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The Labor Plan: Labor, the State and the Labor Code in Chile (1973-2018)

By

James G Lamb

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requirements for the degree of  
Doctor of Philosophy

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Sociology  
in the  
Graduate Division  
of the  
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Committee in charge:

Professor Laura Enriquez, Chair  
Professor Peter Evans  
Professor Harley Shaiken

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## Abstract

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Doctor of Philosophy in Sociology

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In 1990 Chile transitioned from a military regime led by General Augusto Pinochet to a democratically elected government led by the Coalition of Parties for Democracy, the *Concertación*, that had successfully opposed his continuation in power. Yet, the dictatorship left many legacies that persisted long after this transition. One crucial heritage was a set of major labor law transformations legislated in 1979 that Pinochet and its author, Labor Minister José Piñera, called the Labor Plan. The Labor Code the Pinochet government bequeathed to its successors was very unfavorable for the labor movement, especially in comparison to the pre-authoritarian legal regime. It was stridently opposed by the labor movement and the incoming *Concertación* promised “profound changes”, particularly in areas regulating unions, collective bargaining and strikes.

There were good reasons to believe the prospects for such changes were quite favorable. The labor movement had been a key leader in the opposition movement that led to democratic transition. The movement, and in particular the largest and most important labor organization, the CUT (*Central Unitaria de Trabajadores* - Unified Workers Central), enjoyed a close relationship of alliance with the *Concertación*. Indeed, the CUT and the *Concertación* were both led by leaders from the same two central political parties: the Christian Democratic Party and the Socialist Party. The transition also meant that the institutions of Chile became more open to participation and popular input, and the labor movement was no longer subject to the brutal repression of the dictatorship. Political opportunity theory predicts such an institutional opening should benefit a social movement.

Nonetheless, after 20 years of *Concertación* governments (1990-2010), the Labor Code was left substantially unchanged from that structured by the Labor Plan. Although institutional features of the 1980 Constitution and electoral laws left by the dictatorship as well as unyielding opposition by conservatives played a role in this outcome, this dissertation argues it was the very relationships between the labor movement and the newly ruling political parties and post-transition state that in the end explains this result. A politically incorporated labor movement was unwilling to exert the necessary pressure on allied political actors to dislodge the path of persistence of the Labor Code. So, what is often viewed as an opportunity turned out to obscure a risk of movement containment.

## **Dedication**

This dissertation is dedicated to my grandfather, Gerardo de la Fuente Soto, who passed away while I was living at his house in Ñuñoa conducting field research. *Que En Paz Descanse.*

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James Gerardo Lamb  
July 24, 2021



## Abbreviations and Acronyms

### **Political Groups**

AC – Assembla Cívica (Civic Assembly)  
 ACh - Alianza por Chile (Alliance for Chile)  
 AD – Acción Democrática (Democratic Action)  
 BS – Bloque Socialista (Socialist Block)  
 CODE – Coalición por la Democracia (Coalition for Democracy)  
 CPD - Concertación de Partidos por la Democracia (Coalition of Parties for Democracy)  
 CPN – Concertación de Partidos por el No (Coalition of Parties for a No)  
 FPMR – Frente Patriótico Manuel Rodríguez (Manuel Rodríguez Patriotic Front)  
 FRAP – Frente de Acción Popular (Popular Action Front)  
 IC – Izquierda Comunista (Communist Left)  
 IC – Izquierda Cristiana (Christian Left)  
 IU – Izquierda Unida (United Left)  
 MAPU – Movimiento de Acción Popular Unitario (United Popular Action Movement)  
 MDP – Movimiento Democrático Popular (Democratic Popular Movement)  
 MIR – Movimiento de la Izquierda Revolucionaria (Revolutionary Left Movement)  
 MUN – Movimiento de Unidad Nacional (National Unity Movement)  
 NM – Nueva Mayoría (New Majority)  
 PCCh/PC – Partido Comunista de Chile (Chilean Communist Party)  
 PD - Partido Demócrata (Democratic Party)  
 PDC/DC – Partido Demócrata Cristiana/Deomcracia Cristiana (Christian Democratic Party)  
 PH – Partido Humanista (Humanist Party)  
 PN – Partido Nacional (National Party)  
 PPD – Partido por la Democracia (Party for Democracy)  
 PR/PRSD - Partido Radical/ Partido Radical Socialdemócrata (Radical Party/Social Democratic Radical Party)  
 POS – Partido Obrero Socialista (Socialist Workers Party)  
 PSCh – Partido Socialista de Chile (Chilean Socialist Party)  
 RN – Renovación Nacional (National Renovation)  
 UDI - Unión Demócrata Independiente (Democratic Independent Union)  
 UP – Unidad Popular (Popular Unity)

### **Labor Groups**

AIFLD - American Institute for Free Labor Development (US)  
 AFL-CIO – American Federation of Labor-Congress of Industrial Organizations (US)  
 ANEF - Agrupación Nacional de Empleados (National Employees Group)  
 CAT - Central Autónoma de Trabajadores (Autonomous Workers Central)  
 CDDS – Comando de Defensa de Derechos Sindicales (Command for Defense of Union Rights)  
 CDT - Central Democrática de Trabajadores (Democratic Workers Central)  
 CEDUC – Corporación de Promoción de Educación y Desarrollo Sindical (Corporation for the Promotion of Union Development and Education)

CEPCH – Confederación Nacional de Sindicatos, Federaciones y Asociaciones de Trabajadores del Sector Privado de Chile (National Confederation of Unions, Federations and Associations of Private Sector Workers of Chile)

CGT – Confederación General de Trabajadores (General Workers Confederation)

CLAT – Confederación Latino Americano de Trabajadores (Latin American Workers Confederation)

CNS - Coordinadora Nacional de Sindicatos (National Union Coordinator)

CNT – Coordinadora Nacional de Trabajadores (National Workers Coordinator)

CODEHS – Comité de Defensa de Derechos Humanos y Sindicales (Committee for the Defense of Human and Union Rights)

COMACH – Confederación Marítima de Chile (Maritime Workers Confederation)

CONFUSAM – Confederación Nacional de Funcionarios de la Salud Municipal (National Confederation of Municipal Health Care Workers)

CRAC – Confederación Republicana de Acción Cívica de Obreros y Empleados (Workers and Employees Republican Confederation for Civic Action)

CTCh – Confederación de Trabajadores de Chile (Chilean Workers Confederation)

CTC – Confederación de Trabajadores del Cobre (Confederation of Copper Workers)

CTF - Confederación de Trabajadores Forestales (Forestry Workers Confederation)

CUT - Central Unitaria de Trabajadores (Unitary Workers Central)

CUT (Historic) – Central Única de Trabajadores (Singular Workers Central)

FEDECH – Federación de Educadores de Chile (Chilean Educators Federation).

FIEL – Fundación Instituto de Educación Laboral (Labor Education Institute Foundation)

FOCh – Federación de Obreros de Chile (Chile Workers Federation)

FORCh – Federación de Obreros Regional de Chile (Regional Workers’ Federation of Chile)

FTCh - *Federación de Trabajadores de Chile* (Federation of Chilean Workers)

FUT – Frente Unido de Trabajadores (United Workers’ Front)

G10 – Grupo de Diez (Group of Ten)

ICFTU – International Confederation of Free Trade Unions

ICM - Internacional de Trabajadores de la Construcción y la Madera (Construction and Wood Workers International)

ILA – International Longshoremen’s Association (US)

ILGWU – International Ladies Garment Workers Union (US)

ILWU – International Longshore and Warehouse Union (US)

IWW – International Workers of the World

JUNECH – Junta Nacional de Empleados de Chile (National Employees Group of Chile)

MAS – Movimiento por Autonomía Sindical (Movement for Union Autonomy)

MOC - Movimiento Obrero Campesino (Rural Workers’ Movement)

MUNT – Movimiento Unitario Nacional de Trabajadores (Unitary National Workers Movement)

M3N – Movimiento 3 de Noviembre (November 3rd Movement)

NUM – National Union of Mineworkers (UK)

ORIT - Organización Regional Interamericana de Trabajadores (Regional Interamerican Workers Organization)

SINTRAC – Sindicato Trabajadores de la Construcción (Construction Workers Union)

SUTE – Sindicato Unido de Trabajadores de la Educación (Unified Education Workers’ Union)

UDT - Unión Democrática de Trabajadores (Democratic Workers Union)

UNT - Unión Nacional de Trabajadores (National Workers Union)

UNTRACH - Unión Nacional de Trabajadores Chilenos (National Union of Chilean Workers)  
 WFTU – World Federation of Trade Unions  
 WCL – World Confederation of Labor

### **Business Groups**

ABIF – Asociación de Bancos e Instituciones Financieras de Chile (Association of Banks and Financial Institutions)  
 CChC – Cámara Chilena de la Construcción (Chilean Chamber of Construction)  
 CNC – Cámara Nacional de Comercio, Servicios y Turismo de Chile (National Chamber of Commerce, Services and Tourism)  
 CPC - Confederación de la Producción y del Comercio (Production and Commerce Confederation)  
 CRAV - Compañía de Refinación de Azúcar de Viña del Mar (Viña del Mar Sugar Refining Company)  
 SONAMI – Sociedad Nacional de Minería – Chile (National Mining Society)  
 SOFOFA – Sociedad de Fomento y Fabricación, Federación Gremial de la Industria (Society for Development and Production, Industrial Guild Federation)  
 SNA - Sociedad Nacional de Agricultura (National Agriculture Society)

### **State Entities/Government Agencies/Government Programs**

AFP - Administradores de Fondos de Pensiones (Pension Fund Administrators)  
 CNI – Central Nacional de Informaciones (National Information Center)  
 Casen- Encuesta de Caracterización Socioeconómica Nacional (National Socioeconomic Survey)  
 COAJ - Comité de Asesoría y Coordinación Jurídica (Advisory and Judicial Coordination Committee)  
 CODELCO – Corporación Nacional del Cobre (National Copper Corporation)  
 CORFO – Corporación de Fomento (Development Corporation)  
 COSENA – Consejo de Seguridad Nacional (National Security Council)  
 DICOMCAR - *Dirección de Comunicaciones de Carabineros* (National Police Communications Directorate)  
 DINA - Dirección de Inteligencia Nacional (National Intelligence Directorate)  
 DINACOS - Director de Comunicaciones Nacional (National Communications Director)  
 DT – Dirección del Trabajo (Labor Inspectorate)  
 DGT - Dirección General de Trabajo (General Labor Directorate)  
 ENAP – Empresa Nacional de Petróleos (National Oil Company)  
 ENCLA – Encuesta Laboral – Labor Survey  
 ENDESA – Empresa Nacional de Electricidad S.A. (National Electric Company)  
 INE – Instituto Nacional de Estadísticas (National Statistics Institute)  
 ISAPRES - Instituciones de Salud Previsional (Health Provision Institutions)  
 MIDEPLAN – Ministerio de Planificación (Planning Ministry)  
 ODEPLAN – Oficina de Planificación (National Planning Office)  
 PEM – Programa de Empleo Mínimo (Minimum Employment Program)  
 POJH – Programa de Ocupación para Jefes de Hogar (Heads of Households Employment Program)

SERVEL – Servicio Electoral de Chile (Electoral Service of Chile)

TC – Tribunal Constitucional (Constitutional Tribunal)

TRICEL - Tribunal Calificador de Elecciones (Elections Qualifier Tribunal)

### **Social Movement Groups**

CONFECH - Confederación de Estudiantes de Chile (Confederation of Chilean Students)

FECH – Federación de Estudiantes de Chile (Chilean Students Federation)

## **Chapter 1 – Why no “cambios profundos” of the Labor Plan in Concertación Era Chile?**

### **Section I – Introduction: Question, Case, and Methodology**

On October 5<sup>th</sup>, 1988, the anti-dictatorship opposition in Chile, led by the recently formed *Concertación de Partidos Por el No*, triumphed in a plebiscite over the military regime, headed since a September 11<sup>th</sup>, 1973, coup by Army General Augusto Pinochet. The “No” vote prevented the regime’s continuation in power for a further 8 years. In winning, the Concertación had made use of a provision in Pinochet’s own 1980 Constitution, a document meant to secure his grip on power and inaugurate, in his words, a “protected democracy”.<sup>1</sup> The Concertación coalition united 17 diverse political parties from moderate conservatives to left-wing socialists. It aided in the registration of millions of voters, campaigned heavily to lift the veil of fear that pervaded Chile under the dictatorship, forged key alliances with international civil society and political actors and fielded thousands of election monitors. In the end, nearly 4,000,000 Chileans voted “No”, enough to constitute 56% of the vote. By December 1989, 54 Constitutional reforms negotiated with the opposition were ratified in another vote. The Concertación won Presidential and Congressional elections on December 14<sup>th</sup> (Garretón 1995: 87-104; Cañas 1997: 232-237; Lagos 2012: 78-104).

On March 11<sup>th</sup>, 1990, Pinochet gave the tricolor sash traditionally worn by the President to Christian Democratic Party leader Patricio Aylwin in an inauguration ceremony for the first elected and civilian President since the coup (*El Mercurio* March 11, 1990). The transition was not a return to Chile’s pre-coup democracy, symbolically or substantively. The ceremony took place at the new National Congress building in Valparaíso, Pinochet’s birthplace and childhood home (Ley 18.678: *Diario Oficial de la República de Chile*, December 24, 1987). Pinochet still remained Army Commander-In-Chief for another 8 years, and then became a Lifetime Senator.

Nonetheless, the inauguration of President Aylwin seemed to augur quite well for Chile’s workers and its organized labor movement. Pinochet’s regime had been a zealous opponent of Chile’s historical unions and labor movements and an avowed enemy of the largest national confederation, the CUT.<sup>2</sup> Chile’s unions and workers had played a crucial role in the opposition to the dictatorship, from the earliest efforts at clandestine organizing to the leading role they played in calling for the first National Day of Protest on May 11<sup>th</sup>, 1983. That “general strike”, called by the Copper Worker’s Confederation (CTC) led by Christian Democrat Rodolfo Seguel, launched the “democracy movement” that ultimately forced Pinochet to negotiate a transition. United in opposition before the political parties, the unions’ National Worker’s Command (CNT)<sup>3</sup> took the early lead in calling and organizing 22 mass mobilizations that, in the end, pressured the military

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<sup>1</sup>This phrase was first used by Pinochet in a July 9<sup>th</sup>, 1977, speech to the Youth Front for National Unity, a hard right group that backed the military regime, in Chacarillas. The “Chacarillas Speech” announced Pinochet’s intention to institutionalize the political and economic transformations wrought in Chile since 1973 (*El Mercurio* July 9, 1977).

<sup>2</sup> The original CUT (*Central Única de Trabajadores de Chile*) was legally abolished by the military regime days after the coup, via Decree Law 12 (DL 12 *Diario Oficial de la República de Chile*, September 24, 1973). The new CUT (*Central Unitaria de Trabajadores de Chile*) was “re-founded” in September 1988, and “re-legalized” on January 8<sup>th</sup>, 1991 (*Diario Oficial de la República de Chile*, January 8, 1991).

<sup>3</sup> The CNT (*Comando Nacional de Trabajadores*) was the most important of several successive temporary national union confederations that operated with varying levels of state tolerance during the period the CUT was illegal.

regime to bargain. With the opposition rallying around an “exit for Pinochet, provisional government and constituent assembly” (Garretón 1995: 220) the CNT wrote an open letter to Pinochet in 1984. It demanded a repeal of the Labor Plan, a new Labor Code written by the dictatorship in 1979<sup>4</sup>, and an end to neoliberal policies more broadly (Winn 2004: 43).

By the transition, the labor movement had reforged deep, decades-long pre-coup ties to the key Concertación parties, particularly the Christian Democrats and Socialists (Ulloa 2003: 4). Many Concertación leaders and supporters saw an urgent need to reform some of the strongly anti-labor legislation inherited from the military government (Boeninger 1997: 483; Lagos 2012: 250). Indeed, the 1989 Concertación *Programa de gobierno*<sup>5</sup> called for “profound changes” in the Labor Code that emerged from Pinochet and Piñera’s Labor Plan in the name of “co-existence in peace.” First published in *La Época* on July 17<sup>th</sup>, 1989, the official coalition document declared: “Constitutional reforms should guarantee... the following rights: the right to unionize, to negotiate collectively and to strike”. That text appeared just below a picture of Aylwin, then Concertación candidate for President, seated at a press conference with opposition union leaders from the CUT.

The Concertación won every election from December 1989 until December 2009. It held the Presidency from March 1990 until March 2010, the four administrations of Patricio Aylwin (1990-1994); Eduardo Frei (1994-2000); Ricardo Lagos (2000-2006); and Michelle Bachelet (2006-2010). Aylwin and Frei were Christian Democrats (PDC). Lagos was a Socialist Party (PS) leader and co-founded the Party For Democracy (PPD). Bachelet was also a Socialist (PS). During the 20 years of Concertación rule, public opinion polling<sup>6</sup> consistently showed strong majority support for major changes in the Labor Code and broad dissatisfaction with the labor market, employment opportunities and socioeconomic inequalities (Sehnbruch 2006; Sehnbruch 2014).

Several attempts to reform the Labor Code in the Concertación Era yielded two main pieces of legislation.<sup>7</sup> Yet, despite the propitious political circumstances, it was on the very core labor law issues slated for “profound changes” that the military government achieved an unlikely enduring legacy. Even after 20 years of Concertación rule, the legal situation surrounding collective bargaining and striking, management prerogatives on hiring and firing and other key labor law issues remained remarkably similar to the legal dispositions left by the dictatorship (Frank 2002; Haagh 2003; Berg 2006: 73; Sehnbruch 2006: 47-71; Sehnbruch 2014: 263-270).

In fact, prospects for “profound changes” declined during the Concertación Era, even as political power in the Executive, Congress and the CUT moved to the left. The most profound changes were proposed early on. After 2001 no changes were made to Labor Plan laws. At the very end of the Concertación Era, in December 2009, CUT president Arturo Martínez, a member of the Socialist Party, claimed the PS-led Bachelet administration “was the very worst on the labor topic of the four periods of the Concertación” (*El Mercurio* December 24, 2009).

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<sup>4</sup> The Labor Plan was a series of Decree Laws issued in 1979 which were consolidated into a Labor Code in 1987 by a commission led by William Thayer (Ley 18.620 *Diario Oficial de la República de Chile*, July 6, 1987).

<sup>5</sup> This “Program for Government” was the official Concertación election platform and policy statement.

<sup>6</sup> The most consistent polling on the question over this period was done by Marta Lagos under the auspices of CERC (*Centro de Estudios de la Realidad Contemporánea* - Center for the Study of Contemporary Reality) and MORI (Market Opinion Research International). These data are reviewed in greater detail in Chapter 6.

<sup>7</sup> The two bills that intended to reform the Labor Plan laws were signed by Aylwin in 1994 and Lagos in 2001. A number of other pieces of labor related legislation were passed in the 1990-2010 period and will also be addressed.

It is the puzzle of this strange persistence of the essence of the Labor Plan amidst so much political change and socio-cultural progress (Castells 2005) that my investigation of its historical path seeks to illuminate. The continuities in labor law from dictatorship to democracy appear as a case of what Chilean sociologist Tomás Moulian (1997: 141) called “*transformismo*”, meaning a “long process of preparation, during the dictatorship, for an exit from the dictatorship, with the goal of continuity in basic [socio-economic] structures in other political clothing, democratic vestments. The objective ... change in order to stay the same.” Through tracing the origins of the complex of labor legislation its authors called the *Plan Laboral* in the dictatorship and repeated attempts at reform in democracy, this dissertation attempts to interpret and explain this paradox.

According to a simple reading along the lines of political opportunity, the period after the military dictatorship should have been far more open to a significant change in Chile’s Labor Code than was the previous period of repressive military dictatorship. Yet, what history shows is the opposite. The state, led by a harsh military Junta that had banned and violently repressed the pre-coup labor movement upon taking power, chose to make significant concessions reflected in major change in Chile’s Labor Code at the end of the 1970s. Conversely, Concertación Era governments, under a constitutional democratic-republican state led by parties allied with the labor movement, made few concessions and very minor changes to the Labor Plan laws. After the Concertación lost power in 2010, labor-state conflict escalated markedly. Key Labor Plan issues around unions, strikes and collective bargaining were finally subject to more profound change in 2017. Clearly, these confounding labor-state dynamics call for a rigorous empirical and theoretical explanation.

### **Research Methodology and Analytical Strategy**

The main research methodology pursued to explicate these questions is historical process tracing, primarily utilizing document analysis of archival sources. As a research strategy, “historical process tracing”, or the detailed within-case analysis of particular streams of events that connect antecedent causes to outcomes, involves a detailed reconstruction of key historical sequences primarily through the use of archival materials (Steinberg 2004; George and Bennett 2005; Bennett and Elman 2006). Document analysis refers to the qualitative study of traces of the past. It involves in-depth investigation of sources and aims at hermeneutic understanding (Goldstone 1999). The archival sources utilized in this study encompassed a combination of primary and secondary sources. The primary sources involved a wide mix of predominantly Chilean print media, documents from political and labor organizations, autobiographies and collections of speeches and writings of key actors. The secondary sources included Spanish and English language historical and sociological studies, particularly detailed historical analyses based closely on archives, as well as a number of secondary biographical works.

In contrast to a correlational approach, process tracing evaluates “a stream of behavior through time” such that an interpretation of the case must explain not only the final outcome but also the whole stream of behavior (Steinberg 2004: 6). This is distinguished from a purely historical account by converting historical sequences into analytical explanations put in terms of theoretical factors identified in the research design (Ibid). Such techniques attempt to mitigate the tradeoff between theoretical parsimony and descriptive richness. All narratives are inherently ‘lumpy’ as parts of a chronology are selectively expanded or elided. Process tracing uses thick description and detailed narratives in order to assess causation. Thus, Steinberg (2004: 21) recommends focusing on “those components of a chronology that demonstrate, refute or otherwise carry important implications for purported causal mechanisms.” The injunction to emphasize those parts of history

that are crucial to a causal explanation points towards a far greater degree of focus on the actual moments of crisis and critical juncture periods than is typically seen. Historical process tracing is appropriate for theory testing and development in a case study for a number of reasons. The embedded temporal scales of historical events make narrative well suited to breaking a case into smaller parts, generating numerous observations within a case study and calling for connections to be established between these observations to constitute an explanation (Ibid).

The analytical strategy employed involved interpreting this historical path as both an extended case study and as a set of four “cases” or periods subject to analytical comparison. As a theoretically-motivated case study, this dissertation attempts to explain and analyze the historical path of Chile’s Labor Code. It traces this path through four historical periods of labor-state dynamics and Labor Code outcomes that together comprise the history of the Labor Plan. These periods are: the De Facto Era (1973-1979) from the outset of the dictatorship through the origin of the Labor Plan; the Institutionalized Dictatorship Era (1980-1990) which saw the rise of the national labor led opposition; the Concertación Era (1990-2010), when promises of profound changes in the Labor Plan went unmet; and the Post-Concertación Era, a period of escalating social movements and labor-state conflict that culminated in a significant Labor Code reform in 2017.

### **An Extended Case Study of Labor Plan History**

An “extended case study” is “a technique developed by Michael Burawoy (Burawoy 1991: 271-287; Burawoy 1998) in which case study observations are used to discover flaws in and to improve existing social theories” (Babbie 2013: 298). In this dissertation, an extended case study of Labor Plan history (1973-2018) is used to reflect upon and challenge sociological theories from three main streams of theorizing: social movement theories around political opportunities and contentious politics; historical institutionalist theories around the role of ideas in institutions, policy and politics; and hegemony theories of state rule and the role of ideology under capitalism associated with Antonio Gramsci, Ernesto Laclau and Stuart Hall.

The extended case method was initially developed by anthropologists Max Gluckman and Jaap van Velsen in the late 1950s and early 1960s (Gluckman 1961; van Velsen 1967). It reacted to a decontextualized abstractionism in structural approaches by offering richly detailed accounts of actors and their choices. Gluckman placed less emphasis on structural regularities and more on detailed analysis of social processes with particular emphasis on extending case studies temporally. He argued, “the most fruitful use of cases consists in taking a series of specific incidents affecting the same persons or groups, through a long period of time, and showing... [the] change of social relations of these persons or groups within the framework of their social system” (Gluckman 1961: 10). For van Velsen, the method meant “analyzing the interrelation of structural (‘universal’) regularities, on the one hand, and the actual (‘unique’) behavior... on the other (van Velsen 1967: 148). He thought this could illuminate a complex relationship of structure and strategy (Ibid: 146).

Burawoy, one of van Velsen’s students, further defined the method by advocating it as a means to reexamine the relationship between data and theory (Burawoy 1998). Like Gluckman and van Velsen, he emphasized the importance of variations in the case through time and space, as these often help to delineate the structural forces shaping a society (Burawoy 1991: 271-287). He also proposed researchers use their observations of specific cases to challenge and reconstruct existing theory. Here, cases are selected specifically for their theoretical relevance, and by using a case to challenge existing theory, generalization from a single case study becomes possible (Ibid). This is accomplished via identification and analysis of anomalous cases (cases not accounted for



by the existing theory). For Burawoy, careful attention to such anomalies “leads directly to an analysis of domination and resistance” (Ibid: 279), thereby qualifying the extended case method as “the most appropriate way... to (re)construct theories of advanced capitalism” (Ibid: 271).

The use of a case study does raise methodological issues. Specific complications include the ability to generalize from findings, the identification of relative weights associated with specific “independent” causes, and the knowledge of where a case fits into a broader population. Nonetheless, a case study is well suited to this type of investigation for a number of reasons. Case studies allow for a detailed and holistic evaluation of sequences in historical cases, are well suited to the study of rare events, can evaluate complex interactions of many factors and offer a way to uncover omitted variables and boundary-test theoretical claims (Bennett and Elman 2006). They can identify and explain the mechanisms involved in both institutional origins and their persistence as well as aid in revealing essential intervening connections between the two (Mahoney 2000).

With respect to Chile, there are a number of reasons to consider it a crucial case deserving of special attention. Chile was the first nation in Latin America and the world to undergo neoliberal restructuring. Harvey (2005: 7) has called it “the first experiment with neoliberal state formation”. As a result, Chile’s version of neoliberalism has been robust, long-standing and consolidated under successive democratic governments operating within what were in many ways the most stable institutions in the region during the Concertación Era. As such, its application of this form of social organization has proven quite durable. Chile has often been held up by particular domestic actors and interested outside observers as a model for emulation, its success attributed to a strict adherence to the neoliberal prescriptions of the “Washington Consensus” (Williamson 1989).

Chile’s history also has great resonance as waves of global transformation have instantiated in dramatic ways in the country. From the aborted attempt at socialism under Allende to the leading edge of the monetarist revolution in economic orthodoxy to issues of democratic transition and consolidation to more recent dynamics of the crisis of representation in liberal democracies and the discrediting of neoliberal orthodoxy under the revival of social movement pressure, Chile has stood at the forefront of key global shifts in symbolically and substantively important ways. The unique path by which Chile consolidated a neoliberal labor relations system and labor market is a critical case for understanding the nature and role of the state and labor under conditions of neoliberal democracy in a peripheral region and nation. The durability or vulnerability of the Chilean model of labor relations- and state-society-market dynamics generally- carries significant implications for issues of history and political economy in Latin America and beyond.

Last, the issue of using formal labor law to analyze the structuring of the labor market and the position of workers more broadly must be discussed. Clearly, formal labor laws and the Labor Code are neither the sole determinant nor the best indicator of the political and economic fate of organized- and less unorganized- labor in any country. Such laws are often ignored or irregularly enforced. They are often overwhelmed in their impact by broader social and economic trends (Murillo and Schrank 2005: 972). Even more importantly, the organized labor force that might make use of such provisions as the labor movement has been lobbying for constitutes a minority in Chile (Sehnbruch 2006; Sehnbruch 2014). The majority of workers do not work under the formal contracts that underlie most of the key provisions of the Labor Code. That is, most workers are either legally or de facto excluded from many provisions of labor legislation *a priori* (Ibid).

There are, however, several reasons to consider labor law an appropriate and even crucial venue for social analysis. It is, as Collier and Collier (1979: 971) note, a “highly visible and concrete policy statement around which political battles are fought, won, and lost, and around which political support is attracted, granted, and withheld.” As a formal policy statement, it is an

ideal piece of evidence with which to trace and analyze the continued relevance of the legacies of a constellation of influences that obtained before and during the democratic transition. These influences inaugurated the institutional ensemble that still channels Chile's path. Recent Chilean history demonstrates the symbolic and substantive importance that employers, unions and governments have given to the issue. Labor law is a crucial instrument whereby the state intervenes in the market and helps define the modalities of interaction between the state, society and the economy in contemporary Chile. In this, the law's exclusions are as critical as its inclusions.

Labor law is a key intersection linking the creation of institutions to economic outcomes. By conditioning the material rewards of work, it helps shape Chile's class structure. By instituting the 'rules of the game' within which workers can organize and collectively bargain it conditions the potential strength of the organized working classes. This potential strength, in turn, affects socio-political struggle and thus the socioeconomic structure of the nation. Finally, as Collier and Collier (1991) demonstrated, the way in which organized labor is incorporated into the state via the political system has been a defining factor in the nature and dynamics of Latin American states for more than a century. In Chile, the disputed issue of labor law reform and the relations between the CUT and the political parties of the Concertación has largely conditioned this incorporation in the post-authoritarian era. As such, labor law has been a crucial site around which the role of labor in society and the state in the market economy have been contested and (re)constructed in Chile.

### **A Comparative-Historical Analysis of Labor Plan Periods**

According to Goldstone (1999: 4), comparative sociological research is a method that "involves the use of multiple, detailed observations on a modest number of cases, designed to uncover causal patterns" wherein "a case is a detailed understanding of a particular unit." This is done through "process tracing", the charting of "combinations of causes and outcomes" under "varying conditions" and the "detective work" of "moving beyond correlation... for explanation, i.e. one must make sense of a link between variables" (Ibid). Goldstone (1999: 6) summarizes these as the "3 C's of comparative sociology" which are the designation of cases, the establishment of causes and comparisons "to test hypotheses, to illustrate causal connections, and/or to show variance in conditions and outcomes."

This dissertation makes use of path-dependence to analyze the full history of the Labor Plan as an extended case study and a comparison of the four historical periods in order to do all three of the operations suggested by Goldstone above. The weaknesses and complications of both a path dependent model and using time periods as cases is elaborated upon in the thesis section.

### **Section 2 - Literature Review: The Failed Labor Reform Debate**

Scholarly debate regarding the lack of labor reform in Concertación Era Chile has pointed to a variety of possible contributing determinants. For analytical purposes I have grouped them into four broad types of explanatory factors. A first grouping emphasizes the primacy of economic structures in overdetermining Labor Code outcomes. A second type looks to institutional dynamics and processes for explanation. A third type focuses on the main agents involved in Labor Code outcomes – the state and political parties, the labor movement and labor institutions and business and its organizations – highlighting their ideational outlooks and strategic perspectives and plans. A fourth set cuts across these other categories while incorporating many of the variables included in them and revolves around the analytical axis of timing to understand the fate of the Labor Code.

## Structural Economic Explanations

At the most macro-economic structural level, the dynamics of global capitalism at the conjuncture of the transition, sometimes under the rubric of “globalization”, have been posited as laying down narrowly constricted conditions of possibility for Chilean labor at the dawn of the post-Cold War period. Taylor (2004: 73) utilizes “materialist state theory” to frame an argument that structural transformations in the economy during the dictatorship rendered significant change in the labor market, and so substantive “profound change” in the key Labor Code issues, so costly to the economy and the state, and by implication the ruling parties, as to be functionally impossible. Military regime policies – particularly trade and capital flow liberalization and heavy state subsidy and backing of the financial sector – led to the ascendancy in Chile’s political economy of highly mobile, internationally integrated finance capital and the domestic economic sectors most intricately linked to it. By radically restructuring the capital accumulation model in Chile these policies also fundamentally transformed the nature of the state (Ibid). The dual function of the state under such an accumulation regime demanded adherence to the discipline of this mobile form of money capital while simultaneously managing the social and political tensions arising from such a model (Ibid). This dual purpose, in turn, explains the schizophrenic appearance of a government speaking endlessly of labor reform as a central pillar in the *Concertación* “growth with equity” strategy while altering little the hyper-flexible, globally integrated labor market model (Ibid).

Macroeconomic policies, including low and uniform tariffs, lax regulations on foreign investment and capital flows and massive state privatizations (including leading financial firms and conglomerates previously nationalized, bailed out and heavily subsidized by the dictatorship) greatly increased the presence of foreign capital and transnational firms in the Chilean economy. This mode of accumulation “reinforced the concentration and centralization of domestic capital in a handful of large economic groups based in the financial sector and deeply integrated into the circuits of international finance (Ibid: 80). These economic groups were heavily reliant on a constant inflow of foreign capital owing to their high debt loads and need to import foreign technology to increase productivity and keep product prices competitive in a global market (Ibid). Taylor (Ibid) cites a 2000 IMF report that Chilean private sector debt amounted to 50% of GDP by then. This deep transformation and liberalized international integration of the Chilean economy had critical implications for government policy formation as the Concertación Era state attempted to consolidate and intensify this strategy of capital accumulation while concurrently maintaining its necessary conditions of political-economic stability and governability (Ibid).

Because capital expansion is a precondition for capitalist development and the material reproduction of the state itself, a key way in which discipline was enforced on the Chilean state in the Concertación Era was via this unceasing necessity to keep world financial flows tied to capital circuits in Chile (Ibid). Time and again since the liberalizations of the 1970s, capital outflows were central to economic crises in Chile. This was true of the enormous crisis of the early 1980s and of the recession that began in 1998 and dominated policy considerations in the middle years of the Concertación Era (Ibid). It was true again with the much larger recession that hit Chile in 2009 at the end of the Concertación years. Conversely, sustained and growing capital inflows were key to the growth experienced during the second half of the 1980s and most of the 1990s, particularly in crucial sectors like mining (Ibid). Those realities pressured the state to implement capital-friendly policies and to intervene to help secure the comparative advantage of Chilean products globally.

