and fair elections were held. Obviously, the political constraints were at the outset much stronger than in Argentina. Furthermore, as outlined in the preceding chapter, the strong role of the military in forming the transition process and the rules of the game after the transition, ensured considerable legal and constitutional constraints for the implementation of a successful human rights policy.

Acting within the constraints outlined above, Aylwin opted for an approach he called "possible justice" (Rabkin 1992: 149), placing the main emphasis of his human rights policy on the fact-finding aspect by the

launching of the *Informe Rettig* and implementing a much larger number of reparational measures than in Argentina in the form of economic and legal recompensation. His main aim has apparently been to keep the military happy to the extent that they are not given any explicit reason for opting out of the rules of the new democratic game. The rules of the game have to be firmly set to make sure that all parts are willing to abide by them before one challenges the most important part of the opposition: the military forces.

With this, it seems less likely that significant progress will be made in the quest for “total truth”, meaning, revealing the identity of the perpetrators of past gross human rights violations — let alone ensuring legal justice, which is equally unrealistic. The recent attempts to confront the military forces with crimes carried out under its jurisdiction has proved that the democracy in Chile is still not fully consolidated. The military five-day display of power starting on 28 May 1993 while President Aylwin was visiting the Scandinavian countries was partly a result of lawyers trying to speed up court cases against the military (*La Nación*, 30 May 1993). This “sable-rattling” incidence was a follow-up of the first display of military discontent on 19 December 1990, when Pinochet declared a state of alert and ordered the army to its barracks.⁴⁷ In spite of these two incidences, however, Chile has enjoyed an unexpectedly high degree of political stability after the regime change.

Aylwin successfully managed to calm down civil-military tension. He has later claimed that this military “sable-rattling” never amounted to more than noise, since the military failed to strike any cord of support in the public and the government refused to give in to any of the military’s demands. Aylwin also said that, in spite of democratic institutional deficiencies, he considered Chile to be as stable as any European democracy (*El País*, 4 May 1994). The high degree of stability in Chile’s political climate was underlined by the recent March 1994 elections, when Chile underwent its first peaceful post-coup presidential change. The fact that Eduardo Frei from the *Concertación* has taken over the new presidency is an indication of both general public satisfaction with Aylwin’s policy as a whole, as well as a willingness to give green light to the new government to pursue the same kind of policy line.⁴⁸ Frei, in a speech said he would “fight to

⁴⁷ For an account of this 1990 incident, the so-called *enlace*, see Rabkin 1992.

⁴⁸ Eduardo Frei gained 58 per cent of the vote in the presidential elections on 11 December 1993 against right-wing candidate Arturo Alessandri’s 24 per cent. Frei took office on 11 March 1994. His centre-left Coalition for Democracy, *Concertación*, controls the House of Deputies, but the Right kept control of the Senate (*International Herald*

restore full presidential authority over the military” (*International Herald Tribune*, 13 December 1993). Aylwin’s last move in the field of human rights before formally handing over the presidential insignia to Frei in Valparaiso on 3 March 1994 was to keep his promise of emptying Chilean prisons of political prisoners from the Pinochet period. There were 284 political prisoners in Chilean jails when Aylwin took office in March 1990 (*La Nación*, 4 June 1993). The release of these prisoners had previously been protested by the military on the grounds that if so-called terrorists were set free, those military personnel under prosecution for human rights violations should also be exempted from being brought to court. Aylwin therefore offered a choice between exile and continued imprisonment to the remaining forty-two political prisoners; all chose exile.⁴⁹ This gesture was his last attempt to set the tone for further reconciliation. It is up to the current president, Eduardo Frei, to continue the reconciliatory policy line. The court’s rulings in the “*Caso Degollados*”, as previously mentioned, may be seen as a good omen, but at the time when this is being written it is too early to predict what may follow. As Aylwin said in a recent interview: “La democracia en Chile es aún imperfecta” — democracy in Chile is still imperfect (*El País*, 4 May 1994). One may, however, sum up the conclusions drawn on the basis of the first post-military governments in Chile and Argentina respectively.

4.8 The outcomes of the Chilean and Argentinean transitions: a paradox

The hypotheses we set out to test at the beginning of this chapter predicted that Argentina had a higher chance of becoming consolidated than Chile. What has in fact happened? From a formal point of view, president Aylwin and Alfonsín coincided in their human rights policy on two points: they issued governmental reports listing the names of victims of human rights abuses, and the reports were accompanied by the introduction of measures of economic compensation to the surviving victims and their families.

Tribune, 13 December 1993; *Klassekampen*, 13 December 1993; *Aftenposten*, 13 December 1993).

⁴⁹ This includes five persons who were sentenced to life imprisonment for an attempt on Pinochet’s life in 1985, where five of his body-guards were killed. Two of the political prisoners, Marcos Mardones and Jorge Escobar, sentenced to 25 and 30 years of exile respectively by the Aylwin administration, have received political asylum in Norway, whereas the other three are currently living in the Netherlands (*Klassekampen*, 15 April 1994).

However, the measures of reparation were more extensive in Chile than in Argentina. The presidents' strategies diverge on the matter of legal justice. Trials in Chile have been limited to the Letelier case, four years after the restoration of formal democracy, and the "*Caso Degollados*" after eight years of investigation, in spite of considerable pressure from various segments of society to condemn the alleged criminals. In Argentina the process took a decisive step forward with the holding of the military trials in 1985, but with Menem issuing sweeping pardons only five years later, the end result was the same in the two countries: very limited legal justice. In spite of the presence of many more legal, constitutional, and political constraints at the moment of regime change in Chile than in Argentina, it seems like the final results of the human rights policies in the two countries have not been all that different when measured in technical terms. Nevertheless, Chile has frequently been cited as a more successful case of consolidation than Argentina, i.e. quite opposite of what was predicted.⁵⁰ What accounts for this apparent paradox?

The question is not only what the presidents actually did, but how they did it, and what effects the various measures have had on the two societies regarding reconciliation. As has been argued in this chapter, there was a close interaction between the initial policy embarked on by each president, the reactions each measure evoked in the public, and the way these reactions in turn influenced — encouraged or discouraged — the presidents' further line of action. A central point here is therefore the political skills of the two presidents. I have concluded earlier that the attempt at "truth-telling" had a much more positive effect in Chile than in Argentina, although the strategies regarding the issuing of the governmental reports were almost identical in the two countries. I have also argued that the disillusionment in Argentina was all the higher because people had genuinely believed that the military would be punished for their crimes. This may be closely linked to the promises the two presidents made to the public during and after the election campaigns. Alfonsín's victory in the 1983 elections has been referred to as "a stunning success" (Snow and Manzetti 1993: 41), and can be attributed mainly to his stance on human rights matters along with his non-involvement in the Falklands/Malvinas war. Alfonsín has been portrayed as a "strong and charismatic politician" (Snow and Manzetti 1993: 41), a man of great personal appeal (Snow and Manzetti 1993: 61), as a politician with a "dynamic leadership" (Vacs 1987: 32), and his line of policy as one characterized by "boldness" and

⁵⁰ This view is supported by practically all the people I interviewed in Buenos Aires and Santiago in the period March-July 1993.

“toughness” (Burns 1987: 181). Nevertheless, the Alfonsín administration turned out to be one of many promises and few accomplishments. When Alfonsín prematurely left office, he left behind an economy crippled by hyper-inflation. In the field of human rights, many promises had been broken. Most importantly, Alfonsín failed to fulfil his promise of full-fledged justice.

Due to the more controlled transition in Chile and the consequently stronger position of the military, Aylwin made a point out of not promising more than he thought could be sustained in the field of human rights. He embarked upon “a serious, carefully thought-out policy” (Zalaquett 1990: 1), committed to truth while down-playing the prospects for justice. Accordingly, no intense hopes of the Argentinean kind were created, and therefore it was possibly easier for the Chilean nation to accept the absence of legal justice. The time factor is also very important. The worst human rights violations in Chile had taken place fifteen years prior to the transition, allowing time for the blunting of feelings and the partial healing of wounds. By contrast, in Argentina the wounds were still wide open, as large-scale violations were fresh in most people’s memories. The extra pressure from the Grandmothers in Argentina to find their lost grandchildren has presented the authorities with an ongoing problem which has been absent in Chile. Moreover, President Alfonsín faced much more opposition from non-military actors (a point which will be elaborated on in the next chapter) than did President Aylwin. This indicates that one ought to take into account the position of civil society as well as the position of the military when judging the results or effects of human rights policies.

If one looks strictly at the structural framework imposed on the new democracies, the weak position of the Argentinean military at the end of the transition period should have made it easier for the new government to stake out a human rights policy which would both disclose the facts of human rights violations and bring legal justice and reconciliation. It did not happen that way. As I see it, not because the military initially posed a big threat to Alfonsín’s human rights policy, but because he lacked adequate backing from those who should have supported him, namely the human rights organizations and the political parties of the Left, to carry his policy through. This offered the military an opportunity to close ranks and strengthen their position, which in turn forced Alfonsín to employ measures which made him increasingly unpopular with the public. One may always speculate whether events would have taken a different course if Alfonsín had immediately ordered the trials of the generals by civilian courts, instead of first passing the cases on to the military tribunals. What we know is that the year of non-activity on the military’s side before the cases were handed

over to civilian courts had two main effects: it gave the military time and opportunity to close ranks and strengthen their position vis-à-vis the civilian government, and secondly, civilian opposition against Alfonsín's government increased due to discontent with the slowness of the process. One may reformulate this and say that the dual effect of Alfonsín's unfortunate choice was that due to the split opposition, the military managed to close ranks and gradually restore a measure of their former prominence the power game. Drawing on the Argentinean experience, Aylwin embarked on a sustainable policy regarding past human rights violations. His policy line was less ambitious; created less hopes for total justice; and precisely because of its modesty, people were positively surprised at its achievements and subsequently offered the President the support he needed to press for other measures where he saw it feasible, such as in the Letelier case. All in all, the outcomes of the human rights policies implemented in Argentina and Chile with respect to dealing with the legacy of past gross human rights violations after the formal reintroduction to democracy may schematically be synthesized in the following manner:

Table 3
Degree of "success" regarding human rights policy

<i>Focus of human rights policy</i>	<i>Degree of success of policy implementation</i>	Argentina	Chile
"Truth"	-complete		
	-partial	*	*
"Justice"	-complete		
	-partial	*	*
"Reconciliation"	-low	*	
	-medium		*
	-high		

As indicated in the above table, neither the Alfonsín government in Argentina, nor the Aylwin government in Chile score positively on the two first variables, since neither government succeeded in establishing all the facts about past gross human rights violations carried out under military rule (i.e. giving the names of victims, the names of victimizers, and the destiny of the detained-disappeared), or ensure justice in the form of

bringing to court all those responsible for the violations. The attempt at bringing the top generals to justice in Argentina was at best a partial failure, and in Chile attainments within the field of legal justice has also been limited. As previously argued, reconciliation does to a large extent rest on the implementation of fact-finding and justice. It is on this latter dimension I believe that Argentina differs from Chile. My claim is that Chile has unexpectedly reached a higher degree of reconciliation than has Argentina because of the way the policy in the two other areas was carried out, and the reactions this produced in the two societies. Aylwin seems to have been more successful than Alfonsín at expectation management. The Chilean president has proved himself as a cautious politician who gets things done through compromise and bargaining, not making promises without being confident of gaining substantial support by various important sectors of society. Alfonsín, on the other hand — partly due to external pressure and partly due to personal miscalculations — chose a policy line in the field of human rights which proved impossible to sustain and therefore discredited him both in the eyes of his initial supporters and his opponents. This, I believe, has been contributive to consolidating the Chilean democracy at a faster rate than in neighbouring Argentina.⁵¹

On the basis of the above discussion, I will therefore claim that the reactions to the fact-finding reports as well as to the presence or absence of military trials were very much conditioned by the political situation at the time of regime change, as well as by the political development in the first few years of democratic rule. The form of transition partly accounts for the range of policy choices available to the two presidents. Argentina was initially a fuller, less restricted type of political democracy at the moment of regime change than Chile in the sense that there were fewer judicial, constitutional, and political constraints baked into the Argentinean

⁵¹ I am, of course, fully aware of the fact that the outstandingly positive economic development over the last few years in Chile has largely boosted peoples' moral and support for the Aylwin government, and possibly also had the side-effect to shift peoples' focus from the troublesome past on to a brighter future. Chile's GDP for 1993 grew by 5.7 per cent, according to figures released on 27 January 1994 by INE, the Chilean national statistical institute. According to the same source, the high economic growth has been accompanied by an increase in employment by 5.7 per cent, reducing the unemployment rate to 4.4. per cent; the lowest level since 1974 (*Latin American Weekly Report*, 10 February 1994, p. 9). It is, perhaps, easier to live with your former dictator as part of the political system if the economy is going well and you notice an improvement in your standard of living. In Argentina, in contrast, Alfonsín enjoyed no such advantages. Fighting a many-sided battle against erratic inflation rates and a rebellious military, he ended up facing opposition from all sides, leaving behind a split nation when he handed power over to Menem.

democratic system, thus preventing the implementation of a sustainable human rights policy, which would effectively bring the military under civilian control and ensure consensus on the rules of the democratic political game. So far, the empirical facts support O'Donnell and Karl and Schmitter's hypotheses. However, the mode of transition does not account for the actual choices made by the presidents. Nor does it account for the subsequent changes in power distribution during the consolidation process, which, as far as I can see, are essential for understanding the discrepancies between moral idealism and the political reality developing over time in the two countries.

In my opinion, one therefore has to look for other factors than the form of transition focused on in elite-based transition theory in order to explain the paradox of the Argentinean and Chilean transition. The aim of the next and final chapter is to explore my postulate that civil society actors matter too. This will be done by analyzing the role of some of the civil society actors holding a high profile in the human rights debate, to see to what extent they contributed to the transition to and consolidation of democracy. I will argue that their position during the transition process as well as in the consolidation phase after the regime transition contributes decisively to the understanding of the human rights policies followed by Alfonsín and Aylwin and hence also to the paradoxical outcomes of democratic consolidation in post-coup Chile and Argentina.

5. From transition to consolidation: Does civil society matter too?

5.1 Tying together the discussion

It is time to sum up the discussion so far, and to also introduce some alternative perspectives on the subject of democratic transition and consolidation. To sum up, the two foregoing chapters have largely tried to test some prominent hypotheses derived from the elite-focused approach when examining the transition and consolidation processes of Chile and Argentina. It was concluded that elite-focused theory correctly predicted the immediate outcomes of these two transitions. However, when extending the analysis to the consolidation phase, the theory does not seem to account for the paradox that Chile, under continuous auspices of the military headed by a watchful Pinochet, has in many ways reached a higher degree of consolidation than has Argentina. This conclusion is true at least in so far as consolidation is measured in policy consensus and public support for the government policies, particularly in the field of human rights, which has decidedly been the most controversial issue in the entire transition and consolidation processes in both countries.¹ Chile's more successful handling of the human rights issue has in turn favoured a higher degree of stability in civil-military relations in that country than in Argentina. In other words, the framework set by the mode of transition cannot account very well for the ensuing development in democratic consolidation in our two cases of analysis. What then, accounts for such consolidation?

I would like again to draw attention to a couple of statements made at the very beginning of this study: that the issues in transition, not only the form, matter, and that civil society should be taken into account when studying the process of shifting elite alliances. The two preceding chapters

¹ Public opinion polls carried out in Chile in 1991 and 1992 showed strong approval for the government and for President Aylwin (Rabkin 1992: 120). The continuous support for Aylwin's policy is reflected in the fact that Eduardo Frei, the *Concertación's* candidate, won the presidential elections in March 1994, thus continuing Aylwin's policy line. By contrast, President Alfonsín suffered a gradual decline in support and was forced to step down in favor of Carlos Menem before his presidential term was completed (Snow and Manzetti 1983: 45).

have illustrated that the human rights issue was indeed a major topic of concern and controversy throughout the transition and consolidation phases in both Chile and Argentina; first by provoking voiced opposition from civil society, then by spurring the military to safeguard their position at the time of regime change once they discovered that they had failed to secure perpetual power. Finally, this touchy issue caused headaches for the democratically elected presidents who felt, on the one hand, ethically and morally obliged to deal with the legacy of past gross human rights violations, and were, on the other hand, reluctant to push the issue too far and thereby risk provoking the military into opting out of the rules of the yet so fragile democratic game. Thus, the matter of human rights cannot be ignored in an analysis of the transitions of Chile and Argentina if one wants to understand why the transitions came about, why the elites acted the way they did, and why the final outcomes of democratic consolidation seem to contradict the predictions put forward by recent transition theory.

My general proposition is, therefore, that those theories seeking to explain the outcomes of democratic transitions by exclusively focusing on the form of elite interaction fail on two important counts: they fail to explain why transition to democracy started in the first place, i.e. what caused the initial split between hard-liners and soft-liners. Furthermore, the predictive power of this kind of approach may be questioned, as shown in the cases of Chile and Argentina — which moreover are two of the cases on which this kind of theory is modelled. I believe these shortcomings can be attributed to a failure to capture what the elites negotiated about in the first place, and also to a neglect of civil society's response to such elite negotiations. This latter point is particularly important, because civil society response may either encourage or discourage the elites from their preferred course of action. We have already dealt with the issue of human rights in some detail, but who placed this topic on the political agenda?

5.2 Introducing new actors

The simplest answer to the above question would be “the human rights organizations did”. Who were they, how did they come into being, what did they do, how can they account for the indicated weaknesses of elite-focused transition theory, and more specifically, how can they contribute to our understanding of the differences between the Chilean and Argentinean outcomes regarding democratic consolidation?

All these questions will be answered successively in the course of this final chapter. The following analysis operates at two levels: at the more general level, I develop a perspective which is complementary to elite-

centred transition theory; at the more specific level, I account empirically for the differences in origin, development, and importance of the human rights movements in Chile and Argentina in order to explain what caused consolidation to reach further in Chile. Before giving a detailed account of the organizations, it may be useful to place them within a broader framework of civil society actors. The word new should be stressed. The non-governmental human rights organizations in post-coup Chile and Argentina in the 1970s were formed as a specific emergency reaction to a profound socio-political crisis; a reaction to gross human rights violations and general climate of repression (Frühling 1986; Hutchison 1991; Orellana 1991). Hence, they were generated by historical conditions very different from those that inspired the beginnings of the human rights movement² in the developed world. As touched upon in Chapter 3, the Argentine and Chilean military, although advocating the ideas imbedded in the national security doctrine, did not succeed in breaking down all social structures. They failed to do so in spite of banning political parties and imposing heavy censorship and minute control over most aspects of social activity, which was brought about by large-scale repression targeted at all those who dared voice opposition to the regime, or sympathized with those who did. Ironically, it was precisely the massive repression which caused civil society to react and take up the democratic struggle against the authoritarian governments.

Obviously, the human rights organizations were not the only civil society actors responding to repression, but they were the first in the public arena, compensating for the absence of other civil society actors one normally would expect to raise their voices against individual and structural repression. Left partly, although temporarily, paralysed by banning and repression, political parties only came to the foreground much later. Other organizations, such as labour unions, were largely absent from the scene of democratic struggle in both Chile and Argentina. It is worth mentioning that the Peronist-dominated trade union movement in Argentina never took a formal stand against the military government. Collectively, it never condemned the practice of gross human rights violations, although roughly 30 per cent of the victims were workers, and a large proportion of these were Peronists. In consequence, one good reason for focusing on the role of the human rights organizations is that they were the protagonists of political change, thus being present from the very onset of transition.

² The term "movement" is here used as a collective entity for several individual human rights organizations in the same sense as women's movement, religious movement, ecological movement etc. For a discussion on whether the Chilean human rights groups constitute a New Social Movement, see Orellana and Hutchison 1991.

A second reason for selecting human rights organizations for further analysis is that it was they who placed the issue of human rights violations on the political agenda, and made sure the topic was kept hot and alive throughout the transition and ensuing consolidation phase. They were the only group in society to focus exclusively on the human rights issue, and encouraged and pressured the political parties into raising this issue during the electoral campaigns. The claim to universality embodied in the idea of human rights made it a party-politically "neutral" alternative around which all opposition to the regime could join forces (Frühling 1986: 18). Without the work of this civil society group, the alliances and attempts at negotiation between outgoing military and incoming democratic elites might have taken on a very different character. Leaving all speculation aside, the human rights organizations have made it clear that one of the duties of a government wishing to call itself democratic is not only to refrain from committing human rights violations, but also to settle past accounts in order to create a climate where democracy can be developed and consolidated. Those are my reasons for focusing on the role of human rights organizations in the transition to democracy in Chile and Argentina in the rest of this chapter. Towards the end of the chapter, references will be made in some detail to other civil society actors, more specifically the Church and the political parties, since this is deemed necessary to account for the differences in achievement between the Chilean and Argentinean human rights movements, which again relates to the opposing outcomes in democratic consolidation.

What type of organizations constituted the human rights movement? As an antecedent to the discussion proper on the role and importance of the human rights organizations, an overview of the organizations in both countries will be given, giving attention primarily to their different organizational structure.³

³ It should be noted that this will be done in a very summary manner, as the intention is not to give a detailed description of each individual organization, but rather construct an impression of the main organizational differences between the human rights movement in Chile and Argentina. For a detailed description of the origins and workings of individual organizations, see Frühling 1986; Orellana and Hutchison 1991; and Veiga 1985.

5.3 The human rights organizations in Chile: Vicaría paves the way

In the subsequent, largely descriptive, analysis of the Chilean human rights organizations, only those devoted primarily and specifically to the protection of human rights will be included; 15 of them in all.⁴ First a couple of comments on conceptual clarification. There are several ways of classifying human rights organizations; either according to type, by their chronological appearance, or by their political-religious affiliation. The organizations in Chile working in the field of human rights may be divided in two main groups: the non-governmental human rights organizations (NGOs) and the human rights movements.⁵ The first group is characterized by members having the defence of human rights as their main objective, without the personal motivation of having been a victim or a member of a victim's family. They are usually organizations with at least a limited bureaucratic structure, clearly defined aims, and a high degree of professionalism. In some cases, the origin of the organization's authority may lie outside the organization itself. The aim of the NGOs is to denounce human rights violations and offer legal, medical, social, and financial assistance to the people affected by state repression. NGOs often carry out programmes of investigation or education, and their investigations are usually of a non-academic character.

In contrast to NGO members, the activists of the human rights movements are as a rule motivated into action by their close relationships with victims of human rights violations. The movements have a non-hierarchical

⁴ It should be noted that there was a wide range of organizations dealing with the matter of human rights in some form. According to Orellana, there were 52 such institutions registered in 1988, 10 of which are classified as NGOs (Orellana 1991b: 207). For practical and analytical purposes, only those organizations which have the protection of human rights as their main activity and which persisted over a long period of time will be dealt with here. The ensuing discussion is largely based on Orellana's analysis of the human rights movement in Chile, "Los organismos de derechos humanos en Chile hacía 1985", which is the most complete and comprehensive analysis of its kind (Orellana 1991b).

⁵ The terminology dealing with non-governmental human rights organizations is at best blurred. For the practical purpose of making the ensuing discussion as clear as possible, I will take the term *human rights organizations* to include both human rights *movements* (pl.) and human rights *NGOs* (see details below). However, when referring to all entities as a group, I will occasionally use the term the human rights *movement* (sg.). For a more detailed discussion of the mixed usage of these three key terms, as well as expressions such as human rights *entities* and human rights *organisms*, see Frühling 1986; Orellana and Hutchison 1991.

leader structure, and their predominant fields of action are denunciation, organizing public events, instigating action, and organizing groups of solidarity and help. Many human rights movements have their origin in, or are strongly supported by, NGOs.

In the Chilean case, these two groups of human rights organizations may be further classified into four "generations", depending on when and by whom they were founded. Those belonging to the first generation of organizations were founded by churches and were originally of an ecumenical character. *Vicaría de la Solidaridad* is the largest and most prestigious of the Chilean human rights organizations, under the protection of the Archbishop of Santiago. It was not formally founded until 1976, but was for all practical purposes at work from the very beginning after the military coup, albeit under another name: COPACHI (*Comité de Cooperación para la Paz en Chile*; Committee for Peace in Chile), also called Committee 2. The so-called Committee 1, also founded immediately after the coup, gave origins to *Fundación de Ayuda Social de las Iglesias Cristianas*, FASIC (Christian Churches' Social Assistance Foundation).⁶ Committee 1 (including COMAR, CONAR, and CALEX) was primarily founded to offer humanitarian assistance to those Latin American refugees and Chileans who needed to seek exile by helping them leave the country. The main function of Committee 2 (later *Vicaría*) was to take on judicial defense of the victims of gross human rights violations. Together the two Committees marked a trend in the Chilean human rights movement characterized by diversity and division of labour; those organizations openly confronting the military by demanding justice, and those working silently by offering various kinds of direct assistance to victims of repression (Orellana 1991b). Another ecumenical Christian organization, *Servicio de Paz y Justicia*, SERPAJ (Service for Peace and Justice), was founded in August 1977. The fourth and last institution in this category is of an academic character; the *Programa de Derechos Humanos de la Academia*

⁶ It should be emphasized that COPACHI (*Comité de Cooperación para la Paz en Chile*) from day one enjoyed wide-spread support from practically all the churches in Chile: the Catholic, Orthodox, Lutheran, Methodist and other protestant churches, as well as the Israel Community (*Comunidad Israelita*) under its Rabbi. Only the Pentecostal Methodist Church, which constitutes the large majority of the protestants in Chile, refrained from collective participation in COPACHI. Its ecumenical character helped COPACHI draw a lot of support from the World Council of Churches. FASIC has representatives from the Methodist, Catholic, Catholic Orthodox, Evangelical Lutheran, and the Methodist Pentecostal churches (Orellana 1991b: 24).

de Humanismo Cristiano, PDHAHC (Human Rights Program of the Academy of Humanism and Christianity)⁷, founded in 1979.

Human rights organizations belonging to the second generation were founded on the initiatives of family members of the victims and constitute the so-called human rights movements. They include *Agrupación de Familiares de Detenidos Desaparecidos*, AFDD (Association of Families of Detained Disappeared Persons, 1974), *Agrupación de Familiares de Presos Políticos*, AFPP (Association of Families of Political Prisoners, 1976), *Agrupación de Familiares de Ejecutados Políticos*, AFEP (Association of Families of Executed Political Activists, 1978), *Comité Pro Retorno de Exiliados*, CPRE (Committee on the Return of Exiled Persons, 1978), *Protección a la Infancia Dañada por los Estados de Emergencia*, PIDEE (Protection of Children Damaged under States of Emergency, 1979), and *Agrupación de Familiares de Relegados y Ex-Relegados*, ARAREL (Association of Families of Displaced and former Displaced Persons, 1980). As their names indicate, these family-based organizations all had a very specific work field as they principally concentrated their action on behalf of a particular group of victims: detained-disappeared, political prisoners, executed political activists, exiled, children, or displaced persons. Their numbers indicate a high degree of specialization.