An essential component of this model was thus a cheap and flexible labor force. Taylor contends labor market flexibilization is best understood in this context as “a process of removing the historically forged restrictions upon capital’s usage of labor power as a commodity” (Ibid: 81). Flexibilization assists capital accumulation by individualizing the relationship between employer and employee and thereby enhancing capital control over hiring and firing, contracts, social benefits and work conditions. Flexibilization can help suppress wages, increase work intensity and decrease job security, allowing capital to shift investments more easily. A flexible labor market was an integral component of Chile’s comparative advantage internationally in the Concertación years, so “the regulation of labor relations [was] clearly central to the state’s reactive management” of the cross-pressures generated by this model of capital accumulation and development (Ibid). Flexibilization, however, is prone to produce social tensions that translate into political pressure on the state. This resulted in the notable disjunction between government discourse and labor reform policy evidenced by Concertación administrations (Ibid).

Concertación governments also inherited a highly uneven balance of social forces. This was characterized by a dominant and highly mobilized and politicized capitalist class represented by effective organized interest groups. It was well aware of its powers via capital concentration, control over the means of production and an alliance with the political right (Ibid). Labor emerged from the transition battered by repression, deindustrialization, privatization, labor market fragmentation and the institutionalization of a highly disadvantageous Labor Code. By 1990 unions were smaller and weaker and national affiliation was significantly lower than at the dawn of the military regime (Ibid). Faced with such pressures and incentive structures Concertación governments logically sought to assuage labor rhetorically and capital substantively. Haagh (2002, 2003) also argues the economic model left to Concertación governments a political situation structured by strong capital and weak labor, which made them reluctant to push reforms unpopular with business. Cook (2002) notes that neoliberal reforms in Chile were consolidated by the time of the transition. By the arrival of the first post-transition democratic administration to power, usually a propitious time for labor reform, business simply overpowered labor and cowed the state into much more limited changes than those achieved elsewhere in post-transition Latin America.

José Cademartori (2003), academic and Economics Minister under the socialist-led Allende government, points to structural change under globalization to explain strictures on Concertación policy making. He emphasizes how deregulated imports decimated domestic producers and how growing markets, particularly in Asia, for Chilean primary raw material exports (mining, fishing, timber and agriculture above all) structured an economy wherein growth and employment were highly dependent on maintaining fickle foreign investment. In addition, the hyper-empowerment of the large *Grupos Economicos* left them in a position to dictate terms to the Concertación governments. They could threaten to pull the plug on needed investment and cause immense political pain via mass unemployment, he argues, as in the analysis by Fred Block in “The Ruling Class Does Not Rule” (1977). Indeed, Barrett (2001) argues “the Concertación’s concern for gaining and retaining the confidence of business has been a defining feature of the Chilean transition and of Chile’s new socio-political compromise more generally” (195-196).

### **Political Institutional Explanations**

Another category of arguments explaining the failure of substantive labor reform in the Concertación Era emphasizes political-institutional impediments to change. Predominantly, these types of analyses focus on the “perverse institutionalization” of a “protected democracy” inherited

from the military regime and negotiated transition (Olavarría 2003). This institutional legacy was especially robust as it was embedded in the 1980 Constitution. Olavarría (2003: 13) argues that “the continuity of many of the social and economic policies of the military regime following Chile’s transition to democracy has been ensured by the constraints on decision-making and the representative capacity of political institutions established by the 1980 Constitution.” In this perspective the neoliberal economic model- and its attendant vision of labor relations- are premised upon the continuity of the neoliberal state (Barton 2002). The institutional features most often cited in these arguments include: many super-majority rules for legislation; a “binomial majoritarian” electoral law; unelected Senators-for-life; the exaggerated executive powers of the Presidential system; and the “authoritarian enclaves” that allowed for direct military participation in politics.

The electoral law and political dynamics it structured are seen as particularly crucial as it lay behind the most notable discontinuity between pre- and post- military regime democracy: the change from three major political blocks to two. The binomial majoritarian voting rule systematically and intentionally over-represented the right (Munck and Bosworth 1998). Pinochet loyalists designed the system after the results of the 1988 plebiscite were known, including valuable information about voting patterns and electoral competition (Rahat and Sznajder 1998).

The voting system for the Senate (19 districts and 38 seats) and Chamber of Deputies (60 districts and 120 seats) was based on two member districts. Each party or coalition list was able to present two candidates for each district. Voters chose one candidate per district with seats allocated by the number of votes per list in each district. The first seat was awarded to the list with the highest number of votes. However, the second seat was not awarded to the same list unless the list garnered twice the number of votes as the next-highest list, regardless of vote totals of individual candidates. This was the so-called *doblaje* (double) rule, which allowed candidates with lower vote totals to be selected for the second seat in many districts where the Concertación affiliated list had the best vote total and the two candidates with the highest individual vote totals.

Given the historic pattern of Chilean party competition divided among 3 blocks of roughly equal proportions – right, center, and left- the voting system rewarded the second largest block (the right) while entirely excluding the opposition left of the Concertación. This exclusion specifically effected the Communist Party and Socialist dissidents outside the PS after the fracture and re-unification of the Party during the dictatorship. This exclusion was a key, explicit goal of the military regime. The 1980 Constitution even banned political parties of “Marxist inspiration”.

This electoral dynamic artificially constricted the party system and transformed electoral competition from a multiparty system with centrifugal tendencies to a centripetal two-coalition system. In addition, party blocs chose candidates through complex negotiations at the coalition level, which led to a dynamic of a closed system with important decisions made behind closed doors by remote party elites (Arriagada 1997). This further conditioned the programmatic and ideological homogenization of parties, dramatically narrowing the band of political contestation (Moulian 1997). Among the results was an erosion of party-society linkages as party identification declined and political alienation increased, especially among the young and the poor (Olavarría 2003). Parties adjusted to this new environment by importing American marketing techniques and moving to non-programmatic appeals based on personalism or clientelism (Luna 2004). Campaign funding, largely unregulated, was overwhelmingly provided by the *Grupos* (Olavarría 2003).

The constitution also provided for the appointment of 9 non-elected Senators: two by the President, three by the Supreme Court and four by the National Security Council. In addition, ex-Presidents of the Republic served as “Senators-for-Life”. This included Pinochet himself, who sat from his March 1998 retirement as Commander-in-Chief of the Army until 2002. Until these

“designated Senator” seats were eliminated by a reform in early 2006, they allowed the right a blocking vote in the Senate on many legislative reforms. Non-elected Senators provided the key margin in voting down labor reform in Congress in 1995, 1997 and 1999 (Uggla 2000).

The “authoritarian enclaves” (Garretón 2003) specifically referred to provisions that allowed a continued formal role for the armed forces in political life. This role was mainly enacted through the National Security Council. The National Security Council was composed of the heads of the four branches of the military. Until a 2005 Constitutional reform promulgated by President Lagos, the Council had the formal right to make its opinion heard on any matter that it considered to effect national security. The elected President of the Republic lacked the ability to remove the heads of the branches or to freely appoint their successors. Demonstrations of pressure early in the Concertación era like the “*ejercicio de enlace*” and the “*Boinazo*”<sup>8</sup> only reinforced this dynamic, as did Pinochet’s continued role as Army Commander-in-Chief. Finally, the military enjoyed the benefit of a special funding law granting it 10% of state copper company CODELCO revenues, an amount neither changeable nor its budgeting reviewable by civilian authorities (Vergara 2008: 88).

The outsized power of the executive in the Chilean institutional order exaggerated several of these other dynamics. Article 62 of the constitution gave the President the exclusive right of legislative initiative in the areas of social security (public and private sector), collective bargaining and pensions, among many others (Siavelis 1997, 2000). The President set priorities in the legislative arena and had areas of exclusive initiative as well as broad decree powers. This set up debilitated political parties and encouraged an insular, elitist and technocratic mode of policy making, as polls and technical solutions replaced policy debate in governing (Garretón 1995). The power of the President along with the lack of a viable left opposition provided Concertación era executives with extensive autonomy (Frank 2002). This strong insularity allowed governments to place utmost emphasis on the priorities of the business class and the military (Olavarria 2003).

This Presidential autonomy tied into a final type of institutional-political explanation for a lack of labor reform and change to the military regime model of political economy more broadly. That was the role and influence of “external” actors outside of Chile, another set of constituencies that had privileged access to the powerful Presidential inner circle (Bresnahan 2003). These groups included foreign investors, the US government and the International Financial Institutions (Ibid).

### Agent Centered Explanations

A third analytical category grouping explanations for the lack of labor reform in the Concertación Era focuses on the main agents involved in the generation of labor law in general and specific Labor Code outcomes related to the Labor Plan. These include political actors in the state and political parties, actors in the broader labor movement and specific labor institutions and capitalist actors representing formal business lobbies or specific business interests. These more disparate explanations are grouped together because they highlight the ideological, cultural and

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<sup>8</sup> The December 19<sup>th</sup>, 1990, “link exercises” and May 28<sup>th</sup>, 1993, “beret-gate” both involved Pinochet in his role as Commander-in-Chief of the Army and the corruption scandal known as “*Pinocheques*”. It revolved around 3 checks written to Pinochet’s son by the Chilean army for a total of US\$ 3 million, ostensibly for the purchase of a small rifle company. In the first incident Pinochet placed the then 57,000 member army on alert, sent them to barracks to prepare for “exercises” and demanded an end to a Congressional investigation (the Schaulson Committee) of the scandal. Similar pressure was again brought to bear in May 1993 when Army Commandos- in their signature berets-commanded by General Pinochet gathered, armed and in combat uniforms, near the Presidential Moneda Palace. In the end, President Frei called off the investigation for “reasons of state” (*cooperativa.cl* December 7, 2004).

strategic perspectives of key agents in the political processes under analysis. A more interpretivist framework allows for consideration of the subjective world-views and strategic outlooks of agents.

Party and state elites have been the most common subjects in this type of analysis. Weyland (1999), for example, characterizes Concertación leaders as cautious rational actors operating in the “domain of gains”. With the economy growing rapidly in the late 1980s and throughout much of the 1990s, the leaders of Chile’s democratic governments displayed a typically risk-averse posture common in rational actors facing the prospect of gains (Ibid: 68). Macroeconomic stability allowed for greater social spending and the planning necessary for longer-term stable growth. Conscious political learning (Ibid: 69) led Concertación governments to explicitly avoid the “populist policy cycle” leaders recognized in Chile’s history under Allende as well as in other re-emerging democracies in the region, particularly Peru under President Alan García (1985-1990). Reluctance to confront economic elites constrained their ability to pass labor, as well as tax, health care and education reforms to mitigate Chile’s exceptionally high socioeconomic inequalities (Ibid).

Hite (2000) emphasizes the traumatized historical memory of leaders of the left in Chile. Living through democratic collapse, dictatorship and exile or persecution left them with “memories of the political chaos and traumas of the past, memories that have limited the political imagination” (Ibid: 194). This expressed itself as an accentuated caution and a strong preference for the process of consensus building among political elites rather than open policy or ideological debate. The latent fear produced by such violent conditioning is a factor many highlight (Ibid: 187; Haagh 2002: 107; Olavarría 2003: 27). Key Concertación leaders including Presidents Ricardo Lagos and Michelle Bachelet experienced imprisonment, exile and, in the latter case, torture.

Frank (2002) similarly points to the “lessons of history” learned by Concertación leaders. The most salient of these were: avoiding the mistakes leading up to the 1973 coup; understanding their own role in the collapse of the democratic system; valuing democracy as an end unto itself and recognizing the necessity of steering clear of “populism” (often associated with socialism and communism) for democratic stability. These lessons became deeply engrained parts of the world views of Concertación leaders, especially in the key Christian Democratic and Socialist parties.

While fears of a potential authoritarian regression or upsetting the business class were no doubt powerfully motivating, some observers have argued that Concertación leaders were not unwilling participants in the processes of policy caution and continuity, including on labor matters. At least some had come to view Pinochet’s economic model more favorably (Haagh 2002). The limited reforms under Aylwin can thus be seen as a “political tool” to legitimate the government without upsetting overriding Concertación goals of political stability and economic growth (Ibid). Others (Drake 1996; Frank 2000; Cook 2002) point primarily to the fact that “members of the Concertación itself have internalized the neoliberal arguments about labor flexibility and economic performance” (Cook 2002: 26). Frank (2002) argues that Concertación leaders arrived at “a new understanding” of labor market policy while governing, “hence, while many of the Concertación members may actually have thought in 1990... a strong labor movement necessary... today they probably think differently” (63). Barrett (2001) argues a similar change actually happened earlier. To explain “labor’s experience during the 1990s” he looks to “the strategy of opposition that the center-left adopted toward the military regime during the 1980s and, as a by-product of that strategy, its changing posture towards the regime’s economic model and Chilean business” (Barrett 2001: 577). This was because the opposition that became the Concertación “gradually abandoned a strategy of social mobilization in favor of an electoral one and gave ever greater priority to maintaining the military regime’s economic model and gaining the confidence of business” (Ibid). This “electoral turn” strategy locked-in the dictatorship’s institutional structure embodied in the

1980 constitution and major structural transformations to the economy, including a major second wave of privatizations in the late 1980s. Whether instrumentally or ideologically motivated, consensus on economic and labor policy amongst Concertación and conservative leaders led to prioritizing political stability over social mobilization as a governing strategy (Olavarría 2003).

Moulian (1997) suggests that this cross-partisan policy consensus led to a “false death” of ideology and ideological contestation as neoliberal ideas became hegemonic and policy makers attempted to “technify” politics and in the process to displace all alternative conceptions (Ibid: 56). Political elites and Concertación leaders, “maintained neoliberal hegemony through the careful deployment of the contradictory notions of exclusionary practice and inclusionary discourse” (Olavarría 2003: 15). Motta (2007) argues Socialist Party leaders, especially Presidents, played a key role in constructing and maintaining neoliberal ideological hegemony. Party elites evinced “the internalization of a discourse in which the rationality of the neo-liberal accumulation strategy is justified by its equation with modernity, vibrancy and success” (Ibid: 2). Socialist Party and Concertación leaders must have been actively invested in maintaining neoliberal labor and broader socioeconomic policies descended from the dictatorship as they deployed a purposive strategy of putting a “democratic face” on “neoliberal policy” (Ibid). They perpetuated a discourse that made neoliberal ideas “common sense” and “disarticulate[d] potential opponents of this consensus” (Ibid). In this conception, Concertación elites were ideologically simpatico and politically aligned with, and not merely constrained and threatened by, the political right and capitalist interests.

The organized business class has also been analyzed in terms of its ideology, worldview and strategy in order to understand labor and broader socio-economic policy outcomes. Frank (2004) argues that an alliance of the politicized business class, the media and the political right fostered an unfavorable discursive environment for promised labor reforms. Haagh (2002) shows how the peak national business confederation – the CPC – supported each section of the Labor Plan Labor Code that came up for reform with a “highly ideological discourse” and “the powerful tool of neoclassical doctrine” (94). Cook points out that employers and the political right were unusually unified and ideologically driven in opposing labor reform because of “the memories of what a more powerful labor movement had meant to their interests” under Allende (25). Sehnbruck (2006) also emphasizes the loathing with which business viewed pre-Pinochet labor legislation, especially the 1966 “immobility law” which constrained dismissal of workers and mandated a severance for most workers let go, while also allowing ample rights to appeal their termination at a labor court. This “shared sense of history” (Huneus 2000; Frank 2002) was especially prevalent among organized employers and the UDI, the larger and more conservative of the two major right wing parties in the Concertación Era, including a perceived need to preserve Pinochet’s legacy.

Eduardo Silva (1992; 1993; 1995; 1996a; 1996b; 1996c) has clearly demonstrated the effect of unusually active and ideological business intervention in politics for the ways in which their ideas have been incorporated into the Chilean state and government policymaking during the military regime, transition and post-authoritarian eras. This was especially crucial in formulating the “pragmatic neoliberal” response to crisis in the mid-1980s. That included the 1986 codification and consolidation of the Labor Plan decree laws into a formal Labor Code. It was the ideas of the coalition of outside business people led by Hernán Büchi, later the first conservative candidate for president post-Pinochet, who ultimately shifted regime economic policy. Their intervention and the policy package that resulted stabilized the functioning of the neoliberal economy (Silva 1995). The growth that followed this more interventionist and less orthodox “pragmatic” stabilization is credited with being among the main reasons for policy continuity in the Concertación Era (Ibid).



Key actors from the labor movement have also been analyzed with respect to the worldview and strategy they brought to bear in their Concertación Era interactions with state and capital. Cook (2002) argues that the labor movement's – and in particular the CUT's – timid stance during the transition and Aylwin administration, when priority was put on stabilizing the transition and a government led by the same parties as the CUT, hindered the potential for more profound labor reforms in the longer term. This orientation has been explained as willful subordination to political parties (Winn 2004) or a sense of duty to protect a nascent democratic regime (Haagh 2002).

Some analysts have claimed that labor began to look more favorably on the private sector and accepted the demands of an open, competitive economy by the end of the transition (Campero 2002). For Uggla (2000) the issue was centrally the identity of the labor movement and, in particular, the CUT. As a result of their historical experiences under the dictatorship and their position in the opposition, the identity of the movement shifted during the 1980s from a resistance movement against the dictatorship to a more traditional interest group that abdicated political leadership to the opposition political parties. The experience of struggle against the dictatorship after the high point of the Allende years cemented a strong, re-forged alliance between the Concertación and labor and increased the value the latter placed on democratic institutions as an end unto themselves (Ibid). This greatly enhanced the propensity for the CUT to adopt a cooperative rather than conflictive stance with respect to the Concertación as their identity as allies carried strong implications for strategy (Ibid). Alan Angell's work (1972, 1995) shows how this orientation is congruent with a long tradition of Chilean unionism operating politically via parties.

In a related vein, Traverso et al. (2012) argue that the CUT was “removed from the bargaining table” in negotiations over labor law reform during the first Bachelet administration (2006-2010) in part because of its “political dependence on the Concertación”, (Ibid: 86). The CUT adopted a “collaborative and proactive strategy” of negotiating consensually with business interests like the CPC and had a “political objective” of supporting the government and transition “even at the cost of concessions on labor demands” (Ibid: 89). This was in part because “union leadership” was “dependent on the governing parties” (Uggla 2000: 116; Traverso et al. 2012: 89) and “believed that democratic consolidation should be prioritized during the early years of the transition” (Traverso et al. 2012: 89). The Bachelet administration was expected to be the most progressive of the Concertación. Bachelet's campaign had focused on inequality and citizen participation. She early on appointed pro-union Socialist Osvaldo Andrade labor minister. Yet the CUT saw less access to policy making and less success on key Labor Plan issues than in the first 3 Concertación administrations (Ibid: 86). In fact,

In contrast to the situation under previous Concertación governments, in which the CUT was recognized as an actor to be included in setting the labor agenda, under Bachelet the federation, like most social actors, was only allowed to express its points of view before the advisory commissions of technocrats whom Bachelet entrusted with the responsibility of making policy (Ibid).

Indeed, with less political access, in the Bachelet term the CUT only began to “achieve greater visibility in the public debate because of its mediating role when new labor conflicts arose” (Ibid: 92). Regarding the CUT's orientation towards political parties and the state, “the higher public profile of labor conflicts meant a repositioning of the CUT as the workers' representative” (Ibid: 94). This more oppositional labor-state dynamic intensified in the post-Concertación years.

### Timing and Sequence Centered Explanations

A fourth group of explanations makes use of many of the aforementioned factors while organizing arguments for failed labor reform around the analytical axis of timing or sequencing. In these analyses, when reforms or attempted reforms happened had a crucial effect on the content of such legislative episodes. The sequencing of democratization and labor reform is especially key.

Cook (2002) compares labor reform during and after redemocratization in Chile, Brazil and Argentina. She argues the sequence of neoliberal economic and labor reforms and democratic transitions set the stage for labor reform outcomes. Chile consolidated labor and economic reforms before democratic transitions. Hence, Concertación governments were faced with a labor force whose organizations and bargaining position were severely weakened by structural economic changes and labor market effects as well as brutal repression under the dictatorship. The mirror of this situation was the empowerment of conservative economic and political elites. Their position was enhanced by structural changes during the military regime, strong economic growth in the late 1980s and the conservative nature of the political transition (Ibid). Because both Concertación and conservative political elites shared a commitment to the economic model, including the institutionalization of the labor market via labor law, labor's demands were kept subordinate to 'consensual' status quo politics (Ibid). This allowed the right to block significant labor reform despite the unusually propitious timing of a newly redemocratized political system within which labor enjoyed great legitimacy due to its role in ending the dictatorship (Ibid).

Haagh (2002, 2003) also argues that the timing and sequence of reforms were central to the consolidation of the basic outlines of the authoritarian labor code and the limited nature of social rights entailed therein. She suggests that path dependence<sup>9</sup> was set in motion by the timid nature of Aylwin's reforms and its muting effect on citizenship. Because the democratic regime was inaugurated after structural economic reform was completed, the Concertación faced an already strong outgoing authoritarian coalition of the business sector and the political right (Haagh 2002). Faced with strong capital and weak labor yet needing to display political will to deliver on labor reform promises, the Aylwin government used labor reform "mainly and successfully as a political tool to secure the political legitimacy of the democratic regime" (Ibid: 88). The inclination and capacity of the authoritarian coalition to block further labor reform was another decisive factor.

Still, Haagh argues that by this point Concertación elites had internalized the logic with which the right resisted reforms. The Concertación leadership prioritized maintaining macroeconomic growth and political stability through a tacit agreement to alter key legislative stands in the face of implicit threats from the business sector and/or the military to destabilize the democratic regime (Ibid: 94). For its part, the CUT viewed its primary duty as protecting the new democratic institutional order and not mobilizing social demands (Ibid: 88). Haagh argues that "the momentum of social democratization was significantly slowed... by the requirements of political consolidation as these were perceived by political actors... [a] lock-in effect significantly constrained its future development" (107). This lock-in effect was demonstrated by the appreciably more limited nature of the debate surrounding the "reform of the reforms" of labor law that came up during later Concertación administrations. This more limited package was defeated three times in Congress under Frei. It was passed in significantly diluted form under Lagos in 2001 (Ibid).

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<sup>9</sup> "Path dependence" is a type of political institutional argument that suggests patterns set in motion at crucial moments can achieve long term inertia and become difficult to dislodge. Because this concept plays a central role in the analysis and argument of this dissertation it will be discussed more fully in the following sections.

## **Combinations and Complexities**

Of course, many of the above-mentioned authors and their explanations in fact make use of multiple of these factors in combination in formulating their arguments. Cook (2002), for example, argued that both the subjective worldview of Concertación leaders as it evolved over the long period of the dictatorship and the timing and sequence of labor reform and democratization effected the final Labor Code outcome of the Concertación years. Haagh (2002) argued that a lock in effect made earlier attempts at promised labor reforms easier to achieve than later attempts, while emphasizing the perceptions of political actors and the labor movement during the key early democratic years.

A particularly important argument of this type for the argument in this dissertation is Uggla's (2000). He focuses on how the identity of the labor movement, especially the CUT, its leading organization, changed during the 1980s. From a resistance movement against the dictatorship oriented outside and against the state and significantly autonomous from the political parties, labor returned to a perhaps more comfortable historic role as representative of specific interests that operated with a partisan logic subordinated to opposition political parties. The timing of this change predated the 1987 "electoral turn", a strategic decision by the opposition parties that would become the Concertación to contest the dictatorship within the confines of the institutional system the military regime itself set up. It was these institutions, in turn, that would block attempts at promised labor reform during the Concertación years. These institutional blockages were themselves effective bulwarks against change because the labor movement did not exert more pressure on what were viewed as allied governments, especially early on after the transition. Labor's orientation had turned from maximally oppositional vis-a-vis the state to maximally conciliatory in less than five years, a process mediated by political parties. Uggla's key point is that "how party-union relations developed before transition" is "an explanation for post-transitional state-labor relations" (Uggla 2000: 283). This dissertation argues these state-labor relations were a major explanatory factor for the fate of labor reforms in the Concertación Era.

The interpretation laid out in this dissertation for the historical path of Chile's Labor Code, and within that the main question of the fate of the Labor Plan laws in the Concertación Era, makes use of a combination of these elements. Like Schamis (1991) and Taylor (2004), it will emphasize the objective constraints of global political economy on state actors. Like Olavarría (2003) it will suggest that, in the first instance, the institutional structure of the post-transition state was responsible for blocking promised labor reform. It will emphasize the strategy of the Concertación to gain and maintain power through economic growth and political stability and the orientation of the post-transition labor movement vis-à-vis the state and political parties. Finally, it will suggest that the timing of the containment and channeling of labor threat via state and party institutions, before the transition took place, was crucial in conditioning diminished labor threat in critical moments. The next section of this chapter will lay out in more detail the elements of this argument.

### **Section 3 – Thesis: Political Opportunity, Labor-Party-State Relations and Labor Threat**

#### **Political Opportunity Theory**

In a general sense, it seems obvious "political opportunity" for the labor movement in Chile ought to have been greatly enhanced by the transition from anti-labor dictatorship to democracy with ostensibly pro-labor parties holding state power. As a framework and set of premises for the

analysis of social movements “political opportunity theory” points to exactly “exogenous factors that enhance or inhibit prospects for mobilization... and for movements to affect mainstream institutional politics and policy” (Meyer and Minkoff 2004: 1457-8). More specifically, the formal institutional structures of the state have been one of the key political opportunity structures analyzed since Eisinger (1973) first proposed the “openness” of government “as the key factor in opportunity” (Meyer and Minkoff 2004: 1460). In fact, the “apertures” provided by “vulnerabilities within political systems” such as the “opening of political institutions, elite disputes, shifts in the level of repression” (Rosaldo 2016: 355) are seen as crucial for popular mobilization in this approach (e.g. Tilly 1978; McAdam 1999). One introductory summation of the theory lists the following factors as potential vulnerabilities for the status quo: “growth of political pluralism; decline in effectiveness of repression; elite disunity; the leading factions are internally fragmented; a broadening of access to institutional participation in political processes” and “support of organized opposition by elites” (Cragun et al. 2006: 234). McAdam’s (1996) formulation conceptualizes political opportunity as encompassing: increasing popular access to the political system; divisions within the elite; availability of elite allies and diminishing state repression. The labor movement in Chile at the 1990 transition exemplifies all of these factors.

Political opportunity theory thus serves as a jumping off point and foil for understanding the relationship between the labor movement and the “mainstream institutional politics and policy” of Concertación Era governments and the post-transition Chilean state more broadly. If political opportunities were so much greater, why did the promised profound changes never materialize? In fact, this dissertation argues these very factors (elite allies, access to the institutional political system and a conciliatory relationship with the state) actually conditioned demobilization and thus weakness in the movement. This, in turn, led to the lack of institutional change in the Labor Code.

In conceptualizing the relationship between social movements and the formal political institutions of the state this argument adheres to political theorist and Latin American social movements scholar George Cicariello-Maher’s dictum that “every concession is at the same time a containment strategy” (*Salon* May 4, 2015). State concessions around repression and access to political institutions and rearticulated labor movement connections with elite allies, particularly in the opposition political parties, apparently contained and channeled threats from the movement that had bedeviled the dictatorship. The best evidence for this contention comes not from the Concertación Era alone, but from the authoritarian years before and Post-Concertación years that followed the 1990-2010 period. Both before and after the Concertación years much more significant reforms of the Labor Code followed periods of much more significant labor threat. Conversely, with labor threat contained, the newly ruling political parties and reformed state could enjoy the benefits of a docile labor movement. Concertación Era party and state elites understood such benefits to include governability and political-economic stability, which they viewed as crucial prerequisites for their central goals of capital investment and GDP growth.

### **Authoritarian Enclaves**

One response to this apparent paradox of political opening and social movement weakness is to argue that the institutional openness of the post-transition state and politics is exaggerated by an overly dichotomous view of transformation “from dictatorship to democracy”. The “authoritarian enclaves” (Garretón 2003) were institutional rules inherited from the military regime’s 1980 Constitution and Decree Laws that survived negotiations with the Concertación and transition. In particular, the non-proportional electoral rules for Congress of the binomial

majoritarian system and non-elected “designated” and “lifetime” Senators – including Pinochet – gave conservatives a blocking majority in the Senate for most of the Concertación Era. Indeed, non-elected Senators provided the margin of defeat in key Labor Plan reform votes in the Concertación years. Various super-majority rules for legislating in different areas – including issues covered by labor law reform – enhanced this power, allowing the right a blocking minority in both chambers. The new system excluded the left, and particularly the Communist Party, from Congressional representation. Finally, civil-military relations, defined by formal powers the military retained and informal influence, induced caution in state and Concertación party leaders. Barrett (1999), for example, argues “By participating in the plebiscite and obtaining only limited constitutional reforms, the CPPD [Concertación] helped to consolidate the 1980 Constitution and to restrict its own strategic options significantly” (10).

### **Political Parties, Coalition Dynamics, The Labor Movement and Labor Code Reform**

Nonetheless, there are important reasons to believe that the Concertación was not as constrained as this institutional heritage and blockage story would have it. First, the constraints of the authoritarian enclaves weakened considerably during the Concertación Era. Non-elected Senators were eliminated, a Constitutional reform lowered some super-majority rules and legal reforms enhanced the power of elected civilian governments vis-à-vis the military. After a couple of tense incidents in the early Concertación years, military interference and influence steadily declined, especially after Pinochet’s 1998 arrest in London on human rights violation charges. By the first Bachelet administration, most of these enclaves were gone. Yet labor reform still stalled.

Moreover, over the course of the Concertación Era the balance of political power shifted to the left, even as prospects for “profound changes” in the Labor Plan actually declined. During this period the Presidency went from being held by the conservative sector of the Christian Democratic Party (Aylwin) to the progressive sector of the PDC (Frei) to the moderate sector of the Socialist Party (Lagos) and finally to the progressive sector of the PS (Bachelet). In Congress the share of seats held by the Concertación generally increased, and within the coalition the PS increased its representation in both the Chamber of Deputies and in the Senate. Both political trends reached their Concertación Era apogee with the election of Bachelet in 2006. Indeed, for a brief period the coalition enjoyed majorities in both chambers. Still, no changes were enacted to Labor Plan laws from 2006-2010. It was in this context that lifelong Socialist Party militant and CUT president Arturo Martínez claimed that the Bachelet administration “was the very worst on the labor topic of the four periods of the Concertación” (*El Mercurio* December 24, 2009).

Institutional power within the labor movement also moved left during the Concertación Era. In 1990 the institutional leadership of unions, federations and confederations, including the CUT was predominantly Christian Democratic, as it had been since the labor movement’s re-emergence in the second half of the 1970s following the first wave of repression under the dictatorship. By 2010 institutional leadership was predominantly Socialist Party, including the CUT. Moreover, under slowly but steadily growing pressure from the rank-and-file for a more oppositional labor praxis, the Communist Party gained important influence in the movement at base and leadership levels. The PC held the CUT presidency for 2 years and co-led the organization with a faction of the PS for much of the second decade of the Concertación Era. Various other left labor currents more radical and oppositional in their stances than the PC and not affiliated with major national political parties also gained ground within the movement throughout the Concertación Era.

A final category of evidence that institutional constraints outside of Concertación control were not entirely responsible for a lack of promised profound changes to the Labor Code comes from the statements of key political party, state and institutional labor actors around the time of the transition. President Aylwin, first Concertación Labor Minister René Cortázar, first Finance Minister Alejandro Foxley, key transition strategist and Secretary General of the Presidency Edgardo Boeninger and others spoke to a Concertación political and governance strategy of labor “peace” as a key basis for “economic stability” and “governability” (Boeninger 1997: 483-496). The labor movement’s organizational leadership at the time, made up predominantly of Christian Democrats and “renovated” (centrist) Socialists – the two main political forces of the Concertación – made their top priority “to create an auspicious framework for the democratic government” as it took control of state power (*La Época* February 23, 1990). Labor movement leadership felt responsible for the success of the transition and explicitly pledged support for the new government (*Fortín Mapocho* January 16, 1990).

Barrett (1997: 454) argues, citing an interview with key Concertación expert labor advisor Guillermo Campero on July 13, 1993, that “soon after its victory in the December 1989 elections,” the Concertación leadership “began to view the military regime’s Labor Plan more positively”. As the Concertación took power the focus shifted from “profound changes” to reconciling “protection” and “mobility” (Cortázar 1996: 120; Boeninger 1997: 489). In practice business sector concerns and labor market flexibility were prioritized, representing “the subordination of labor reforms to the accumulation strategy inherited from the military regime” (Barrett 1997: 455). Finally, when the Concertación government first sent labor reforms to Congress, the Presidency having the right to legislative initiative including the selection of which chamber acts first, it elected to begin the process in the Senate with three out of four proposals. There the coalition had a minority of votes and needed to rely on the moderate conservative opposition party *Renovación Nacional* (RN) to legislate (*El Mercurio* July 18, 1990). The executive proposals were significantly watered down from the program published during the campaign, even before Congressional bargaining. While a unified opposition could block Senate proposals, the government’s strategy was to limit labor reforms without paying the full political price of such a stark contradiction with campaign promises and ostensible alliances. In fact, Alvaro Pizarro, technical advisor on labor reforms to the RN at the time, stated in a May 5<sup>th</sup>, 1993, interview that “the government worked very closely with the RN in defining those limits and making certain the RN provided the government with the necessary counterbalance to demands for more far-reaching change” (Barrett 1997: 456). In November 1990, the Concertación and RN announced a labor reform agreement in Congress (*La Época* November 20, 1990). Even with the greatest limits of the 1990-2010 period, and with the modest results that obtained, this legislative effort represented the most far reaching changes to the Labor Plan that occurred during the twenty years of Concertación rule.