Third generation organizations devoted to human rights are characterized by being founded as a result of formal political agreements between personalities and political organizations. Several years after the coup, the political parties finally started to assume responsibility for the defence of human rights, a field which until then had been dominated by the churches as the only civil institution, aided by volunteers from the organizations of families. The most important of these third generation organizations is the *Comisión Chilena de Derechos Humanos*, CCDH (Chilean Commission on Human Rights), founded in 1978 by lawyers and headed by persons of varying ideological backgrounds who had held high political positions in the past. *Comisión Nacional Pro Derechos Juveniles*, CODEJU; a pluralist conglomeration of young people of varying political persuasions, founded in 1978, *Comité de Defensa de los Derechos del Pueblo*, CODEPU; devoted to the popular defense of the people — *pueblo*, founded 1980, together with *Comisión Nacional Contra la Tortura* (National Commission on Torture), founded 1983, constitute the rest of the third generation organizations. It should be noted that although these are the most political organizations, with many of their members linked to political parties, the

⁷ The English translation is my own. To make the presentation simpler, the unofficial acronym PDHAHC shall henceforth be used.

organizations are of a very pluralist character and should not be regarded as a mere projection of political parties.

To the fourth generation belongs only one organization: *Movimiento Contra la Tortura "Sebastián Acevedo"*, MCTSA (Movement Against Torture "Sebastián Acevedo"), founded in response to the renewed wave of repression following the aforementioned upsurge of civil society protest in 1983. It differs from the other organizations by being a pluralist organization of individual clergy and lay men, strongly devoted to the fight against torture by non-violent means only.

Due to the high number of human rights organizations and their relatively high degree of diversity and specialization, a move to coordinate all these organizations started in Chile in 1980 and solidified in 1984 in three coordinating groups: (1) *Plenario de Entidades de Derechos Humanos* (Human Rights Plenary), covering nine organizations, (2) *Comisión Coordinadora Problema Exilio-Retorno* (Coordinating Committee on the Problem of Returned Exiled Persons), covering six organizations, and (3) *Coordinación de Agrupaciones Especiales* (Coordination of Special Groups), covering five organizations; mainly those of the families of the victims of repression. These three coordinating committees aimed at making the human rights movement more efficient by strengthening the effect of their work through coordinated action, and has had a positive unifying effect on the Chilean human rights movement.⁸ The Human Rights Plenary in particular led numerous national campaigns for "truth and justice" from 1984 onwards (de Brito 1993: 585).

5.4 The human rights organizations in Argentina: The Mothers take the lead

The *Madres de Plaza de Mayo*, or Mothers of Plaza de Mayo, attracted the world's attention through their non-failing marches around the monument on the Plaza de Mayo in front of the presidential palace. Every Thursday afternoon for the past seventeen years, these brave, combative mothers have been observed with their white head scarfs demanding the return of their disappeared children. The Mothers have become a concept in Argentina as well as outside this country's borders. Their non-violent protest against the military dictatorship in Argentina formed the core of the human rights movement, contrasting with the Chilean situation where bureaucratic

⁸ For a more detailed account of the structure of these three collective entities, see Orellana (1991b: 57-58).

Vicaría under auspices of the influential Catholic Church led the way. The Argentinean human rights organizations also differ from their Chilean counterparts on a number of other points, which may be summed up as follows: the existence or absence of human rights organizations prior to the coups; the emergence of generations of organizations; the types and number of organizations; the importance of the family-based movements vis-à-vis the bureaucratic NGOs in general, and finally, their field of action or specialization.

Unlike Chile, where all the human rights organizations emerged in direct response to the governmental repression after the coup in 1973, two human rights organizations already existed prior to the 1976 coup in Argentina; a fact which is obviously related to differences in the political history of the two countries.⁹ The *Liga Argentina por los Derechos del Hombre* (Argentinean League for the Rights of Man), henceforth referred to as the Liga, could boast an almost fifty year existence. It was founded in 1937 in response to the prosecution of Communists under the military regime of Uriburu. The Liga kept a low profile during the first years after the coup due to its affiliations with the Communist Party (Orellana 1991c: 152; Veiga 1985); a point we will get back to in section 5.9. The Liga remained the lone advocate of human rights in Argentina till the upsurge of violence, effected by left-wing terrorist groups as well as the Triple A under Isabel Perón's government, gave rise to the *Asamblea Permanente de los Derechos Humanos*, APDH (Permanent Assembly on Human Rights), on 18 December 1975, i.e. shortly before the military coup. It may be worth reiterating that two of the co-founders of APDH were president-elect Raúl Alfonsín and Adolfo Pérez Esquivel, who was rewarded the Nobel Peace Prize in 1980.

The remaining human rights organizations in Argentina emerged during the dictatorship. According to Orellana, they did not really gain momentum till *Centro de Estudios Legales y Sociales*, CELS (Centre for Legal and Social Studies) was formally established in 1979, due to the heavy prosecution of lawyers taking on the defense of victims of human rights violations (Orellana 1991c: 152).¹⁰ To the extent that one may speak of generations of organizations in Argentina, the ones bearing political

⁹ There is only one exception in the Chilean case, namely the establishment of the Committee of the Defense of Human Rights, CODEHS (*Comité de Defensa de los Derechos Humanos*) in 1972, headed by trade union leader Clotario Blest. However, this organization was small and relatively insignificant and ceased to function in 1976. It has therefore not been included in the above analysis.

¹⁰ For non-exclusive list over disappeared lawyers, consult *Nunca Más* (1991: 431-34).

affiliations were founded prior to the coup. Then came the family-based movements, and lastly the organizations linked to various churches. The Catholic Church is notorious for its absence in the matter of human rights in Argentina. It therefore fell on the families of the victims of repression to first mobilize, which is also why the family-based movements in Argentina gained much greater relative importance than their Chilean counterparts. There were three central movements in Argentina, all forming in explicit response to the practice of abduction followed by disappearance.

Familiares de Desaparecidos y Detenidos por Razones Políticas y Gremiales, FDDRPG (Association of Families of Disappeared and Detained for Political and Trade Union Activity)¹¹ was formed at the end of 1976. The *Madres de Plaza de Mayo* has been previously mentioned. The group, counting only 13 women at first, expanded into an organization of some 3,000 women, constituting the back bone of the human rights movement in Argentina. The *Abuelas de Plaza de Mayo* (Grandmothers of Plaza de Mayo) started informally as an offspring of the Mothers, already in 1977, but was publicly registered as a separate organization only in 1983. As its name indicates, this organization was specifically devoted to the search of disappeared grand-children; a unique Argentine phenomenon.¹² The practice of abducting children has presented an ongoing problem in Argentina as the issue has been and will be kept alive as long as the search for the disappeared children continues. The international media's focus on every new case, makes it hard for the nation to close its past.

Out of the third group of organizations, the bureaucratic NGOs, *Movimiento Ecumenico por los Derechos Humanos*, MEDH (Ecumenical Movement for Human Rights) was the first to come to the fore.¹³ Based

¹¹ The English translation is my own. So is the abbreviation FDDRPG, which will be henceforth be used to avoid the frequent use of long and cumbersome names.

¹² The Grandmothers have worked in close cooperation with *Equipo Argentino de Antropología Forense* (Argentine Forensic Anthropological Team), a group of young medical forensic doctors under the leadership of Clyde C. Snow, who has developed a new genetic method of identifying the family of a dead person. Through careful and painstakingly slow work, this team has helped the Grandmothers to identify in all 51 of the 217 grandchildren reported detained-disappeared. 25 have been returned to their maternal grandparents (*Amnesty Nytt*, No. 1, Feb. 1993, p. 4). For a detailed account of the work of the Forensic Team, see Salama 1992.

¹³ MEDH had its basis in the Methodist Church, but was soon joined by the Argentine Evangelical Methodist Church, the Catholic Diocese of Quilmes, the Argentine Reformed Church, the Evangelical Church of Río de la Plata, the Valdese Evangelical Church, the Evangelical Disciples of Christ, the Church of God, and the Lutheran Unitary Church (Veiga 1985: 102).

on the model of Chile's *Vicaría*, it was formed in 1976 by people of various denominations, uniting to offer legal assistance and social and economic help to the families of political prisoners and disappeared, together with the Liga. In 1979, *Centro de Estudios Legales y Sociales*, CELS (Centre for Legal and Social Studies) was formed by a group from the APDH in order to take charge of one particular task the APDH did not have the capacity to deal with, namely the filing of individual complaints of disappearances and presentation of the cases to the military tribunals. CELS gained formal status as an NGO in 1980. One more organization merits notice, although it is not a specifically Argentinean NGO, but rather a branch of a larger Latin American peace movement; *Servicio para la Paz y Justicia en América Latina*, SERPAJ (Service for Peace and Justice in Latin America). It was coordinated by Esquivel who, due to his international fame and the organization's branches in many Latin American countries, was able to draw the world's attention to Argentina. There was no specific coordinating organ for the human rights movement in Argentina, although the organizations grouped together according to line of action and ideology. The Liga cooperated closely with MEDH and APDH, whereas the Mothers and CELS constituted the other main block (Veiga 1985: 22). The lack of coordinated action and unity of the Argentine human rights movement had a negative impact on President Aylwin's human rights policy, as touched upon in the previous chapter, and which will be further commented on in section 5.7.

5.5 Comparing and contrasting the NGOs and movements

The presentation above has inevitably been overloaded with acronyms. In order to facilitate the overview of the human rights entities in Chile and Argentina, I have therefore made an effort to draw a schematic comparison between the organizational structure of the two countries' human rights movements. While comparing and contrasting, focus has been placed on such aspects as type of organization (NGO versus movement), origin/affiliation (religious, family, political party), and special characteristics or work areas.

The following important points should be noted in this overview: there exist organizations of all three categories in both countries, founded by churches or families, or bearing close ties to political parties. The Chilean bureaucratic NGOs have Argentinean counterparts, with one notable exception: the absence of a Catholic-based NGO in Argentina, i.e. there is no Argentinean equivalent to Chile's *Vicaría*. Also, the Chilean human rights movements are more numerous and more diversified than their

Argentinean counterparts. Just a brief comment on their specialization: all the Argentine human rights organizations, without a single exception, had the problem of the disappeared as one of their principal work areas, whereas only nine out of the fifteen organizations in Chile listed disappearance as one of its main themes of action (see Appendix D). This is perhaps not surprising when taking into account the different forms of repression in the two countries; the method of detained-disappearance being employed on a much larger scale in Argentina than in Chile.¹⁴

Table 4
Human rights organizations in Chile (1976-1990) and Argentina (1976-1983)

<i>Type of organization</i>	<i>Basis for organization</i>	<i>Special characteristics/ work areas</i>	CHILE	ARGENTINA
<i>Non-governmental organization (bureaucratic)</i>	Religious	Catholic	Vicaría	
		Ecumenical	FASIC PDHAHC SERPAJ	MEDH CELS SERPAJ
	Non-religious	Political	CODEJU CODEPU	Liga
		Non-political	CCDH	APDH
<i>Movement (non-bureaucratic)</i>	Family	Detained-disappeared	AFDD	Madres Pl.M. FDDRPG
		Political prisoners	AFPP	
		Exiled	CPRE	
		Executed politicians	AFEP	
		Children	PIDEE	Abuelas Pl.Mayo
		Relegation	AFAREL	
		Torture	CNCT MCTSA	

Sources: Frühling 1986; Orellana 1991; Veiga 1986.

Note: The most important organization in each country is emphasized.

¹⁴ For a summary of the classification of the human rights organizations in Chile and Argentina according to generations, year of foundation, origin and type of organization, plus a specific reference on the concentration of detained-disappearance, consult Appendix D.

After this summary presentation of the two human rights movements, we will now proceed to the actual working and achievements of these new civil society actors. Again, the analysis operates on two levels; on the one hand to empirically show that civil society, exemplified by the human rights organizations, did indeed have a say in the transition to democracy, and on the other hand, to point out the difference in achievements between the two countries. Because the analysis operates on several levels and with several sets of actors, the study has for purposes of clarity been organized in the following manner: the role of human rights organizations in the transition phase is the topic for the next section, whereas a treatment of the consolidation phase is left for section 5.7. Although cutting across the two phases, I reserve until the end a closer treatment of the Catholic Church and the political parties, because I believe the relationship the human rights organizations bore to these two groups of civil society actors influenced their different achievements, which again is relevant for the theoretical points of our discussion.¹⁵

The main argument to be pursued in the following section is that the importance of the human rights organizations in the transition process of Argentina and Chile rests with their accomplishment of building up new while simultaneously strengthening existing social structures suppressed by the military government, thereby contributing to the mobilization of civil society as a counterweight to authoritarian rule, and furthermore placing the issue of human rights violations explicitly on the political agenda. This may be summed up in two words: mobilization and delegitimation.

5.6 The role of human rights organizations in transitions to democracy

What has been the role of human rights organizations in political activity under the military regime, and what role have these groups played in the reconstruction of the social and political system during the transition to political democracy? (Hutchison 1991: 71).

¹⁵ It should be mentioned that various scholars, such as Stepan, have drawn a line between institutions of civil society (religious groupings, women's associations, cultural and ethnic organizations) and institutions of political society (political parties, elections, legislatures), in which the polity contests for state power (Stepan 1988: 3-4). In this thesis no distinction will be made between the two groups. Human rights organizations and political parties will for practical purposes be treated as part of civil society in the analysis of reactions to state repression.

The discussion will be structured in three parts: the cause for mobilization, the way the mobilization was carried out, and the effects this work had on further mobilization and eventually on the delegitimation of the authoritarian regimes. What interests us is not so much the work of the human rights organizations *per se*, as what effect or importance their various functions had in the political and social processes we are dealing with. Has the work of the human rights organizations in Chile and Argentina been of a purely symbolic value, or have the organizations also had a more direct political impact?¹⁶

“The human rights movement is...a reaction of civil society in order to compensate for the lack of justice, which the State, for political reasons, fails to provide” (Orellana 1991c: 151). In other words, spurred by the inefficiency of the tribunals of justice to secure the respect of individual rights guaranteed by the State, the initial and final aim of the human rights organizations emerging in response to the brutality of the military regimes was to restore the right of law and the state of law. By reacting to injustice — an instantaneous reaction in Chile as opposed to slower reaction in Argentina — the human rights organizations achieved two things: on the individual level, they repaired some of the damage caused by repression directed at individuals; and on the structural level, they repaired and strengthened a social fabric marred by institutional state repression. The ultimate combined effect of these two achievements was to facilitate the delegitimation of the authoritarian regime by spurring mobilization against the military rulers, thus causing splits in the top leadership; i.e. the classic hard-liner/soft-liner *problématique*.

The most important immediate role of the human rights organizations was to augment the opening up of space for the reconstruction of political and social forces, which marked the onset of the transition itself. As discussed in the fourth chapter, the onset of the Chilean political transition has been dated to the national protests in 1983, and that of Argentina to 1981, when General Viola’s taking office marked a significant change in the military junta’s policies vis-à-vis civil society. I have earlier maintained that the *apertura* initiated from above is likely to have come in response to perceived opposition. What is clear is that the human rights organizations

¹⁶ Since there is an inherent danger that human rights activist may be inclined to attribute undue importance to the role of human rights organizations in the democratization process, I have tried to balance the ensuing discussion by including information from written sources in addition to the information conveyed by my informants through interviews. Among the writers not specifically devoted to the human rights cause are Burns 1987; Guest 1990; and Sikkink 1993.

in both Chile and Argentina, joined gradually by members of the banned political parties, were actively voicing opposition prior to what has been called the formal onset of transition. For instance, international attention was first drawn to the Argentinean situation with the visit of Amnesty International in 1976, and the subsequent publishing of *Report of an Amnesty International Mission to Argentina*, which influenced international funding for the human rights organizations, thereby facilitating and encouraging their work. Another event having a profound impact on international, and particularly U.S., opinion was the release by Argentine authorities of the journalist Jacobo Timerman in 1979 — conveniently coinciding with the visit of the Pope to Argentina — and his publication of the book *Prisoner Without a name, Cell Without a Number*, which became an international bestseller (Sikkink 1993: 424-25).

The work of the human rights organizations was, however, surrounded by a high degree of uncertainty, as the military juntas counted on the virtual silence of the political parties and the trade unions till 1979 (Sondereguer 1986: 84). The visit of the Interamerican Commission for Human Rights in 1979 was therefore a great encouragement to the human rights movement, as was the awarding of the Nobel Peace Prize to human rights activist Esquivel in 1980; another decisive victory for the human rights movement in Argentina. The Mothers had also been nominated for the same prize. In spite of the courageous work of the Mothers, however, “until the final run-up to the Falklands War, human rights had been largely a taboo issue... (and) those who dared protest publicly were numbered in hundreds rather than in thousands, and the political impact of their efforts was restricted because of the self-censorship imposed by the media” (Burns 1987: 111). Although the domestic short-term political impact may not have been all that great, international attention was drawn to the matter, and the issue could no longer be effectively ignored by the military junta. The situation in Chile was similar: the massive roundups of people to football stadiums and bodies floating in rivers drew the world’s attention to Pinochet’s regime within weeks of its installation.

There was another more immediate effect of swift mobilization in Chile. Because Committee 1 and Committee 2 started their work right after the coup, the Chilean human rights organizations were able to mobilize at an earlier stage than their Argentinean counterparts. This was significant in that the military in Chile was forced to deal with opposition from the very onset of its regime, whereas the military juntas in Argentina enjoyed a period of grace before the Mothers of Plaza de Mayo began to become troublesome a couple of years after the coup, by which time the most intensive period of massive repression was coming to a close. The

immediate protest in Chile, although very small at first, gained momentum rapidly. The open, visible repression in Chile, which contrasted with the practice of secret large-scale detained-disappearance in Argentina's dirty war, encouraged protest. The fact that protest was spontaneous and immediate in Chile may be a partial explanation to why there was a remarkable decrease in repression in Chile only three months after the coup. In Argentina the practice of detained-disappearance was maintained at a high level for the first three years of military rule.

A second important point related to the instant reaction of civil society in Chile, was the military's decision to introduce the practice of forced exile rather than execution or massive disappearance, which the government felt would be much more damaging to its reputation in the international community. The unintended side-effect of the large-scale exile of perceived opponents was, of course, the active organization of Chileans abroad at a very early stage after the coup, which contributed to the drawing of international attention as well as strengthening the internal opposition in Chile. The Argentine juntas, learning from Pinochet's mistake, kept the number of exiled and executed to an absolute minimum, thereby also weakening the potential for protest (Burns 1987: 156). Mobilization of opposition in Argentina was as a result much slower than in Chile.¹⁷ The significance of the different position taken by the Catholic Church has been reserved for later treatment; suffice it to say here that the Chilean human rights movement greatly benefitted from the pro-human rights attitude of its church, whereas the Argentinean human rights movement had to fight the battle against repression very much on its own, particularly during the first few years after the coup.

Once the human rights organizations had gained some political space and public acceptance, the military regimes found their chances of applying unrestricted repression limited. With large segments of the society in explicit opposition to the regime, the military was forced to tread more carefully in order to avoid further delegitimation. Pressure from the HROs may thus be said to have had a preventive effect in that repression would probably have been more extensive and severe without the moral and legal criticism of human rights violations. This, of course, is hard to prove; it is a purely hypothetical question whether the situation would have been any

¹⁷ It should be noted, however, that the first public demonstration against the military regime in Argentina was carried out already in October 1977, the year after the coup. It was organized by the Association of Families of Disappeared and Detained for Political and Trade Union Activity, received a minimum of local press coverage, and resulted in the detention of 350 demonstrators (Veiga 1985: 75).

different had not the HROs been there. What we do know is that the information spread through various HRO programmes gained national attention and raised international concern, to which the military governments were forced to respond. It is worth noting that the birth and growth of human rights movements in Chile and Argentina in the 1970s benefitted greatly from world-wide strengthening of human rights movements in a number of other countries and a general international climate of growing concern for human rights.¹⁸

It has been pointed out that authoritarian governments are not immune to criticism, as they wish to retain a certain sense of legality in the international community. According to Sikkink, the Argentine military government was “extremely concerned about international human rights pressures and condemnations” (Sikkink 1993: 426). Any information indicating that they were violating international law with respect to human rights was therefore damaging to their reputation. The Mothers of Plaza de Mayo have to be awarded the main honour of drawing international attention to the fate of the disappeared and securing funding for their own work as well as that of other HROs.¹⁹ Once they had attracted the attention of foreign journalists, it became harder for the military juntas to ignore them — and also much more costly to silence them. The military junta made the fatal mistake of allowing them to organize in the first place. Once the organization was a fact, and the attention was won by the foreign press, the Mothers toured Europe and the United States on the invitation from numerous governments and NGOs in other countries. Likewise, external pressure on the Chilean military government was largely due to the objective documentation of gross human rights violations published by the NGOs, which cooperated quite effectively with Chileans living in exile and non-governmental human rights organizations in other countries.

Parallel to drawing international attention to their cause, the human rights organizations, by being present and active long before the formal onset of the transition, silently prepared the groundwork for more explicit

¹⁸ The International Declaration of Civil and Political Rights and the International Declaration of Economic, Social, and Cultural Rights, both of 1976, are indicators of the rising concern for human rights and the growing interest in making it a world rather than a national matter. Both Chile and Argentina have signed the Universal Declaration of Human Rights.

¹⁹ Much of the funding of the domestic human rights organizations in Argentina has come from European and U.S.-based foundations (Sikkink 1993: 425). The Mothers of Plaza de Mayo received grants from Dutch churches and the Norwegian Parliament, and the Ford Foundation provided funds for CELS and the Grandmothers of Plaza de Mayo.

mobilization. More specifically, this was achieved through the various programs the human rights organizations carried out; programs that were gradually expanded and tolerated, and which, little by little, won influence on state policies. Of prime importance was the human rights organizations' contribution to strengthening the judicial system, whose dealings had taken on an increasingly farcical tone during the dictatorship in both countries. Legal assistance programmes became crucial. Most of the professional organizations had lawyers working for them, preparing and presenting thousands of *habeas corpus* to the tribunals. The absence of a functioning judicial systems in both countries meant that the human rights organizations was the only body providing a means of guaranteeing the rights of the individual citizen. In addition to making the government aware that there was a reaction to repression, the practice of assistance strengthened those individuals deprived of protection from the state and helped them organize and mobilize.

It is of utmost importance that the human rights organizations in both countries played a crucial role in the mobilization phase by contributing actively to the rebuilding of individual and collective strength through the various aspects of their work. The registration of human rights violations by means of accepting reports from victims and family members, had two principal effects, one psychological and one purely practical. Those filing their complaints received compassion and sympathy, and through contact with other victims or family members their ability to protest was strengthened. The formation of human rights organizations, especially those classified as movements, thus contributed to solidarity among the victims and their families by strengthening their position vis-à-vis the military governments through joint action. Legal defence programmes offered the chance for defendants to communicate with the outside world. Psychological assistance programmes helped reintegrate victims into social life and hence to reassume their political and social roles. Education programmes helped revitalize democratic ideals. In short, the human rights organizations provided the opportunity for professionals, politicians, and family members of victims of repression to unite their forces in mobilizing against the regime in circumstances where political activities were forbidden.

The early establishment of church-affiliated human rights organizations in Chile subsequently paved the way for other human rights organizations, including those having a clear political profile: CODEPU and CODEJU. The formation of a large human rights movement served as a broad base for the training of political leaders, who transferred their efforts to the political parties once these started to gain ground. This was of particular benefit to the Chilean political parties of the Left. The Christian Democratic

Party enjoyed a higher degree of tolerance from the regime than did the other parties. It is significant that the formally recognized opposition in Chile, including the political parties as well as the HROs, was firmly established in 1983, i.e. seven years before the formal reintroduction of democratic rule. In Argentina, by contrast, liberalization largely overlapped with the democratization phase, leaving a very short space of time for the opposition forces to organize and agree on a political programme. The speed of the transition favoured the Argentine democratic forces in that the military failed to obtain favourable terms for their exit from political power, but the other side of the coin was that the opposition forces were left highly unorganized and uncoordinated. This in turn came to have an unfavourable impact on consolidation and reconciliation, thus resulting in final outcomes opposite to those predicted by elite-focused transition theory.

One may of course be entitled to raise an objection to this line of argument by pointing out the following: if the opposition in Chile was so much stronger and better organized than that of Argentina, why did the Chilean transition take so long? It is not the task of this study to provide an analysis of why the military regime in Chile proved to be so much more durable than that of Argentina, in spite of Chile's long democratic pre-coup tradition. Very briefly, the interpretations offered to this seemingly paradoxical situation have focused on aspects such as the difference between Pinochet's personal consolidated one-man rule versus the shifting alliances and factions within the Argentine military. Partly due to the economic mismanagement of the Argentine juntas, a severe economic crisis spurred a wave of discontent which the military tried to convert into support by playing on the strings on nationalism when entering the Falklands/Malvinas war. Ironically, the catastrophic consequences of this ill-prepared move led to the final downfall of the military regime. It is true that Chile faced a similar, although less severe, economic crisis in 1983, spurring protest, followed by liberalization. Nevertheless, Pinochet managed to consolidate his power due to the still fragmented and weak character of the opposition and the support of a united military.²⁰ One may conclude from this digression that the opposition in Chile had ample time to work out a viable alternative to Pinochet's sovereign rule between the political opening in 1983 and Pinochet's final electoral defeat in the 1988 plebiscite. We will shortly return to a more detailed discussion on how this time span allowed links between the human rights movement and the political parties in Chile to develop and solidify, as opposed to the Argentinean situation,

²⁰ See Remmer 1991 for an account clarifying the consolidation of the Pinochet regime.

where these two groups of civil society took on an antagonistic position rather than a spirit of cooperation.

I would like to sum up the above discussion by emphasizing two of the most important achievements of the human rights movement in Chile and Argentina: they functioned as openers of political space, contributed to the revitalization of civil society, and through their persistent demands, they managed to place the issue of gross human rights violations in the political agenda, thereby attracting the attention of the world as well as that of their own countrymen.

Before moving on to the consolidation phase, let us briefly recapitulate Przeworski's argument that transition is always initiated by splits within the authoritarian block. My question is, why does a coherent ruling military elite suddenly fragment? It was suggested in the elite-focused analysis in Chapter 3 that the military rulers disagreed on whether to open up for liberalization or not. But why was the question raised in the first place? One of the reasons, I believe, lies in the fact that the military soft-liners started to feel uncomfortable when they received persistent international criticism for their massive human rights violations. Moreover, this international criticism led to partial international diplomatic as well as economic isolation, which negatively affected the economy, and in turn provoked a lot of unrest in the two societies; the crisis which spurred the Argentine junta to launch the Falklands/Malvinas war of 1982, and the wave of protest in Chile in 1983. This outburst of visible unrest was a result of discontent building up over time, which finally found an outlet after civil society had fortified its new and old structures, i.e. the human rights organizations and the political parties. The governments in both cases were at last forced to explicitly respond to the demands of the public. We already know the end result: military defeat in Argentina, and the military initially regaining control in Chile only to be beaten at their own game in an unexpected electoral defeat several years later. That brings us over to the role of human rights organizations in the actual phase of regime change and the ensuing phase of democratic consolidation.

5.7 Accounting for the paradox of democratic consolidation

At the very beginning of this study I stated the hypothesis that Chile in many ways has found a more palatable solution to the legacy of past gross human rights violations than has Argentina, in spite of the famous trials of the generals in Argentina. It is time to point out how the human rights organizations contributed to this apparent paradox.