One particularly insightful comparison is between the attempts to reform the Labor Plan laws under the two Concertación Era Socialist Party presidencies of Lagos (2000-2006) and Bachelet (2006-2010). While many of the political, ideological and governance instincts of the two close political allies were similar, changes in the institutional order and political context made the circumstances of the two administrations in their attempts to reform labor laws in some key ways quite different. In particular, it was the 2005 constitutional reforms championed by Lagos that undid many of the blockages that had stymied his proposed labor law reforms (Lagos 2012: 168-170). Lagos’ Labor Minister, Ricardo Solari, had extensive historical connections to the CUT leadership and was a key interlocutor between the labor movement and Lagos’ administration (Interview with Ricardo Lagos 9/12/2012; Funk and Navia 2006: 12). He insisted labor law reform

focus on two major issues he labeled “non-negotiable”: a ban on strike-breaking and the extension of collective bargaining rights to temporary workers and to a sectoral level. However, after months of fruitless negotiations with business leaders as part of a *Mesa de Dialogo* (A “Table of Dialogue” or negotiations that included labor and business leaders, the government and various other civil society actors) the Lagos government agreed to drop both provisions. Without the agreement of employers’ organizations, the conservatives in the Senate would not allow passage. Opponents were able to mobilize opposition in a context of declining GDP growth and rising unemployment in the wake of Asian financial crisis (Lagos 2012: 172-175). Reforms passed in September of 2001 ultimately yielded neither main goal laid out by Minister Solari. Both the December 1999 tie-vote in the Senate on the subject of labor law reform during Lagos’ Presidential campaign, as well as the ultimate passage through the National Congress in September of 2001 of the more limited set of reforms President Lagos ultimately signed illustrate the various political-institutional blockages to more significant reform of the Pinochet era labor legislation. In particular, the “veto” conservative sectors had over reform legislation in this era owed to a few peculiar institutional legacies embedded in the 1980 Constitution, especially the non-elected Senators. This meant even after a decade of Presidential and Congressional election wins, the right maintained a majority.

In this outcome labor law reform stands in juxtaposition to otherwise significant changes made during Lagos’ tenure as President. The most noteworthy were the Constitutional Reforms of 2005. These reforms democratized the Chilean Constitution and removed some of the institutional impediments to reforming labor law. The Constitutional reforms, which passed by unanimous vote in the Senate, including the “hara-kiri” votes of the non-elected Senators, eliminated the appointed Senators as of March 10, 2006. They also diminished military influence by returning to the elected executive the right to appoint and dismiss Commanders-in-Chief of the four branches of the Armed Forces, eliminating the powers of the National Security Council except in an advisory capacity and as summoned by the President, and removing the military from the Constitutional Tribunal, which adjudicated the constitutionality of laws (*Ley 20050 Diario Oficial de la República de Chile* August 26, 2005). Perhaps of greatest symbolic weight, Lagos’ signature replaced Pinochet’s on the Constitution (Lagos 2012: 170). In addition, although the binomial majoritarian system was not itself changed, despite protests in Congress during the reform vote on this issue, it was removed from the Constitution and thus could be, and was, modified later without a Constitutional change.

Thus, by the time Bachelet came to power following a landslide election win for the Concertación, both chambers of Congress were controlled by the coalition for the first time, the non-elected senators had been eliminated and military influence in politics had been significantly curtailed. Nonetheless, the approach adopted to secure labor reforms was very similar to previous Concertación administrations. That is, Bachelet proceeded based on broad political consensus and appointed a commission called the “work and equality commission” to suggest changes on labor issues. This method crucially depended on consensus from at least some segments of the conservative political opposition and the business community. Thus, discussions proceeded for years without consensus being achieved or a bill being forwarded to Congress (Sehnbruch 2014). Despite an 11-8 Senate majority with 1 independent, divisions and dissent within the coalition itself, especially in the Christian Democratic Party, stymied labor reform. Rather than open the way for passage of the promised substantive labor reforms, the elimination of institutional barriers such as the designated Senators instead served to reveal another layer of the complex political relations that underlay the arrested progress of reforming the Labor Plan.

In an interview I had with Lagos (9/12/2012) he said of the Bachelet’s administration’s inability to pass reform on the issues of collective bargaining and strike breaking: “you may have

a majority in Congress but they don't listen to the President" and "you are a lame duck as soon as you are elected" [due to the bar on consecutive Presidential terms]. Furthermore, he explained, there were "many diverse political forces in the Concertación that are not always in agreement". While each observation is undoubtedly insightful about Chilean politics in the era, it is also key that this is a different *type* of explanation from that which the ex-President offered for the need to compromise on those very same issues in his own labor reform bill: "the two keys that lock the system are the electoral system and super-majority rules in parliament" (Ibid). These are formal institutional explanations, rather than general political dynamics where tensions *in* the coalition are the driving factors. Lagos went on to say at a public talk that "In practical terms... there has been a veto power by those who are a minority for many years... during my 6 year term I never had a majority in the upper chamber... that was the arrangement, and that political arrangement I say is over" (Public lecture at UC Berkeley "A Memoir about the Future" 9/13/2012). Yet the experience of the first Bachelet presidency suggests more than that arrangement blocked reform.

### **Institutional Opening, Political Parties, Labor Movement Incorporation and Labor Threat**

Amidst all of the change – in the institutional enclaves and the balance of political forces in the Concertación, the Congress and the institutional labor movement, in civil-military relations and in cultural pluralism and liberalism - one heritage of the prior period proved remarkably stable over two decades of Concertación rule. The relationships between the political parties and the institutional labor movement remained much as they were after the labor movement willingly ceded its leading protagonism of the anti-dictatorship movement to the opposition parties. In so doing the labor movement reinscribed a long-term dynamic in Chilean unionism: partisan subordination of the movement to political parties (Angell 1972; Collier and Collier 1991; Silva 2000). Concomitantly, the 1987 "electoral turn", whose main drivers were leaders of the Christian Democratic Party and renovated Socialist Party factions, led to contesting the dictatorship within the parameters of the institutions the military regime created, most crucially the 1980 Constitution. This bound labor to a disadvantageous political structure and partisan dynamic. An institutionally and politically incorporated labor movement posed little threat to the ruling parties, the state or capital. This dissertation argues that a lack of labor threat was the ultimate basis of Labor Code stability in the Concertación Era. A lack of labor threat was, in part, the strategic decision of the leadership of an institutional labor movement led by PDC and renovated PS factions. They viewed conciliation as a prudent trade-off to secure the very type of institutional opening referred to in political opportunity theory. In this sense, the opening itself conditioned a weaker labor movement.

### **Political Incorporation: Labor-State-Party Dynamics, Labor Threat and The Labor Plan**

In their classic study of the labor movement and regime dynamics in Latin America Collier and Collier (1991: 7-8; 15-18) make a key analytical distinction between two ideal types of labor movement incorporation into the political system: "state incorporation" and "party incorporation". In their schema "incorporation" refers to a "sustained and at least partially successful attempt by the state to legitimate and shape an institutionalized labor movement" (Ibid: 7). Historically, "during... incorporation periods, institutionalized channels for resolving labor conflicts were created in order to supersede the ad hoc use of repression characteristic of earlier periods of state-



labor relations”<sup>10</sup> (Ibid). I will argue that the Labor Plan represents just such an institutionalization. It superseded a period of de facto state rule over labor beginning with the onset of the dictatorship on September 11<sup>th</sup>, 1973. The predominant mode of state-labor relations in this period was characterized by continuous ad hoc use of repression outside of a legal-institutional framework. A prior Labor Code was rescinded. The military took direct control of administering labor regulation.

Within the conceptual schema of incorporation “state incorporation” refers to periods when “the principal agency through which the incorporation period was initiated was the legal and bureaucratic apparatus of the state, and the principal goal of the leaders who initiated incorporation was the control and depoliticization of the labor movement” (Ibid: 8). In the historical-analytical framework of this dissertation this concept is used to understand the Labor Plan origin era (1978-1980). This immediately preceded the institutionalization of the military regime itself in the 1980 Constitution and institutional transition procedures. The other broad type, “party incorporation”, is when “a central agency of incorporation was a political party or political movement that later became a party, and a fundamental goal of political leaders, in addition to control, was the mobilization of working class support through this party or movement” (Ibid). In this dissertation “party incorporation” is utilized to analyze the transition period (1987-1990). As defined here this encompasses the electoral turn, plebiscite campaign, negotiations on and plebiscitary approval of constitutional reforms, the first elections, the Presidential transition and a re-initiation of Congress.

Both of these periods of labor movement incorporation followed periods of heightened labor threat and were in large measure direct and strategic reactions to such heightened threat. The initiation of the Labor Plan followed the labor upsurge of 1978 that nearly toppled the dictatorship. The 1987 resumption of party leadership of the opposition and labor movement followed the labor initiated “National Protests” from 1983-1986 that spurred the military regime to negotiations. I use the terminology of “political incorporation” to capture the combined effects of these two forms of incorporation in channeling a labor movement from a moment of maximal oppositional orientation to the state and autonomy from it and political parties in 1978 to a point of maximal conciliatory orientation to the state and close, subordinated links to political parties at the 1990 transition.

The concept of “party incorporation” is further broken down into three subtypes. The Concertación-labor movement dynamic most closely resembles Collier and Collier’s “electoral mobilization by a traditional party” despite the origin of the coalition – but not its component key parties – being co-temporal with the onset of this dynamic. This type of incorporation refers to cases in which “mobilization was carried out... as an aspect of electoral competition within an established two-party system” (Ibid: 16). In Chile, one new aspect of post-transition electoral competition was a “two coalition” dynamic which, unlike pre-dictatorship politics, excluded the left, and the Communist Party in particular, from institutional political representation. This subtype represents “the most limited mobilization of the working class” which was “restricted largely to electoral mobilization” (Ibid). In fact, it became a more and more frequent complaint in the labor movement that the issue of Labor Code reform was merely utilized instrumentally by the ruling parties as a political wedge around elections and then left unaccomplished upon re-securing power.

The two types of legacies from the era of military rule operated in tandem. The institutional legacies of the dictatorship (unfavorable Labor Plan laws, the 1980 Constitution, the authoritarian enclaves and electoral laws) combined with the political legacies of the “electoral turn” (a

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<sup>10</sup> Collier and Collier’s argument refers specifically to an “initial incorporation period” which is the “first” such instance in a country (1991: 7). In their historical typology this refers in Chile to the period leading up to the country’s first Labor Code (1920-1932). This period is dealt with in the historical background chapter. The way their broader schema is mapped onto the history of the Labor Plan (1973-2018) is addressed later in this chapter.

subordination to partisan politics and a conciliatory orientation towards the state). This is what I refer to as “political incorporation” of the labor movement. As a concept “political incorporation” tracks a movement from labor autonomy and opposition with respect to the political institutions of the state and parties (outside and against) to a modality within such political institutions (inside and aligned). This movement of political incorporation both responded to heightened labor threat and tracked a channeling and containment of that threat. Political incorporation created a political structure and dynamic that allowed the RN to play the key political decision-making role in crucial early post-transition attempts at Labor Code reform. The movement of action from threatening labor conflict to the political arena, to Congress, prevented “profound changes”. It configured a situation wherein political parties and partisan logic dominated over labor and social mobilization.

### **Critical Junctures and Path Dependence: Labor Threat, Incorporation and the Labor Plan**

Two other key aspects of Collier and Collier’s framework are the concepts of critical junctures and path dependence. The type of explanation these concepts allow, and the schematic framework Collier and Collier derive from them, offer a way of understanding the full arc of labor, state and party dynamics in the history of the Labor Plan and specifically the role of labor threat within that history. They also suggest an analytical periodization of Labor Plan history to that end. The larger historical analysis and argument of this dissertation borrows from this framework in an attempt to answer Haydu’s (2010: 29) question: “How can we both compare periods and combine them into larger trajectories in which the past influences the present through causal sequences?”

Collier and Collier (1991), and the stream of research they inspired within the historical institutionalist tradition, looked to interpret Latin American political history from the point of view of periods of critical juncture and those of path-dependence. They specifically focused on the modalities of interaction between the state and labor within Latin American nation-states. The essential argument they make is that key periods where the incorporation of the labor movement within the political arena is re-defined lead to long, patterned periods of institutional continuity.

#### **Path Dependence and the Labor Plan**

Path dependence describes a particular pattern of historical change whereby initial choices at key moments “lock-in” via various mechanisms, making a return to the initial choice point or a changing of paths increasingly difficult (Mahoney 2000, 2001). This is just the pattern observable in the institution of the Labor Plan Labor Code in Concertación Era Chile. Not only did it achieve “lock-in” despite promises of profound change, but prospects for change actually declined during the period despite many factors changing in directions that ought to have made change more likely.

This dissertation argues that as a state institution the Labor Plan Labor Code laws were “path dependent” or resistant to the “profound changes” promised after the transition because of a “lock in effect” of multiple overlapping heritages of the dictatorship, including the pact that ended it. I have called the most important dynamic of this combined heritage “political incorporation” of the labor movement. Labor Plan reform was blocked by of state institutions and processes inherited from the military regime and the negotiated transition which empowered the minority right. But this pact was the price of the Concertación taking power. Furthermore, by the time of the transition profound neoliberal restructuring of the Chilean economy was completed and consolidated.

Ultimately, however, divisions within the Concertación itself came to the fore as these institutional blockages began to give way one after another. At a political level, the forces

responsible for blockage moved from the moderate conservative opposition Renovación Nacional to the centrist factions of the Christian Democratic Party, to the strategy of the Socialist Party-led executive itself. These institutional legacies were reinforced and undergirded by the fact that the basic interests of Concertación parties and governments militated towards a basic continuity in the Labor Plan Labor Code laws. Leading Concertación strategists understood these interests to be in governability and macroeconomic growth. They rationalized that these would provide the basis for the equity measures of the Concertación's much touted "growth with equity" strategy, which defined its 20 years in power. Those years saw impressive growth but little improvement in equity.

The "mechanisms of reproduction" which underlay Labor Code stability correspond to what James Mahoney calls a "power explanation" for institutional inertia (Mahoney 2000: 517; 521). In this dynamic "an institution can persist even when most individuals or groups prefer to change it, provided that an elite that benefits from the existing arrangement has sufficient strength to promote its reproduction" (Mahoney 2000: 521). Such "power-based accounts assume that institutional reproduction is a conflictual process in which significant groups are disadvantaged by institutional persistence" and therefore "this conflict means that a dynamic of potential change is built into institutions even as a dynamic of self-reinforcement also characterizes institutions" (Ibid: 523). This dynamic is clearly illustrated in the post-Concertación period, as labor threats grew and the binds of the heritage of political incorporation weakened. Furthermore, Mahoney (Ibid: 521) notes, "In path-dependent analyses that employ a power perspective, the genesis of an institution is not a predicable outgrowth of pre-existing power arrangements." This can be seen in the labor upsurge of 1978, under conditions of extreme repression and disadvantage for the labor movement, that triggered the writing of the Labor Plan and the broader institutionalization of the dictatorship in the Constitution of 1980. Still, "once the institution develops" as with the containment of labor threat following upsurge, "it is reinforced through predictable power dynamics" (Ibid). A change is only to be expected with a "weakening of elites and strengthening of subordinate groups" (Ibid). This dynamic corresponds to Labor Plan history when threat from the labor movement increased.

One further mechanism of reproduction within which this power mechanism is embedded is a "functionalist logic" of institutional reproduction (Ibid: 519). In a "functional explanation" an "institution is reproduced because it serves a function for an overall system" (Ibid: 517). For the Labor Plan, this functionality is a low cost, high flexibility labor market regime for a low-tariff, export-oriented peripheral dependent economy inserted into a neoliberal global capitalist system. This broader structural context explains why Concertación party and government elites found a basic continuation of the Labor Plan functional for governability and growth, for macroeconomic and political stability, and thus functional for their interests in maintaining political power. This type of reproduction mechanism would not be expected to change without an exogenous shock to the system (Ibid), in this case an epochal shift in the nature of the global capital accumulation regime.

These mechanisms help explain why the legacies and incentive structures bequeathed to the Concertación Era labor movement conditioned a situation in which low labor threat meant low levels of change in Labor Code institutionality. Partially as an explicit strategic decision of institutional labor movement leadership, an early orientation of 'concertation' and cooperation did not provide the needed pressure to counter those basic interests and inertias. In a grand conflation, the leadership of the institutional labor movement – overwhelmingly PDC and renovated PS co-partisans with the central political factions then assuming state power – identified its own, labor movement institutions', the labor movement as a whole and labor's interests tout court with the stability and success of the new Concertación government and post-transition state. The leadership

was slowly pushed from the bottom-up for a more autonomous and confrontational orientation with the ruling parties and the state over the course of the Concertación Era, but the legacies of political incorporation proved strong. The CUT as an institution and especially top leadership owed their political standing, partisan loyalties and institutional funding to Concertación parties and the state. Rather than “opportunities”, institutional and political incorporation co-opted the CUT and institutional labor movement, especially the national leadership. The cooptation successfully contained and channeled the labor threat and left ruling parties and the state to pursue their own vulgar interests, which were in harmony with basic continuity of the Labor Plan schema.

This is why I argue a key reason for the lack of promised “profound changes” in the Labor Code in the post-dictatorship period is the lack of autonomy of the labor movement from political parties and the state. Political incorporation was a crucial driver of the lack of labor threat in the era. As Fredrik Uggla maintains in a key study, “how party-union relations developed before transition” is “an explanation for post-transitional state-labor relations” (Uggla 2000: 289).

Yet, labor movement weakness at this juncture was also conditioned by longer-term legacies of the dictatorship. These included the state incorporation of the Labor Plan’s ratification and the structural changes brought about by the military regime’s radical neoliberal restructuring. The Labor Plan ratified a weakened labor movement compared to the pre-coup period in which strikes were defanged and labor institutions were weakened, including union locals, confederations, the state labor directorate, and labor courts. The Labor Plan also successfully contained and channeled a moment of very serious labor threat for the military regime. Structural economic changes imposed by the state decimated sectors in which labor was strong, particularly manufacturing and state employment and massively increased unemployment and employment informality and insecurity. Finally, there were also the direct debilitating effects of 17 years of violent repression of labor. To this can be added the institutional constraints and enclaves of the 1980 Constitution and transition.

Patrick Barrett (2001: 577) asks “why has labor benefited so little from the return to civilian rule?” He says, “to a considerable degree, the answer... can be found in the political and economic repression that labor suffered under military rule, which had a profoundly debilitating effect on what had been one of the strongest labor movements in Latin America” (Ibid). However, he adds, “labor’s experience... is also the product of the strategy of opposition that the center-left adopted towards the military regime” (Ibid). In hitching its wagon to this center left opposition, the post-transition labor movement faced the combination of multiple types of heritages. The combination proved very resistant to change in the Concertación Era and achieved a path dependent “lock in”.

### **Critical Junctures and the Labor Plan**

Path dependency “as in any other narrative”, argues Jeffrey Haydu (2010: 29), “organizes events and circumstances into temporal sequences” which “become explanatory sequences by identifying critical junctures which foreclose options and steer history in one or another direction (David 1986; Arthur 1988; North 1990)” (Ibid). In fact, though the term is often applied loosely, “it is the more specific arguments about turning points and lock-in mechanisms that make path dependency something more than plain historical common sense” (Ibid). Specifically, “when accounting for historical turns down one road rather than another, path dependency emphasized contingency” (Ibid). Mahoney (2000: 535) argues, “path dependence occurs when a contingent historical event triggers a subsequent sequence that follows a relatively deterministic pattern” and “path dependence characterizes specifically those historical sequences in which contingent events

set into motion institutional patterns or event chains that have deterministic properties” (Ibid: 507). Owing to a close conceptual connection between relatively contingent initiating events and relatively deterministic resultant sequences, Goldstone (1998: 843) and Mahoney (2000) suggest “the identification of path dependence therefore involves both tracing a given outcome back to a particular set of historical events, and showing how these events are themselves contingent occurrences that cannot be explained on the basis of prior historical conditions” (Ibid: 507-508). These key events at crucial moments marked by historical contingency are “critical junctures”.

Mahoney (2000: 513) elaborates that “critical junctures are characterized by the adoption of a particular institutional arrangement from among two or more alternatives.” Moreover, “in a path dependent pattern, selection processes during a critical juncture period are marked by contingency” (Ibid). However, he insists, “to argue that an event is contingent is not the same thing as arguing that the event is truly random and without antecedent causes” (Ibid). That is, “because the presence or absence of contingency cannot be established independent of theory, the specification of path dependence is always a theory-laden process” (Ibid: 508).

Critical junctures and institutional genesis are distinct processes, responding to distinct causes, from path dependent sequences. Mahoney (2000: 512) advises that “in analyzing institutions from a path-dependent perspective, historical sociologists follow Stinchcombe’s model of historicist explanation, which identifies two types of causes:” the specific circumstances of institutional inception and the broader processes of institutional reproduction. He summarizes: “with a historicist explanation, the processes responsible for the genesis of an institution are different from the processes responsible for the reproduction of that institution” (Ibid). He concludes, “path-dependent institutions persist in the absence of the forces responsible for their original production” (Ibid: 515). While power and functional explanations offer reasons for political incorporation-based Labor Code stability in the Concertación Era, the causes of political incorporation and Labor Plan genesis lie earlier, in labor threat upsurges and state responses to it. The labor upsurges of 1978 and 1983-1986 were contingent and not fully predictable on the basis of the antecedent historical conditions that preceded them. Indeed, they were in some ways the obverse of the factors outlined in political opportunity theory. Economic crises and brutal political repression created seemingly very unfavorable circumstances for oppositional and high risk labor movement mobilization. These labor upsurges and the political crises they birthed for the state are nonetheless explicable within a broader theorization of labor, the state and political parties.

For Collier and Collier (1991: 29) a “critical juncture may be defined as a period of significant change<sup>11</sup>... which is hypothesized to produce distinct legacies”. These “transitions establish certain directions of change and foreclose others in a way that shapes politics for years to come” (Ibid: 27). Moreover, “outcomes during a crucial transition establish distinct trajectories” (Ibid). Collier and Collier’s framework “applies the idea of critical junctures and their legacies to the evolution of 20<sup>th</sup> Century politics in Latin America, focusing on a period of fundamental change in the relationship between the state and the labor movement” (Ibid: 28-29). Specifically, they identify “the policy period we refer to as the ‘initial incorporation of the labor movement’” (Ibid: 29) and argue that “the incorporation periods constituted a critical juncture” which “played a central role in shaping the national political arena in the following decades” (Ibid).

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<sup>11</sup> In their comparative methodology they add this period “typically occurs in distinct ways in different countries (or in other units of analysis)” (Collier and Collier 1991: 29). In a footnote they expand: “this kind of framework is also used in the analysis of single countries. ... In single-country analyses systematic comparisons are sometimes made ... with earlier historical episodes in the same country” (Ibid: 29-30 footnote 13).

More specifically, Collier and Collier (1991: 72-75 169-172; 176-182; 184-185; 189-195) argue that labor pressure from below drove a move from near total reliance on violence to a state strategy of institutionalization and incorporation, the product of which was Chile's first Labor Code in 1924 (as a series of laws, codified into an official Labor Code in 1931). They maintain, "In Chile, fear of the threat posed by the working class was very high... The strike wave that began in 1917 was a convincing indication... that something had to be done" (Ibid: 189). The state began the promulgation of formal labor law, the institutionalization process Collier and Collier (1991: 163) call "state incorporation". In that strategy, "the principle goal was to create a legalized and institutionalized labor movement... controlled and penetrated by the state" (Ibid). This strategy of incorporation was a state response to decades of increasingly threatening, largely autonomous and oppositional labor movement militancy (Grez Toso 2011). The labor reform was clearly "not undertake[n]... out of benevolence or a desire to win the support of the labor movement" rather it "was seen as a means to control the labor movement, to subordinate it to the state, and to cleanse it of leftists and Marxists" (Loveman 1979: 250). Of course, the state did not abandon violence as a strategy to control and channel labor threat. Afterwards, "labor policy became a combination of heightened repression of Marxist and anarchist unions and an attempt to use the labor law to develop a docile, loyal union movement" (Collier and Collier 1991: 191). Another outcome of the ferment of the era was the Constitution of 1925, which reigned until the 1973 coup (Stanton 1998). Fundamentally, the Chilean state institutionalized a Labor Code and Constitution under pressure.

This narrative shares many similarities with the dynamics of the 1970s. This dissertation argues that crises born of labor threat are the contingent junctures that set into motion institutional genesis, persistent patterns and event chains. It was just such a threatening labor upsurge in 1978, under seemingly unfavorable conditions, that led the military dictatorship to institutionalize under pressure in the form of the Labor Plan laws and the 1980 Constitution. Like earlier in history, the state had tried to meet years of escalating labor threat with brute violence and repression, but it was not fully successful. Repression triggered international labor and political solidarity and key pressure from the US Government for the dictatorship to reform and negotiate a climb-down. This included a liberalization of labor law, legalization of strikes, institutionalization of the movement and a relative decrease in repression, at least until the next crisis in 1982/1983. The resolution of the 1978 crisis also set the stage in many ways for the crisis that would follow by stabilizing and perpetuating the military regime in more institutionalized form and by maintaining the domination of the radical neoliberal coalition which had been leading policy making since 1975. The radical restructuring of this monetarist and trade and investment deregulation group bred the 1982 crisis. Labor-party ties were also re-established in the wake of the decreased repression that followed the crisis. This had increasingly profound effects for labor-state-party dynamics throughout the 1980s.

Labor threat also conditioned the other major political-crisis born institutionalization and incorporation period at issue in this study. From 1983 to 1986 labor led a national social movement mobilization against the military regime with its three key demands: exit for Pinochet, formation of a provisional government and a constituent assembly. With pressure from the US reducing in Reagan's first presidential term (1981-1985), the dictatorship returned heavily to repression. The opposition political parties also played an increasingly prominent role in this crisis due to a relative decrease in repression compared to the 1977-1978 period. However, the parties were severely internally divided, especially between a moderate center-left and "rupturist" hard left opposition. Like in the 1920s, repression had continued even in the interregnum of its relative decrease but remained focused and heightened on Marxist and leftist labor and political opposition groups. The heavy reliance on repression continued through 1986, driving increased radicalization among the

opposition and an increasingly well-armed and organized insurrectionary opposition. Fearing what they termed a “Cuban outcome”, or a Communist-led revolutionary overthrow, US pressure for a negotiated settlement with the Christian Democratic-led opposition began to mount rapidly. Pressure on that opposition also increased to accept the framework of military regime political and economic institutions and policies, including the neoliberal model and 1980 Constitution and its specified transition process. Institutionalizations under pressure followed: Labor Plan laws were consolidated and formalized into the Labor Code of 1987; the CUT was re-legalized; labor chose to cede leadership of the opposition to political parties; those parties agreed to contest the regime within the strictures of its institutions, the so-called “electoral turn” of 1987; and protocols for a plebiscite on Pinochet’s continued rule and a transition were negotiated with that opposition.

One pattern that this history makes clear is that episodes of labor institutionalization and incorporation, such as the promulgation of the Labor Plan, followed heightened periods of labor threat. Furthermore, these institutionalizations/incorporations were an explicit strategic effort by the state and other political actors to channel and contain that threat. That is why it is useful to understand the formal institution of labor law as embodied in the Labor Code via Bob Jessop’s notion that “the very form of the state resides in the crystallization of past strategies” (Jessop 1990: 129). Labor law in Chile can thus be seen as a heritage of past state strategies for containing and channeling labor threat at critical junctures. This dissertation argues that the institutional patterns that were the combined inheritance of these two critical junctures set a path for the Labor Plan Labor Code that was difficult to dislodge in the post-transition period.

### **Self-Reinforcing and Reactive Sequences in Labor Plan History**

Mahoney (2000) lays out two types of path dependent sequences resultant from critical junctures: self-reinforcing and reactive. He argues, “whereas self-reinforcing sequences are characterized by processes of reproduction that *reinforce* early events, reactive sequences are marked by backlash processes that *transform* and perhaps *reverse* early events” (Ibid: 526). Each type has corresponding contingent critical juncture and inertial path dependent characteristics. In a self-reinforcing sequence, “the contingent period corresponds with the initial adoption of a particular institutional arrangement, while the deterministic pattern corresponds with the stable reproduction of this institution over time” (Ibid: 535). With a reactive sequence “the contingent period corresponds with a key breakpoint in history, while the deterministic pattern corresponds with a series of reactions that logically follow from this breakpoint” (Ibid). In “self-reinforcing sequences, inertia involves mechanisms that *reproduce* a particular institutional pattern” while in “reactive sequences... inertia involves reaction and counterreaction mechanisms” (Ibid: 511).

I argue that both types of sequences are at play in the history of the Labor Plan. In a first sequence, a labor threat born political crisis was resolved through the institutional genesis of the Labor Plan. This successfully stabilized the political situation for a crucial few years, allowing the military regime to institutionalize itself via the 1980 Constitution. The reproduction of this same institutional ensemble was threatened when another labor threat upsurge transformed the 1982 economic crisis into a full blown political crisis that threatened the government, regime and reigning political-economic model. In the complex and dynamic sequence of reactions and counterreactions that followed, labor-state-party interactions played out in such a way that institutions inaugurated by the first crisis were able to be stabilized and perpetuated into the post-transition era. This was the process of party incorporation wherein a subordinate relationship of the labor movement to political parties was re-established. In combination with the institutional

heritage of the first critical juncture, the political incorporation of labor was achieved, and the Labor Plan perpetuated.

After the Concertación lost power in 2010, the mechanisms of political incorporation began to weaken. The Christian Democratic and Socialist Parties no longer held the dominant share of state power as conservatives won control of the executive and improved their share in Congress. Labor pressure from below continued to build and institutional leadership of the movement was less willing and less able to contain it as time went on. From 2011 on an explosion of social movement mobilization, including by labor, was marked by the eruption of the “Chilean Winter” student movement. Mahoney maintains that “Power-based institutions may reproduce themselves until they reach a critical threshold point, after which time self-reinforcement gives way to the inherently conflictual aspects of the institution and eventually to institutional change” (Mahoney 2000: 523). In the post-Concertación Era greatly increased labor threat led to the most significant attempted reform of the Labor Code since the Labor Plan was ratified, achieving some success.

### **Periodization of the Labor Plan**

Haydu (1998) notes “when we use one time period to help explain another, two questions arise: How do we account for the differences we identify? And how did we get from there to here?” (347). He argues that “the first goal presupposes the validity of periodization” which in this case refers to when “sociologists and historians... divide the past into temporal chunks” (Ibid: 340). He elaborates: “dividing history into meaningful sections involves both historiographical conventions and theoretical judgements about what constitutes a more or less unified ‘age,’ how that period differs from others, and where to locate the boundaries between periods” (Ibid: 344). Although “such conventions and judgements are mutable” nearly all analyses of history “organize time into chunks with defining themes, key events, and prevailing constellations of social forces” (Ibid). The Labor Plan history offered in this dissertation is no different. An analytical periodization based on Mahoney’s (2001) reworking of Collier and Collier’s (1991: 29-39) framework guides the substantive analysis and path dependence-based argument and organizes the substantive chapters.

In Mahoney’s analytical framework there are five concepts that define periods within a path dependent historical trajectory: antecedent conditions; critical junctures; reactive sequences; structural persistence and outcomes (Mahoney 2001 figure 1.1). Antecedent conditions refer to “historical factors that define available options and shape selection processes” (Ibid). In Collier and Collier’s framework social cleavages are key antecedent conditions that set the stage for crises that define the critical juncture period (Collier and Collier 1991: 30-33). Mahoney (2001) defines the critical juncture as the “selection of a particular option... from among multiple alternatives”. In Collier and Collier’s model this refers to an institutional genesis in state efforts to institutionalize and incorporate the labor movement into the political arena. In this dissertation labor-state relations during a “de facto” period of unregulated state violence as the primary modality for dealing with labor from the onset of the coup on September 11<sup>th</sup>, 1973, until the crisis of the labor upsurge of 1978 and the institutional genesis of the Labor Plan in 1979 correspond to antecedent conditions, critical juncture and institutional origin periods, respectively. They are analyzed in Chapter 4.

For Mahoney (2001 Figure 1.1), a “reactive sequence” is defined by “reactions and counter-reactions to [the] institution or structural pattern”. Here, this corresponds to the 1980-1990 period after the institutionalizations of the Labor Plan and 1980 Constitution the 1982 economic crisis and 1983-1986 political crisis which threatened those institutions, and the 1987-1990 negotiated transition to civilian rule that stabilized and perpetuated those institutions. The 1980-



1990 period, when the labor movement re-established a subordinated relationship to the political parties of the moderate opposition that agreed to the pacted transition, is analyzed in Chapter 5.

According to Mahoney (Ibid), that period is followed by one of “structural persistence”, defined by the “production and reproduction of institution[al] or structural pattern[s]” (Ibid). This corresponds to the 1990-2010 Concertación Era. A path-dependent stability characterized the Labor Code. Legacies of prior periods contained labor threat and stymied promised profound changes. This is analyzed in Chapter 6.

Mahoney (Ibid) defines an “outcome” period as the “resolution of conflict”. I argue that it is more appropriate to consider the 2010-2018 post-Concertación period within the framework of an erosion, but not complete reversal, of the institutional legacy of the Labor Plan Labor Code. This corresponds to a period of rising labor threat and a major attempt to address the central issues of long-promised Labor Plan reform, culminating in major legislation in 2017. This period can be best understood conceptually as “Power-based institutions may reproduce themselves until they reach a critical threshold point, after which time self-reinforcement gives way to the inherently conflictual aspects of the institution and eventually to institutional change” (Mahoney 2000: 523). This era of rising labor threat and state efforts to channel and contain it is analyzed in Chapter 7.

### **Comparing Cases: Labor Threat and Labor Code Change**

A second analytical strategy this dissertation employs to understand Labor Code stability in the Concertación Era, beyond the extended case-study of the long history of the Labor Plan, is a comparative method assessing time periods as separate cases for similarities and differences in key factors that hindered or spurred Labor Code change. Haydu (2010: 28) argues “where scholarly investigations cover two or more periods, variable-based treatments of those periods as distinct cases suitable for comparison are not without merit.” He suggests “they offer historical sociologists working with a small “N” some additional leverage for refining concepts and checking hunches about causal relationships” (Ibid) and “such temporal comparisons are a useful complement to other strategies for identifying causal relationships, such as process tracing” (Ibid: 26).

If “these periods can be viewed as separate cases” then “comparing them has much in common with comparing social institutions... or processes... that occur in different places”, (Haydu 1998: 380). He notes “most surveys of comparative historical sociology make an ideal-typical distinction between individualizing (sometimes labeled ‘interpretive’) and generalizing (or ‘variable-based’)” (Ibid: 341) and “the most widely accepted use of comparison falls in the latter category, seeking to identify causal relationships common across cases” (Ibid). This “requires discounting the individuality of each case, abstracting variables from their historical setting and making relationships among variables the analytical focus” (Ibid). Conversely, “individualizing comparisons treat idiosyncratic events... as essential... for an adequate explanation of particular outcomes” (Ibid: 342). Some “sociologists concerned with impersonal structural forces and causal determinants may be equally inclined to treat each case as a historical individual, arguing that no other society displays the same precise configuration of causal influences” (Ibid). Analytically, “in this style of comparative historical sociology, juxtaposing cases serves to highlight important differences and to discipline causal analysis” (Ibid). He argues “strategies for using the past... often replicate these... styles of comparative sociology” (Ibid: 343). Thus “with two periods as two cases, some would use comparison mainly to tease out important contrasts. Others would look for causal patterns that hold across temporal settings” (Ibid). As when comparing places, “interpretive and variable based comparisons of time periods face tensions between an appreciation for the

individuality of each period and attention to regularities across cases” (Ibid: 348). This dissertation argues that comparison can aid in establishing both the causal regularity of labor threat as a main factor underlying Labor Code change and stability in different periods. I also argue, however, that attention to differences of each period can help uncover the drivers and dynamics of labor threat.

A comparative analysis of the four periods under study confirms the role of labor threat in driving Labor Code change over the 45 year period of Labor Plan history (1973-2018) reviewed in this dissertation. The greatest labor threat of all came in 1978, when a labor movement upsurge ended a “de facto” period of direct military control over labor through the use of brutal, unregulated violence and threatened to topple the government and military regime in its entirety. The response to this crisis was the institutionalization of labor conflict and state incorporation of the labor movement in the 1979 Labor Plan. This crisis also spurred the institutionalization of the military regime itself in the 1980 Constitution. Similarly, after the Concertación lost power in 2010, labor threat increased markedly, including much more, frequent, militant and costly illegal strikes, occupations and blockades. This period demonstrates that labor threat can arise “from below”. It can and did pressure and exceed the institutional channels of formal-legal labor organizations, political parties and the legal limits and enforcements of the state. Labor movement threat was perceived as having great potential to politically destabilize the expanded progressive coalition called New Majority that included the Communist Party and gained power with Michelle Bachelet as President for the second time in 2014. The culmination of a decade of rising labor threat was the Labor Code reform of 2017. Although this reform touched on the key issues of the Labor Plan, the state and parties of Bachelet’s “New Majority” government maneuvered to contain and channel labor threat in the new legal framework. And the inherited institutions of the dictatorship’s 1980 Constitution, the Constitutional Tribunal above all in this case, continued to limit change to the Labor Plan. That is why this period is best understood as a partial erosion, but not reversal, of the Labor Plan Labor Code’s path dependent lock-in. In a broader comparative perspective, as highlighted herein Chile’s first Labor Code also followed a period of elevated and increasing labor threat and institutionalization was a strategy to contain that threat.

Conversely, the labor movement was least a threat to the state, the political parties in and out of power and business interests in the Concertación Era of any of the four periods under study, and by a significant margin. This was particularly true in the crucial early years of the transition. This lowest labor threat conditioned the greatest Labor Code inertia. I have argued that the Labor Plan achieved this path dependent lock-in that lasted decades owing to political incorporation in the latter 1980s. Ties between the institutional labor movement, and especially its leadership, and the parties of government and post-transition state successfully contained and channeled labor threat and thus protected the status quo Labor Code. Even within the Concertación Era, as ties between the institutional labor movement and the parties and state grew, along with traditional definitions of political opportunity, prospects for Labor Code reform actually diminished. Yet, that was the administration with which Martínez, and the CUT as an organization, had the closest ties and to which they had the greatest access. This paradoxical outcome summarizes succinctly the path of the Labor Plan Labor Code in the Concertación Era. As the institutional labor movement became the most politically and financially linked to the ruling political parties and the state, change to the key Labor Plan laws slowed to nothing. Comparison of “cases” within the period of Concertación rule confirms the comparison of periods of Labor Plan history: labor threat was key.

In these comparisons the period of the 1980s does stand out as somewhat anomalous. In those years labor did pose a significant threat to the state, particularly from 1983-1986 as it led the anti-dictatorship movement. Here is where a careful attention to process and event sequences is of

crucial import. As pressure on the dictatorship grew, including from labor movement led massive general strikes, a Communist led insurrection and the US, the latter of which was alarmed at these developments, change in the Labor Code did not follow. At a moment of high pressure against the military regime, labor chose to willingly cede leadership of the opposition movement to the political parties grouped in the moderate opposition, the Christian Democrats and ‘renovated’ Socialists above all. It was these parties that agreed to abandon the three key demands of the movement and de-emphasize the key demand for a repeal of the Labor Plan that the labor movement had been elevating. The formal consolidation of the Labor Plan laws into a Labor Code in 1987 is a marker of this strategic pivot.

This sequence in particular, and its differences from the other periods of heightened labor threat, shed light on the factors that drive labor threat. In particular, labor threat leading to the 1979 Labor Plan and the 2017 Labor Code reform featured greater labor movement autonomy from the political parties and a more oppositional orientation towards the state. In the 1970s links between the labor movement and the parties were sundered by the force of violence of the dictatorship. In the 2010s links were weakened by the Concertación parties losing government power, by a general social movement upsurge characterized by its suspicion of and distance from traditional political parties, and by years of broken promises by those parties during the Concertación Era. By contrast, these ‘variables’ were moving in the other direction in the 1980s, particularly from 1986 onward. Links were being re-established between the labor movement and political parties. Moreover, labor movement orientation towards the state went from maximally conflictual to a more controlled opposition following the “electoral turn” of the political party opposition focused on the plebiscite and negotiated transition. Finally, as the 1990 transition approached and power was transferred to the Concertación parties, the orientation of the labor movement became maximally conciliatory. The factors of autonomy and orientation conditioned labor threat which drove Labor Code outcomes. As Fredrik Ugglå argues:

the position... [the] labor movement came to occupy within the opposition... had a clear effect on their propensity for conflict and cooperation... in the first half of the eighties, labor centrals... in the absence of political representation, emerged to take on a political protagonism in the struggle against the dictatorship... as protest or resistance movements. In Chile, the labor movement to a large extent abandoned the political scene in the late eighties and instead subordinated itself to the political parties (Ugglå 2000: 283).

As the labor movement lost its autonomy from political parties and then the state as those parties took control of it the movement lost the source of power that could have driven Labor Code change.

### **Paths, Periods and Complex Causality in Labor Plan History**

As with any methodological or analytical strategy path dependence and comparing time periods as cases have characteristic trade-offs needing acknowledgement and mitigation. Haydu notes such comparisons “should be used with caution” (Haydu 2010: 28). Two leading weaknesses to this approach are “the fiction that two periods... represent independent cases” and accounting for “larger trajectories” that span and connect periods (Ibid: 26). A “methodological tensions... arises for any two (or more) periods” between “how best to account for differences between time periods and larger trajectories” (Ibid). This is because “on one hand, we may want to compare the

two periods to help identify the causes of divergent outcomes” and “on the other hand, we may be interested in how characteristics of the first period influence the next, or how the events of these two periods together form a larger sequence.” The problem is “the first goal treats the two cases as independent; the second highlights their connections. How can we have it both ways?” (Ibid). The tension “is particularly obvious when the periods involve a reversal in the ‘dependent variable’ – when the conditions or outcomes of interest are not merely different but in some sense opposites” (Ibid). This is precisely the case with the Labor Code outcomes at issue in the analysis here.

Path dependence also has typical difficulties. Haydu argues “path dependency’s peculiar way of blending contingency and causality when depicting the influence of the past on the present makes it harder to construct explanatory sequences that encompass two or more periods” (Ibid: 31). Path dependence has also been criticized for both excessive contingency in critical junctures and overly deterministic subsequent paths (Thelen 1999, 2003; Haydu 1998; 2010; Crouch and Farrell 2004, Boas 2007). Further, “this exaggerated contrast between serendipitous switchpoints and locked-in paths makes it more difficult to show the importance of sequences of events and the corresponding influence of the past... when more than one period is involved” (Haydu 2010: 31). Critical junctures are unpredictable and exogenous so “the model introduces a sharp break between paths, with no obvious mechanisms for conveying the influence of one period into the next” (Ibid). This can “detach switchpoints from prior history” (Ibid: 36). Paths are reproduced via increasing lock-in over time, which makes it “hard to accommodate sharp changes in direction” (Ibid: 31). A functionalist mechanism for Labor Plan stability is exemplary. A “general problem functionalists face in accounting for the reversal of self-reinforcing sequences” is “appealing to a contingent event the like the one that produces the path-dependent sequence” (Mahoney 2000: 521). This leaves analysts searching for an “exogenous shock” as the “mechanism of change” (Mahoney 2000: 517). Haydu (2010: 44) notes that “path dependency has us look for exogenous shocks”.

To mitigate some of these issues, Haydu (1998: 352) advises “focusing on events, arranging them in temporal order, and asking how sequences are also causal chains”. This can “help answer the call for sociological explanations that recognize historical contingency, multiple and mutable patterns of causality, and the causal importance of temporality itself (Sewell 1996; Somers 1996; Aminzade 1992)” (Ibid). Path dependence “offers a more rigorous way to identify these social mechanisms” (Ibid) and “unlike variable-based contrasts between periods... path dependency allows for causal heterogeneity” (Haydu 2010: 30). However, “this approach also understates the influence of each historical turning point on later developments” (Haydu 1998: 340-341) and “in part, this is because discussions of path dependency rarely deal with multiple switch points that form more encompassing sequences” (Ibid: 353). This is precisely the type of explanation this dissertation argues for with respect to political incorporation. Namely, that two labor upsurges and two resultant sequences combined at another turning point of transition in order to contain and channel labor threat and underwrite Labor Code stability in the Concertación Era.

Haydu notes that this “leaves unappreciated the many ways that history’s switchmen come along for the ride. Choices in one period not only limit future options, they may also precipitate later crises, structure available options, and shape the choices made at those junctures” (Ibid: 353). Thus, the way the political crisis of 1978 was resolved by the military regime helped set the stage for the economic crisis of 1982 by stabilizing the radical neoliberal policy team’s hold on power. The relative decrease in repression, particularly of moderate opposition parties, that went along with this resolution also paved the way for the re-establishment of party-labor movement ties in the 1980s. This re-establishment of ties was itself the recreation of a much older pre-coup pattern. Finally, as noted, labor movement weakness at the transition was not *only* the result of political

incorporation and its combined legacies of state institutionalization and reestablished party ties, it was also the heritage of massive structural transformations the dictatorship undertook to remake Chile's political economy and its modality of insertion in global capitalism. This structural change also occurred in two major episodes. First, from 1975 when the radical neoliberal team gained power in the internal politics of the dictatorship, then after the 1983-1986 crisis was stabilized when a huge wave of privatizations helped consolidate many of the changes brought about by earlier policy changes and the economic crises of 1975 and 1982. These types of overlapping and complex causal patterns can be obscured in path dependence and time comparisons. Thus, this Labor Plan historical argument resonates with Haydu's call for "a more complex temporality than path dependency imagines: two separate and even contradictory 'paths' overlapping in time... each with its own temporal rhythm, coincided to effect change" (Haydu 2010: 31).

To generate such explanations Haydu recommends "thinking in terms of recurrent dilemmas and mutable solutions" and an "agent-focused approach" (Haydu 2010: 36). First, "thinking in terms of reiterated problem solving" both "restores history to critical junctures" and "reminds scholars that historical paths may be more problematic than they seem – more plural, more overlapping, more open for social actors to retrospectively rearrange their itineraries" which "corrects the tendency of path dependency to make historical trajectories overdetermined" (Ibid). Similarly, "an agent-focused approach to temporal processes can reveal the ways in which multiple partially independent political, economic and ideological paths converge via historical actors during periods of flux and how actors understand and reproduce the legacies of such periods" (Ibid). In substantiating the argument about low labor threat as the result of the combined legacies of political incorporation and cause of Labor Code stability, this dissertation adopts those advices by centering the labor movement and the state as the primary actors of focus, as mediated by the political parties, as they face a recurrent strategic dilemma of dealing with an inherently conflictual relationship based in fundamentally opposing structural interests. At different crucial moments the labor movement must decide how to deal with a state born of the extraction of surplus labor; this account will focus on the dimensions of autonomy and orientation in the strategic decision making. Likewise, at key junctures the state must decide how to react to labor threat – or lack thereof – given its complex position of dependency on labor but its constant need to control that same labor force. Here the focus is on the mechanisms of repression as well as attempts to contain and channel labor threat through inclusion.

### **Conclusion: Political Opportunities, Labor and the State**

The anthropologist Julia Paley noted the "paradox in the Chilean transition" was that social movements "largely diminished with the onset of postdictatorship democracy in the 1990s. This quieting of social movement activity at what appeared to be a moment of openness for political activity is striking" (Paley 2001: 5). That is the paradox this dissertation seeks to explain for the labor movement and its central goal of reforming the Pinochet Labor Plan. The Latin Americanist Jon Beasley-Murray argues "if the Concertación was the culmination of the social movements, it also finished them off more effectively than Pinochet ever could" (Beasley-Murray 2010: 183). He elaborates: "so the question that plagues any analysis of these movements, greeted with such excitement when they burst onto the scene, is why did they disappear so easily, absorbed within a transition that ultimately left untouched most of the key aspects of Pinochet's social policy" (Ibid).

I argue that the institutional legacies of state incorporation combined with the political legacies of party incorporation conditioned a lack of labor threat in the Concertación Era, which

prevented promised profound changes in the Labor Plan Labor Code. This political incorporation of the labor movement successfully contained and channeled labor threat. In the first instance this was the result of institutions, of institutional blockage, as in the authoritarian enclaves. Yet those institutions themselves were also in part an effect of labor threat and not just a cause. They were the crystallization of a past state strategy to contain and channel labor threat at a critical juncture. In addition, it was not only those blockages but also broader political dynamics within the Concertación itself and between the labor movement and the coalition and the post-transition state it governed that stymied Labor Code change.

These dynamics draw attention to the ways in which “political opportunities” are a *result* of labor/social movement dynamics, and not just a cause. They also draw attention to the ways in which both periods of dramatic change and periods of persistent continuity in the Labor Code are the product of labor movement threat or lack thereof. Finally, in Marxist fashion, they draw attention to the ways in which the labor movement faces a state at one point in history that is in many ways the product of the labor movements actions and inactions at an earlier point in history. The institutionalization of the Labor Plan of 1979 and the Constitution of 1980 occurred directly under and in explicit strategic response to the pressure of labor threat.

At an even deeper level, this speaks to the ways in which the state, which is materially a product of labor, functions in practice to repress, contain and channel the threat of its own material premises. Living labor faces dead labor in that “the object that labor produces... stands opposed to it as something alien, as a power independent of the producer” explained Marx in his 1848 “Economic and Philosophical Manuscripts”. Paraphrasing his 1843 “A Contribution to the Critique of Hegel’s Philosophy of Right”, it can be said that the state, a creation of labor, comes to dominate its own creators. It is these broader theoretical concerns that the next chapter will attempt to elucidate with respect to the history of the Labor Plan and its persistence in the Concertación Era.

## **Chapter 2: Labor, the State, Politics and Parties in Theoretical Perspective**

### **Introduction: Labor, the State, Politics and Parties in Theoretical Perspective**

The argument offered in the preceding chapter regarding Labor, the State and the historical path of the Labor Code in Concertación Era Chile is fundamentally grounded in the extended case study and comparative historical analysis introduced therein and elaborated in the substantive time period case chapters that follow. However, some of the broader questions this argument implicates, particularly given the nature of a case study itself, are entangled with larger issues of sociological theory that far exceed the scope and scale of this specific case and history. In particular, deeper questions about the nature of labor and social movements, political parties and institutions and the state require recourse to theoretical reflection and reasoning to explicate them more rigorously. In addition, the case itself, as a crucial first case of labor-state relations under neoliberalism, offers some insight into these broader questions. In inductive and deductive fashion, theory helps pose and answer questions for the case and the case helps pose and answer questions for theory.

There are three broader streams of sociological theorizing within which my argument and the historical analysis on which it is based are situated. Those are: reflections on political institutions from the tradition of historical institutionalism; Marxist theorizing around labor, the state and questions of “hegemony”; and considerations around the concept of autonomy in thinking about social movements, particularly as applies to the labor movement. These three streams will be interrogated in succeeding sections in an attempt to develop an adequate framework with which to analyze these broader questions around the particular case addressed in this dissertation. The framework that results emerges in critical distinction from perspectives offered within each of these currents. Specifically, the theoretical framework and concepts offered here emerge from a critique of: “idea and institutions” theories of the state and politics in historical institutionalism; Gramscian and post-Gramscian “hegemony theories” in Marxist and post-Marxist thinking; and the political opportunity theories addressed in the previous chapter as well as the contentious politics approach in social movement analysis. A final section offers a contextualizing summary of Chilean labor and political history before the 1973 coup as informed by this framework.

### **Section 1 – The State, Politics, Parties and Labor Unions: Institutions, Ideas and Incentives**

The previous chapter identified labor autonomy from and an oppositional orientation to political parties and the state as crucial factors in determining labor threat. It further identified labor threat as the necessary missing ingredient that could have dislodged the inertial institutional path of the Labor Code post-transition. But why was labor threat necessary when the labor-allied parties gaining power themselves explicitly identified profound changes to the military regime’s Labor Code as an urgent necessity and promised to undertake such an overhaul?

Within historical institutionalism one prominent tradition sees ideas and ideologies as key in explaining the choices of political actors and the paths of political institutions, including political parties and state bureaucracies. Like the “political opportunity” theories, this dissertation utilizes the case study of the Labor Plan in Chile to formulate a theoretical framework of the dynamics of political institutions in contradistinction to this conceptual formulation of “ideas and institutions”. Using it as something of a foil in an effort to ‘put ideas and ideology in their place’, I elaborate a framework and perspective based in the case that political institutions, including political parties and the state, are fundamentally driven by the “vulgar” interests of power and resources. Ideas and

ideologies, in this perspective, serve more as rationalizations for strategies based in these vulgar interests than as independently originating rationales for action. These vulgar interests are more-or-less directly given by the structural imperatives of the global dynamics of capitalism, the specific position and insertion of a society – in this case Chile – in that global dynamic, and the cynical power politics of particular situations within this position and dynamic, including geopolitics. As Schamis (1991: 216) argues in theorizing the authoritarian Southern Cone regimes that he terms “neoconservative”, including Chile, “[t]he time has come for understanding the way in which certain processes, taking place at the world level though modified by local conditions, share a common logic which deserves thorough investigation.”

I argue this explains the reason that labor autonomy and an oppositional orientation to the state and parties, the elements identified as crucial factors for labor threat, were necessary for Labor Plan reform. Labor threat was needed, and the Labor Plan achieved path dependent lock-in without it, because the nature and dynamics of political institutions, including the state, political parties and even politically incorporated labor movement institutions, are such that their structural incentives conditioned such continuity. The vulgar interests, cynically conceived, were all served in one way or another by inertial continuity. Their ideas, ideologies and discourses served as rather threadbare, after-the-fact rationalizations for strategic paths based on this structural reality. Only labor threat from below could eventually alter these strategic calculations.

### **Ideational Approaches in Historical Institutionalism**

According to Blyth (1997: 233), “Peter A. Hall... provides perhaps the most sophisticated of all the theoretical treatments in the historical institutionalist research program.” In works such as The Political Power of Economic Ideas (1989) and “Policy Paradigms, Social Learning, and the State” (1993), Hall lays out a method of understanding the shift from Keynesian to monetarist economics starting from the 1970s and focusing especially on the UK. Hall’s perspective on how such changes come about is clear:

the deliberation of public policy takes place within a realm of discourse... policies are made within some system of ideas and standards which is comprehensive and plausible to the actors involved... that is, policymakers work within a framework of ideas... which specifies not only goals and instruments, ... but also the very nature of the problems they are meant to be addressing (Hall 1993: 279).

Hall defines three levels of change that structure his approach. First order changes are specific settings of policy instruments, second order changes are alterations in the instruments themselves, and third order transformations are paradigmatic shifts that redefine the very goals and meanings that guide policy (Ibid: 279-280). First and second order changes are the substance of “normal” politics, involving what he calls “simple state learning”, while third order transformations are likened to a “paradigm shift” and involve “complex state learning” which changes the composition and hierarchy of goals (Ibid: 292-293). Replacing one paradigm with another leads to institutional and policy change (Ibid: 292). For Hall’s “policy paradigms” approach, a paradigm shift is “more sociological than scientific” (Ibid: 280). This means in Hall’s interpretation of history, “the play of ideas was as important to the outcome as was the contest of power” (Ibid: 289). Here, “Organized interests... do not simply ‘exert power’; they acquire it by trying to influence the political discourse of their day” (Ibid: 290). Ideas and discourse play the driving role in change.



Similar to Hall's "policy paradigms", which gain salience and become institutionally embedded if they are congruent with the "structures of political discourse of a nation" (Hall 1989: 383), Kathryn Sikkink offers an "interpretive institutional" approach to understanding divergent paths of post-World War II Latin American economic development (Sikkink 1991: 26). In her work Ideas and Institutions: Developmentalism in Argentina and Brazil, Sikkink argues "the adaptation, implementation and consolidation of an economic model" are best explained by the ideas groups hold rather than by a state's position in the international economy or domestic groups' sectoral position (Sikkink 1991: 3). For Sikkink, interest cannot be inferred from class or other structural locations without reference to the self-understandings of the actors in question. By reconstructing these "interpretive frameworks," she explains the distinct receptions of developmentalist policies and thus the subsequent trajectories of state development (Ibid: 24). So, the primary factor that determined the adoption of an Import Substitution Industrialization (ISI) development strategy by state elites was "a broad based ideological change" (Ibid: 222). Sikkink maintains "ideas transform perceptions of interest, shaping actors' self-understanding of their own interest" (Ibid: 242). She expands on Hall's conceptions by theorizing when ideas have their greatest impacts on policy choices and by developing the notion of ideational-institutional 'congruence' (Ibid: 26-28).

Mark Blyth (1997, 2002) develops these concepts and theories further still, specifying with more rigor a posited independent, causative role for ideas in political institutional transformation. Blyth proposes a model of how ideas themselves are casual factors and how they serve to structure outcomes in times of institutional crisis. For Blyth ideas provide "the necessary conditions for successful collective action among agents" and play a "role in the redefinition of existing interests and the creation of new ones" (Blyth 1997: 246). Ideas "can build bridges across class... categories through the redefinition of agents' interests" and "can be seen as both facilitators of radical policy change and a prerequisite of it" (Ibid). Blyth argues "thus, we can conceive of ideas as having institutional effects without necessarily reducing them to institutions" (Ibid).

Blyth develops this notion by way of interrogating the concept of "interest" under situations of "Knightian uncertainty" (Blyth 2002: 9). Knightian uncertainty is defined as "situations regarded by contemporary agents as unique events where the agents are unsure as to what their interests actually are, let alone how to realize them" (Ibid). While interests are often taken as unproblematic in both institutionalist and structuralist accounts of economic policy formation and change, as used by Blyth the concept of uncertainty problematizes such direct linkages. A situation of crisis can create conditions in which agents are not only unsure of how to pursue their interests but also of likely outcomes to situations that are "in a high degree unique" (Ibid: 32). He argues interests cannot be assumed *a priori* or derived from structural location. Ideas must be understood as constructed via the cognitive schemas with which social actors make sense of the world:

cognitive mechanisms are important because without having ideas as to how the world is put together, it would be cognitively impossible for agents to act in that world in any meaningful sense, particularly in situations of Knightian uncertainty that occur during the periodic breakdowns of capitalist economies (Ibid).

Five postulates structure Blyth's sequential model of how ideas effect institutional change during periods of crisis. First, he contends that ideas, and not institutions, reduce the uncertainty of actors by interpreting the nature of the crisis (Ibid: 35). Schemas used to interpret such situations can remold actors' very perceptions of their interests. Next, ideas are resources for collective action

and coalition building (Ibid: 37). By defining a problem and the common ends of action, the key collective agents in capitalist economies- labor, the state and business- seek to restructure the distinctive relationships that pertain amongst them. Third, agents use ideas to delegitimize existing institutions and the ideologies that underlie them (Ibid: 39). Fourth, ideas act as blueprints for new institutions to replace those discredited by crisis (Ibid: 40). Finally, ideas become a key source of institutional stability by managing and coordinating agents' expectations (Ibid: 41).

In this theory the critical moment of institutional genesis becomes comprehensible as a struggle of ideas used by agents to forward an authoritative diagnosis of crisis at a specific historical juncture. Ultimately, a resultant strategy is not given by the "objective" state of the crisis at hand (Ibid). Blyth writes, "In sum, what is critically important in understanding agents' behaviors are the ideas held by agents, not their structurally derived interests" (Ibid: 34).

### **Ideas, Ideologies and Institutions in the History of the Labor Plan**

Ideational approaches take ideas as causes and institutions as effects. In the case of Chile, "neoliberalism" as ideology, such as that espoused by the infamous "Chicago Boys", are often highlighted as key sources of economic policy in general (i.e. Valdés 1995; Gárate 2012) and of Labor Plan birthed institutions in particular (Campero 2000; Haagh 2002). Yet, a close historical examination shows that Pinochet and the military Junta leading the state did not conceive of and enact the Labor Plan because of "ideas" or "ideology". Rather, ideological discourse around liberalism and free markets as articulated by Labor Plan author José Piñera was cynically appended after the fact to a course of action decided overwhelmingly by political-strategic considerations. Moreover, these strategic choices were in direct alignment with the macro-structural incentives of the global capital accumulation process and Chile's specific position within that macro process under neoliberalism.

Furthermore, despite the nearly regime-ending magnitude and uniqueness of the crisis, these political-strategic decisions were made under great pressure: from the labor movement domestically and internationally; from the United States Government; and from internal pressures that had long riven the Junta. To respond to all of these pressures and maintain power, Pinochet was left with little room to maneuver and a very clear sense of what was necessary to do so. In fact, interests were readily read from structure and situation. A political-strategic logic driven directly by the "vulgar" material and political interests of the state and its ruling factions, in this case Pinochet's faction of the Junta, explain the timing and content of Labor Plan laws at the end of 1978 and the first half of 1979. Pinochet was neither an ideological actor, nor a 'believer' in neoliberalism. Piñera's ideological neoliberalism provided a rationalization, not a rational, for action. Pinochet had long resisted precisely a liberalization of labor law, opting for tight regulation of labor in distinction to other policy areas in the wake of the 1975 neoliberal turn. Only when his and the state's immediate political and economic interests were directly threatened was another course of action chosen. Only after that pressure and political-strategic turn did ideology and discourse shift. Pinochet's and the Junta's strategizing and actions did not follow Blyth's conception that "because the situation is 'in a high degree unique,' agents can have *no conception* as to what possible outcomes are likely, and hence what their interests in such a situation in fact are" (Blyth 2002: 32, emphasis mine), even at their highest moment of uncertainty and threat. An indicative account comes from Elliot Abrams, Assistant Secretary of State for Inter-American Affairs under US President Reagan, a key US policy maker in the region in those years and fervent advocate of Washington Consensus neoliberal capitalist economics and development. He wrote:

Pinochet listened to his free-market economic advisers and laid the foundation for what remains Latin America's best economy. Those advisers were known as the Chicago Boys because so many of them had studied economics at the University of Chicago. I asked one of them (long after Pinochet was gone) how the general had come to have such a terrific economic policy. "Well, he knew nothing about economics and didn't care much about it," the man told me. "But we explained that the left hated the free market, so then he was for it" (Commentary April 1, 2013).

This reference to both what supporters of his policies high in the US Government and what one of his own economic advisers apparently thought tracks with what a detailed examination of history demonstrates: Pinochet was very uninterested in ideas and ideologies and very attuned to dynamics of cynical power politics. If neoliberalization was demanded by structure and situation, so be it. His – and the Junta's – history of successfully gaining and maintaining power attest to this as well. His and their rule was not one of ideas, but of brute force. His and their words were not statements of principles or beliefs, but threadbare and cynical rationalizations for this strategic power politics. His and their strategies were not attuned to tenets, conservative, neoliberal or otherwise, but to the raw exertion of power and domination achieved overwhelmingly through violence and fear. In this he and they were careful and successful students of reading interests more-or-less directly from structural and political incentives, from immediate local to geopolitics and Chile's place in them.

It was not only Pinochet and the Junta's decisions that were marked by this cynical and vulgar relationship between ideology and institutions, ideas and policy. The Concertación inaction on and acceptance of the Labor Plan conditioned labor relations schema they inherited was also denoted by an often cynical discourse and even a certain professed non-belief in the policies they were perpetuating. Indeed, the central research question of this dissertation revolves around this yawning gap between Concertación discourse – "profound changes" – and policy practice in power. As noted, this was partly the result of a pacted transition that left a minority right empowered to block promised reforms as well as a somewhat implicit agreement to leave the Pinochet economic model intact. This pact, as all leading Concertación strategists argued, was simply the price of the Concertación being allowed to take and retain power and for democratic institutions to re-emerge; a straightforward political-strategic logic of political parties gaining and keeping state power. It was partly also the result of the already consolidated neoliberal restructuring of the economy and the positive results in growth and investment that had obtained. Without romance, Concertación leaders implored, the pragmatics, the more-or-less objective reading of structural incentives, for successful economic development had to be taken into account. Chile is a small country with an open economy in a globalized world market, they argued again and again. It was not that they 'believed in' or 'loved' all aspects of such policies, including Labor Plan policy, it was just that they could only seek, in the famous phrase of President Aylwin, "justice within the possible". One last concern was the overriding Concertación leadership preoccupation with governability and economic growth. They feared capital flight, unemployment, economic and political instability and perhaps even military intervention if they deviated too far from the Pinochet model. This was a political-strategic logic, to maintain state power, tied directly to macro-structural incentives. It was a strategic orientation, particularly at the key turning point of transition, that corresponded to a basically direct reading of more-or-less knowable politically and structurally given interests. It did not correspond very well to ostensible Concertación ideology or expressed discourse. In the

end, the results of 20 years of Concertación rule suggest “growth with equity” was also much more a rationalization for a course of continuity than a rationale for programmatic action.

Finally, the institutional labor movement, especially the CUT, including its top national leadership, consistently and vehemently rejected the Labor Plan, as they had since its inception, and Concertación era neoliberal continuity more broadly on a discursive and ideological level. Labor and the labor movement at no point acceded to the Labor Plan nor accepted its underlying ideology or ideas. Nonetheless, the institutional labor movement adopted an early strategic stance of “concertation” and a cooperative, conciliatory orientation towards the political parties assuming power and the post-transition state, which I have argued was crucial to institutional persistence. It was clearly not a strategic decision driven by economic ideas or ideological policy sympathies. Even as bottom-up rank-and-file labor pressure on the institutional movement grew for a more autonomous and oppositional stance, political incorporation proved very strong. The CUT as an institution and especially its national leadership owed their political standing, influence, partisan loyalties and institutional funding to the Concertación parties and the state. A lack of transparent, democratic and autonomous institutional structures meant that even as rank-and-file orientation grew more oppositional to and autonomous from the Concertación governments and parties, the CUT overall acted to contain and channel bottom-up labor threat so as to make it less problematic for the ruling political parties and the state. Yet, all the while, the entire CUT leadership maintained an explicit and even militant discourse in rejection of the Labor Plan and neoliberal framework more generally. They consistently made promised profound changes in the Labor Code one of, if not their top demand of the Concertación parties and administrations. In the end, the institutional labor movement was in practice more willing to accept continuity in the Labor Plan than risk losing the benefits of political incorporation. But it was never influenced by ideological or ideational assent.

Labor Plan institutional genesis and perpetuation featured none of the main actors as deeply influenced or driven by ideational or ideological content. They were much more driven by cynical political-strategic calculations informed by more-or-less direct and accurate readings of objective structural material incentives. This demands a different theory of ideas, ideologies and institutions.

### **A Structuralist-Materialist Theory of the Labor Plan**

A theory that ideas are by-and-large effects rather than causes and are driven by objective structural and material dynamics was, of course, laid out by Marx. That was the sociological approach of historical materialism. In his 1859 Preface to A Contribution to the Critique of Political Economy Marx famously summarized this analytical insight, insisting that, “it is not the consciousness of men that determines their existence, but their social existence that determines their consciousness.” Thus, the basic premise that marks the distinction between a Marxist, materialist and structuralist theoretical framework and an alternative constellation of theories that emphasize ideas, ideologies and discourse for the purposes of a sociological interpretation of Labor Plan history is the notion that the state and politics do, basically, on average and over time, respond to objective material constraints and imperatives given by a dynamic structure of global capitalism.

The Labor Plan, in its genesis and its persistence, was an act of the state. That means to understand its historical path within a Marxist structuralist-materialist framework necessitates clarifying two broad theoretical bases. The first is the dynamics of the objective material process that provides the structure within which the state is constrained and incentivized. In the historical

period under study, this means not just capitalism but neoliberalism. The second is the fundamental nature of the institution, the capitalist state, whose actions and reactions are ultimately at issue.