Before analyzing the differences between the collective achievements of the human rights movements in the consolidation phase with respect to the problem of past gross human rights violations, a few comments on their commonalities may be relevant. We know that the human rights organizations lost some of their prime importance as other civil society actors, in particular the political parties, entered the scene of the democratic game. The direct effects of human rights organizations on state policy were probably few, since there was very little contact between the organizations and the military, and consequently hardly room for dialogue. Nevertheless, there is reason to claim that the human rights organizations had a substantial indirect influence on the military through their links with the political parties, who participated in the elite negotiations in the transition processes, as discussed in Chapter 4.

Leaving aside the connection between the political parties and the human rights organizations for the moment, the success of the human rights organizations in encouraging the political parties to raise the banner of human rights remains a fact. María Sondereguer notes that in the case of Argentina, human rights became a public topic in 1980, and that in the course of 1981, "the subject was gradually adopted by the political and social forces" (Sondereguer 1986: 84). In Chile the human rights issue had become one of the central banners of the social protests of the mid-1980s (de Brito 1993: 585). How else can one explain the prominence of the issue of human rights violations gained in the run-up to the election campaign in Chile, or the extreme pressure placed on Alfonsín to resolve the problem of crimes committed under authoritarian rule in Argentina?

The human rights organizations may not have had much direct say in the elite-negotiated transitions, but their work created a climate of awareness and expectation among the public which increased the temperature of the negotiations further up the hierarchies of the political parties and the military echelons. As concluded in the previous chapter, the key to the reversal of the initial human rights policy in Argentina after the formal restoration of democracy was public pressure brought about by poor expectation management, which in turn provoked the military to close their ranks and demand immunity from prosecution.

5.7.1 Information

Apart from placing the topic of human rights violations on the political agenda, the human rights organizations in both countries specifically contributed to the different outcomes in the post-coup human rights policy

on two measures, namely through the information they provided to the presidents on human rights violations, and secondly, on the way they reacted toward the proposed and effectuated policies concerning this issue. Information and unity are key words. The importance of the documentation centres became evident when the *Sábato* and the Rettig Commissions were formed to carry out investigations of the human rights violations committed under military rule. In fact, it is doubtful whether the presidents would have put forward such a measure at all had not the organizations gone through the painstaking process of gathering information about the crimes committed against individual human rights under military rule as well as publicly demanding the revealing of the facts of state repression after the restoration of democracy. However, there were differences in the information gathering in the two countries which gave rise to dispute over the real number of victims; as will be recalled, a hot topic in Argentina at the time of regime change.

Due to its accurate registration practices and its large and active exile population, the Chilean human rights movement, particularly its bureaucratic NGOs, had managed to build up an impressive body of documentation. This was specifically due to early and meticulous registration practices of the Chilean HROs, above all *Vicaría*, FASIC, and the Chilean Commission on Human Rights. The system of registration in Chile is reported to be one of the most unified, efficient and complete in all of Latin America, facilitated by the active involvement of lawyers from the very onset of military rule, and later perfected through the use of computers and advanced techniques of classification and registration towards the end of Pinochet's rule. International human rights organs, such as the United Nations General Assembly and the Inter American Commission for Human Rights, have extensively referred to documentation published by, and methods used by, the Chilean NGOs, especially by the *Vicaría* and the Chilean Commission for Human Rights (Frühling and Orellana 1991: 53). The UN passed a number of resolutions condemning the Pinochet government. Some judicial processes, such as the trial of three left-wing Chilean activists in March 1985 gained much publicity, and hence had a great political impact (Frühling and Orellana 1991: 54). The resulting international isolation of the Chilean military government caused divisions with the most progressive forces in the government which took the position that internal security policies had to take international reactions into account, i.e. a classic hard-liner/soft-liner split.

In Argentina the registration practices were less accurate and started at a much later stage than in Chile. Since the Mothers were primarily concerned with protesting against the regime through collective action, the

registration practices were left largely to the bureaucratic NGOs, such as APDH and CELS. CELS, we know, did not start functioning till 1980, well after the main period of repression was over. Because the bureaucratic organizations working on the registration and documentation of human rights violations remained in the background for quite a while after the coup, it meant that much valuable information was lost. The work of presenting *habeas corpus* in Argentina was made very difficult due to the prosecution of lawyers who took on cases of victims of repression. At least 25 lawyers were killed in 1975, and 109 more disappeared; roughly 100 of them between March and December 1976 alone (*Nunca Más* 1991: 417-18). In Chile, on the other hand, no human rights lawyers disappeared or were assassinated, although a few were imprisoned or exiled.²¹ This total disrespect for the judicial system and those associated with it in Argentina severely hampered the documentation practices. The bombing or raiding of human rights organizations headquarters was not uncommon. In short, it was very risky to work with the victims of human rights violations. The absence of Church protection made the situation worse. Another fact slowing down the documentation process was the very nature of repression. When people started disappearing right after the coup, it was believed that they were just imprisoned. It took some time before the families of the victims realized that they were actually seemingly nowhere to be found and started to organize. It is not without reason that those drawing most international attention in Argentina were not primarily the NGOs, but rather the voices of the Mothers of Plaza de Mayo. Serious splits within this organization brings us to the second factor accounting for dissimilarity between the human rights movements in Chile and Argentina, which have affected the process of consolidation, namely unity versus disunity.

5.7.2 *Unity versus disunity*

It has been pointed out that the Chilean human rights movement managed to retain a remarkably high degree of unity in the transition phase in spite of its organizational numerical and ideological diversification. From the Catholic right-wing to the militant left-wing, they all united around the human rights issue and offered full assistance to Aylwin's policy of human rights. In Argentina, by contrast, there was no coordinating organ, and

²¹ José Zalaquett were one of those exiled. Information about the respect for lawyers in Chile was given by lawyer Jorge Mera in an interview with the author in Santiago, 27 May 1993.

consequently a wide range of opinions as to how to act in the transition phase. The Mothers of Plaza de Mayo was the organization with the largest mobilizing effect in Argentina, but their strength in confronting the military turned to weakness in the transition to democratic rule when the Mothers maintained their militancy and confronted the new government with accusations of being no better than its predecessor. The Mothers refused to cooperate with the other human rights organizations, thus severely reducing their collective bargaining power. It is symptomatic that an internal split, leading to the formation of two formal groups of Mothers, further damaged the unity of the human rights movement in Argentina. The smaller group, moderate in their position, took the name *Madres de Plaza de Mayo Línea Fundadora* (founding line), whereas the larger radical group, headed by Hebe Bonafini, retained the original name. Both groups have had as their main aim to demand legal justice for those responsible for the disappearance of their children, but they hold contradictory opinions as to how to go about reaching their goals. The main issues of dispute are cooperation with the democratic government (first the Alfonsín government and now that of Menem), as well as other human rights organizations, and the question of exhumation of graves in order to identify, where possible, the disappeared. The *Madres de Plaza de Mayo Línea Fundadora* took a stand of cooperation, lending their full support to the work of the Sábato Commission and the Alfonsín government's attempts at consolidation. In the matter of exhumations, the progressive group of the Mothers support the Grandmothers in their search for their grandchildren, thereby also agreeing to the exhumation of graves in order to identify, where possible, at least some of the victims. The uncompromising spirit of the radical group of Mothers headed by Hebe Bonafini has led to their gradual isolation. Today the Mothers stand largely alone in Argentine society, isolated from the other human rights organizations. An example of their uncompromising attitude is their refusal to sign common petitions or to participate in press conferences together with other HROs, who they consider as traitors.²²

The strength of the Chilean human rights movement lay first and foremost in their ability to retain unity during the final stage of transition, their well-established links with political parties, and their initial support of the Aylwíns' human rights policy, as shown in their largely unanimous acceptance of the *Informe Rettig*. As previously pointed out, the universal acceptance of the figures presented in the governmental report on human

²² This information was given by representatives of the Grandmothers and both groups of Mothers in interviews with the author in Buenos Aires, June 1993. Various secondary sources confirm this information.

rights violations was largely attributed to their efficient documentation practices, which left the figures virtually undisputed. Also, the Chilean human rights organizations refrained from demanding total justice, thereby not pressing Aylwin to adopt a strategy he could not sustain.

In Argentina this was not the case. The figures of the disappeared caused major disputes and verbal confrontations with Alfonsín's government. The *Nunca Más* was considered only a step towards full legal justice. It was the demands for full-fledged punishment of the "military assassins" that made the headlines in Argentine press in 1985. When their high expectations of *Castigo a los culpables* – the Mothers' claim of punishment of the guilty – attached to the trials were left shattered after the limited sentences and later pardon of the generals, the human rights organizations in general, and the Mothers in particular, did not offer much in terms of support for the new democratic government. In consequence, President Alfonsín's efforts at staking out a sustainable policy in the field of human rights proved much more problematic and less successful than the road embarked on by President Aylwin in Chile, where expectations were lower, presidential promises less high-tuned, and the gap between the two significantly smaller, which is what I believe ultimately accounted for the substantially different outcomes in the two countries with respect to reconciliation in the human rights matter.

So far, I have treated the human rights organizations in isolation, well aware of the fact that they form an integrated part of what has been referred to as civil society. As has repeatedly been touched upon in previous chapters, the two main groups of civil society actors interacting with the human rights organizations in both Chile and Argentina were the Catholic Church and the political parties. The last part of this chapter is accordingly devoted to examining the role of these civil society actors vis-à-vis the Chilean and Argentinean human rights organization respectively. The overriding aim remains the same: providing a more complete account for some of the difference in achievement in the field of human rights which may explain the paradox inherent in the Argentinean and Chilean transitions. Since the role taken on by the Catholic Church was vital for the very formation of the nature of the two human rights movements, we shall deal with this religious institution first, leaving the connection with the political parties for section 5.9.

5.8 The Catholic Church and power constellations

When taking a brief look at the power constellations in Chile and Argentina, one is struck by the diametrically opposite positions assumed by

the Catholic Church in the transition to democracy. In Argentina the military, political, economic, and the religious elites joined forces to pursue their goals of the national security doctrine, leaving civil society on its own to fight against gross human rights violations. In Chile, on the other hand, the religious elite took an active position against the military, political, and economic elites, thus shifting the power balance in favour of civil society in the struggle for human rights. This leads us to discuss the role of this fourth power, the religious elite, in the context of the reaction of civil society to the repression outlined in Chapter 2. First a short historical note in order to outline the setting for their different position:

The Roman Catholic Church is perhaps the institution in Latin America which, after the military, has wielded most influence on society throughout history. Not only does the Church have a virtual monopoly in religious matters, it also has played a central role in world affairs. Traditionally, the Church may be said to be conservative in the sense that it is the defender of time-honoured morals and virtues. Very often it has had close ties to the upper classes. The Church has generally been associated with hierarchy, oligarchy, strong leadership, and hence allocated little room for individualism. The values based on the Iberian heritage transmitted by the Catholic Church on to Latin American societies are by many scholars believed to be of an intrinsically authoritarian and anti-democratic character.²³

However, a new trend was set in the 1960s, as the increasing conflict between implementing the Christian ideals of helping the poor on the one hand and simultaneously ensuring tactical alliances in economic matters on the other hand resulted in a split in traditional Catholic ideology. The holding of the Second Vatican Council in 1962 marked the formal onset of the movement that became known as the Theology of Liberation.²⁴ Instead of guarding the power and wealth of the Catholic Church as an institution, the adherents to this new theology claimed that it was the Church's moral obligation to follow the example of Christ and defend the poor. This line of thinking was not popular with the conservatives within the Church. Many of the liberation theology priests were accused of preaching Marxist ideas to the poor and were thus seen as traitors and enemies of the Church. This cleft became evident in the opposing strategies adapted by the Chilean

²³ For a detailed account of the Iberian heritage and the legacy of Catholicism, see Calvert and Calvert 1989.

²⁴ On the Theology of Liberation and its impact on social movements, see Berryman 1987.

and Argentinean churches in situations vis-à-vis the politics of the military governments in the 1970s.

5.8.1 *The pro-human rights Catholic Church in Chile*²⁵

The one public institution in Chile that really stood up to the military government from the start was the Catholic Church, in spite of the well-known fact that not one of the Chilean bishops sympathized with the Popular Unity government of Salvador Allende on the day of the coup. The clergy were inherently critical of the Marxist ideology and of the chaos in society resulting from the economic and political mismanagement of the Socialists. Unable to foresee the consequences of the national security doctrine, the Church believed the Armed Forces to be composed of professionals; honourable Christian men who would respect tradition and keep their promise about returning to institutionalism as soon as order was restored. Neither the Church, nor the rest of the Chilean population believed that the atrocities subsequently committed by the military regime were possible in a civilized country with as long a democratic tradition as their own. However, only two days after the coup, Cardinal Silva Henríquez and the Permanent Committee of the Episcopal Conference issued a public declaration “decrying the bloodshed, and calling for moderation by the military and respect for previous social gains by the poor” (B. Smith 1986: 273). A month later, aware of what was taking place around him, Cardinal Silva Henríquez took the initiative to form the first human rights organization in Chile, the Committee for Peace (COPACHI), also known as Committee 2. This organization, composed of representatives from five churches and headed by Fernando Ariztía, was later to become the largest and most famous NGO in Chile; the *Vicaría de la Solidaridad*. From then onwards, “Parishes and church organs in Chile served as umbrella organizations for opposition community groups and surviving elements from the political parties and labour movement” (Valenzuela and Valenzuela 1986: 2).

What made the Chilean Church react so fast and in the way it did? It may be useful to make some reflections on historically favourable conditions. The Catholic Church in Chile has historically been one of the most progressive in Latin America. It has developed in a highly politicized

²⁵ The following discussion on the role of the Catholic Church in Chile’s transition to democracy and its connection with the human rights organizations draws on the following literature: de Brito 1993; Camus 1986; Frühling 1992; Garretón 1989; Orellana 1991, 1992; B. Smith 1986; Valenzuela and Valenzuela 1986.

society with almost 150 years of democratic tradition, notwithstanding occasional breaks. Separated from the State with the Constitution of 1925, on the insistence of the Liberals, it has been free to confront the challenges of modernity and enjoy the fruits of the Second Ecumenical Vatican Council.²⁶ The Chilean Catholic Church has traditionally played an important role in political life as well. The upsurge of the special Catholic Action methodology in the 1940s saw thousands of workers, farmers, and university students brought up in the spirit of the social doctrine of the Church. Many of the present bishops in Chile were raised in the same social tradition.