### **A Structuralist-Materialist Theory of Neoliberalism**

Neoliberalism has been subject to many definitions and interpretations and is often simply left undefined (Boas and Gans-Morse 2009). Chile has been central to the historical and discursive introduction and circulation of the concept and term (Ibid:147-152). Boas and Gans-Morse argue “indeed, Pinochet’s 1973 coup emerges as something of a watershed in usage of neoliberalism” (Ibid: 150). Because of its conceptual lack of clarity, strongly normative usage and definitional flexibility, Boas and Gans-Morse propose how “the term might be used more productively in future research”, first of all, “to explain how modern capitalism is fundamentally different from previous models of political economy” (Ibid: 139). This section takes up that task, including Chile’s unique role in that historical shift. It outlines a framework that conceptualizes neoliberalism as a historical era delineated by an objective change in the global capital accumulation process rather than as an ideology or political-economic theory. This historical era dawned globally, in Chile, in 1973. The lack of usefulness of ideological conceptions is highlighted by David Harvey’s observation in A Brief History of Neoliberalism that “the practice of neoliberalization has, however, evolved in such a way as to depart significantly from the template that theory provides” (Harvey 2005: 64).

In “Theorizing the Contemporary World” Moishe Postone argues the period “since the early 1970s” marks “a significant break with the social, political, economic and cultural order that characterized the decades following the Second World War” (Postone 2009: 85). This era has seen “the weakening and transformation of welfare states in the capitalist West, the collapse or fundamental metamorphosis of bureaucratic party-states in the communist East, and the undermining of developmental states in what had been called the third world” (Ibid). He continues, “more generally, recent decades have seen the weakening of national, state-centered economic sovereignty and the emergence and consolidation of a neo-liberal global order” (Ibid). This era has “occurred against background of a lengthy period of stagnation and crisis: since the early 1970s, the growth of real wages has decreased dramatically, real wages have remained generally flat, profit rates have stagnated, and labor productivity rates have declined” (Ibid). Most importantly, “this general trajectory was global... when viewed with reference to this general trajectory, differences in development appear as different inflections of a common pattern rather than as fundamentally different developments” (Ibid: 86-87). The crucial implication of this insight is that “the general character of the large-scale historical pattern... suggests the existence of overarching structural imperatives and constraints that cannot adequately be explained in local and contingent terms” (Ibid: 87). Marxist historian Robert Brenner (2009: 6) notes that “between 1973 and the present, economic performance in the US, western Europe, and Japan has, by every standard macroeconomic indicator, deteriorated, business cycle by business cycle, decade by decade”.

In Brenner’s framework this period is called “The Long Downturn” (Ibid). Building on this, Joshua Clover dubs it “The Long Crisis”, to emphasize that in contrast to previous periods of cyclical decline, the neoliberal era has thus far seen no sustained recovery, no macro return to growth or prosperity of the Post-WWII type. He argues, “planetary malaise persists and volatility with it” (Clover 2016: 130). As for periodization, he also notes, “there is, at least, some agreement about where to begin” (Ibid). Drawing on Braudel and Arrighi, he says “1973” (Ibid), a year of epochal historical and symbolic import in Chile, and globally. Acknowledging that “inevitably, ‘1973’ is a metonym for changes too capacious for a single year to contain” he cites factors from

the collapse of the Bretton Woods monetary system to the oil shock and the downturn in global markets (Ibid). Braudel (1992: 77) calls it “the point at which the secular trend begins to go into decline, in other words, the moment of crisis”. Braudel asks of 1973, “Is this a short term conjunctural crisis, as most economists seem to think? Or have we had the rare and unenviable privilege of seeing with our own eyes the century begin its turn?” (Ibid: 80). Clover claims this periodization, for all its symbolic reductionism, “has become a matter of broad agreement among historians and theorists of the *longue durée*” (Clover 2016: 131).

In arguing for reconceptualizing authoritarian regimes of the Southern Cone in the 1970s, including Chile, Hector E. Schamis (1991) maintains that the emergence of such “neoconservative” regimes is “part of a worldwide trend” and “global in nature” (Schamis 1991: 202). This emergence was conditioned by “the global insertion” of these countries in an international economy suffering from systematic stagnation (Ibid: 209). This, then, is the material structural dynamic, the global capital accumulation process in a phase of downturn, crisis and stagnation, which, with Chile’s specific insertion in this global process, defines neoliberalism as a historical era in the structuralist materialist framework utilized herein.

On the whole, this dynamic is the driver of institutional change, for which ideas and ideology play the role of largely after-the-fact rationalizations. This role also explains the often contradictory and even incoherent nature of neoliberal discourse. In this context it is interesting to note that Harvey focuses on “neoliberalism as a political project carried out by the corporate capitalist class as they felt intensely threatened both politically and economically towards the end of the 1960s into the 1970s” (*Jacobin* July 23, 2016). This threat meant “they desperately wanted to launch a political project that would curb the power of labor” (Ibid). Certainly, labor threat was one driving factor behind the coup in Chile. Perhaps we can understand neoliberalism, then, as an era characterized by a political project driven by labor threat in the context of systemic stagnation and declining profitability within global capitalism. In Chile, such a project coincided precisely with very high labor threat and the beginning of the long global downturn. On a global level “it would seem that labor control and maintenance of a high rate of labor exploitation have been central to neoliberalization all along” (Harvey 2005: 76). This can be conceptualized as one of the central drivers of state action in Chile with respect to the Labor Plan: “‘flexibility’ becomes a watchword with respect to labor markets” (Ibid: 75) under neoliberalism, and just such flexibility was central to the Labor Plan. State action was driven by an objective structural global dynamic. This dynamic created imperatives to repress, contain and channel labor threat in a particular way. Harvey argues, “I don’t think they [the corporate capitalist class] started out by reading Hayek or anything, I think they just intuitively said, ‘We gotta crush labor, how do we do it?’ And they found that there was a legitimizing theory out there, which would support that” (*Jacobin* July 23, 2016). This tracks with the way Pinochet’s thinking was characterized. The point to be emphasized here is that political actors were in fact reading their material interests from structure.

Yet, the material structural dynamic that defines the neoliberal era only gave the pattern of constraints and imperatives, it was politics and the nature of its institutions that most immediately drove state decisions. Thus, it is to the nature of the state in the era of neoliberalism that we next turn. For, as Harvey (2005: 7) argued, “the first attempt at neoliberal state formation, it is worth recalling, occurred in Chile after Pinochet’s coup on... September 11<sup>th</sup> of 1973”.

### **A Structuralist-Materialist Theory of the Capitalist State**

In Fred Block's seminal essay "The Ruling Class Does Not Rule" (1977) he elaborates a Marxist theory of the state which crucially rejects the notion that "capitalist reform reflects the conscious will and understanding of some sector of the capitalist class" (8). For Block "capitalist reform" refers to "the use of the state in new ways to overcome economic contradictions and to facilitate the integration of the working class" which "must be distinguished from strategies of forcing the working class to bear the costs of economic contradictions through dramatic reductions in living standards combined with severe political repression" (Ibid: 8, footnote). The Labor Plan can be understood as just such a move from an overwhelming reliance on violence and suppression of labor organizing and mobilization to a strategy of liberalization and state incorporation. Rather than economic ideas from business actors, rationalization occurs via a political logic and process.

The "key idea" in Block's conceptualization is "a division of labor between those who accumulate capital and those who manage the state apparatus" (Ibid: 10). In this division of labor, it falls to those who manage the state apparatus – Pinochet and the Junta at the genesis of the Labor Plan – "to concern themselves... with the reproduction of the social order, because their continued power rests on the maintenance of political and economic order" (Ibid). Of the cynical and vulgar interests that drive politics, it is distinct groups that specialize in the drive for profits and for power. The question becomes "in this framework... how it is that despite this division of labor, the state tends to serve the interests of the capitalist class" (Ibid). For this, "the elaboration of a structural theory of the state" is needed (Ibid). Such a theory relates the drive for power with that for profits. It is not a question of an autonomous state, but of an autonomous political logic which, despite its distinct subjects and object (political actors and power), serves the logic of capital accumulation. Both the Pinochet-led Junta and civilian Concertación governments were concerned with power, not motivated by the ideas, ideals or ideologies of the Labor Plan. Still, in pursuing the logic of power they pragmatically served the capitalist interests in a neoliberal labor market schema.

In fact, "neither the ruling class nor its representatives know what is necessary to preserve and reproduce capitalist social relations" and "state managers' preoccupation with the struggle for political power distorts their understanding" (Ibid: 12). It is thus "out of the structural relationships among state managers, capitalists, and workers" that "policies emerge" (Ibid), like the Labor Plan. Ultimately, both the constraints that prevent state managers from enacting anti-capitalist policies and the inducements that guide them to rationalize capitalism "can be derived from the fact that those who manage the state apparatus - regardless of their own political ideology - are dependent on the maintenance of some reasonable level of economic activity" (Ibid: 15). First, this means the dependence of state finances on taxation and debt, which rely on macro-economic vitality. Second, public support is often closely tied to vagaries of economic activity (Ibid). The political risks of mass unemployment and shortages of key goods, highlighted by Block (Ibid), even threatened the Junta that never had majority support and was willing to deploy mass violence to sustain its rule. He notes steep drops in political support or spikes in political opposition "increases the likelihood that the state managers will be removed from power one way or another" (Ibid). Pinochet and the Junta were supremely cognizant of such political risks, whether from bottom-up labor threat, insurrectionary guerilla activity, mass cross-class mobilization, US pressure or internal fracture. Pinochet and the Junta weighed the factors Block laid out – the effect on growth and investment of policy, the avoidance of "class antagonisms to escalate to a level that would endanger their own rule" and desire to expand their own power and control (Ibid: 23-24). They decided between continued escalating repression and the concessions of liberalized state incorporation "on the basis of their perceptions of the general environment" (Ibid: 24, footnote), most specifically US AFL-CIO demands backed by the US Government, and decided upon the Labor Plan as the concession

most appropriate to dealing with these multiple threats, pressures and concerns. For their part, Concertación leaders were hyper-conscious of public opinion polling and electoral positioning.

Indeed, in some ways even more so that the military regime, Concertación leadership was extremely attuned to some of the key factors Block lays out. He notes, “in a capitalist economy the level of economic activity is largely determined by the private investment decisions of capitalists” (Ibid). So, “this discourages state managers from taking actions that might seriously decrease the rate of investment” (Ibid), a dynamic much evident in Concertación strategizing, and spoken to directly by such key policy and strategy leaders as Edgardo Boeninger and Alejandro Foxly. In regard to the labor market and “flexibility” specifically, domestic and international investment was always a key consideration for Concertación leaders. Most importantly, this dynamic means “state managers have a direct interest in using their power to facilitate investment, since their own continued power rests on a healthy economy” (Ibid). A more accurate prediction for Concertación governance could hardly be made than “there will be a tendency for state agencies to orient their various programs toward the goal of facilitating and encouraging private investment” (Ibid). It was, explicitly, the cornerstone of the Concertación “growth with equity” strategy for 20 years. In the end, both Pinochet and Concertación governments were driven via a political logic constrained and conditioned by the two key factors Block lays out: “state managers are able to act only in the terrain that is marked out by the intersection of two factors – the intensity of class struggle and the level of economic activity” (Ibid: 27). These two factors correspond to what is discussed in this dissertation under the conceptual rubrics of labor threat and structural incentives and imperatives.

As noted in the previous chapter, Marcus Taylor’s (2004) article “Labor Reform and the Contradictions of ‘Growth With Equity’ in Postdictatorship Chile” brings together several of these strands to explain the Concertación governments’ actions with respect to promised profound changes to the Labor Plan Labor Code. He contextualizes the argument by highlighting the incongruence of a discourse and ostensible political program centered on “growth with equity” with a practice wherein Concertación governments “resolutely pursued the consolidation and intensification of the neoliberal accumulation trajectory” (Taylor 2004: 77). Taylor notes a “conspicuous tension” existed “in the discrepancy between... rhetorical commitment... and the reality” (Ibid). In fact, he argues, “nowhere has the divergence... been more acute than in labor policy” (Ibid).

The basic context to understand this government and state practice is that “cheap and flexible labor, with few rights to collective action, has been central to the recovery and expansion of Chilean capitalist accumulation” (Ibid). As in Block’s logic, Taylor elaborates the dynamic: “capitalist interests... have strongly opposed any substantive changes to the labor code. They argue that, by impinging on labor market flexibility, reforms would undermine the foundations of domestic accumulation to the detriment of all Chileans” (Ibid). Taylor “employs a materialist state-theory approach to help explain the divergent pressures that have conditioned the Concertación’s policy practice with regard to labor reform” (Ibid: 78). Crucially, this gives insight to the fact that it was not merely an ideological gambit and effective lobbying that caused the arguments of the capitalist interests that were strongly politically opposed to the Concertación to be reflected in the actual governing practice of the Concertación run state. There is an underlying material reality to the pressures generated by the global capital accumulation process and Chile’s position within it.

Taylor argues, “the challenge of adhering to the discipline of capital, expressed most brutally in its mobile money form, while managing the social and political tensions inherent to this discipline is the principal paradox for states in the global South in the era of globalization” (Ibid).



This is a real, not simply a rhetorical, set of cross pressures governments in Chile faced in the Concertación era and “in the Chilean case, this contradiction has been expressed in the tension facing successive postdictatorship governments between acknowledging the social demands of their popular constituency and sustaining the conditions for expanded capital accumulation” (Ibid). This set of pressures, more than any ideological or ideational predispositions, explains “policy outcomes” that “resulted in provocative rhetoric... alongside labor reforms that... have not significantly altered the hyper-flexible neoliberal model” (Ibid). Theoretically, this “is due not to the predominance of capitalist interests within the state but to the dependence of the material reproduction of capitalist society (the state included) on the accumulation of capital” (Ibid: 80). A material dependence means “the state faces compulsion to adhere to and enforce this discipline through all its modes of integration with capitalist society, not least through the ‘dull compulsion’ of economic forces expressed through the movement of capital in its abstract money form” (Ibid).

This framework can explain the origin as well as persistence of a neoliberal Labor Code:

in this context, neoliberal-style policies appeared uniquely well suited to the task of re-establishing and maintaining the conditions for expanded accumulation in Chile and elsewhere by seemingly offering direct solutions to the economic, political, and ideological dimensions of crisis in the later 1970s and 1980s” (Ibid).

It is this “offering direct solutions” that distinguishes a structuralist materialist approach from those that put causal weight on ideas, ideologies and discourses. Both military and civilian governments were motivated by an apparently accurate reading of macro-economic structure and immediate political considerations. Both oversaw GDP growth and maintained political power long-term. In neither case were ideological or ideational motivations central drivers of their calculations. Major discrepancies between discourse and practice speak to a cynical role for ideas and ideologies.

### **Weberian Institutional Definitions and Analyses of the State, Politics, Parties and Unions**

While materialist-structuralist state theory helps to elucidate why otherwise very different Chilean regimes and governments maintained very similar institutional frameworks for legal labor relations in the decades following the Labor Plan, attention to the specific mechanisms of the institutions involved is needed for a fuller explanation. That is, a *how* to further elaborate the *why*.

In this section I will be drawing on the Weberian and institutionalist traditions in order to further define the key actors at issue in the overall thesis of this dissertation. These are specifically the state, political parties and the institutional labor movement. These definitions will help explain why these institutions responded in the way they did to the imperatives outlined in the preceding sections. That is, they elucidate the ‘autonomous political logic’ underlying the preceding analysis and, together with the supposition of a ‘more or less accurate’ reading of interests from structures, offer a theory of the motivations for the main actors in distinction to discourse/ideas/ideologies.

Indeed, Weber and the institutionalist analysts that followed in his vein were centrally concerned with identifying and exploring the behaviors of states as organizations whose logics and dynamics are not fully, or even primarily, reducible to other social factors, economic or cultural. They sought to identify the particular formations, incentives and constraints that characterize states and other political institutions as concrete organizations. It is in specifying the forces that comprise a unique institutional logic, and the mechanisms and processes by which it operates, that an

institutionalist analysis can clarify the crucial piece between material structures and the action of collective actors.

### Definition of the State

Weber famously defined the state as the authority that “successfully claims the monopoly of the legitimate use of physical force within a given territory” (Gerth and Mills 1946: 78). He conceived of the “modern state” as a “compulsory association which organizes domination” (Ibid: 82). Politics, in the Weberian sense, is thus characterized by the struggle over the distribution of power, either between or within states (Ibid: 78). Thus, the most basic elements of the Weberian understanding of the state emerge as power defined by territoriality, coercion and monopoly. The state is based in a relationship of domination, of violence in the ultimate instance. This parallels the recurrent state-labor history in Chile previously discussed. The initial mode of action of the state to the emergence of the labor movement and under the military Junta in the 1970s was an overwhelming reliance on unregulated violence and its threat. Only later were additional modes brought into play. In its focus on domination, a Weberian view has some apparent consonance with a Marxist one.

For Weber, domination requires the control of the material implements of violence as well as the means of administration and an executive staff (Ibid: 80). One key source of obedience from the administration is the self-interest found in the material rewards and social honor accruing to those who serve power (Ibid). Yet, the Weberian concept of power is distinguished from Marxist views by its additional elements and their complex interactions (Weber 1978: 926). Weber rejects the idea that power is derived solely from economic sources or that it is sought primarily for economic ends; he insists power brings social prestige and is often coveted for its own sake (Ibid). He argues that the legal order directly affects the distribution of power in a society (Ibid: 927).

Beyond these formal properties and perhaps a list of formal institutions that define the state – “with increasingly vague outer boundaries”, notes Jessop (2007: 3), “from the political executive, legislature, judiciary, army, police and the public administration, the list may extend to education, trade unions, mass media, religion, and even the family” (Ibid) – the state is notoriously difficult to define (Ibid). This is, in part, because formalist definitions run up against the empirical-historical reality noted by Weber that there is no activity that states always perform and none that they have never performed (Gerth and Mills 1948: 77-78). It is for this reason that general state theory has sought to define the state in terms of its formal institutional features (Oppenheimer 1908; Schmitt 1928) which focused on the three key features of state territory, state population, and state apparatus. Weber, as noted, rooted his definitions in terms of the foundational instruments and mechanisms of state power. Other definitions emphasize the formal sovereignty of states with respect to their own populations or other states (Jessop 2007: 3). Schmitt (1921) famously defined the locus of sovereignty within the state system as the effective power to declare a state of emergency and thus suspend the constitutions and/or specific legal provisions. Loveman (1993) and Caffarena (2013) have applied this type of analysis to Chile and the many evolving levels of states of emergency, siege, and other designations during the 17 years of military rule.

Jessop attempts something of a synthesis of these various strands which has the benefit of aiding in an understanding of how institutionalist theories might inform a Marxist and structuralist analysis. Jessop notes that “the state apparatus has its own distinctive resources and powers, which underpin its relative autonomy” but that “it also has distinctive liabilities or vulnerabilities” insofar as “its operations depend on resources produced elsewhere” (Jessop 2007: 6). He also insists that

the state's structural powers/capacities, strategic biases and their realization "do not depend solely on the nature of the state as a juridico-political apparatus" (Ibid) regardless of its exact institutional boundaries. Thus, though there are "specifically state-engendered and state mediated processes" they must be "related both to their broader social context and to the strategic choices and conduct of actors in and beyond states" (Ibid). Jessop proposes a "society-centered" vision at odds with both the institutionalist and structuralist-materialist frameworks this dissertation attempts to work within. Still a definition of the state he offers is useful: "a distinct ensemble of institutions and organizations whose socially accepted function is to define and enforce collectively binding decisions on a given population in the name of their 'common interest' or 'general will'" (Ibid: 9). This formulation adds a couple of key elements to a revised institutional definition of the state.

This understanding is based fundamentally in Weber's conception of the state as ultimately premised upon violent coercion and politics as the struggle for power, including for its own sake. It adds the notion that institutional and organizational behavior in such a struggle has its own logic irreducible to economic or cultural factors. It insists that despite this the state is still materially dependent on resources it does not produce. The state is endowed with de facto sovereignty, above and beyond formal law or constitution. Its ultimately coercive power is over both a population and a territory. It is discursively justified by reference to the "common interest" or the "general will".

For the purposes of this dissertation the state will be defined as follows, with the elaboration of the additional theoretical terms and concepts laid out in the succeeding sections of this chapter: The state is a formally sovereign organization and set of institutions whose function is to enforce decisions on a multitude in a territory via physical force and its derivative capacities and effects, typically rationalized by some 'common interest' or 'general will'. The material basis of its foundational mechanism of violence and thus all of its capacities lies in the extraction of surplus value from labor, an extraction that ultimately relies upon this self-same mechanism. Hence the state always stands in a fundamentally contradictory and antagonistic position vis-à-vis a labor that precedes it. The core of this definition rests on this mechanism and its de facto effectiveness, rather than on formal-legal sovereignty, post-hoc rationalizations or even its necessary material basis. Violence is the first-and-last instance of the state and politics is a cynical power struggle.

### **Political Parties**

Weber defines a "party" as an organization based in formally free recruitment the end of which is to secure power within an organization (Weber 1978: 284). Parties are structured by their pursuit of interests, which Weber again insists are not defined in strictly economic terms and can include power valued for its own sake (Ibid: 284-285). Thus, they vary "above all else according to the structure of domination" (Ibid: 939). For Weber, parties are key in modern states, especially mass democracies, owing to the large numbers of voters needed to secure power (Ibid: 1395-1396). He suggests modern states generally develop two main types of parties: those based on patronage, or securing official positions and other material gains for supporters, and ideological parties, which aim at substantive policy outcomes (Ibid: 1397-1398). He argues "all party struggles are struggles for the patronage of office, as well as struggles for objective goals" (Gerth and Mills 1948: 103).

The political scientist Maurice Duverger follows this lead in defining a political party as "a group of persons organized to acquire and exercise political power" (Duverger 1976 [1954]: 3). He notes that modern political parties originated in Europe and the United States in the 19<sup>th</sup> Century alongside parliamentary systems, whose developments are associated with the evolution of parties

(Ibid). The term party has “come to be applied to all organized groups seeking political power” (Ibid). He notes they were transformed as parties emerged depending on mass support (Ibid).

Weber saw the “great state” and mass parties as “soil” for the process of bureaucratization (Gerth and Mills 1948: 209), the major trope of his understanding of modern states, statecraft and politics. Bureaucratic organization<sup>12</sup> is the result of an administrative “leveling of the governed” which, for Weber, inevitably accompanies mass democracy (Ibid: 224, 226). Leveling accounts for the passive role of the democratic public in the Weberian view of mass democracy (Ibid: 225-226). Weber argues the large political organizations of modern mass democracy entail an expense and complexity that leads inevitably to a strict separation between active professional politicians and full-time party officials and a much larger group of politically passive supporters (Ibid: 99). Weber saw the rank-and-file as having very limited influence, especially because they have little real input in the selection of candidates or the drafting of party platforms (Ibid: 103). The party professionals, meanwhile, end up being fundraisers and vote corollers who typify party “machines”, as in Weber’s oft-cited example of New York City’s Tammany Hall (Ibid). For Weber this was not a necessarily negative development, as professional politicians’ accountability to party bosses rather than a mass constituency allows for a greater degree of leadership autonomy (Ibid). Weber suggested, these dynamics tend towards a situation of ‘plebiscitarian’ democracy, wherein decisions are made at the top and are only formally ratified by a vote of the *demos* (Ibid). Both the 1980 Constitution plebiscite and the Junta-Concertación transition pact resonate with his analysis.

Weber defined the modern state as “necessarily and inevitably” ruled by bureaucracy (Weber 1978: 1393). The modernization of the state is but progress towards a bureaucratic officialdom (Ibid). He analogizes the separation of civil servants from the means of administration to the separation of workers from the means of production (Gerth and Mills 1948: 196-198).

In its centrality the concept of bureaucratization crucially defines Weberian notions of the state, parties and politics writ large as they unfold in the modern era. It is a vision that can appear deterministic in its pessimism, for the “iron cage” he likens it to seems inescapable. Weber argues that “once fully established, bureaucracy is among those social structures which are the hardest to destroy” (Ibid: 228). He paints a picture of individuals within bureaucratic organizations with little agency as “the professional bureaucrat is chained to his activity by his entire material and ideal existence... he is only a single cog in an ever-moving mechanism which prescribes to him an essentially fixed route of march” (Ibid). Given that this process defines both the modern state and political parties in mass democracy, this view of bureaucracy colors Weber’s view of all future political possibilities. He argues that “the ruled... cannot dispense with or replace the bureaucratic apparatus of authority once it exists” (Ibid: 229). His view of direct democracy was that it is totally untenable in large societies and he viewed mass democracy derisively. Weber characterized parliaments as the representative bodies of those ruled by bureaucracy for the purpose of eliciting the minimum consent that is the necessary basis of all domination (Weber 1978: 1407-1408). He also argued that in modern society “authorities are held within narrow barriers when they seek to influence economic life in the capitalist epoch” (Gerth and Mills 1948: 229). These notions of parliamentary democracy as basically a ruse and states as narrowly constrained by the dynamics of capitalism would not be out of place in Marxist accounts of political-economic modernity. They also offer plausible insights as to the behavior of Concertación parties so at odds with their rhetoric.

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<sup>12</sup> Weber’s famous formal characteristics of bureaucracy include: 1. fixed and official jurisdictional authority; 2. hierarchy and graded authority; 3. basis in written documents; 4. expert training of officials; 5. full time demands on officials and 6. being governed by known and general rules (Gerth and Mills 1948: 196-198).

This clarifies the two key elements in a definition of political parties adequate to an attempt to understand Labor Plan history and Labor Code stasis in the Concertación Era. First, parties are defined above all by the struggle for and exercise of political, that is state, power. Duverger notes “parties have one function in common: they all participate to some extent in the exercise of political power, whether by forming a government or by exercising the function of opposition, a function that is often of critical importance in the determination of national policy” (Duverger 1976 [1954]: 6). Second, parties, as bureaucratic organizations, like the state, have oligarchical tendencies. They tend to develop a permanent ruling class and to prioritize the organization itself over other goals.

### **Political Parties and Labor Unions: The Iron Law of Oligarchy**

The most well-known Weber-influenced theory linking bureaucratization, political parties and labor unions comes from Robert Michels. His 1911 text Political parties: A sociological study of the oligarchic tendencies of modern democracy is a foundational work of political sociology. It describes and analyzes in incisive and powerfully predictive detail the second definitional dynamic of parties above. It links this dynamic to trade union organizations by drawing on observations of a progressive socialist party and national trade union in Germany with which he had extensive on-the-ground experience. The applicability to the Concertación and the CUT, in which the Socialist Party played a, if not the, central role from 1990-2010, is significant and profoundly illuminating.

In this text Michels coined the phrase the “iron law of oligarchy” (Michels 1962: 356). The law (or tendency in the original German) articulates a theory of trade unions and political parties that says progressive social movements inevitably become undemocratic and dominated by an unaccountable bureaucratic leadership resistant to change and conservative in its orientation. The theory has been widely applied in the analysis of trade unions and is associated with the view that unions are strongly subject to becoming controlled by a self-perpetuating, hierarchical staff. It argues this in basically three premises or steps. First is the postulate that large organizations with complex functions demand a rational-bureaucratic structure. Second is that structural imperatives of bureaucratic organizations inevitably concentrate power in the hands of professional leadership. Third is that this concentration of power unleashes its own dynamic of leadership self-preservation and a “substitution” which conflates the perpetuation of the organization itself with the movement. Each of these tendencies is evident in the Concertación, the CUT and their inter-relationship.

When Michel’s work was published in 1911, the German Social Democratic Party, with its closely affiliated German Labor Union, was the largest by membership, most well-resourced, best organized and most powerful socialist party in the world (Michels 1962: 357). In 1911 the party had three million members and in 1912 it won one-third of votes in the parliamentary elections, becoming the largest political party in the parliament and country (Angaut 2015: 547). The party claimed to be organized on a democratic basis, promised that if it came to power it would rule in a democratic manner, and committed to bring a “democratic revolution” to the state, transforming it into a “democratic state” (Michels 1962: 50, 335). However, with an organization so large and a task so complex, efficiency mandated a permanent, hierarchical bureaucracy with a division of labor and a chain of command. These are “the tactical and technical necessities which result from the consolidation of every disciplined political aggregate” (Ibid: 365). The technical aspect is to ensure the efficient operation of the party via a delegative process. The tactical element is because direct democracy is too slow and cumbersome a decision making process to react to political events. Leadership must be able to take and act upon timely decisions. These delegated, decision-making permanent officials are the very same that become the bureaucracy-cum-oligarchy. As the

size and complexity of an organization increases, democracy decreases. As Michels (1962: 71) put it, “where organization is stronger, we find that there is a lesser degree of applied democracy”. The tendency to oligarchy arises from the “technical indispensability of leadership” (Ibid: 364).

Moreover, there are “psychological transformations which the leading personalities in the parties undergo in the course of their lives” (Ibid: 365). The growing professionalization of the party/labor union yields the creation of a distinct class of bureaucrats, leaders and politicians who are separate from the rest of the rank-and-file membership who they are meant to represent. This separation creates different experiences and thus perspectives, but even more importantly confers a distinct structural location and thus material interests. Most crucially, their interests, and so their loyalties, will no longer align with their formerly fellow rank-and-file members, workers or party members, but with the party or union as an organization itself (Ibid: 335). Indeed, as professionals, the party or union itself provides them a living. Michels paraphrased Louis XIV referring to this dynamic as “The Party, is me” and argued the party becomes a “state within a state” (Ibid). For a class of professionals thus positioned the organization itself, party or union, will take precedence over and above demands or interests of rank-and-file members (Ibid) and more so over the broader class or population the organization would organize, mobilize or represent, as in the working class. The party, argues Michels, has become not a means but an end in itself (Ibid: 338). He argues that “the outcome of this regressive evolution is that the party is no longer regarded as a means for the attainment of an end, but gradually becomes an end-in-itself, and is therefore incapable of resisting the arbitrary exercise of power when this power is inspired by a vigorous will” (Ibid: 358). When the *raison d’être* of the political party is to control the state, it will not act willingly to harm it. So, a great conflation occurs between cause, union, party and state. The cause becomes rationalization.

Once established, the leadership class has three main types of resources that allow it to maintain control with a great degree of success. Officials have greater knowledge, both through experience and the greater amount of information to which they are privy. They also control the formal means of communication and, as full-time salaried officials, can travel from place to place at organizational expense and draw an audience. Finally, they possess and hone superior skills in key proficiencies of organizational politics, both through a selection effect and experience (Lipset 1962: 16). Thus, “a small group exercises control” (Michels 1962: 278) because a party or union needs a permanent bureaucracy to function, which becomes permanent over time and dominates. This dynamic can even exist with the best of leadership intentions (Linz 2006: 54) because it is in the logic of organization itself for the original cause to face “goal displacement” (Linz 2006: 40) in which the survival of the organization is placed above all other considerations.

### **Structuralism, Institutionalism, the Iron Law of Oligarchy and Political Incorporation**

These theoretical considerations greatly clarify why political incorporation of the labor movement proved so devastating to labor threat. The interests of the rank-and-file became conflated with formal labor movement organizations, eventually and especially the CUT. The interests of the institutionalized labor movement then became conflated with that of the opposition political parties seeking to remove Pinochet and the military regime and gain power themselves. The interests of the Concertación became conflated with the interests of the post transition state they came to govern. And the interests of that state were given and read, more or less accurately and directly, from the structural position and insertion of the Chilean state in the global process of capital accumulation in the historical era of neoliberalism. All of these actors- state, parties and

unions- claimed to oppose the ideas and ideologies of the Labor Plan. Yet, they perpetuated it. The state for its material interests, the parties for the sake of the state and the CUT for the sake of both.

## **Section 2 – Hegemony and Post-Hegemony: Labor, the State, Consent and Ideology**

Ultimately, the question for which a theoretical explanation is being sought involves the way the Chilean state has responded to the labor movement, as reflected in formal labor law. Thus, both the broader theoretical framework and the analytical argument about the case of Chile in the Concertación Era and Labor Plan history more generally are most accurately thought of as a theory and analysis within historical political sociology of the state in its relations to labor. I have argued that the state reacted the way it did in the Concertación Era because political incorporation from 1979-1989 led to a lack of labor threat 1990-2010, especially in the crucial early transition years. I have also elaborated a theoretical framework in the previous section that suggests why we should expect political institutions like the state, parties and formal-legal labor movement organizations to behave in such a way absent that pressure or threat to their basic interests in capital and power.

Still, if Labor Plan history supports the contention that episodes of labor institutionalization and labor movement incorporation follow and respond to periods of heightened labor threat, and also that the effects of these institutionalizations/incorporations appear to effectively channel and contain labor threat, this history does leave one further puzzle to be unraveled. If the incorporation of the labor movement is able to co-opt institutional labor movement organizations like the CUT and its top leadership through the mechanisms explicated above, why does the rank-and-file go along with such a path? The rank-and-file of labor receive neither the material benefits nor the organizational or social prestige of formal institutions and their leadership. They do not share in the power gained by party or labor union leaders. They do not have their structural location and so their interests, nor their life experiences and thus their perspectives, transformed. So, what explains base-level labor quiescence in the Concertación Era, again, especially in the crucial early years?

A closely related question is how labor threat is able to arise anew, despite immense state efforts centered on repression and violence, as in the early years of Junta rule, or after apparently successful efforts to channel and contain such threats, as in the Concertación Era. How did labor threat reach such a high point at the end of a period of brutal, violent and unregulated repression such as the De Facto period of 1973-1978? This is in many ways the obverse of labor quiescence despite expanding political opportunity in the Concertación Era. Moreover, labor threat escalated significantly in the period following the Concertación loss of power in 2010. This occurred despite a presumably unfavorable environment of a conservative government taking power even as the structural factors that weakened the labor movement in the Concertación Era remained in force.

These periods of increased labor threat driven by a more autonomous and oppositionally oriented labor movement arose first from the rank-and-file and often met resistance from labor institutions, as the iron law of oligarchy predicts. The early CUT strategic stance of ‘concertation’ with business and the state and cooperation with the transition was never popular with the base. Leadership was slowly but surely pushed from the bottom-up for a more autonomous and confrontational stance vis-à-vis the ruling parties and the state during the Concertación Era. Yet, political incorporation proved strong. The CUT as an organization, and especially the top leadership, owed their political standing, partisan loyalties and institutional funding to Concertación parties and the state. Still, bottom-up pressure exceeded those institutional channels as the years went on.