This inspired various social and political programmes, carried out on a massive scale in the poor *poblaciones* (shantytowns), especially in Santiago, during the following decade. Priests gained experience in social matters, and retained close ties with the poor. This was criticized by some of the more conservative clergy, but the sensitivity which the Church developed regarding the suffering and humiliation of the poor was certainly an important factor in explaining its rapid awareness of the repression following the coup, and its quick and largely undisputed action in response to that repression. Having first-hand knowledge about events and being able to resort to experienced activists, the Church was quickly able to take on a large responsibility in the struggle against human rights violations.

Due to this liberal tradition, which interestingly enough did not directly form part of the Theory of Liberation Ideology, the Church's prominent position in Chilean society, its legalistic tradition, and last, but not least, the outstanding personal qualities of some of its top clergy, such as the Archbishop of Santiago, Cardinal Raúl Silva Henríquez and Cristián Precht, enabled the Church able to play a critical role in the defence of human rights. All except two of its bishops, including the bishop of Valparaíso, were opposed to the regime of Pinochet. It should be noted, however, that there was an internal split between those who believed that it was not the duty of the Church to get involved in political matters; a position taken by several military chaplains, among others, and those who believed it to be the Church's duty to actively engage in the protection of human rights. The latter became the formal position of the Catholic Church in Chile, largely due to the prominent and highly respected position of Cardinal Silva Henríquez. His leadership merits special mentioning. In many ways there are several parallels between the political skills of Silva Henríquez and later President Aylwin: they both enjoyed a high degree of public respect, they

²⁶ The practice of civil marriage and civil registers had been established as far back as 1830.

both made tactical moves to weaken the position of the military without explicitly provoking them into action, and they both surrounded themselves with able politicians or helpers. Silva Henríquez managed to launch the Catholic Church as an active defender of human rights and voiced open criticism against the military regime in the form of numerous petitions and pastoral letters. Due to the heavy social and religious prestige of the Church, the military did not dare to act too strongly against it for fear of causing total uproar among the people and attracting unwanted international attention. But the Church did not remain untouched. Pinochet ordered the dissolution of the ecumenical organization Committee 2 at the end of 1975. Cardinal Silva immediately ordered the formation of *Vicaría*, correctly assuming that *Vicaría* would enjoy better protection if placed directly under the auspices of the Catholic Church. He appointed as the first vicar of *Vicaría* young Cristián Precht, who became a highly respected leader of the organization forming the core of the Chilean human rights movement. Pinochet would not risk delegitimizing his military government any further by openly attacking the Church or *Vicaría*. This, however, is not to say that the Church, or the organizations or people affiliated with the Church, were exempt from repression. Three priests were assassinated. At least 200 priests, monks and nuns were expelled from Chile, a fate suffered also by co-President of COPACHI, Helmut Frenz, and one of COPACHI's principal founders, José Zalaquett. 50 other functionaries from various church-related organizations were detained, and the assassination of *Vicaría* functionary Manuel Parada in 1985 caused public outrage (Orellana 1991c). Cardinal Silva Henríquez, too, received death threats (Keesing's 1980: 30620).

Even so, the Church was perceived as a safe haven where people could seek refuge. Its prestige and relative immunity gave it the function as an umbrella for the human rights organizations. It enjoyed good contacts with other churches both in Chile and abroad, as well as a close cooperation with several European embassies in Santiago, hence making it even more difficult for the military to stage open attacks against it. The importance of the human rights stance of the Catholic Church in Chile may be summed up in the words of Iain Guest: "In ... Chile, human rights work would have been entirely extinguished had it not been for the resilience of the Roman Catholic Church" (Guest 1990: 234). In Argentina the situation was quite different.

5.8.2 *The pro-military Catholic Church in Argentina*

The Argentinean Catholic Church is infamous for its severely conservative and authoritarian nature (Veiga 1985: 101; Guest 1990: 16; Snow and

Manzetti 1993: 157); an image which was reinforced under the recent dictatorship. The Church as an institution took an apolitical stand, and never went as far to officially defend the military juntas. In spite of this position, Videla's appointment of prominent lay Catholics to his Ministry of Religion and Foreign Relations drew the Church into politics and lent religious support to the military junta's conservative foreign policy (Calvert and Calvert 1989: 34). More importantly, by its silence, the Church tacitly accepted the politics of the juntas by remaining passive onlookers to large-scale repression; even when the repression was directed against its own members. Two bishops and twenty priests, nuns, and seminarians disappeared or were killed in the dirty war (Guest 1990: 58). The leadership of the Church never openly denounced the atrocities committed under military rule. Neither did the Church as an institution ever offer any assistance to the thousands of people who, in despair, came pleading for help to find their relatives, except to encourage them to keep praying (Veiga 1985: 84). It vaguely protested against the regime in the form of denunciations in some public notices and publications, but no direct action or outspoken protest from the pulpit was ever made. It is no secret that several of the Church's bishops, including the late Archbishop of La Plata, Antonio Plaza, favoured the military regime. Even the Pope's nuncio Monsignor Pio Laghi, was charged with collaboration with the junta (Guest 1990: 58). As good Christians they could not openly defend the large-scale human rights violations that were taking place, but they reasoned that the Marxists were enemies of the State and of Christianity. If some of them had to die, it was regrettable, but in the long run it would be better for Argentina to rid society of such subversive elements.²⁷

This official position of the Argentine Catholic Church may be traced back to the increasing split between liberals and conservative clergy in the 1960s. As in Chile, the Second Vatican Council also had an impact on Argentine society. In fact, Argentina had received its first work priest already in 1960, and the impact of the Theology of Liberation became visibly stronger after the Conference in Medellín in 1968. The Church as an institution had remained largely politically conservative till the 1960s, but the radicalization of certain sectors of the clergy had been accelerated up by the 1966 military coup. The Catholic Left criticized the Onganía regime, while the Catholic Right remained supportive — widening the divisions. The Left was a clear minority, as seen in 1972 when the roughly 10 per cent of the priests belonging to the Argentine Movement of Priests

²⁷ For an excellent account of the position of the Argentine Catholic Church during the military dictatorship, see Mignone 1991.

for the Third World, established in Córdoba in 1968, made an alliance with Peronism.²⁸ The 1976 military coup was welcomed by much of the hierarchy as “a potentially binding force on the Argentine Church” (Calvert and Calvert 1989: 33).

Several bishops and priests are known to have had close ties with top military officials, and they could hardly remain ignorant of the repression that was being carried out. In fact, many of the priests who chose to deviate from the official position of the Church and voiced open criticism of the regime, later appeared in the lists of the victims of repression.²⁹ Prosecution against religious people was far heavier in Argentina than in Chile. Roughly 0.3 per cent of the investigated cases of detained-disappeared are listed as religious (*Nunca Más* 1991: 296). The most famous examples of religious victims, are the two French nuns, Alice Dumon and Léone Renée Duquet, who were detained in 1977. Given the diametrically different position of the Catholic Church in Chile and Argentina, the room for political action for the human rights organizations was larger in Chile. Moreover, in Argentina the Church’s position in the human rights question openly inspired mistrust among the human rights organizations in general, and among the Mothers, with Hebe Bonafini as their main advocator, in particular.

To sum up, the pro-human rights stand taken by the Catholic Church in Chile had a very positive effect on the development and growth of the human rights movement. This was reflected in the early birth of the first HROs which soon grew into a movement, its magnitude and diversification, its retention of a relatively high degree of unity in spite of diversity, its building up of valuable documentation archives almost from day one after the coup, and its positive attitude towards reconciliation and cooperation. This contrasts with the failure of the Catholic Church in Argentina to offer a similar kind of umbrella-protection for the Argentinean human rights movement, which resulted in a slower mobilization process, restricted the scope of action for the HROs, failed to provide a unifying organ resulting in deep splits in the human rights movement, and made the power balance

²⁸ The Church had always had an ambivalent relationship with the Peronists; first supporting them, then abandoning them after squabbling with Perón over divorce. It is believed that the most extreme part of the Left-wing within the Church actively supported the *Montoneros*, while the extreme nationalist Right of the Church demonstrated their militant anti-communist stand with the founding of *Ateneo de la República* in 1962 (Calvert and Calvert 1989).

²⁹ A non-exhaustive list over names of religious victims is to be found in *Nunca Más* (1991: 350-60).

even more uneven at the time of transition. As a final word on the subject, the Chilean Catholic Church may be seen as an active contributor to the process of democratization and reconciliation, whereas its Argentine counterpart has passively — or even actively — hindered or, at best, slowed down the human rights organization's quest for justice and reconciliation.

The Catholic Church was one protagonist in the human rights issue. The human rights organizations also bore close ties to the political parties. In fact, several of the HROs in both countries were accused of being front organizations for subversive activity and forming part of the pro-marxist plot against the nations. It goes without saying that this was an overreaction by the paranoid authoritarian rulers, but how in fact were the human rights organizations linked to the political parties in Chile and Argentina, and what effect did these connections have on the process of transition and democratic consolidation?

5.9 Human rights organizations and political parties

The human rights organizations' affiliations to political parties and their ability, or lack of such, to maintain unity after the reintroduction of democratic rule, affected their bargaining power. I will argue that the positions adopted by the human rights organizations together with the political parties regarding human rights policies proposed by the democratically elected governments, had a decisive impact on the outcome of these policies and consequently also on the process of democratic consolidation.

The human rights organizations had at least an indirect influence on military policy through their links with political parties, who participated in the elite negotiations in the transition process. Most importantly, the attention drawn to human rights made it hard for the political parties to ignore this issue in their election campaigns, as well as impossible for the democratically elected governments to sweep this issue under the carpet once they were in power. In short, the human rights organizations were those primarily responsible for placing the issue of gross human rights violations on the political agenda, and it was up to the political parties to deal effectively with the problem.

The connection between the human rights organizations and political parties existed on two levels, first at the individual level through the participation of ex-militants who had been barred from politics and became active in the newly founded HROs, and later at the structural level through interaction between the human rights organizations as separate institutions

and the reemerging political parties. The Chilean and Argentinean situation bear distinct traits on both levels. Because the struggle for human rights was almost synonymous with the fight against the authoritarian regime, the work of most human rights activists naturally had a clear political profile, generally belonging to the centre-left part of the political spectrum. The military regime in both countries accused the HROs of being political groups used by the left to organize subversive activities against the government. This criticism cannot be justified as the HROs differ from political parties in too many dimensions. Their programmes of legal, social, and medical assistance etc. may well have been supported by political parties, but have never been part of permanent political programmes, or even a main activity of political parties. Furthermore, the HROs never advised the military regime on politics outside the field of human rights, and, most importantly, the HROs never formed alternatives to traditional institutional power groups. Still, the HROs have suffered the dilemma of, on the one hand, becoming too political and hence losing their credibility as institutions of human rights, and, on the other hand, being so apolitical that they run the risk of being accused by their own supporters — who have been prosecuted for their political ideas — of lacking political direction and purpose. This has been a problem for the Chilean human rights organizations as well as for their Argentinean counterparts.

5.9.1 Connections at the individual level

As repeatedly stated, it was the human rights organizations that initially paved the way for the liberalization processes in Chile and Argentina, thus playing a prime role at the outset of the transition process. Since human rights is not a party-political issue and therefore cuts across ideologies and political stances, working with this issue did not require a specific political conviction in terms of ideology. Nevertheless, most of the people initiating the struggle for human rights belonged to the political Left. With the large majority of political left-wing leaders in both countries executed, disappeared or in exile, and the remaining political activists being restricted from normal political activity, many former militants used the human rights organizations as a basis for their struggle against the authoritarian regime. The human rights organizations therefore came to function as a kind of training ground for future political leaders.

This tendency was stronger in Chile than in Argentina for several reasons. Most importantly, the bureaucratic NGOs were more influential in Chile, whereas the human rights movements dominated in Argentina. The latter family-based movements were primarily run by women and were

generally of a non-political character (in the meaning of party politics) with a strong one-issue focus; related in one way or another to the detained-disappeared. In Chile, on the other hand, the most influential human rights organizations were the NGOs; first *Vicaría* and FASIC, later strengthened by the work carried out by the Chilean Commission on Human Rights, CODEPU, and CODEJU. All these organizations had a formal character; a high number of professionals, including lawyers, psychologists, doctors, academicians, and a large number of ex-political members, many of whom were fired from their jobs with the onset of the military dictatorship. The very character and procedures of these organizations provided a leadership training ground, as well as providing those previously political active persons with a way of keeping in touch with other people of a similar conviction. Many of these people resumed their political activity once the ban on political parties was lifted, and advocated the human rights cause in the election campaign.

After the reintroduction of democracy, many human rights activists have either gone back to their former professional positions, are currently engaged in political activity at some level, or hold influential positions within the new government. On assuming political leadership positions, most of these people have retired from their human rights work, because being both a politician and a human rights activist is generally perceived as not compatible, and the HROs have to maintain their non-partisan image. However, former human rights advocates, for instance, who now sit in the Ministry of Justice or hold important positions within the Judiciary, obviously have a good opportunity to serve the human rights cause by influencing the decision making processes. The lawyer and human rights activist Jorge Mera's efforts to introduce the subject of liberal law into the Universities, as well as proposing judicial reforms, is another example of how human rights activists may continue their influence in a democratic setting.³⁰ Chilean politicians are reported to have a high regard for the HROs in general, and for the Chilean Commission of Human Rights in particular.