So, the question remains: if “bottom-up” labor pressure can generate labor threat and prod labor law change even in disadvantageous circumstances, what explains “bottom-up quiescence” in periods of low labor threat despite political-economic policies unfavorable to and unpopular with the labor rank-and-file such as the Concertación Era? This is a distinct dynamic from that which drove the behaviors of the parties or the leadership of the institutional labor movement. It is also more difficult to assess empirically or explain through a historical recounting of events. So, questions surrounding base level labor quiescence or generation of labor threat will be addressed through a more theoretical mediation and analysis guided by a critique of the concept of hegemony.

### **Hegemony and Post-Hegemony Theories: Labor Base Quiescence in the Concertación Era**

I have argued the institution of the Labor Code in Chile is best understood as a heritage of past state strategy for dealing with labor threat. Marxist theory suggests this threat arises because of the state’s inherently contradictory position vis-à-vis labor and its associations. It is materially dependent on a capital accumulation process premised on the expropriation of surplus value from surplus labor. The state must also maintain direct physical control over a population and territory. It must do so to maintain its monopoly of coercion, its sovereignty, and to reproduce the necessary preconditions for the capital accumulation process. Specifically, the social relations of production of wage labor-capital, and its indispensable basis in the institution of capitalist private property.

In the first instance and ultimately, this contradictory and antagonistic state position of dependence but control is maintained by violence, the direct use of physical coercion, as Weberian theory emphasizes. Historically we have noted that when the labor movement first arose and when the military Junta first came to power in 1973 its first modality of dealing with the labor movement was overwhelmingly through brutal violence and repression. However, at key moments in history, the Chilean state has found it a necessary or functional strategy to *incorporate* the associations and movements of labor into its formal-legal institutional framework. Chilean labor law can be seen as “an attempt to ‘stratify’ the struggle, to give it a state form, which means of course to de-fuse the struggle and channel it into forms of organization compatible with the reproduction of capital” and thus the reproduction of the state itself (Sitrin 2009: 3). From this point forward the tool kit for the state to deal with labor included inducements, albeit with control, as well as repression.

This combination of coercion and concession between a capitalist state and labor would often be analyzed in Latin American political sociology with a Gramscian framework of hegemony theory. In recent decades the academic study of political sociology on and in Latin American has been greatly influenced by neo-Gramscian analyses centered around the concepts of hegemony theory, especially since the “cultural turn” of the social sciences in the 1970s. Scholars like Stuart Hall looked to Gramsci’s writings to understand from a cultural studies perspective the massive changes of the early years of neoliberalism in the UK. A Latin American version of post-Marxist political analysis based in readings of Gramsci was widely popularized by the Argentine theorist Ernesto Laclau in works such as Politics and Ideology in Marxist Theory (1977) and especially Hegemony and Socialist Strategy (1985), co-written with Chantal Mouffe. Though it is a large and varied body of work, it is difficult to conceive of a version of Gramsci or hegemony theory that would not be ultimately based on the concept of “consent” and its attendant emphasis on ideology in the construction and maintenance of hegemony. Hegemony is often thought of by way of the classic formula through which the capitalist state maintains control by force and consent. Where the former recedes, as in the Chilean state incorporating a legal labor movement or transitioning from dictatorship to democracy, consent should then explain a corresponding popular quiescence.



Perry Anderson famously offered three “versions” of reading Gramsci in his 1976 article “The Antinomies of Antonio Gramsci”. Each version is distinguished based upon the relationship between the state and “civil society”. Nonetheless, each is still founded on consent and ideology. The post-cultural turn theorists clearly center their analysis on ideology and discourse and proffer a central strategic imperative of constructing “counter hegemony” in civil society institutions, to include political parties and labor unions. Yet even a more Marxist and insurrectionary reading of Gramsci as put forward by such thinkers as Chris Harman (1977), Carl Levy (1999) or Dylan Riley (2011) must put stress on ideology and the struggle over ideas – and the entailed key role of the party and intellectuals- as an indispensable concept in the Gramscian worldview of hegemony. If labor was quiescent despite or because of less state violence, ideology and consent must be key.

Yet, a close examination of the dynamics of labor-state interaction in the process and path of labor law reform in the Concertación Era seem to go against this type of explanation for base-level popular quiescence. Even at the top institutional levels of the labor movement ideological opposition to the Labor Plan, in its origin under dictatorship and its persistence under Concertación governments, was clear, consistent, fierce and unrelenting, at least at a discursive level. Labor did not go along with the Labor Plan because of any ideological agreement or consent at any point, as all labor leaders throughout the decades repeatedly emphasized. Indeed, the illegitimacy of a Labor Code descended from dictatorship was a central discursive and ideological trope of the movement from before its enactment in 1979 through the very end of the Concertación period in 2010. All indications, including public polling and mass protest activity, suggest base-level rejection of the Labor Plan Labor Code was as strong or stronger than that expressed by organizational leadership.

Moreover, hegemonic power – defined as the ability to elicit consent or co-opt rather than simply repress – should have been increasing over the Concertación period. As previously noted, political power moved left during this period, as the progressive wing of the Socialist Party gained control of the executive and became a central power in Congress, as well as leading the CUT. In the Christian Democratic Party, both in Congress and in the labor movement, factions committed to greater change gained more influence over time, driven in part by internal party politics, base-level pressure and broader intra-party electoral competition. Power inside the labor movement also shifted left as the Communist Party and factions further left gained increasing influence in labor institutions and in base-level popular organizing and protest/resistance activity. The Concertación governments also enacted some ameliorative social programs over time, including increased aid for poverty programs, modestly expanded health care and unemployment benefits and regular, if also modest, increases in state mandated minimum wages. Opportunities for political participation also increased as the Concertación opened the presidential nomination process to primary elections and reforms eliminated some of the most blatant anti-democratic authoritarian enclaves. Indeed, politics and policy scholar Sara C. Motta argues by “adopting a neo-Gramscian framework” that “the Chilean Socialist Party (PSCh), as part of the governing Concertación coalition, has played a key role in constructing consent and disarticulating dissent to neo-liberal hegemony in Chile” (Motta 2008: 303). She asserts that “this process occurs in relation to the popular classes within, and outside, the PSCh” and that “the analysis of the PSCh’s role in (re)producing neo-liberal hegemony in Chile helps to unlock the black box of empirical and theoretical investigation as regards the construction of consent to neo-liberalism in the subordinated” (Ibid). Consent is key.

Despite all of this, labor and broader popular social movement pressure from below grew steadily, if slowly and unevenly for the first 15 years of Concertación governance. Labor pressure from below built as strikes became more numerous, militant and costly, including illegal strikes. By the Bachelet presidency (2006-2010), base-driven labor threat, rising for nearly two decades

until that point, became dramatically more evident. Broader social movement protest followed this same pattern, with the student movement being particularly notable. As hegemonic power should have been at an apex in the Concertación Era, during the most progressive and inclusive Bachelet Presidency, a new social movement and labor upsurge began. Visibly led by a younger generation raised after the dictatorship, many commented that they lacked the fear so instilled in their elders.

Rather than institutional and political representation by popular and labor aligned forces reinforcing “hegemony”, the power of “consent” appears to have weakened over the course of the Concertación Era. In the decade following the initial upsurge of the first Bachelet term, labor threat continued to grow under the conservative Piñera (2010-2014) and even more progressive second Bachelet (2014-2018) administrations alike. The trend, which extended to social movement protest more broadly, continued even as Bachelet governed with a New Majority coalition expanded left to include the Communist Party, which also took leadership of the CUT and other crucial labor institutions and played a central leadership role in social movement activity and protest writ large. Extra-parliamentary protest grew even as institutional barriers like the binomial voting system fell.

I will thus argue that a study of Labor Plan history suggests that a “post-hegemony” theory that emphasizes the role of fear rather than that of consent better explains the dynamics of labor quiescence and resistance in the Concertación Era. I also suggest that this applies to Labor Plan history and to social movement-state dynamics more generally. Guided by cultural theorist Jon Beasley-Murray’s path-breaking 2010 work Post-Hegemony: Political Theory and Latin America I analyze base-level, labor-state dynamics in Labor Plan origin and persistence not by the famed combination of “force plus consent” but by the post-hegemonic reconstruction of “force plus fear”.

This will proceed by first offering a critique of hegemony theory and its indispensable key concepts of consent and ideology. Next is a critique of social contract theory which a reliance on the concepts of consent and ideology appears to so closely approximate. Finally, a discussion of the Gramscian notions of the roles of intellectuals, vanguards and parties rounds out the critical rejection of this body of theory’s reliance on ideology and ideas as central causative factors in the initiation and maintenance of capitalist social order. Having rejected consent and ideology, a fuller conception of a post-hegemonic reconstructed theory is offered. This alternative theoretical perspective is centered on the concepts of domination without hegemony, structured by violence, threat, fear, incorporation, and the inertia of path dependence and habit.

### **Consent and Hegemony Theory**

“By ‘hegemony,’ I mean the notion, derived from the Italian Marxist Antonio Gramsci,” writes Beasley-Murray, “that the state maintains its dominance (and that of social and economic elites) thanks to the consent of those it dominates... Where it does not win consent, this theory suggests, the state resorts to coercion (Beasley-Murray 2010: x). This makes hegemony distinct from “direct domination” based on “the apparatus of state coercive power which ‘legally’ enforces discipline on those groups which do not ‘consent’ either actively or passively” (Gramsci 1971: 12). Gramsci defines hegemony in the Prison Notebooks as “the ‘spontaneous’ consent given by the great masses of the population to the general direction imposed on social life by the dominant social group” (Ibid). This makes hegemony the key factor in reproducing the capitalist social order. So, “for Gramsci, power is grounded in consent, and force is employed only secondarily” (Beasley-Murray 2010: 1) as “in moments of crisis and command when spontaneous consent has failed” (Gramsci 1971: 12). Thus, it can be said of Gramsci and hegemony theory, “coercion supplements

consent, rather than vice versa” (Beasley-Murray 2010: 1). Because “pure coercion is unthinkable ... hegemony theory posits that there is always at least a residue of willed acquiescence” (Ibid: 63).

Most importantly, “hegemony theory presents social order as the result of either coercion or consent” (Ibid). If subjects are not put under control by direct violence, then they must “willingly subscribe to a dominant ideology” (Ibid). Yet, such a dichotomy is analytically incapacitating. If consent is the dominant term in the opposition, then hegemony casts politics as a “struggle to gain consent” (Ibid: xiii). To make sense, however, this “requires the prior, implicit agreement that it is consent that is at issue in political struggles” (Ibid). But if “power works directly on bodies” (Ibid), the politics is about bodily control rather than ideological struggle. As Bourdieu phrased it, “the social order is merely the order of bodies” (Bourdieu 2000: 168).

In reality, consent is never even at issue in the relations between state-capital and subject-labor. “In actual history,” as Marx writes in Capital (Volume 1, Ch. 26), “it is notorious that conquest, enslavement, robbery, murder, briefly force, play the great part.” All modalities of state-society relationships operate underneath and within the penumbra of potential *enforcement*. The moment of consent- of explicit agreement- never arrives; it is always only posited retroactively.

Assent is *never* explicitly solicited from or granted by those subject to the social relations of capitalist private property or state sovereignty. The option to not partake in these relations has never been given in the “actual history” of state-capitalism, in Chile or anywhere else the state or capitalist private property have managed to establish their *de facto* control. With really existing social relations undergirding the state always backed by force, a moment where the blanket threat of violence is lifted, and consent could be granted or withheld, never occurs. So, consent must be theorized as having always already been given. “Consent” is but an after-the-fact rationalization.

Indeed, in the most famous and typical instances of the rationalizations or apologies for these social relations such as Hobbes’ and Rousseau’s theories of the “social contract” or modern bourgeois legal and philosophical discourse on private property and the “right of exclusion” what is found is the postulating of this moment of consent in a theoretical- perhaps distant or mythical-past. The really existing social order is subsumed under concepts like “tacit” or “implicit” consent.

### **Ideology and Hegemony Theory**

Gramsci outlined a theory of politics and social domination that was crucially based on the social efficacy of ideology. “Ideologies”, Gramsci (1971: 548) wrote, are “real historical facts which must be combatted and their nature as instruments of domination exposed... so as to make the governed intellectually independent of the governors.” This, he argued, is “a necessary moment of the overturning of practice” (Ibid). A vision of ideological conversion as preceding (necessary) a change in practice appears as exactly what Marx criticized of Hegel in The Grundrisse. That is, “philosophical consciousness, for which conceptual thinking is the real human being, and for which the conceptual world as such is thus the only reality” (97). Marx’s great contribution was to transcend this paradigm with the method of historical materialism, where, as Engels wrote in Socialism: Utopian and Scientific, “the final causes of all social changes and political revolutions are to be sought, not in men’s brains...but in changes in the modes of production and exchange. They are to be sought, not in the philosophy, but in the economics of each particular epoch” (88). From an effect of material practice in Marx, ideology or consciousness instead becomes a cause.

For Gramsci, this ideological struggle is fundamentally a philosophical one. It is a battle between differing conceptions of reality. Gramsci (1971: 626) argues, “Everyone is a philosopher, though in his own way and unconsciously, since even in the slightest manifestation of any

intellectual activity whatever, in ‘language’, there is contained a specific conception of the world”. Next, “one then moves on to the second level, which is that of awareness and criticism” (Ibid). Essentially, “the active man-in-the-mass... has no clear theoretical consciousness of his practical activity”, it “can indeed be historically in opposition to his activity” (Ibid). It is a “contradictory consciousness” one “which he has inherited from the past and uncritically absorbed” (Ibid: 641). This is capitalist order as brainwashing. It follows that the task of a revolutionary Marxist begins by contesting these taken for granted conceptions of the world, since they are primary and underlie the key material relations of state and capital domination. Through polemical and critical work by intellectuals and the pedagogical methods of educators a process of “superseding the existing mode of thinking” (1971: 631) becomes the crucial front of struggle. In a framework where ideology is causative, ideological assent must explain the reproduction of capitalist social relations. Contesting that ideological basis thus provides the pathway to the supersession of those social relations. Yet, Gramsci’s own formulations suggest there is no necessary relationship between ideal and practice.

If “consciousness” can be “in opposition” to “activity”, as Gramsci (1971: 626) claims, that is, if “the ideal is at best contingent” (Beasley-Murray 2010: 182), then how can it coherently operate as the cause of social order? If, for example, the populism of the import-substitution industrialization regimes in Latin America, or the supposed “social compacts” of “embedded liberalism” (Ruggie 1982) in the advanced capitalist world were so central to securing the social order, how can a more exploitative and less ideologically attractive capitalism that succeeded them be caused and secured by the ideological postulates of neoliberalism of the Washington Consensus (Williamson 1989). In fact, it is commonplace to note just how far neoliberal practice diverges from its own ostensible theories and justifications (Harvey 2005: 19-21).

What the contingency of the ideal reveals is that the “content” of ideology is “irrelevant” (Beasley-Murray 2010: 182). Thus, the “ideology of ideology” is the idea that ideology *causes* (Althusser 1984: 42-43). That is, “that our actions follow on from the ideas that we hold or even from the ideas that hold us and so from the ruses of some hegemonic project” (Beasley-Murray 2010: 182). Hegemony theory argues that these controlling ideas originate elsewhere, that they are not free, but such theories still foreground ideas, belief, and consent.

To understand the inarticulate, immanent, bodily and material bases of the social order it is necessary to look elsewhere. In discussing his concept of interpellation, Althusser cites 17<sup>th</sup> C. philosopher Blaise Pascal: “Kneel down, move your lips in prayer and you will believe.” Vitaly, Althusser is clear that interpellation is *practice*: “material actions inserted into material practices governed by material rituals” (Althusser 1984: 42-43). Bourdieu radicalizes this Pascalian notion, explaining how habitus gives rise to a “practical reason”, not “in the realm of *representations*” but rather at “the level of the most profonde corporeal dispositions” (Bourdieu 1998: 55). Hardt and Negri say (2000: 197) “habits constitute our shared nature”. Bourdieu analyzes them as “cognitive structures inscribed in bodies” (Bourdieu and Wacquant 1992: 171). Habits generate “practices in harmony with the institutions and experiences that shaped those structures in the first place” (Beasley-Murray 2010: 188). I suggest that these patterned institutional experiences of state and capital are ultimately defined by force and fear. Ideologies are more *rationalizations* for actions already taken than *rationales* for those practices, more effect than cause. This is why they appear so inconsistent, with themselves and their linked practices. Beasley-Murray (2003: 210) insists, “Discursive and representational systems do not constitute a transcendent sphere in which conflicts or contradictions that arise elsewhere are represented, negotiated, mediated, and (perhaps) resolved, and that thereby (over)determines the balance of power that holds in those conflicts.” Yet, this transcendentalism of discourse, the ideology of ideology, is central to hegemony theory.

## Hegemony Theory, Cultural Studies and Populism

Hegemony theory as centered on ideology, consent and culture only came fully into its own with the “cultural turn” of the social sciences in the 1970s. Singularly influential in the anglosphere and globally was the Centre for Contemporary Cultural Studies at the University of Birmingham in the UK under the leadership of cultural theorist Stuart Hall from 1968. From the mid-1970s readings of Gramsci “had a decisive influence on Hall and the Centre” (Beasley-Murray 2010: 18). As the field of cultural studies became a global phenomenon, the vocabulary of power analysis centered on hegemony and counterhegemony became ubiquitous with it. Another foundational contribution to this neo-Gramscian post-Marxist stream particularly prominent in Latin America came from the work of Argentine social theorist Ernesto Laclau and his partner Chantal Mouffe.

Laclau, starting with his work Politics and Ideology in Marxist Theory (1977), and with Mouffe, Hegemony and Socialist Strategy (1985), pioneered a school of social-political thought known as the “Essex School of discourse analysis” (Townshend 2003: 129-142). Laclau himself founded and directed a graduate program in Ideology and Discourse Analysis at the University of Essex. As the titles suggest, the paradigm is centrally concerned with and departs from Gramscian notions of hegemony, ideology and language. It is from Gramsci that the central concept of this school of hegemony theory draws its inspiration, his notion of politics is a process of “articulation”, a discursive and ideological construction, of political subjects by intellectuals (Laclau and Mouffe 1985: 85). Indeed, so profound is the reliance of this political-sociological theory on language and discourse that the title of one collection of his essays symbolizes a full reversal of Marxist historical materialism: The Rhetorical Foundations of Society (2014).

Hegemony is a process of articulation. Cultural studies theorist Simon Critchley (2003: 64) argues “the key term in the theory of hegemony... is the notion of hegemonic articulation.” This operates at two levels. First are the discursive articulations that interpret reality so as to elicit the consent of the dominated. Second is the aligning and combining of disparate socio-political forces to form a dominant block. As cultural studies author Jennifer Daryl Slack so concisely defines it in Stuart Hall: Critical Dialogues in Cultural Studies (1996: 117), hegemony is “a process by which a hegemonic class articulates (or coordinates) the interests of social groups such that those groups actively ‘consent’ to their subordinated status.” So, its supersession is also found in articulatory and discursive practices, in the construction of a counter-hegemony. Richard Johnson, in New Keywords: A Revised Vocabulary of Culture and Society (2005: 4) defines this as a “political, critical, or revolutionary consciousness or counterhegemony, a universal or expansive opposition by which subordinated majorities transform the social order.” In a fetishized substitution, the discursive and ideological analyses of hegemony theory replace material-institutional practices of the state with diffuse omnipresent cultural-linguistic constructs. In this way “cultural studies theory of hegemony offers ever more critical targets and ammunition in the field of culture, but it fails to note the systemic relations between culture and the state” (Beasley-Murray 2010: 27), and between ideologies and their “corresponding institutional mechanisms” (Bourdieu 1977: 188). It therefore “misses the extent to which culture itself operates as a screen, a fetishized substitute, for the political logic of command” (Beasley-Murray 2010: 27).

Laclau and Mouffe’s Neo-Gramscian post-Marxism departs from the labor theory of value and method of historical materialism in fundamental ways. They argue, “the concept of hegemony ... introduces a logic of the social which is incompatible with those... basic categories of Marxist theory” (Laclau and Mouffe 1985: 3). A first critical break is with the centrality of labor for Marxist

theory and with it analysis of surplus-labor, surplus value, and wage labor as primary in capitalism. They write, “today it is not only as a seller of labor power that the individual is subordinated to capitals” (Ibid: 161). Indeed, in rejecting the Marxist base-superstructure paradigm and arguing for a total version of an “autonomy of the political” they chastise Gramsci for “essentializing” the economy, fooled by “the naturalist prejudice which sees the economy as a homogenous space unified by necessary laws” (Ibid: 69). Gramsci is accused of being too “economic determinist” despite his ‘watershed’ insight by positing “the economy constitutes an insurmountable limit to society’s potential for hegemonic recomposition” (Ibid: 3). The mode of production does not exist “independent of... will”, as Marx claimed in the 1859 Preface to A Contribution to the Critique of Political Economy. All social and economic reality is constructed through articulation. There is no structure, no human social reality, that is fixed independently of articulation (Ibid: 113). So, there are no objective limits to capitalism as “hegemony’s limits can always be surpassed” (Ibid: 113).

In his first and last major theoretical works, Politics and Ideology in Marxist Theory (1977) and On Populist Reason (2005), Laclau deals explicitly with central preoccupations that underlie the more abstract philosophical musings in such works as Hegemony and Socialist Strategy. That is, the practical, historical process of populism as political project, particularly as embodied in Argentine Peronism. Laclau’s own socialization as political activist came in the Argentine Peronist milieu of the 1960s and 70s, chiefly as a militant in the PSIN.<sup>13</sup> He said a primary point of reference is “the years of political struggle in Argentina of the 1960s” and “the examples which always spring to mind... are from a discussion in an Argentinian trade union, a clash of opposing slogans at a demonstration, or a debate during a party congress” (Laclau 1990: 197-200).

Hegemony theory for Laclau is constructed as response to a failed economic essentialism and in particular the tradition of crisis theory. From this Laclau and Mouffe sought to extract and expand a “logic of the contingent”. This path laid out by Gramsci was read to have demonstrated any “historical bloc” is a contingent and constructed articulation (Laclau and Mouffe 1985: 7). Yet Gramsci asserted a “single unifying principle in every hegemonic formation and this can only be a fundamental class” (Ibid: 69). This is “the last redoubt of essentialism: the economy” for Laclau and Mouffe. They go beyond Marxist class reductionism in suggesting “the logic of hegemony” as a “logic of articulation” determines political subjectivities with no need for class referents (Ibid: 75, 85). It can “determine the very identity... of... hegemonic subjects” (Ibid: 85).

For Laclau, this definition emerges directly from his consideration of populism. Populism illustrates the error of traditional Marxism’s class essentialism. It shows “ideological and political levels” cannot be reduced to “relations of production” and thus must be produced by “articulation” (Laclau: 1977: 161-162). Laclau argues “classes exist at the ideological and political levels in a process of articulation and not of reduction” (Ibid: 160). The “political subject constructed in and through populism” notes Beasley-Murray (2010: 45) is “The people”. Laclau argues, “the political operation par excellence is always going to be the construction of a ‘people’” (Laclau 2005: 225). This is indispensable to the hegemonic process, for “without the constitution of popular subjects, there is no war of position” (Laclau 1985: 24). Thus, for Laclau, populism is simultaneously the ground for hegemony and for all of politics. He puts it, “populist reason” is “political reason tout court” (Laclau 2005: 225). As Beasley-Murray (2010: 47) exclaims, here “populism is hegemony is politics!” In Laclau’s work, “Populism replaces Marxism” and substitutes “hegemony for any other conception of politics” (Ibid: 23). This replacement is a flight from the concrete problematics of the state in its material practices. It mimics the classic populist substitution of culture for state. Despite the “post” in his “post-Marxism”, it is in many ways a reversion to the idealist and relativist

<sup>13</sup> The Argentine Partido Socialista de la Izquierda Nacional, which was in alliance with Peronism.

conceptions that preceded the formulation of historical materialism. In the end, argues Beasley-Murray (2010: 27), both “political populism” and the “academic populism” of cultural studies’ hegemony theory “perform the same function: they uphold a fiction of hegemony that perpetuates the dream of a harmonious social compact.” It is to this fiction of a social compact that I turn next.

### **The Social Contract, Sovereignty and The Institutional Basis of the State**

The modern, capitalist state also prefers to justify its rule in terms of consent. The central historical discursive construct to represent an immanent, material relationship of coercion and exploitation under the ideal sign of consent is of course social contract theory. Gramscian and neo-Gramscian hegemony theories bear an uncanny resemblance to these idealist rationalizations.

“The State is sovereignty,” argue Deleuze and Guattari in *A Thousand Plateaus* (1988: 360). “The State,” insisted the sociologist Franz Oppenheimer (1972 [1908]: 12), in direct contraction to the then still predominant idealist-Hegelian notion of the state as a triumph of civilization achieved by the social contract,

is a social institution, forced by a victorious group... on a defeated group, with the sole purpose of regulating the dominion of the victorious group... and securing itself against revolt from within and attacks from abroad... this dominion had no other purpose than the economic exploitation of the vanquished by the victors.

“But,” Deleuze and Guattari (1988: 360) add, “sovereignty only reigns over what it is capable... of appropriating.” The state is sovereignty, a forced regulation of dominion based on appropriation. These are the material practices that are not caused, but justified, by consent and contract discourse.

If “Man was born free, and everywhere he is in chains”, asks Rousseau (1994: 45) in *The Social Contract*, “How has this change come about? I do not know.” To avoid this problem of the lost origin Rousseau advanced a crucial construction: an “assumption” (Ibid: 54)- a fiction- of an originary contract. It is socially embedded, not amenable to any re-negotiation. Rousseau says, it is “the same everywhere, and everywhere tacitly recognized and accepted” and “the slightest modification” of its clauses “would make them empty and ineffectual” (Ibid: 55). Such an amazing transformation, from freedom-as-birthright to “something always already relinquished” is done in just “the few short pages of *The Social Contract*’s first section” (Beasley-Murray 2003: 284). The process is described by Rousseau (1994: 55) as “the complete transfer [l’aliénation totale] of each associate, with all his rights, to the whole community.” This is the essence of the social contract narrative and its entailed politics: “it explains, but thereby also justifies, the transmutation from freedom to total alienation, from constituent to constituted power” (Beasley-Murray 2003: 284).

It is precisely via this fictive social contract that individuals are presumed to have conveyed their natural birthrights to a higher political order. This “contractarian tradition” (Ibid) extends from Hobbes to Rousseau and through Rawls. In his *A Theory of Justice*, Rawls (1999: 11) argues that a “veil of ignorance” must be “drawn over the moment in which agreement to these fundamental principles is first secured.” From royal absolutist to liberal republican to social democratic and even revolutionary Marxist states, this is the presumed basis of legitimate political rule. The state rules in the name of ‘the people’ who have- ‘implicitly’ or ‘tacitly’- agreed to the arrangement in their own common interests. Most importantly, “Contract theory presents consent as the basis of social order” (Beasley-Murray 2003: 284) just as hegemony theory does.

The theory of the social contract does more, however. It sets up a series of boundaries; a series of historical, geographical and political divisions that enable the alienated political form of representation and that elevate the state to its position of transcendence over ‘the people’ it rules. First, it “establishes a realm that lies beyond or outside social order” and “defines a civil society (and civil rights) in opposition to an originary state of nature (and natural rights)” (Ibid: 285). The alienation of individuals occurs to surmount “the obstacles to men’s self-preservation in the state of nature” (Rousseau 1994: 54) Hobbes (1968: 185-186) legendarily mythologizes as the “warre... of every man against every man” where “life” is “solitary, poore, nasty, brutish, and short” and people live in “continual feare, and danger of violent death”. So “the contract purports to introduce a definitive separation between the social and the natural, between civilized community and the terror... that lies beyond” (Beasley-Murray 2003: 285). This is the justificatory conflation of fear of the alternative with the assumption of consent so characteristic of Concertación governance.

These divisions are not only chronological, they are also “spatial, and so geopolitical” (Ibid). There are people who live outside the modern leviathan, such as “the savage people of America” who “have no government at all; and live today in that brutish manner” (Hobbes 1968: 187). From the perspective of the social contract a “citizen” can be “an intelligent being and a man” but an outsider- a “non-citizen”- is no more than “a limited and stupid animal” (Rousseau 1994: 59). The most salient political distinction made within the social order defined by the theory of the contract is thus the “separation as well as a relation between individual and state, with the state rising transcendent over the people.” (Ibid: 287) The most decisive effect of this posited dichotomy of citizen and state is that it permits an operation of *representation*. Here, an institution may signify, and so replace, the very multitude who supposedly entered into the contract (Beasley-Murray 2010: 239). Indeed, “the Essence of the Common-wealth” is found in this procedure as “One Person, of whose Acts a great Multitude, by mutuall Covenants one with another, have made themselves ever on the Author, to the end he may use the strength and means of them all, as he shall think expedient, for their Peace and Common Defence” (Hobbes 1968: 228). In the process the contract is imagined as metamorphosing the individuals of the multitude into “the people, a body of individuals united and homogenized by their common relation to the state” (Beasley-Murray 2003: 288). Such a body can then be considered as “a single juridical individual” even “a single subject” (Ibid). In this articulation “the couple people/state replaces an immanent multitude” (Ibid: 289) which is really “the conjunction of persons... that had to be transformed into a political society” (Negri 1998: 38). Of course, as with Rousseau, the contract is merely an assumption. “The state assumes the contract and so simultaneously posits the people as, retrospectively, the cornerstone of social organization” (Beasley-Murray 2003: 292). In political history, “the modern conception of the people is in fact a product of the nation-state” (Hardt and Negri 2000: 102).

For Hobbes (1991: 174), the distinction between the multitude and the people is crucial and clear, as is the close linkage of the idea of the people and the ideal of representation:

If the... multitude do contract one with another, that the will of one man, or the agreeing wills of the major part of them, shall be received for the will of all; then it becomes one person. For it is endued with a will, and therefore can do voluntary actions, such as are commanding, making laws, acquiring and transferring of right, and so forth; and it is oftener called the people, than the multitude.

It is precisely “as the multitude contract and can be represented” that “the multitude becomes the people” (Beasley-Murray 2003: 289). The theory of the social contract proffers a narrative in



which the multitude converts into the people in order “to establish a bounded social order” (Ibid: 291). Yet, the contract does not really do this at all. The social contract is not mechanism or *reason* for the establishment of the state, it is a *rationalization* of its imposition. In actual history, no voluntary social agreement on the part of those subject to the authority of state or sovereign has been the *cause* of any really existing state. Beasley-Murray argues, “The contract (or, better, the assumption of the contract) is, rather, the *effect* of the state” (Ibid). As Negri notes in *Insurgencies* (1999), modern states and constitutions have their origins in acts of violence, of constituent power.

Contract theory is a key political rationalization: “it explains and justifies the rise of the state; it establishes a relative limit, bridged by the operation of representation, that differentiates people from state; and it simultaneously invokes and displaces the multitude” (Beasley-Murray 2003: 289). Crucially, this entire operation is “legitimated and secured in advance by the assumption of prior consent to sovereignty” (Ibid). For Negri (1999: 29), the contractarian tradition, in its entire political worldview, represents “the inevitable deferral to transcendence, to constituted power, and its apology”. Social contract theory is a rationalization, not a rationale.

### Hegemony Theory and Idealism

The central problem with hegemony theory is its idealism. In different iterations of Gramscian theorizing this idealism plays out in varying fashions. Yet it always returns to two basic intrinsically related errors, both derivative of a misplaced social causality t.o the arenas of ideas, symbols and discourse and the vision of politics this implies. A primary misapprehension is the notion that the fundamental drivers of social and political reality reside in discursive, ideological, representational- rather than immanent and material- realms. As Marx (1973: 97) wrote against Hegel, this is “characteristic of philosophical consciousness, for which conceptual thinking is the real human being, and for which the conceptual world as such is thus the only reality.” Marx’s seminal contribution was transcending this paradigm with the method of historical materialism: “the final causes of all social changes and political revolutions are to be sought, not in men’s brains...but in changes in the modes of production and exchange. They are to be sought, not in the philosophy, but in the economics of each particular epoch” (Engels 1970 [1888]: 54). Indeed, Gramsci was himself frequently accused of “idealism” during his life as an activist by anarchists, socialists and communists alike within his own radical milieu (Levy 1999). A second manifestation of this idealism is in its fundamental view of the state, and with it the party; in sum, of representation. The Hegelian view of the state as embodying progress and knowledge, even the spirit or *Geist* of history, or at least of being capable of doing so, finds echoes in different variations of Gramscian theorizing. This is best seen in Gramsci’s life-long view of Italian nationalism and state-building as a worthy, if failed, project. This view in many ways forms a basis of his more famous analysis of the failure of the Italian revolutionary left, and the Italian Socialist Party specifically, to offer suitable leadership for the labor upsurge at the end of the World War 1 called the Red Biennium. The state as being able to, at least in potentia, represent culture, the people or labor, as being able to “represent” something outside of its own immanent material practices and interests, is the very hallmark of this idealism. So is the idea of a vanguard party that would provide ideological and intellectual leadership for labor movements or insurgencies. If consent grounds the social order and defines state-society relations, ideas are crucial, and ideology drives politics.

In this context Riley’s (2011: 13) observation is striking: “From Gramsci’s perspective it is Hegel, not Marx, who really has the theory of the modern state.” Riley (Ibid: 21) insists “Gramsci was... a revolutionary, not a Eurocommunist or theorist of radical democracy” as in many of the

neo-Gramscian appropriations. Gramsci was a committed and public socialist revolutionary from at least his time as a university student in Turin until his death in a fascist penitentiary in 1936. Read rigorously Gramsci never denied the necessity for the revolutionary overthrow of the capitalist state or idealized a potential social democratic state. As Riley (Ibid) puts it, Gramsci “never abandoned his essentially Leninist conception of revolutionary transformation. Indeed, for him social revolution, with its inevitable transitional dictatorship, was the path to the realization of the utopian dream of a regulated society implicit in all liberal accounts of political order.” The state Gramsci idealized is not the really existing capitalist parliamentary democracies of the West, themselves so immanently in crisis during his formative political years. It is a vision of a potential state-to-come. It is a state that really could live up to the liberal idealist imaginings.

It is here that the errors of abandoning a ‘crude’ materialism become fatal. For, there is no way to conceive of a state that could match anything like this ideal while cleaving to its generative material practices of extraction of surplus labor and the means of coercive force. Either it is not a state in any real, material, historical sense of the term or it is in no sense but euphemistically related to the reveries of the Hegelian idealists. Gramsci’s concept of an “ethical state” appears as little more than a re-hash of the contractarian fiction that consent is at stake in ‘normal’ periods and force only ‘appears’ in moments of crisis.

Equally, idealist errors appear in Gramsci’s vision of the party and the role of intellectuals. Gramsci never strayed from his fidelity to the concept of the party- the revolutionary party- as an indispensable necessity. His analysis of the failure of the moment of capitalist state crisis centered around a lack of *leadership* provided by the party and above all by ‘organic’ intellectuals. The party was not an organization destined for elite control and goal displacement as in Michels’ telling. It was a vessel for pedagogy, for ideas and ideology, which, following Lenin, the mere “trade union consciousness” (Lenin 1943: 33) of spontaneous labor struggle could never provide. Intellectuals are required precisely because laboring masses uncritically absorb ‘common sense’. Yet, these are exactly the idealist notions that it is consciousness that causes the great dynamics of material historical change and that political struggles are between competing conceptions.

Holloway and Picciotto (1978: 6) argue a separation of the political and the economic, an emphasis on the independent role of ideas and ideology, an insistence on the ‘relative autonomy of the political’, “may reflect a partly justifiable reaction against ‘economism’ or ‘reductionism’,” or “the common over-simplification of the relation between the economic and the political which presents the political as a mere reflection of the economic.” However, despite these real problems, “the ‘reductionist’ approaches have the merit of trying to provide an answer, however crude, to a real problem, the problem of how we come to a materialistic understanding of political development, of how we relate political development to the contradictions of capitalist production” (Ibid). A reversion to idealism is no solution to these difficulties as it runs into the same logical and empirical incoherencies that drove Marx to develop historical materialism to begin with. More, “it is no improvement at all simply to sidestep the problem” (Holloway and Picciotto 1978: 6). Thus, it is to the material basis of the state and its relationship to labor that we must again return.

### **The Capital Accumulation Process, Private Property and the Material Basis of the State**

Engels explains in Socialism: Utopian and Scientific (1970: 54) that “the materialist conception of history starts from the proposition that the production of the means to support human life... is the basis of all social structure.” So, the immanent-historical as opposed to an idealist-hypothetical basis of the state is located in its relation to production and, thus, to the labor process.

In Capital Marx (2019: 259) explains: “capital has not invented surplus-labour. Wherever a part of society possesses the monopoly of the means of production, the labourer, free or not free, must add to the working-time necessary for his own maintenance an extra working-time.” For Marx and the labor theory of value, the material basis of the state must be founded on the surplus labor of the direct producers and its appropriation by the institutional organization of the state. The necessary material condition for the existence of the state is thus the extraction of surplus labor. This must be true even in the case of a state fully funded out of private capitalist profit, as profits also find their origin in the realization and appropriation of surplus value from surplus labor.

The material basis of the capitalist state is found in the appropriation of surplus value vis-à-vis labor as it occurs in the specifically capitalist process of capital accumulation. Marx argues in “The German Ideology” the modern state has become completely dependent upon the resources of the bourgeoisie, particularly through tariffs, taxes and ultimately through debt (Tucker 1978: 183-187). He suggests, in fact, that the form of “modern” or “pure private property” and the dependence upon a capitalist class for its resources are the two defining features of the modern capitalist state (Ibid: 186-187). It is exactly because surplus value is appropriated from labor in the capital accumulation process in capitalism that the state is constituted as dependent on that process.

Yet, as Marx writes in The Grundrisse (1973: 30), “Capital is nothing without wage labor.” This is because, as Marx (2019: 840) is at pains to insist, “capital is not a thing, but a social relation between persons.” In particular, “Capital is a social relation of production. It is a historical relation of production” (Marx 1902: 36). This means that to understand the material basis of the capitalist state, it is critical to comprehend what this social and historical relation consists of immanently. It is a relation of production based crucially upon wage labor, the buying and selling of labor power.

This social relation of wage labor is itself premised on another specific historical relation, that of expropriation. Marx (2019: 848) argues in Capital, “the capitalist mode of production and accumulation, and therefore capitalist private property, have for their fundamental condition... the expropriation of the labourer.” In fact, “the capitalist system presupposes the complete separation of the laborers from all property in the means by which they can realize their labor” (Ibid: 785). Wage labor exists, historically and theoretically, because of the deprivation of the means of life and labor from the class of wage laborers. That is why they have nothing to sell but their peculiar commodity of labor power. Yet, in modern capitalist industry- the garment factories that inspired Marx and Engels in Victorian England or the mines, processing plants and export enclaves in the North of Chile at dawn of the 20<sup>th</sup> Century- the same laborers are physically concentrated at the location of- are immanent to- this capitalist private property that is the means of life and labor. *The separation of labor from means of labor must be accomplished even as the reproduction of the social relation requires that labor be in immanent physical possession of these same means.*

Fundamentally, the appropriation of surplus value in the capitalist mode of production is dependent upon the material, immanent, enforced social relation of property. That is, upon the immediate and physical enforcement of classes: property owners and propertyless wage laborers. Capitalist production is such only through and because of the propertylessness of labor. Thus,

the workers propertylessness, and... the appropriation of alienated labor by capital... are fundamental conditions of the bourgeois mode of production, in no way accidents irrelevant to it. These modes of distribution are the relations of production themselves *sub specie distributionis* (Marx 1973: 832).

This separation is initially accomplished by force, but also constantly maintained and reproduced by force, ultimately by the state. This is why in “actual history”- in Chile as everywhere else- the material reality of this social relation has been effectuated by the violence of the state, its threat of enforcement and the fear it entails. It is a relation in which consent has never even been at issue.

Hence, Marx writes, “through the emancipation of private property from the community, the State has become a separate entity, beside and outside civil society...the form of organization which the bourgeois necessarily adopt... for the mutual guarantee of their property” (Tucker 1978: 187). So, within capitalism, “the State exists only for the sake of private property” (Ibid) and also only because of it. The state is the de facto guarantor of property ownership and thus the relations of production and the division of labor into social classes. The state also represents a significant and growing mass of surplus labor in its own right. Yet, within capitalism it is dependent on these same relations of production and this same capital accumulation process for its own existence.

The fundamental historical social relation of capital is a process of the reproduction of the alienation of living labor from the means of labor; a reproduction of the social relations of production, of property and wage labor. This alienation, this separation, must be *continuously* enforced. It is *non-consensual*. The indispensable means of this relation, and its highest form of institutional expression, is the state. For Marx (1977: 5), “The totality of these relations of production constitutes the economic structure of society, the real foundation, on which arises a legal and political superstructure and to which correspond definite forms of consciousness.” On this basis a fuller theorization of the labor-state relation beneath and before consciousness can be fleshed out. It is based on the enforcement of the private property and wage labor-capital relations that are the necessary material basis of both the capital accumulation process and the state itself.

### **Force and Fear: A Post-Hegemony Theory of Base-Level Labor and the State in Chile**

Fear is not an idea or ideology; it is an affect. Affect, notes Beasley-Murray, like its closely related term “emotion”, acts directly upon the body, requiring no linguistic or discursive mediation (Beasley-Murray 2010: 126-127). It requires no consent or agreement by a rational subject to gain compliance. Like the co-optation of incorporation, it immobilizes and demobilizes. He quotes the philosopher Brian Massumi’s argument that a theory of affect, as proposed by Deleuze, “holds the key to rethinking postmodern power after ideology” and so he proposes “an affective theory of late capitalist power” (Massumi 2002: 42-43). Beasley-Murray (2010: 127) argues “affect is where posthegemony theory must start. Feeling is a gateway to the immanence of politics”. For Massumi (1993: 12) “fear is the inherence in the body of the ungraspable multicausal matrix of the syndrome recognizable as late capitalist human existence (its *affect*).” The Chilean journalist Patricia Politzer wrote arrestingly about how fear structured everyday life under the dictatorship in her 1985 work *Miedo en Chile*. As Chile presaged the global spread of neoliberalism, so too has this affective structure become ubiquitous. It is no wonder precarity has become a central labor and cultural trope during the Neoliberal Era. Massumi (1993: 24) suggests “a low level fear” is “a kind of background radiation saturating existence.” It is the force present even when violence is absent.

Ubiquitous, constant fear attends its pair, both in dictatorship Chile and in the theorization of post-hegemony mechanisms of control and social order in neoliberal capitalism, in the shock of sheer terror (Beasley-Murray 2010: 167-168). Chile was infamously subject to both state terror and a shock doctrine in its transition to neoliberalism and its historical path to the Labor Plan. Like fear, “terror is immediately corporeal rather than signifying or linguistic... it grips the body first; often it paralyzes the body” (Ibid: 155). Furthermore, “in terror, language gives way to mute fear”

and, like the long shadow of Pinochet and the state terror of the dictatorship after the transition, “long afterward, the body remains hypervigilant and sensitive” (Ibid: 156). In contrast to a rational subject who might consent, “as it deindividuates, terror debilitates rational thought and language” (Ibid: 155). In contrast to a capitalist social order putatively held together in important measure by articulation and discourse, “terror itself produces no narrative and overwhelms all other discourse” (Ibid: 156). Beasley-Murray argues “like terror, low-level fear has neither subject nor object; it is ubiquitous and collective” (Ibid). It envelopes and arrests rather than persuades to elicit consent. The episodes surrounding the “*Pinocheques*” scandal, the continued role of the military in public life and the frequent warnings of authoritarian backslide from Concertación leaders and media served as mechanisms to maintain this affect and its salutary effects for a “governable” transition.

In a more fleshed out fashion, the posthegemonic theoretical framework that I will be using to analyze the relationship of base-level labor and the state in Chile, and which emerged iteratively from an examination of that case, is as follows. The primary mechanism of reproduction of state-capital domination is violence and its threat. This characterizes both the material basis of the state’s existence in the exploitation of extracted surplus labor, and its institutional basis in the imposition of sovereignty over a population and territory. There is no historical point at which this violence and its threat is lifted, wherein the participation in the social relations of private property or state sovereignty is optional or voluntary for labor or subjects. Consent is never even at issue. Derivative of this violence and its threat is fear, present even when the violence and explicit threat are absent. On the basis of force, threat and fear, the state acquires material resources, from elsewhere, in the ultimate instance from the surplus labor that is the basis of the capital accumulation process. With these resources it offers the positive inducements that are the material basis of incorporation. With control (ideally, monopoly) over violence it can offer the most attractive negative inducement of a relative decrease in forceful repression, a powerful motivator to enter the institutional legality of the state and politics. Finally, in an individual or base-level analogy to path-dependence, wherein institutions can persist even with the relevant actors claiming not to believe in or support them, the repeated patterns of life that take place within the delimitations of state-capital violence and its derivative effects can develop an inertia of their own and lead to a persistent habit. Indeed Beasley-Murray (2010: 174-225) analyzes post-transition quiescence in Chile in terms of “Bourdieu and Habit”. Such mechanisms need no recourse to a concept of consent. Nor do analysis based on them foreground ideology, discourse or culture as causal or explanatory. Rather, “Post-Hegemony is an attempt to rethink politics from the ground up, rooted in the material reality common to us all” (Ibid: xi). This is the immanent, embodied politics to which affect opens a way of understanding.

In the neoliberal era, this immanent politics is also a cynical politics. “Few of us believe,” notes Beasley-Murray, but “habit persists even when ideology fades” (Ibid: 175). He quotes the philosopher Peter Sloterdijk to the effect that our contemporary condition is “a universal, diffuse cynicism” defined as “that state of consciousness that follows after naïve ideologies and their enlightenment” (Ibid). Labor and other political subjects are aware that they are exploited and alienated but they “continue on nonetheless” (Ibid). Beasley-Murray points out that what is often analyzed as widespread depoliticization is a sign that “we are all cynical now” (Ibid). Indeed, “cynicism threatens traditional conceptions of politics” as “ideology is no longer at issue” (Ibid). If subjects already know they are exploited, alienated and repressed, but this does nothing to alter their behavior, “then a critique of mystifying representations loses its purchase” as “subjects are neither persuaded nor mystified by ideology; rather they are indifferent” (Ibid). Marxist-Lacanian theorist Slavoj Žižek reworked Marx’s formula for ideology, “they do not know it, but they are

doing it”, to “they know very well what they are doing, but still, they are doing it” (Zizek 1989: 28).

This cynical view in fact defines the posthegemonic perspective. Beasley-Murray claims that “we live in cynical, post-hegemonic times”, whether called late capitalism or the Neoliberal Era, exactly because “nobody is very much persuaded by ideologies that once seemed fundamental to securing social order” (Beasley-Murray 2010: ix). I have already argued that structurally wage labor is exploitation and that institutionally politics is a cynical power game in which discourse and ideology function in a deceitful manner to rationalize after-the-fact the pursuit of vulgar interests. Beasley-Murray adds the claim that in cynical, post-hegemonic times, “everybody knows, for instance, that work is exploitation and that politics is deceit” (Ibid). He goes further: “but, we have always lived in post hegemonic times” precisely because “social order was never in fact secured through ideology” (Ibid). Indeed, “the fact people no longer give up their consent in the ways in which they may once have done, and yet everything carries on much the same, shows that consent was never really at issue” (Ibid). The insight that “no amount of belief in the dignity of labor or the selflessness of elected representatives could ever have been enough to hold things together” is why Beasley-Murray opens his book with the claim that “there is no hegemony and never has been” and that “social change is never achieved through any putative counter-hegemony” (Ibid).

In Chile, the case is clear. Neoliberalism and the Labor Plan were impositions by force of the strong state of the military regime. Force came first. The famous Chicago Boys plan was not heard or implemented until 1975, two years into the regime. The ‘radical’ phase of neoliberalism ended with the Latin American debt crisis of 1982. Similar ideological appeals justified distinct capitalist projects undertaken by varied state-led capitalist coalitions (Silva 1993). Post-transition continuity in major areas of economic policy and the Labor Code was accompanied by radically different discourses and symbols (Martínez and Díaz 1996). Neoliberal democracy in Chile during the Concertación Era was characterized by a lack of ideological contests and the technocratic economic management “beyond ideology” of center-left and right alike (Moulian 1997: 56). The Concertación Era was often cast as ‘cynical’ or ‘depoliticized’; a declining rate of voting among the generation that came of age post-dictatorship was taken as prime evidence (Riquelme 1999: 31-33). Of course, if they were depoliticized, where did the youth-led student movement and social movement explosions come from? The Concertación promised “the pragmatics of consensus” in which “ideology is no longer at issue” (Beasley-Murray 2010: 184; 176). If ideology had declined while everything continued much in the same vein, how important was it? Neither authoritarian nor democratic versions of neoliberalism in Chile offer much support to the idea of ideology as primary cause. Led by the military or civilians, Christian Democrats or Socialists, conservatives, centrists or progressives, the state maintained similar policies. Under the dictatorship economic and labor policy appeared “denuded of even the fig-leaf of consent” and thus “the state is revealed ... [as] a military operation driven by vested economic interests” (Beasley Murray 2003: 270). Yet the capitalist technocracy of Pinochet’s successors offered “consensus that no longer depends upon consent” (Beasley-Murray 2010: 185). In post-transition Chile, as in many places, the ideological bankruptcy of neoliberalism was apparent. Yet it continued, despite all discourses and promises.

What is left, Beasley-Murray argues, quoting subaltern theorist Ranajit Guha’s words from his book of the same name, is “dominance without hegemony” or the “fabrication of a spurious hegemony” (Guha 1997: 72) which “nobody believes” (Beasley-Murray 2010: 6). For Beasley-Murray, the central symbol that represents this relationship is the Spanish colonial *Requerimiento*, the legal document which justified the Spanish crown’s claims to the Americas (Beasley-Murray

2010: 1-2). He notes it is “a classic illustration of the relation between hegemony and coercion” because it outlines a “case for the Empire’s legitimacy”, “offers its indigenous addressees a choice” and explicitly asks its audience for consent to the legal and religious claims it contains (Ibid). It is “hegemony as a pedagogic enterprise designed to legitimate power, backed up by the threat of coercive discipline: the Requerimiento appears to encapsulate Gramscian theory in a nutshell” (Ibid: 2). Of course, real Spanish practice makes this interpretation absurd. Beasley-Murray notes “the indigenous were seldom if ever given any real opportunity to consent”, the document was written in Spanish, even interpreters often did not understand what the document said (Ibid). It was read to empty villages or whispered at the edge of sleeping indigenous settlements; “sometimes the invaders read the document only after they had already made prisoners of the natives” (Ibid). He quotes historian Henry Kamen calling “the final result... little more than grotesque” and noting the author of the document, Spanish legal scholar Juan López Palacios Rubios, “realized it was farcical” (Ibid: 3). It is this farcical “transparent fictiveness and patent absurdity” that defines hegemony as play act.

A Chilean analogy lies in a story told by President Ricardo Lagos regarding his time as a political prisoner in Pinochet’s jails in 1986. As Lagos tells it:

several people walked in with pro-Pinochet placards. There had been an organized rally that day in support of the dictator, who was trying to drum up support in increasingly hard times. The moment the men walked in, they threw the placards in the trash. “This is where these signs belong,” one of them scoffed with a half-laugh. I watched dumbfounded, knowing that they hadn’t yet seen me. It was one of those moments when you wish you could disappear into the background. It wasn’t long, however, before the officers turned my way. Clearly embarrassed, they fumbled to explain. “It’s just that we are obligated to go to these sorts of things,” one of them muttered sheepishly (Lagos 2012: 77).

Farce, transparent fictiveness, patent absurdity. These are how the after-the-fact rationalizations of the play act of hegemony, the putative process of eliciting ideological consent from the dominated, appear upon closer inspection. Consent has never even been at issue between base-level labor and the state in Chile. And if there has been no consent, no belief, there can have been no hegemony. The real relationship between labor and the state is necessarily based in violence and exploitation. We are better off returning to Marx’s dictum from the Preface to *A Contribution to the Critique of Political Economy*: “It is not the consciousness of men that determines their existence, but their social existence that determines their consciousness.” Ideology and ideas come only afterwards.

### **Conclusion: Labor, the State, Autonomy and Labor Threat**

In the light of these theoretical reflections, aspects of the empirical analysis and analytical argument about labor threat and Labor Plan history, particularly in the Concertación Era, become much clearer. The fundamental and irresolvable conflict of interests between the labor base and the capitalist state, not mediated by consent, clarifies why labor threat is key to provoke the state reaction of labor law origination or significant reformation. It explains why we observe an upsurge of labor threat from below as the starting point initiating sequences of change. Furthermore, the chain of aligned interests from capital accumulation to the state, political parties and closely tied social movement organizations such as the institutional labor movement explains why labor

autonomy from the state and parties has proved so crucial for the generation of labor threat. Finally, the fundamental contradiction of interests between the labor base and the capitalist state and its mediating political institutions offers strong logical and theoretical grounds to reject consent as a constitutive cause of the dynamics of the relationship of base level labor and the capitalist state.

Labor autonomy as a concept also illuminates the fundamental non-symmetry of the labor-state relationship. For, while the state is materially dependent for its reproduction on labor, labor is not dependent on the state in this way; labor has a potential autonomy from the state the state can never have in reverse. Furthermore, I have argued that labor drives action and the state reacts to the movements of labor. These postulates together suggest why a labor upsurge from below is the 'unpredicted' critical juncture factor that breaks a path-dependent stasis. In the ability of labor upsurges from below to exceed institutional channels – labor movement organizations, parties and their co-optative capacities; the state and its laws and repressive capacities – it also leavens the teleological and deterministic pessimism in institutional accounts like Weber's and Michels'. As such it also restores dynamism to the historical process.

This perspective finds support in the Marxist theory elaborated by the Italian workerist and autonomist traditions which were Negri's crucible and a key influence on Holloway. These two sequentially related perspectives "developed a profound critique of the PCI [Gramsci's Italian Communist Party] and the neo-Gramscian politics of hegemony" (Thoburn 2003: 11) which came to dominate the party in its post-war euro-communist incarnation. They stressed the independent agency of the working class and argued that the dynamic of capitalist development was driven by proletarian action, which "generates crises that threaten the process by which surplus value is appropriated" (Beasley-Murray 2010: 229). Capital, and I would add, the state, "in response... reconfigures the labor process, introduces new technologies, provides circumscribed concessions to labor demands, and thereby transforms the composition of the working class" (Ibid). Hardt and Negri (in Hardt et al. 2002: 189) present an understanding of this reversal of perspective- of "proletarian class struggle as an autonomous and creative power"- as the fundamental marker of any Marxist and materialist politics' efficacy. Against what he presents as a 'weak version' of the reversal of perspective - that capital is a reaction to working-class struggle- Holloway (1995: 163) argues, in a fashion influential my argument here, a "stronger version would be that capital is nothing other than the product of the working class and therefore depends, from one minute to another, upon the working class for its reproduction". That is, labor acts and capital reacts.

The derivation I add is labor acts and the state reacts. Indeed, Block's (1977) other major mechanism of capitalist state development and the rationalization of the capital accumulation process besides the structural imperatives that impel and limit state managers is "working class struggle," which drives state reforms. Marx, too, argued that the working class "compels legislative recognition of particular interests of the workers" (Tucker 1978: 481) regarding the ten hours bill.

This fundamental active-reactive, labor-state relationship extends to the whole of the multitude-state dynamic, which is often referred to as "state-society relations". This is because, as much as social contract theory wishes to close off the original power of the multitude, the sovereign remains in an inherently contradictory position with respect to it, one of control but dependence. For the state's relation to the multitude is precisely analogous with that of capital to labor. Negri (1999: 325) argues that constituted power "feeds on" constituent power; "without this strength it could not exist." The multitude is, like labor, "creator of the social world, but alienated within it" (Beasley-Murray 2010: 230). The constituent power of the multitude is "prior to the constituted power of the state and the sovereign" (Ibid: x), as labor is prior to state and capital.



That is why “the question of the multitude is a thorn in the side of Western political thought” (Negri 1999: 322). The Italian Marxist philosopher Paolo Virno (1996: 201) described the multitude as the “defining concept” of modernity for the way in which the people “are defined by their distinction from the much more unruly subject that is the multitude,” and as subject that “grounds the constitution of popular citizenship” (Beasley-Murray 2003: 291). Thus, “Throughout modernity,” for just this reason, “the state’s aim and function has been to convert the multitude into the people” (Ibid: 292). It is the people who are then purported to consent to the state, out of their own belief, be it misguided or not. In classical contract theory these beliefs are rational and true while in hegemony theory they may be false or constructed by a ruling elite. But, nevertheless, “people give up their consent because it seems reasonable to do so, given what they know and believe (even if those beliefs are themselves ideological or irrational)” (Beasley-Murray 2010: 63). The multitude, on the other hand, is, for Hardt and Negri (2004: 219), an insurgent subject with the capacity for total, and thus totally threatening, autonomy. Labor, too, shares this potential. It is thus to the history of labor-state relations in Chile through the prism of autonomy that I next turn.

### **Chapter 3 – Historical Background: Labor, Political Parties, the State and the Labor Code (1810-1973)**

“There exist two threads in the history of the working class in Chile... independent unionism and the partisan politics of the parties that represent sectors of the working class” (Silva 2000: 16).

Chilean labor history has been marked by a dynamic and shifting relationship between the labor movement and different political parties. While labor-state relations have tended towards longer term patterns, even if the modalities are quite distinct, labor-party relations have been more variable and unstable. At different times the labor movement has seen parties as means to the ends they seek to achieve and many different parties have looked to labor as an instrument to achieve some other ends. Given how crucial these labor-party and labor-state relationships have been to the development and evolution of the Labor Code, as well as to the structuring of the political system and state writ large, it is necessary to understand the longer term patterns that condition the dynamics of these relationships. This chapter will review the historical background of Chilean labor periodized by phases in the relationships between the labor movement and the state and the labor movement and political parties. Part 1 reviews the early labor history in the 19<sup>th</sup> Century period dominated by sporadic labor organizing in mutuals. Part 2 looks at the first great upsurge of the modern labor movement in the last decade of the 19<sup>th</sup> Century and the first two decades of the 20<sup>th</sup> Century. Part 3 goes over the period of the first legislation of a Labor Code in the 1920s and early 1930s. Part 4 recounts the first incorporation of the labor movement into a governing coalition, the Popular Front, in the early 1930s to early 1950s. Part 5 analyzes the founding era of the CUT in the 1950s. Part 6 examines the second period of political incorporation in the Popular Action Front during the period of increasing political polarization of the 1950s and 1960s. Finally, Part 7 retells the events of the short-lived Popular Unity government of 1970-1973 during and in which the labor movement played a key role.

#### **Part I: Labor, Political Parties and the State in the 19<sup>th</sup> Century (1810-1890)**

At the time of independence Chile was among the most poor and remote colonies in the Spanish Empire (Collier and Sater 2004: 3-4). The export-based economy was dominated by agricultural production organized via the *latifundia* or *haciendas* systems and concentrated in the Central Valley (Salazar 1985: 88). The main export was wheat. Demand was sufficient by the early 19<sup>th</sup> Century that temporary workers joined the permanent labor force on many estates. Husbandry products were a second pillar of economic activity, for supply to cities and exports. Early on small amounts of gold, silver, and copper were mined and exported (Villalobos et al. 1974: 226-227).

Chile’s turbulent early period of independence from Spain<sup>14</sup> saw intense intra-aristocratic strife, widespread violence and an economic torpor born of the disruption of trade routes and the armies, armed groups and bandits that roamed and pillaged the countryside. Closing trade with royalist Peru, the main export destination, was particularly damaging. In the 1820s commerce with

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<sup>14</sup> Independence is either dated from the September 18, 1810 establishment of a National Junta to self-rule Chile for the first time, or from the February 12, 1817 defeat of the Spanish royalist forces that had “re-conquered” Chile at the Battle of Chacabuco. The formal declaration of independence followed one year later on February 12, 1818 and the defeat of the last large Spanish force on Chilean soil at the Battle of Maipú occurred on April 5, 1818. Spanish forces were expelled from mainland Chile in 1821 while a group of royalists in the South of Chile continued fighting until 1826 when the last Spanish troops surrendered and Chiloé was incorporated into the Republic. Spain formally recognized Chilean independence in 1840, with full diplomatic relations restored.

the UK, the US and France became crucial (Ibid: 406-413). A £1,000,000 London loan to finance the independence struggle heavily burdened the nascent state (Ibid: 416-420). From 1820-1900 trade with the UK made up more than 60% of exports and 50% of imports (*Analisis* 177, 1987: 4).

The difficult situation contributed to intense factionalism and conflict among the *criollo* aristocratic class, main protagonists of both independence and the loyalist movements. From four or five main factions, the struggle developed behind two main forces: liberals (*pipiolos* or “inexperienced youths”) and conservatives (*pelucones* or “wigs”). In the 1820s liberals wielded more influence than for decades afterwards. The era was characterized by popular upheaval and weak centralized authority, which led to the liberal aristocracy seeking alliances of convenience with workers and the popular sectors, and the former’s relative, tenuous empowerment. This conditioned reforms and concessions made to workers and other marginalized groups at the time.

The liberal era<sup>15</sup>, saw distinct political factions try to mobilize artisan workers and other popular classes on behalf of aristocratic political alignments (Grez 2007a: 214-215). During this “struggle for the organization of the Republic” factions competing for control of the state looked for support from artisan labor, some of whom could vote, and other portions of the urban popular classes. Still, “they did not look for a solid, permanent and participatory adhesion of the people, but simply a pragmatic and immediate backing favorable” (Ibid) to one of the elite political cliques.

This political dynamic took two forms. One was clientelistic material benefits at politically opportune moments such as elections<sup>16</sup> or in response to popular agitation such as the 1825 proto-strike/uprising in Valparaíso (Ibid: 209-214). Another was more substantial institutional changes: the 1823 abolition of slavery; elimination of *mayorazgo* (primogeniture, nobility titles to land); a system of federalism with notable autonomy for the regions; reduced privileges for the Catholic Church and clergy; and the drafting of a relatively liberal and popular Constitution in 1828. It was in this context that the first “artisan societies” emerged in Santiago and San Felipe in 1829 (Grez 2007a: 222-228). Made up of urban artisanal laborers, these first societies were ephemeral and strictly political, focusing on elections rather than economic or other collective provisions or protections for members. The artisan workers did demand protectionist measures to stop the competition of imported manufactured goods, a demand that later became central. Yet, despite protestations of independence, “partisan politics had totally impregnated the debates and actions of a significant sector of artisan labor” (Ibid: 225) and elections quickly began to take center stage.

These groups, like much from the liberal reform era, did not survive conservative rule. Decades passed with little labor organization or organized protest<sup>17</sup>. Colonial law had recognized *gremios* (guilds) in skilled crafts and professions, but none existed in the Conservative Republic.

Under conservative rule the economy transformed. Trade became increasingly crucial as foreign merchant vessels arrived at Valparaíso and other ports, up from about 200 each year in the late 1820s to well over 2000 by the 1850s (Salazar and Pinto 2002: 19-21; Collier 2003: 4). This was aided by the “free trade” treaties agreed to with the US and the UK in the 1830s, signed in the

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<sup>15</sup> This era went from the abdication and exile of dictator Bernardo O’Higgins and the ascension of the liberal forces associated with Ramón Freire on January 28, 1823, until the defeat of the *pipiolos* at the Battle of Lircay on April 17, 1830, ending the Chilean Civil War of 1829-1830. Its end marked the initiation of the Conservative Republic (1830-1861), which stretched from the conclusion of the Civil War through the three decade-long Presidential terms of General Joaquín Prieto (1831-1841), General Manuel Bulnes (1841-1851) and Manuel Montt (1851-1861).

<sup>16</sup> In the 1823-1830 period Chile had 6 parliamentary and 3 Presidential elections (*Servel Chile*).

<sup>17</sup> Exceptions included skilled wood-workers of Valparaíso who mounted protests in 1829, 1842 and 1847 (Grez 2007: 258) and the 1834 uprising among mine workers at Chañarcillo in 1834 (*Analisis* 177 1987: 5).

latter case “with the British navy off the coast” (Salazar 2009: 146-147; 155). From 1830 to 1870 Chile saw perhaps the greatest period of economic growth in its history, largely indebted to two export booms. The first was rooted in silver and later copper mining in the *Norte Chico* region. Starting with the discovery of silver in Chañarcillo in 1832, by 1850 mining was a primary source of capital. Indeed,

The new order, consecrated in the Constitution of 1833 and driven by the energetic minister Diego Portales, had as its economic base mining exports, which became the most dynamic of the national economy. Silver and copper exports assured a flow of income to the State... at the same time generating an important capital accumulation in the mining, merchant and financial bourgeoisie. Moreover, mining activity introduced capitalist labor relations (*Memoria Chilena*)<sup>18</sup>.

The second big source of export growth and capital accumulation in this era was the second wheat cycle. This mid-19<sup>th</sup> century boom was set off by the gold rushes in California and Australia, dramatically increasing wheat demand in both places. As the “only wheat producer of some importance in the Pacific” Chile was ready to fill the gap. Wheat exports grew 100 times 1848-1850. Like silver, the wheat cycle had declined by the 1870s (Villalobos et al. 1974: 481-485).

Infrastructural developments followed in the wake of these paths of capital accumulation. The British-financed, Pacific Steam Navigation Company (PSNC) began steamship service to Chile in 1840. Starting with the *Norte Chico* route from Copiapó to the port of Caldera begun in 1851, and the Santiago to Valparaíso line begun in 1852, railroads were built by US capital with concessionary contracts from the state. Finance for the railroads, approved by Congress in 1849, came in the form of Chile’s first *sociedad anónima*.<sup>19</sup> It was “formed on a mixed capital base with state and private support” (*Memoria Chilena*).<sup>20</sup> The same US entrepreneur, William Wheelwright, who created the PSNC and built these first South American railroad lines, built an electric telegraph that linked the capital to Valparaíso. The telegraph began service in June 1852.

Another significant development followed these export booms, particularly in mining. The population of Chile was more than 80% rural at mid-century, concentrated in agriculture and mining. Economic incentives drove an ever greater urbanization. From roughly 1850-1980 a basically steady pattern of rural-urban migration of about 0.5% per year for 130 years, led the proportions to reverse, with only 20% of the population still rural (Molina 1986: 25).

One of Portales’ most important acts in this era was founding the *Guardia Cívica* or Civil Guard in late 1830. Formed from the National Guard rooted in colonial militias, Portales would greatly expand this organization as a counter to the official army whose loyalties could not be assumed. The 1833 Constitution made service in the Guard<sup>21</sup> obligatory for 14-50 year old men.

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<sup>18</sup>“*Capitalismo minero y expansión económica en el Norte Chico: Los ciclos mineros del cobre y la plata (1820-1880)*” *Memoria Chilena*, Biblioteca Nacional Digital. [www.memoriachilena.cl/603/w3-article-727.html](http://www.memoriachilena.cl/603/w3-article-727.html) accessed 5/17/21.

<sup>19</sup> Roughly “joint stock corporation”, an S.A. is a type of corporation found in Chilean civil law.

<sup>20</sup> “*Ferrocarril de Valparaíso a Santiago.*” [www.memoriachilena.cl/602/w3-article-599.html](http://www.memoriachilena.cl/602/w3-article-599.html) and “*Ferrocarril de Caldera-Copiapó.*” *Memoria Chilena*. Biblioteca Nacional Digital. [www.memoriachilena.cl/602/w3-article-3401.html](http://www.memoriachilena.cl/602/w3-article-3401.html) accessed 5/17/2021.