In Argentina the bureaucratic NGOs were fewer and carried less moral and legal weight than their Chilean counterparts. However, there are always exceptions to the rule. President Raúl Alfonsín took an early stance on the human rights issue and was one of the founding members of the APDH together with Socialist Party delegate Alfredo Bravo and Nobel Peace Prize winner Adolfo Pérez Esquivel, who was also a founding member of

³⁰ Jorge Mera has been and is currently the editor of the Christian Program for Defense of Human Rights' journal.

SERPAJ. The former Peronist-supporter Dr. Emilio Mignone, later president of CELS, is among those persons actively engaged in the struggle for human rights who won great international recognition. It is interesting to note that none of the female leaders of the biggest human rights movements in Argentina have entered party politics after the restoration of democracy. Hebe Bonafini, leader of the Mothers of Plaza de Mayo, has won fame and recognition through her uncompromising stance with elite politicians, be they military generals or democratically elected politicians. However, she has not succeeded in redirecting her fighting spirit and energy into the changing nature of Argentine reality, and as a result she and the Mothers have been left very much on the sideline after the formal restoration of democracy. They have even been referred to as acronyms for their persistency in demanding the return of their children ten years after the vast majority of Argentineans have decided to let the past be the past and look to the future.

Let us return to the main argument. The second main reason why the NGOs in Chile formed a broader basis for the participation of ex-militants and recruitment of future politicians and leaders than those of Argentina has to do with the nature of the political parties in the two countries. In Chile all the parties of the Left (the Socialists, Communists, MIRists, MAPU, and the left-wing of the Social Democrats) all took a firm position against the military regime. All parties had activists involved in the human rights movement; those belonging to the parties further to the left most prominently in CODEPU and CODEJU. There was therefore no main conflict between ideological adherence and participation in human rights work. It should be noted, however, that none of the Chilean human rights organizations were formally, or even indirectly, connected to any political party, and that all organizations allowed for political and ideological plurality. Not surprisingly, very few people of the Right joined forces with the Marxists and Socialists in the struggle for human rights in Chile.

In contrast, the alleged links between the Liga in Argentina and the Communist Party damaged the credibility of this organization and rendered it largely inoperative during the first few years of the dictatorship (Orellana 1991c; Veiga 1985). The Argentinean Communist Party was accused of having adopted a pro-military stance, which is surprising considering the massive prosecutions against its members. This is believed to be related to the former Soviet Union and China's position vis-à-vis the Argentine government. These two countries' interest in maintaining trade relations with Argentina seems to have gained priority over ideology. Both the Soviet Union and China refrained from voting in all the UN resolutions passed against Argentina for its violations of human rights (Guest 1990: 118-19,

182-83). This perceived non-neutrality of sectors of the Argentine human rights movement had a damaging effect on the movement's unity. It also caused strain in the relation between the human rights organizations and the political parties once the parties were firmly back as in the political arena.

5.9.2 The structural level

In spite of the restrictions on political activity under the authoritarian governments, the military in both countries permitted, in its last years of rule, some dialogue between the groups of the surviving political forces and the growing consensus for the need to reinstate democracy. Gradually, as the space for political action was widened with the onset of liberalization and the ensuing process of democratization, the political parties emerged from their clandestine activity and started acting more in the open. In Argentina the formal legalization of political activity was begun when Bignone's transitional government in June 1982 ordered the preparation for future elections. In Chile the ban on political party activity was lifted after the massive public protests in 1983. The trade unions were severely weakened and remained very much on the sidelines in both countries and have accordingly been left out of the discussion.

As we know, the role of opposition to military rule was initially played by the human rights organizations, but it was gradually taken over by political parties, and thereafter the human rights organizations lost some of their importance. The political parties had to reorganize themselves institutionally through internal democratic elections; convince the electorates that they were capable of dealing with the economic, social, and political problems facing the countries; and reassert themselves as mediators between the State and civil society. More specifically, they had to propose, and if elected, carry out a policy which would assure reconciliation. The human rights issue was a crucial part of the political programme, and the human rights organizations, in spite of having lost some of their political clout, remained in the front lines in keeping the human rights a hot topic on the political agenda. It is the position of the political parties versus the human rights organizations on this issue which is the very key discrepancy between Chile and Argentina.

Given the fact that activity by political parties was forbidden in Argentina as well as in Chile, one would assume that the human rights organizations might have gained a similar position of political importance in both countries. On the contrary, in Argentina "the relation between the NGOs and the most important parties (the Radical Party and the Peronist Party) was much tenser than in Chile" (Frühling and Orellana 1991: 57).

This has partly to do with the difference in structure of the human rights organizations in the two countries, as mapped out in sections 5.4 and 5.5. In Chile the largest and most influential organizations were the formal, bureaucratic, highly professional NGOs, supported by the Catholic Church. By contrast, the human rights organizations with most influence and international stature in Argentina were the aggressive human rights movements incorporating family members of the disappeared, in particular the Mothers of Plaza de Mayo. Their line of action and their isolation from the rest of Argentinean society made these organizations unsuitable cooperation partners for the political parties. Due to Argentina's turbulent history of fluctuation between military and civil governments, political leaders in general thought the transition process might be smoother if they kept a distance from the human rights organizations, which the military government had frowned upon as organizations supporting terrorist activity.

In Chile there was continuous and close cooperation between the two groups; partly through the active participation of ex-militants in the struggle for human rights throughout the dictatorship, and partly by the absence of problems of the Argentine Liga-Communist Party type. De Brito notes that "the linkages between the opposition parties and the human rights movement became a structural characteristic of the movement itself" (de Brito 1993: 585-86). The durability of the Chilean dictatorship also enhanced unity. The fact that human rights organizations for many years served as the only legitimate meeting place for political activists opposed to the regime naturally brought people of varying ideological backgrounds together, thus creating a forum for cooperation and discussion which would have been difficult to achieve in a normal competitive party system. This is probably one of the factors which contributed to the extensive dialogue among the political parties which resulted in the creation of the Democratic Forces for the No, and later the *Concertación*; the conglomeration of a large number of parties covering the major part of the Chilean political spectrum. As discussed in Chapter 3, the nature or mode of the Chilean transition required the political opposition to set their differences aside and join forces to reach their overriding goal: that of return to democratic rule by winning the plebiscite against Pinochet. Although some of the left-wing parties at first refused to participate on the conditions set by the military, they all stood together in the end. This successful bridge-building between the human rights organizations and the political opposition ensured President Aylwin full support in carrying out his political programme in the field of human rights.

In Argentina, on the other hand, the relative isolation of the human rights organizations from the rest of Argentinean society and the historically close

ties between the military and the biggest political parties prevented a close relationship between the human rights organizations and the political parties. As touched upon in the preceding chapter, this influenced Alfonsín's credibility over his human rights policy. Few of the political parties were willing to incorporate the demands of the human rights organizations because they feared endangering the transition process itself. One may generalize in saying that the political parties chose a largely pragmatic strategy, whereas the human rights organizations had nothing to lose in electoral terms and were therefore free to press for ethically correct solutions to moral problems. It was the way they went about it that caused the split with the political parties. The Mothers and the Liga were from the outset opposed to Alfonsín's suggestions, and openly criticized the new government for continuing the policy of their predecessors on many points; that the trials were just a cover-up to let the rest of the military off the hook; and that the President was a coward who gave in to the military's wishes. To them, there was no justice, and hence no scope for reconciliation before those involved in the detained-disappearances of at least 10,000, or, as they claimed, 30,000, Argentineans were identified and held accountable. The division between those political parties and human rights organizations lending Alfonsín their, if reluctant, support, and those openly opposing him, clearly did not help to heal the wounds inflicted on the Argentinean society.

5.10 Assessing the human rights movements in Chile and Argentina

Both Chile and Argentina saw the upsurge of a strong human rights movement as a response to state repression, forming the seed of an opposition which marked the onset of the transition. The human rights movement in both countries increased the potential for further mobilization of civil society and contributed to the delegitimation of the authoritarian regimes by drawing international attention to their cause which resulted in much embarrassing criticism for the military. In both countries the human rights organizations were important actors in expediting the preparation of governmental reports that officially recognized the human rights violations committed by the military; a step on the way to reconciliation. And they have not let the matter rest: human rights organizations are still pressing to open more cases against alleged violators of human rights in Chile, and the Mothers in Argentina continue their march around the Plaza de Mayo every Thursday.

Although the movements in both countries were based on the same principles and had the same aims, their development was somewhat different. In spite of the existence of two human rights organizations prior to the coup in Argentina, the movement seems to have found a broader base in Chile, reflected in its higher number of active organizations and its achievements. Despite its diversification, the movement has been united. The main explanations for this is the role of the Catholic Church, the related factor of timing, and finally, the relationship with the political parties, previously described. The diametrically opposite role played by the Catholic Church in the two countries was decisive in shaping and unifying the human rights movement. The strong presence and involvement of the Church in Chile had a unifying effect on the human rights movement, whereas in Argentina there was no such umbrella organ. The long-standing democratic tradition in Chile, peoples' experience with organizational work, a strong legalistic tradition, and a corresponding faith in the legal system may have been other factors contributing to the efficiency of the Chilean organizations. Compared with the situation in Argentina, Chilean human rights organizations became active at an earlier stage after the coup both because of the Catholic Church's quick move into the political arena and because there was less fear of retribution against organized protest. Due to the initiative taken at an earlier stage, the organizations in Chile were from the very beginning able to register cases of human rights abuse, and build up more complete archives than in Argentina. The wide public acceptance of the numbers of victims published in the *Informe Rettig* is in strong contrast to the highly disputed numbers of detained-disappeared listed in the corresponding governmental report, *Nunca Más*, in Argentina. Most Argentinean human rights organizations claim, as mentioned earlier, that the actual number of victims is up to three times higher than the official number.

The main conclusion to be drawn from the analysis in this final chapter is two-fold. Civil society, exemplified by the human rights organizations, did play a central role in the Chilean and Argentinean transitions to democracy; secondly, the different profile of the two human rights movements, in turn linked with the Catholic Church and political parties, contributed to change the initial advantages enjoyed by the Alfonsín government vis-à-vis the military in the favour of Aylwin and his more careful step-by-step policy in the field of human rights. In short, the apparent paradox of these two transitions remains less of an enigma when the role of civil society is taken into account, than when applying an exclusively elite approach to the transitions.

Some people might think that it is perhaps not entirely fair to uncritically praise the Chilean human rights organizations for their efforts, as their Argentine counterparts in many ways faced greater challenges. However, my task has been to account for the differences, not to distribute praise. It may certainly be argued that repression was much more widespread and sinister in Argentina than in Chile, and for that reason alone the human rights organizations faced greater challenges. Documenting a death when the body is found is an easier job than proving the guilt of an official responsible for the disappearance of a person, and the psychological traumas and fear inflicted on a society is probably greater in the case of massive disappearance than in executions and exile. Moreover, those professionals taking the side of the victims in Argentina became immediate targets for repression. The notorious absence of church protection and a blurred relationship with the political parties placed more obstacles in the way of the human rights movement. All in all, one may conclude that admirable efforts were made in both countries to combat the state terror, but that the conditions in Chile were more favourable to producing a more positive result – in spite of the objective conditions initially established by the modes of transition indicating another outcome.

Although Chile has repeatedly been praised as “the country that has made most progress towards consolidating democracy in Latin America” (for instance, Angell 1993: 563), Argentina too has shown a favourable development in that it has survived three consecutive democratic government changes; its best record so far this century. In other words, it has not suffered the “sudden death” by authoritarian regression that has sometimes been predicted to accompany transition by regime collapse (O’Donnell 1992: 12), in spite of several military revolts and a catastrophic economic development under Alfonsín. One may perhaps draw the conclusion that the terrible repression carried out during military rule in Argentina has in itself been a motivating factor for civilian reluctance to return to military rule. This in spite of great dissatisfaction with Alfonsín achievements in the economic field, and his dismal failure to adequately deal with the legacy from the previous regime by finding a radical solution to the human rights problem, and at the same time subordinate the military to civilian rule. On a final note, we should not forget that the military came to power with widespread civilian support in both Chile and Argentina in the 1970s, and it was their lack of legitimacy which eventually led to transition and the return to civilian rule in the 1980s. Few people today seem willing to repeat the experience, which bodes well for further consolidation in both countries.

5.11 Concluding remarks

Why take civil society into account when dealing with transitions to democracy? From an empirical point of view, the discussion of the transition and consolidation processes of Chile and Argentina has shown that civil society plays an active part in bringing about liberalization in the first place; greatly influences the issues around which the elites base their negotiations in the run-up to restoration of political democracy; and finally influences government decision-making in the consolidation phase. How does this affect the postulates of elite-focused transition theory?

My first criticism of elite theory was that it fails to address the reasons for the onset of transition, i.e. why the split between hard-liners and soft-liners occurs in the first place. Przeworski argues that the process of liberalization is not the result of the loss of legitimacy, but of internal splits within the military ruling block, but he does not say why. I believe the loss of legitimacy is the very underlying explanatory factor. According to the doctrine of national security, which established the rationale for the military governments in both Argentina and Chile, the military intended to remain perpetually in power. Their failure to achieve this objective was largely due to the fact that civil society organized and voiced opposition to the military regimes, hence forcing the military incumbents to make concessions, which unleashed increased opposition, leading eventually to the breakdown of the bureaucratic-authoritarian regimes, either due to military or electoral defeat. As I have argued earlier, authoritarian regimes, unlike totalitarian regimes, do count on the support of at least some sectors of society in order to stay in power. If there were no popular discontent, nor any perceived danger of opposition, why should the military embark on a road of dispute which inevitably would lead to their own downfall? I believe that the answer is linked to the fact that some sort of opposition does indeed survive, even in the face of massive and extensive repression. People do protest, and people who protest cannot be continuously ignored by the power-holders. Authoritarian leaders, be they personal dictators, as in the case of Pinochet, or military juntas, as in the Argentinean case, have frequently tried to legitimize their rule through gaining the support of at least certain sectors of society. Pinochet's seeking approval of a new Constitution by holding a plebiscite is but one example; another is his dissolving of DINA due to massive national and international criticism. Galtieri's ill-prepared launching of the Falkland/Malvinas war constitutes yet another example of a frenetic attempt to gain support from an increasingly discontented and frustrated population. In short, legitimacy is very much a subject matter for authoritarian rulers too, as they have repeatedly proved not to be immune

from criticism, neither from the internal opposition nor from the international community.

Because authoritarian rulers never succeed in totally reaching their stated aims of breaking down all social structures contributing to solidarity or collective action through the use of institutional and individual repression, civil society is a force that must be reckoned with when explaining the transitions. The conclusion drawn from these observations is that the interaction between the elites and civil society is likely to be much stronger than acknowledged by O'Donnell and other elite-focused theorists discussed in this study. If this was not so, it is not likely that there would be a breakdown of authoritarian regimes, and even less likely that a "resurrection of civil society" (O'Donnell and Schmitter Vol. 4, 1986: 48) would take place, let alone redemocratization.

My final point and second substantial criticism against elite theory is that not only does this kind of theory leave out the aspect of civil society, it also fails to capture the issues which civil society mobilizes around. Neither the onset of liberalization, nor the elite negotiations at the time of regime change in Chile and Argentina can be fully understood if one leaves out the issue of gross human rights violations. This is not to say that elite-focused transition theory is useless. On the contrary, it offers a fruitful way of analyzing the processes of democratic transition. Regarding its predictive value, it quite successfully accounted for the initial outcomes of the transitions in Chile and Argentina. Had it added the aspect of civil society and taken a closer look at why the different elite actors acted the way they did during the transition itself, and equally important after formal political democracy was restored, the theories in question might have come closer to predicting the outcomes of the Chilean and Argentinean democratic consolidation processes as well.

Appendix A

Interviews carried out in Santiago, Chile

Garretón, Roberto. *Vicaría de la Solidaridad*. Lawyer. Now in Ministry of Foreign Affairs. 6 April 1993.

Infante, María Teresa. Head of the Department of International Studies, University of Santiago. 5 April 1993.

Mera, Jorge. *Programa de Derechos Humanos de la Academia de Humanismo Cristiano* (PDHAHC). Lawyer and Director of PDHAHC and professor at the University of Diego Portales. 27 May 1993.

O'Campo, Hugo. *Comité de Defensa de los Derechos del Pueblo* (CODEPU). Lawyer and Executive General. 28 May 1993.

Orellana, Patricio. *Fundación de Agrupación de Documentación y Archivos*. Political Scientist. Former functionary in COPACHI, *Vicaría*, and several other human rights organizations. Repeated talks March-July 1993.

Precht, Cristián. *Vicaría de la Solidaridad*. First vicar. 6 July 1993.

Ranestad, Per. Norsk Folkehjelp. 12 May 1993.

Reina, Veronica. *Fundación de Ayuda Social de las Iglesias Cristianas* (FASIC). Lawyer and Executive Secretary. 25 May 1993.

Salas, Veronica. TAC. Lawyer. 26 May 1993.

Salazar, Hector A. Lawyer. 9 July 1993.

Salinas, Alejandro. CODEPU. 26 April 1993.

Sierra, Sola. *Agrupación de Familiares de Detenidos Desaparecidos* (AFDD). President. 23 April 1993.

Vergara, Juan. *Programa de Acción Solidaria* (PAS). 18 May 1993.

Zalaquett, José. Lawyer and former President of Amnesty International in London. Member of Rettig Commission. 7 July 1993.

Interviews carried out in Buenos Aires, Argentina

Aragón, Raúl. *Asamblea Permanente por los Derechos Humanos*. Founder and leader of APDH. Secretary of Sábato Commission. 2 July 1993.

Arroyo, Bertha. *Movimiento Ecuménico por los Derechos Humanos* (MEDH). Repeated talks throughout June 1993.

Familiares de Desaparecidos y Detenidos por Razones Políticas. Group interview with several members. 1 July 1993.

Fondebrider, Luis. *Equipo Argentino de Antropología Forense*. 30 June 1993.

Freixas, Javier. *Centro de Estudios Legales y Sociales* (CELS). 15 June 1993.

Gonzales, Oscar. Deputy of Socialist Party. 30 June 1993.

Lagos, Daría. Psychiatrist. 29 June 1993.

Liga Argentina por los Derechos del Hombre. Representative. 29 June 1993.

Madres de Plaza de Mayo. Group interview with several of the Mothers. 21 June 1993.

Madres de Plaza de Mayo, Línea Fundadora. Group interview with seven of the Mothers, including Celea Mignone. 10 June 1993.

de Mariam, María Isabel. *Abuelas de Plaza de Mayo*. 2 July 1993.

Mignone, Emilio. *Centro de Estudios Legales y Sociales*. Lawyer, and Director of CELS. 21 June 1993.

Olivella, María Inés. Psychologist. Repeated talks in Buenos Aires during June 1993.

Oliveira, Alicia. Specialist in Penal Justice. Earlier functionary in *Centro de Estudios Legales y Sociales*. 21 June 1993.

Pantaleones, Rosa. *Partido Socialista*. Secretary of deputy Alfredo Bravo. 30 June 1993.

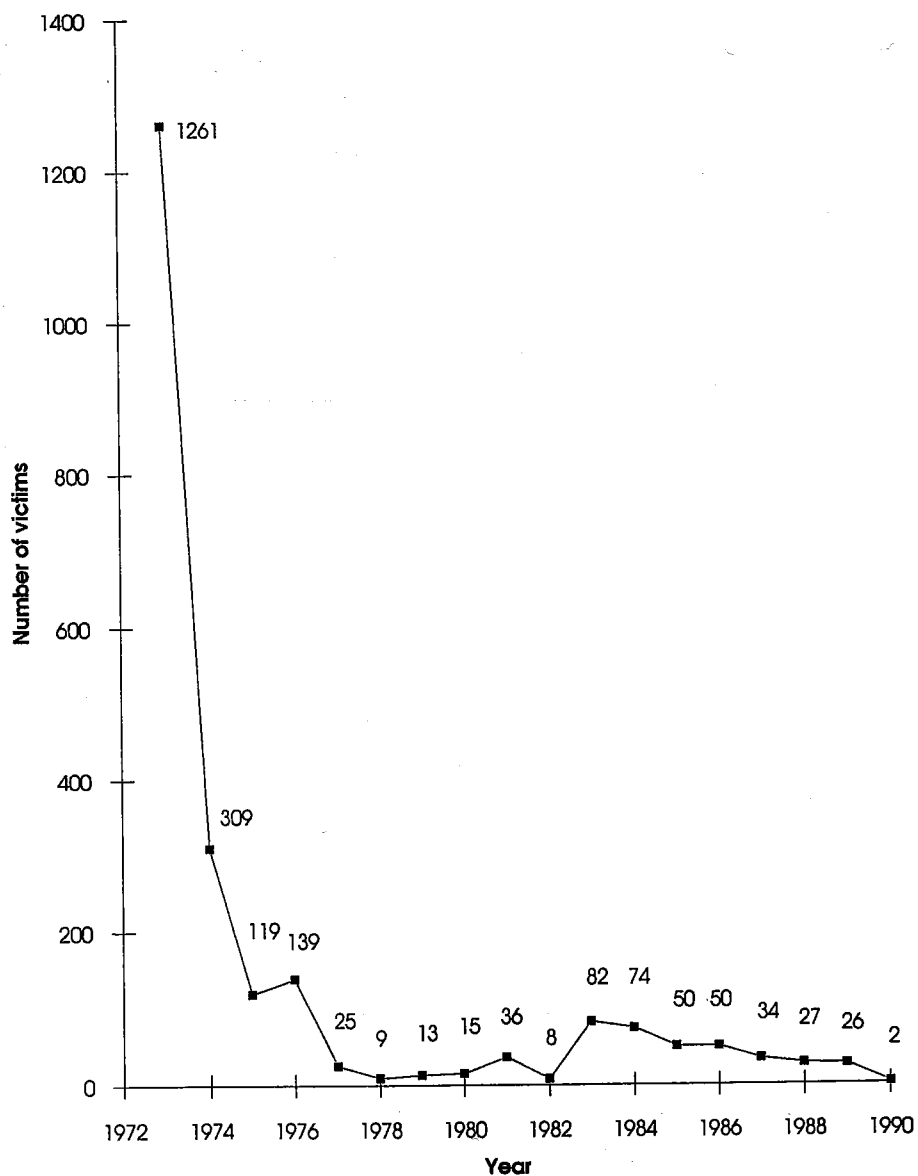
Partido Marxist-Leninista. Representative. 30 June 1993.

Paso, Leonardo. Marxist historian. 15 June 1993.

Servicio Paz y Justicia. (SERPAJ). Representative. 3 July 1993.

Appendix B

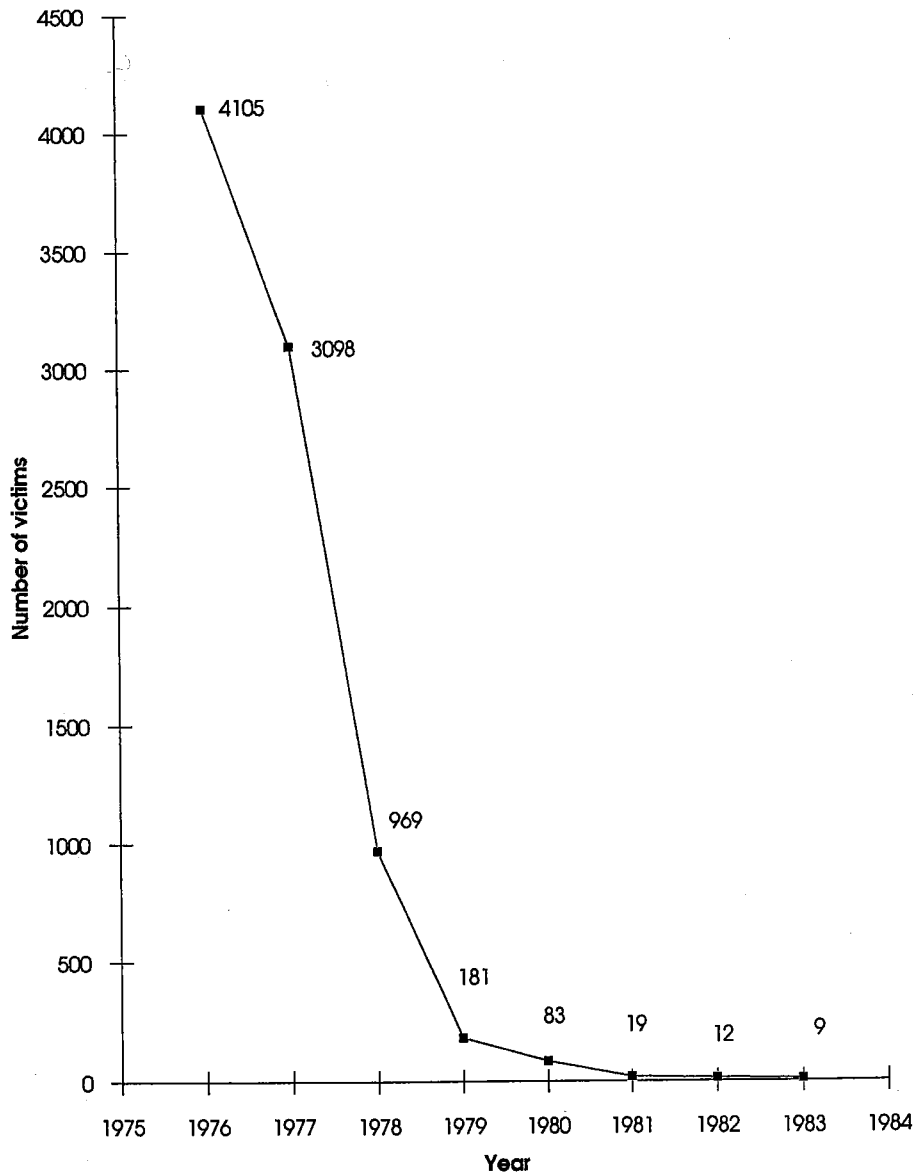
Victims of death and disappearance in Chile 1973-1990



Source: *Summary of the Truth and Reconciliation Commission Report* (1992: 1-93).

Appendix C

Victims of disappearance in Argentina 1976-1983



Source: Annex *Nunca Más* (1991) in Sikkink (1993: 427).

Appendix D

The “generations” of human rights organizations in Chile and Argentina

Organization	Year of origin	Type of origin			Type of organization		Detained-disapp. princip. theme
		<i>Church</i>	<i>Family</i>	<i>Political</i>	<i>NGO</i>	<i>Movement</i>	
CHILE							
Vicarfa	1976	*			*		*
FASIC	1975	*			*		*
SERPAJ	1977	*			*		*
PDHAHC	1979	*			*		
AFDD	1974		*			*	
AFPP	1976		*			*	*
CPRE	1978		*			*	*
AFEP	1978		*			*	
PIDEE	1979		*			*	
AFAREL	1980		*			*	
CCHDH	1978			*	*		*
CODEJU	1978			*	*		
CODEPU	1980			*	*		*
CNCT	1983			*	*		*
MTSA	1983		*	*		*	
ARGENTINA							
Liga	1937			*	*		*
APDH	1975			*	*		*
FDDRPG	1976		*			*	*
Madres	1977		*			*	*
Abuelas	1983		*			*	*
MEDH	1976	*			*		*
CELS	1979			*	*		*
SERPAJ	1980	*			*		*
	(74)						

Sources: Frühling 1986; Meijide 1986; Orellana 1991; Veiga 1985; various primary sources.

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