<sup>21</sup> Portales considered the Guard “civic schools” with a tutelary as well as a military function. Indeed, “The National Guard was reinforced as an element of political and social control of the popular sectors by the block in power. In Portales’ view, only the discipline imposed... could effectively ‘moralize’ the ‘lower class’” (Grez 2007a: 283).

It was a “vital... auxiliary... for rural patrols, prison guard duty, and other labor, constituting a military reserve of 30,000 men in case of national emergency.”<sup>22</sup> Mandatory service became a major point of protest for workers, many of whom were not loyal to the Portalian state (Grez 2007a: 281).

Although formal labor organization, and so formal labor-organized protest, was absent in these early years, labor resistance and conflict clearly existed. A repertoire of actions characterized by Chilean historian Sergio Grez Toso (2000: 141-225), following Hobsbawm, as “primitive forms of rebellion,” or as “spontaneous methods of struggle” by Mujica and Muñoz (2010: 5), did occur with some frequency. Chileans “burst out in spontaneous street rebellions, violent uprisings against the authorities, including robberies and the sacking of commercial locations. The working class did not find only one method of struggle; it valued street rebellions and revolt” (Ibid).

As liberals began to challenge conservative rule more firmly in the late 1840s, formal labor associations, and other popular sectors, began to play a key role in politics. Chilean historiography typically identifies the first labor associations in Chile as the *Sociedades Igualitarias* (Egalitarian Societies) and, soon after, the *Sociedades de Socorro Mutuo* (Mutual Aid Societies) that emerged in the middle of the 19<sup>th</sup> Century, initially in Santiago and then Valparaíso (Grez 2007a: 308-311). These societies sought to unite and organize the artisan and craft workers who were growing in number and import in Santiago and other cities during this time and who made up the bulk of the rank-and-file and non-commissioned officers of the Civil Guard. Artisan labor, present in the colonial era but increasing in size in the first half of the 19<sup>th</sup> Century, occupied a crucial social location between the traditional land-owning aristocracy- closely tied with the burgeoning, internationally oriented urban financial and commercial elite- and the mass of poor rural peasants and unskilled, informal or unemployed urban laborers (Ibid: 53-161).

The first of these *Sociedades* was the *Sociedad de Artesanos de Caupolicán*, founded October 23rd, 1845, in Santiago. It had 72 original members and elected the artisan and Civic Guard non-commissioned officer Ramón Mondaca as its first president (Ibid: 308). By the end of that month two other groups had been founded: the *Sociedad de Artesanos de Colocolo* and the *Sociedad de Artesanos de Lautaro* (Ibid: 309). Although these three groups only organized a few hundred men, their impact was amplified by the number of non-commissioned officers who joined, and the political competition for the allegiance of the artisan working class then ongoing (Ibid).

These early groups were founded by individuals from aristocratic backgrounds who were prominent members of the upper class liberal opposition, and the original aims of these labor associations were explicitly political, factional and instrumental (Ibid: 307-310). However, within 5 years, the first egalitarian societies and then mutualist labor associations that had a life and purpose beyond aristocratic partisan politics appeared (Ibid: 323-335). They broached topics of socialism and worker power and tried to organize independently of the liberal political opposition. In 1849 the first urban workers’ struck, as the tailors of Santiago stopped their work (Ibid: 280).

The most important of these was the *Sociedad de la Igualdad*, founded by Santiago Arcos and Francisco Bilbao on April 14, 1850. Though both were from aristocratic backgrounds, they had travelled in Europe, immersed themselves in a working class and socialist revolutionary milieu in Paris and were deeply influenced by the revolutionary upsurge that began there in February 1848. This inspired the creation of this first explicitly mutualist association of labor (Ibid: 329). While other parts of the liberal opposition had begun to regroup in the Liberal Party in 1849, the arrival of the news from Paris by May of 1848 of that city’s upsurge had encouraged the growth

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<sup>22</sup> “Guardia Nacional”. *Memoria Chilena*. Biblioteca Nacional Digital. [www.memoriachilena.cl/602/w3-article-92281.html](http://www.memoriachilena.cl/602/w3-article-92281.html) Accessed 5/18/2021.

of radical activism (Ibid: 324-325). The association grew to nearly 4,000 adherents (*Analisis 177 1987: 5*) and was feared by the state. By August of 1850 denunciation and repression had escalated into physical attacks on the meetings of the society. On August 19<sup>th</sup> of that year, a meeting of some 800 people was assaulted by a gang led by a Civil Guard and known police agent, with many wounded and arrested (Grez 2007a: 344). By November of 1850, the government had dissolved the group on the grounds that it was “subversive” (*Analisis 177 1987: 5*).

Repression by conservative political factions in the state was decisive in radicalizing the group’s stance and actions. Decades of repression suffered by the liberal opposition had led some to encourage more radical activity including “mutinies, protests, coup plots and riots” (Grez 2007a: 326) as well as a closer integration with artisan labor and other popular sectors (Ibid: 324-326). This popular participation shook the foundations of the Portalian state and opened the way to a major political realignment and liberalization that followed Montt as liberals again led the state (Grez 2007a: 327-328). The nucleus of the dissolved *Sociedad de la Igualdad* led an uprising and failed mutiny on April 20, 1851, that helped initiate the Chilean Civil War of 1851 (Ibid: 346).

In 1853 the printers, influenced by the Peruvian-born Mutualist, Victor Laynez, formed the first permanent mutual aid society. Its major function was to provide medical services for the members. Two years later a similar organization was set up in Valparaiso (Illanes 1990: 8-9). In the 1849-1878 era 20 major labor conflicts erupted, mainly in the North, Santiago and Valparaíso. These, weather walk-outs, strikes or rebellions, were put down brutally (*Analisis 177 1987: 5*). By the end of this era, workers made up some 100,000 of a total national population of 800,000 (Ibid).

In the War of the Pacific<sup>23</sup> Chile acquired vast amounts of land rich in saltpeter. It was export of this mineral that set off the next boom and cycle of capital accumulation (Ibid: 6). In an atmosphere of fierce nationalism many worker organizations and movements- mutual aid societies, night schools, an 1876-1878 protectionist movement- shut down (Grez 2007a: 565-571). They were tagged as unpatriotic and condemned and harassed by nationalist forces. From 1883 labor movements began growing again. From 1885 to 1890 strikes surged (Ibid: 573; 576-599).<sup>24</sup>

On November 17<sup>th</sup>, 1887, the Democratic Party was founded by a group of some 70 young radicals, workers and artisans (Grez 2007a: 671). It became the first political party to contest for control of a labor movement that was about to begin its first period of massive, threatening upsurge.

## **Part II: The First Great Labor Upsurge (1890-1920)**

The 1890s initiated the greatest historical period of labor militancy and conflict with the authorities, capital and the state. These were brutally violent struggles. The historian Lessie Frazier (2007: 27) notes, “The many struggles of people from Tarapacá, known as the ‘cradle of Chilean politics,’ implicate violence as integral... to state formation... and suggest that violence enters into the making of Chilean politics precisely from this northern cradle.” In this era labor and popular movements were radically autonomous from the state, had weak or non-existent connections to political parties, especially those with a viable chance of holding state power, and were met with severe violence and repression (Collier and Collier 1991: 73). The most spectacular labor conflict

<sup>23</sup> The 1879-1883 conflict won Chile the territories of Tarapacá and Antofagasta from Perú and Bolivia, respectively.

<sup>24</sup> Strikes were “neither legal nor illegal” (Grez 2007a: 599) in this early era, surging alongside petitions and uprisings.

and state violence in this “heroic era”<sup>25</sup> (Frazier 2007: 32) was in the northern desert area where nitrate mining was starting its ascent as the most important export and economic sector in Chile.<sup>26</sup> By 1900 “nitrate was firmly in the hands of British interests... whom insisted that the Chilean state maintain social order for the nitrate industries... repressing strikes and other labor activities” (Ibid: 34). The regional capital of Iquique became a key administrative center, main site in the 1891 Civil War and the “center of the first... general strikes in Chilean history” (Ibid).

The “*Huelga grande*” began among port workers in Iquique on July 2nd, 1890 (Grez 2007a: 721). Echoing a persistent complaint, the workers demanded payment in silver or Pound Sterling rather than the *fichas*, or company-issued scrip spendable at the company store and linked to a weak, volatile Chilean currency (Frazier 2007: 95). Nitrate concerns formed a *Combinación* (cartel) to regulate production and prices but also depended on a highly flexible yet abundant labor supply to quickly halt production at the first sign of price decline. State subsidies - such as feeding, housing and return passage, often to southern Chile from where most were recruited- of workers rendered unneeded without notice was critical, as was the preservation of “order” when abrupt shut downs led to worker anger (Ibid: 91). The southern winter of 1890 saw economic crisis harshly translated to the export enclave, with rising unemployment and falling real wages. The decline in profits sharpened conflict between the state and foreign nitrate capital and exacerbated domestic political tensions. Nitrate prices began falling in late 1889, provoking another crisis in the industry. Meanwhile, the bosses increased prices at the company-owned *pulperías* (Grez 2007a: 717).

The dock workers’ strike rapidly spread to the nitrate processing plants, the miners on the plain, the railroad workers that hauled nitrate to the port and from Tarapacá and Antofagasta regions southwards with large strikes and violent protests affecting Valparaíso and Santiago and reaching as far south as the coal mining areas of Lota and Coronel. It “touched all the major industrial and port centers in between” and involved more than 10,000 striking workers at its peak (Ibid: 712). Strikers seized nitrate processing plants and company stores, sacked newspaper offices, bank and commercial locations and chased foreign administrators out of the area. Though he initially appeared sympathetic, President Balmaceda was put under enormous political pressure, chiefly by a Congress closely linked to the nitrate barons, and violently repressed the strike (Frazier 2007: 95). Morris (1966: 97-98) reports, “By the time the military brought the situation under control, an estimated ten to fifteen nitrate workers had been killed and about a hundred wounded.” The violence was followed by another brutal event, the *Oficina Ramírez* massacre, just a year later.

Despite his aristocratic origins Balmaceda was positioned as a popular nationalist by 1890, confronting Congress and foreign nitrate interests, suggesting sympathy in speeches for the issues of workers in the *pampas*. British control of mines and railways and Balmaceda seeking more control over nitrate revenues were the defining issues in the 1891 civil war (Ibid)<sup>27</sup>. The navy and Congress, with UK backing, prevailed over Balmaceda and the army. When rebels first captured the North, declaring Iquique provisional capital, nitrate production was ceased by Presidential order, leaving thousands instantly unemployed (Ibid). Caught between enemy lines 2,000 workers headed by train for Iquique, where army troops intercepted and fired on them near a previously

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<sup>25</sup> Defined in Chilean historiography as the era from the 1890 General Strike to the 1907 Iquique massacre.

<sup>26</sup> It grew from about 5,000 to 50,000 workers from 1884 to 1912 (Angell 1972: 17), with 13,060 nitrate-plant workers at 50 plants in 1890 (Frazier 2007: 91). Nitrate generated over 50% of foreign export earnings by the early 1900s. As the only major source of nitrate in the world until the invention of a synthetic version in 1916, Chile dominated the supply of the basic ingredient in fertilizers, gunpowder and explosives, making nitrate “arguably the most important commodity of its time essential to European industrial and colonial expansion” (Frazier 2007: 268 footnote 19).

<sup>27</sup> The Congress’ rejection of a “contributions law”, which would have mandated payments to the state from foreign nitrate operations, was a “catalyzing element for workers’ unhappiness” (Grez 2007a: 719).

occupied and sacked nitrate office near Huara. Dozens died and hundreds were wounded and captured, and 18 leaders were soon executed (Ibid). On February 16<sup>th</sup> of 1898, the people of Iquique rioted in protest and the city quickly fell to insurgent Congressional forces (Ibid: 96).

Balmaceda faced grave consequences for not only denying support for workers' reparations but also brutally suppressing the workers; these actions contributed to the mass desertion of troops from Balmaceda's army due to their dismay over his use of state violence both in the 1890 strike and... during the civil war (Ibid: 95).

Just as violence against workers alienated many from Balmaceda, so did other repressive measures assist in his downfall. A January 1891 order banning public meetings without previous permission by the authorities curtailed not only labor but infuriated progressive sectors of the middle class, like the left Radical Party current. The mutualist-linked populists of the Democratic Party also hardened their opposition to the "dictatorship" (Grez 2007a: 713).

The Congressional opposition accused Balmaceda of having instigated labor discontent and protest. Balmaceda committed suicide at the end of the conflict, leading to a "momentary vacuum" which saw a "relaxing of social discipline" as the armed forces disintegrated or fractured (Grez 2000: 142). Protests, riots and looting reached their greatest intensity as the war ended in August and September of 1891 (Ibid). Desperate reports from Coronel and Córico, thousands of miles south of the nitrate deserts where the conflict and labor struggles had centered related that miners had "mutinied... and were bloodily punished by the soldiers – they intended to take advantage of the conjuncture, exercising pressure on the bosses and authorities to satisfy their labor demands" (Ibid: 143). Originally tolerated by the victors of the civil war as perceived punishment for Balmaceda-aligned interests, violence and rebellion soon spiraled and reached the capital (Ibid: 144). On the morning of August 29, 1891, 25 members of the Guard left their post guarding the Central Station in Santiago, leaving their arms which were taken by "the multitude that surrounded the station"<sup>28</sup> who proceeded to loot the offices and halls of the *Estación Central*. It took weeks for police, the military and hastily formed neighborhood guards to restore order. Armed civilians and demobilized soldiers threatened the new government for months afterwards (Ibid: 145).

As popular insurrection grew so did state "repression, whose magnitude and number killed surpassed even that during the strike" (Pinto 1994: 117). Indeed, "condemnation [of popular violence] was unanimous... among both sectors" of the elite (Grez 2007a: 760). Frazier (2007: 98) concurs: "fear of worker militancy and organization would in the future justify repression as a means to prevent the worst-case scenario: workers taking over... the nitrate barons' palaces, offices and banks... fears etched in elite and state memory." A fear-based elite consensus formed.

Despite the repression, labor organizations and radical agitation grew rapidly in the 1890s. Labor conflicts spiked to more than 300 that decade (Morris 1966: 98). Frazier (2007: 97) argued

The working-class...demonstrated a remarkable ability to sustain semiautonomous relations with the state... the repression at *Oficina Ramírez* was linked to both the general strike six months earlier and the subsequent exponential increase in working-class associative life... the workers increasingly militant oppositional culture grew even in the face of... militarization... by the Chilean state.

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<sup>28</sup> Letter from State Railway Director General to the Minister of State, September 1, 1891 (Grez 2007a: 145).



Mutual aid societies increased in number from 39 to 240 from 1880 to 1900 and, after decades of emphasizing distance from elite partisan politics, became closer to the liberal-populist Democratic Party by the turn of the century (Grez 2007a: 757-759). The societies were joined by two new forms of labor organization influenced by radicals, Resistance Societies and *mancomunales*.

The events of 1890-1891 led to rising labor radicalism. The *Huelga grande* demonstrated

[the] strict limits of traditional mutualist activism and the reformist political expression of the popular urban movement represented by the young *Partido Democrático*... the elements of rupture did not delay- during the last decade of the century and the first years of the 20<sup>th</sup> century- in translating into a political and ideological realignment that brought the working class and other popular sectors to adhere to the maximalist ideologies of anarchism and socialism (Grez 2007a: 770).

These ideologies and orientations were distinctly at odds with the 19<sup>th</sup> century tradition of popular liberalism that had oriented the leadership and organizations of labor in its growing struggle with and independence from the authorities. The state's reaction, both in its ameliorative and repressive capacities, as the "social question" took center stage in political life at the end of the 19<sup>th</sup> Century was a "confession of the fear that plebian society awoke in the elite and the recognition of the emergence of the popular sector" as an "*autonomous social subject*" (Ibid: 771, italics in original).

Mutual aid societies, urban artisan labor and well-known labor figures were largely absent from the organization of the *Huelga grande*, as was the Democratic Party. Grez (Ibid: 759) argues, "The eloquent silence of Democratic Party leadership with respect to the general strike... can be explained by the political-institutional strategy of the organization... The principle preoccupation of party and mutualist leadership was to distance themselves from popular violence." It evinced a "lack of concern to represent... the interests of those sectors of workers most pauperized and with the least capacity for... representation in the narrow limits of institutional politics of the era" (Ibid).

Concurrently, a change in the predominant form of labor radicalism began to take place. From being spontaneous, violent, leaderless and usually brief, labor radicalism increasingly found organized expression in political parties and labor organizations (Grez 2000). Although the organization itself was small and short lived, the October 17th, 1897, founding of the *Unión Socialista* is an important symbolic milestone in Chile's labor history. It was the first of many parties to explicitly label itself "socialist" and included the most influential early anarchist labor activists from the strike wave that roiled Chile in the first years of the 20<sup>th</sup> century. The group can be considered a "common cradle" of many of the anarchist, Socialist and Communist tendencies, groups and ultimately unions and parties that arose in the first decades of the 20<sup>th</sup> century (Grez 2007b: 35-40). Indeed, the group's split yielded both the first Chilean *Partido Socialista* and the exit from party organizing of the nucleus of anarchist labor activists who played key roles in the strike wave (Ibid: 40-42). Along with the Democratic Party, labor now had multiple parties vying for its allegiance. In the anarchists' break away the changes in the forms of struggle beginning in this era took on philosophical, strategic and political dimensions. Various organizational and strategic practices for a more specified, radical labor emancipation grew amid conflict and crisis.

One new form of labor association was anarchist-inspired "resistance societies". The first was founded in April 1899 by the printers of Santiago (Grez 2007b: 58-59). On May 1<sup>st</sup>, 1901, they began publishing the *Siglo XX*, defining itself as "the voice of the resistance societies". Both the labor organization and the periodical included anarchist organizers as original members (Ibid). By the end of 1901, carpenters, wood-workers and Santiago railway workers had formed their own

resistance societies (Ibid). Resistance societies were most influential among urban laborers in Santiago and Valparaíso. In these cities they were central protagonists when a wave of labor conflict began to ascend in the Chilean Winter of 1903 among port workers in Valparaíso.

*Mancomunales*, which can be rendered as “brotherhoods”, were another key organizational form labor association took between the dominance of mutual aid societies and the first modern unions and resistance societies that arose in the early 1900s (Grez 2000: 147-150). Still focused on mutual aid, the *mancomunales* included calls for “labor justice” on a broader scale, issuing collective demands to employers and political authorities for higher wages and better working conditions (Pinto 1994). The first is usually considered the *Mancomunal de Obreros de Iquique* founded in the nitrate port city on May 1<sup>st</sup>, 1900. One key innovation was a nearly universal requirement that both members and leadership be workers. Another was their organization on geographic rather than work lines. Yet, “the *mancomunales* were distinguished above all by their class nature... it was the *mancomunales* which, though always repressed, mounted the series of increasingly large and more serious strikes in the nitrate regions” (Bethell 1993: 65).

Anarchist influence in the labor movement spiked during the labor upsurge that lasted until 1907. In 1901 anarchist organizer Magno Espinoza was elected president of the *Federación Obrera de Resistencia de Valparaíso* and organized the Resistance Society of Bakers (Grez 2007b: 61). Espinoza’s “prestige and influence among the working masses rapidly grew” (Ibid: 62). In October, as president of the Artisan Workers’ Committee and with its Secretary, Democratic Party militant Eduardo Gentoso, he launched a movement among state railcar manufacturers. This kind of on-and-off alliance was also developing in Santiago. A growing left current in the Democratic Party began defining itself in opposition to the pure “parliamentarism” of the dominant wing in 1901.<sup>29</sup> In the capital, anarchist and Democratic Party militants organized in solidarity with the *Resistencia de Valparaíso*. A mass meeting drew 6,000 workers and Espinoza and Gentoso spoke as Valparaíso delegates.<sup>30</sup>

In early 1902 resistance societies were founded among iron foundry workers, boilermakers and machinists in Valparaíso. Anarchists also began organizing outside of Chile’s central zone. In May of 1902 the Workers’ Federation of Lota and Coronel was founded with Democratic Party and non-partisan labor activists but headed by the anarchist Luis Morales “sent directly from” the capital “by the libertarians” to “penetrate” the coal-mining region (Ibid). That month the group led a massive strike of miners that totally paralyzed mines and factories in the region for 12 days. While winning its primary demand for monthly rather than bimonthly payments, more than 100 miners and their families were fired and evicted, which generated new conflicts in June and August, as well as in February and December of the following year. This led to many labor leaders arrested and several workers killed when the army was brought in to repress them (Ibid: 63).

In March and April, 1902, trolley car workers in Santiago and Valparaiso went on strike. The militant tactics adopted- blockades of the tracks, assaulting and damaging cars, attacks on the strikebreakers, clashes with police- shocked state authorities (Ibid 80-81). In June the Federation of Print Workers stuck and won their principle demands, primarily by organizing solidarity among the print workers of other cities and regions and the state clerical workers among whom bosses

<sup>29</sup> Within a few years this became a fully-fledged socialist current within the Democratic Party. It was associated with the leadership of the future Communist Party founder and legendary labor activist Luis Emilio Recabarren.

<sup>30</sup> The government invited the two in their capacity as “workers’ commission” members to meet with President of Germán Riesco, an ally of the oligarchy. The ironic meeting demonstrates the threat perceived by a conservative administration and the complexities and contradictions of the anarchist line at that historical moment, one which “emphatically rejected dialogue and mediation with the representatives of the State” (Grez 2007b: 63).

attempted to recruit replacement labor (Ibid: 85). These successes “deepened the criticisms, until then... essentially theoretical with respect to the activism of the mutual aid societies, especially their innocuous character with respect to the bosses and the State” (Ibid). Indeed, the anarchist press did accuse the mutualist and Democratic Party leaderships of the *Sociedad Unión de los Tipógrafos* and the *Sociedad de Artes Gráficas* of working to undermine the strike (Ibid). A strike by newspaper vendors at the end of the year won through a boycott enforced by attacking violators and taking their papers. For anarchists “The triumph of these workers... overjoyed the libertarians as it was the incarnation of methods of struggle they had been incessantly recommending” (Ibid).

Still, the area of greatest anarchist influence was in the twin coastal cities of Viña del Mar and Valparaíso in 1903. When the great port strike in Valparaíso began “the anarchists were a small minority well inserted in certain of the labor associations that played the lead role in the greatest social convulsions at the start of the new century” (Ibid: 65). That conflict perhaps best characterizes the role of anarchists and anarcho-syndicalists in the entire 1902-1907 protest cycle. De Shazo (1983: 102) shows anarchists led 10 of the 13 strikes in Santiago in 1902-1903, with their base in resistance societies. Fuentes (1991: 126) characterizes the “vehicles” of anarcho-syndicalism as “organization by industry, affiliation in resistance societies... the search for forms of higher-level organization (Federations) and direct action in its forms of: boycott of government and bosses’ mediation, social activism, and partial or total strike.” A primary reason why this mode of labor organization and popular struggle was able to gain influence in this time period was because of the largely repressive and violent nature of state responses to social protest. Thus, “the massacres of workers perpetrated by the police and armed forces to punish the strikes of the miners in the coal zone and port workers of Valparaíso in 1903 appeared to confirm the analysis of the partisans of direct action” (Grez 2007b: 77). By then, “labor strikes had experienced a process of expansion and radicalization ... which provoked an energetic repressive response from the State and had accelerated the emergence of new types of popular organization” (Ibid).

The port workers’ strike began on April 15<sup>th</sup>, 1903, among day laborers and stevedores of the British Pacific Steam Navigation Company. It quickly spread to other companies, small boat operators and workers at the customs office’s dock. The crews of arriving vessels began joining. At peak more than 4,000 workers were striking and the work stoppage was nearly total (Ibid: 86). With the partially successful use of strike breakers clashes with strikers escalated by the end of the month. The state “redoubled police” (Ibid) presence and the differences between the anarchists and other sectors came clearly into focus. The anarchist Espinoza, elected leader of the maritime workers, proposed strikers “adopt new measures”. He was directly opposed by the mutualist stevedores’ leadership. They “intended to lead a peaceful mobilization propitious for dialogue, the search for support among politicians and the authorities” and keep the movement strictly focused on the specific protest demands (Ibid: 86-87). May 10<sup>th</sup> of 1903 a meeting called by mutualist-led groups saw far less attendance than a protest by the rival anarchist-led maritime workers (Ibid: 88). On May 12<sup>th</sup> the conflict exploded. Clashes spread across the city, including “assaults and the sacking of commercial locations... fire at *Compañía Sudamericana de Vapores*, looting of markets” (Ibid). The repressive response of the armed forces was severe. Dozens, perhaps 100 or more, including 1 policeman, were killed (Ibid). The next day the anarchists held a solidarity meeting in Santiago before which Espinoza was arrested and during which the speaker and anarchist labor militant Marcos Yañez was also arrested (Ibid: 89). May 14<sup>th</sup> saw another solidarity protest in Santiago as thousands of enraged supporters went from the Central Station to the Alameda and the heart of government power in the capital’s center. An armed guard in front of the National Congress and the conservative, establishment newspaper *El Mercurio* faced off against a

crowd of some 4,000 or more “breaking street lights and throwing stone” (Ibid: 90). Months later, the arbitration commission would agree to satisfy most of the striking workers’ demands (Ibid).

For anarchists this was in one sense a great victory, their militant tactics were key and won many labor demands. Leading militants emerged with enhanced prestige among the working class. Yet, many lives were lost and the method of arbitration was at odds with anarchist practice (Ibid). The “mediation of persons like Democratic Party Congressional deputy Ángel Guarello repulsed the anarchists, who saw as a disgrace how the State and the politicians had bridges to the popular world” (Ibid). During the conflict anarchists had warned in meetings and their press that the biggest risk to labor was excessive legalism, respect for property, conciliation and especially faith in the institutions of the state and politicians (Ibid: 90-91). While these views found much resonance among the rank-and-file at the height of struggle, arbitration proved for many a way to gain immediate demands. Still, in the immediate aftermath of the strike, anarchist labor militants were reinforced in their beliefs and committed to “persisting in their line of autonomous organization of the workers” (Ibid: 91).

In a context of escalating labor conflict, other labor sectors also experienced growth. The *mancomunales*, with historical political links to the mutualist associations and Democratic Party, were becoming more massive and influential, particularly in areas with little anarchist organizing, such as the arid northern mining areas.<sup>31</sup> The class struggle orientation of these associations was reinforced with the arrival of legendary labor militant and then Democratic Party member Emilio Recabarren in Tocopilla in September 1903. As organization and militancy increased, so did the state repression. Organizers were routinely arrested and jailed (*Diario 21 de Iquique* January 1, 2008).

Following the port strike, the labor movement and anarchist current suffered a decline in activity in Santiago and Valparaíso owing to repression. But, by late 1905 it exploded once again. Protest about a duty on Argentine beef spiraled into the “meat strike” and then a massive general strike known as “red week” in Santiago (Grez 2007b: 122-127). Started as meetings and petitions organized by the mutualist associations and Democratic Party, an October 22<sup>nd</sup> protest spun out of control.<sup>32</sup> A revolt followed, with destruction, burning and looting of many public buildings, police stations and businesses. Although carried out by a “spontaneous multitude”, a “certain militant nuclei”, including anarchist labor militants, “tried to propel combative ‘direct actions’ against the repressive forces and certain symbols of capital” (Grez 2007b: 122). Labor participation was particularly pronounced in a work stoppage on the 23<sup>rd</sup> of October. The presence of railcar and electric tram workers was noted by many; among the latter, “the presence of anarchist militants was particularly strong” (Ibid). The transport sector again emerged as a site of radical, combative and threatening labor conflict. The military and police re-took control of the city, with a death toll

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<sup>31</sup> Exemplary of this growth was the May 15, 1904, *Primera Convención Nacional de Mancomunales Obreras* in Santiago with 15 organizations and more than 20,000 affiliates. As the first of these organizations had been founded in Iquique, their development was most advanced in this region. (*Diario 21 de Iquique* January 1, 2008).

<sup>32</sup> According to a police report the next day, “around 12,000 men, of whom at least 6,000 were from the working class” gathered downtown and marched to La Moneda presidential palace. Half went to the Presidential palace and were addressed from the balcony by President Riesco. The other half tried to force open the main entrance. In “this moment... the spiral of violence that would devastate the city for 3 days was unleashed” (Grez 2006: 16 footnote 26).

of some 200-250, hundreds more wounded, and nearly 3,000 arrested (Ibid: 123). One clear dynamic going forward was increased competition to inspire and lead popular movements.<sup>33</sup>

The economy expanded in 1905 and 1906 - led by nitrate, manufacturing and construction - as did the labor movement and labor conflict. In May, 1905, in the far southern town of Punta Arenas metallurgists created a resistance society, followed within months by bakers as well as port and maritime laborers (Grez 2007b: 129). There were May 1<sup>st</sup>, 1906, protests in the twin central coastal cities of Viña del Mar and Valparaíso. The events drew 30,000 workers and “paralyzed both cities” (Ibid). That day in Santiago 10,000 workers heard Emilio Recabarren address a May Day protest. In June, the *Federación de Trabajadores de Chile* (FTCh), a federation of resistance societies, was created (Ibid). But the largest conflict was in the northern port of Antofagasta.

Anarchists had just taken part in founding a resistance society among boilermakers when those working for the English owned railroad struck for higher pay and a longer lunch break on January 30<sup>th</sup> of 1906 (Ibid: 102). Train conductors, maritime, port and nitrate workers along with shop and factory workers in the city, more than 4,000 in all, joined. (Ibid). At a street protest February 6<sup>th</sup> Civil Guards and a naval squadron opened fire on the crowd. Up to 300 were killed in the Colón Plaza Massacre (*El Diario de Antofagasta* February 6, 2013). The next day saw major violence, including the killing of the Englishman Richard Rogers and the burning of numerous rail company offices, businesses, commercial locations and conservative press (Ibid). Moreover, labor conflict continued to rise in 1906 and 1907, in the North and across the country.

A June 1906 strike in Concepción garnered the support of 550 workers in 15 major factories and shut down manufacturing in the city (De Shazo 1983: 105). In June and July of that year printers’ strikes hit Santiago, including the first industry-wide lockout in Chile (Ibid: 106). A December 1906 Valparaíso shoe-makers’ strike lasted 84 days and 3,000 workers in the same industry in Santiago stopped work in support. The strikers won a 40% wage increase (Ibid: 107).

In 1907 the peak of this bloodiest and most conflictive strike wave in Chilean history was reached. More than 80 strikes were recorded that year (De Shazo 1983: 108). One early major action was a 2 day general strike in Valparaíso in March (Ibid: 107). At the end of that month the resistance societies of Santiago held a convention to form the *Sociedad Mancomunal de Obreros de Santiago*, including anarchists, Democrats and non-partisan labor (Grez 2007b: 129-130). The labor movement and strike wave peaked in May and June of that year (De Shazo 1983: 108).

The Chilean Workers’ Federation (FTCh) and *Mancomunal* organized May Day protests in Santiago a month in advance in 1907. Some 30,000 workers marched, and commercial and production activity were totally shut down (Grez 2007b: 134). In Valparaíso, the *Sociedad Mancomunal* and resistance leagues led by anarchists organized a general strike while a march supported by more than 20 organizations drew thousands of workers to the streets. In Iquique, a strike also paralyzed the city and a large protest unified Democrats and anarchists (Ibid: 134-135). Grez notes, “the appeal of the resistance societies among mutualists and unorganized workers had obviously grown during the strike wave” (Ibid). This increasing solidarity, as labor groups began more and more supporting one another’s’ strikes and actions, soon bore its most dramatic results.

A wage dispute with unskilled workers at the State Railway shops of Santiago resulted in a May 27<sup>th</sup> strike in 1907. The next day railroad blacksmiths joined in. By the 29<sup>th</sup> “the entire *maestranza* workforce had quit work for the first time since 1902” (De Shazo 1983: 108). On May

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<sup>33</sup> For example, the Democratic Party leadership was challenged. As the dominant wing, led by Concha, condemned “excesses” of “popular passions” and insisted the only path for the popular classes was to send their representatives to Congress, the emerging socialist wing of the party, led by Recabarren, condemned police violence and advised workers to “prepare” for future protests so as not to be made “victims” again (Grez 2006: 18).

30<sup>th</sup> workers in Valparaíso, Talca, Concepción and Valdivia joined the strike. Then, “in an unprecedented display of solidarity, switchmen and couplers joined the strike on June 2, and by the fourth, railroad traffic from Valparaíso to Valdivia ground to a half as the engineers and firemen also walked off” (Ibid). The next day the FTCh and *Mancomunal* declared a solidarity strike. It shut down “operations in foundries, textile factories, construction projects... tanneries, and cigarette factories. Tram service halted when the drivers and conductors refused to work” (Ibid). The newspaper *La Reforma* called the movement “the most important and colossal which this country has ever witnessed” (Ibid). Over 15,000 workers struck in Santiago alone, the biggest labor action to date (Ibid). The government “deployed large numbers of troops and police to the strike zone” and “tried to break” the strike by use of force, arresting many strikers in Valparaíso, where a general strike had begun (Ibid: 109). Military engineers ran trains, navy electricians worked at Santiago Power and Light Company and “military telegraph officers filled in for striking communications workers” (Ibid). Yet the state could not “break the strike by repressive measures alone... more workers were joining the strike every day, and the walkout was crippling the economic life of the entire country” (Ibid).

President Montt named a committee to arbitrate the dispute, which then made an offer to the interlocutor chosen by the strike committee, moderate Democratic Party Deputy Bonifacio Veas. When he agreed to a government proposal without consulting the base of striking workers, more than 10,000 in Santiago and Valparaíso rejected it and continued to strike (Ibid). Still, repression, especially threats of arrest for workers striking illegally, blacklists preventing future employment and mass firings, particularly targeting organizers, took its toll on the movement. A week after rejecting the government’s offer the original rail workers in Santiago accepted, though some workers in Valparaíso held out until June 26<sup>th</sup> (Grez 2007b: 135) Although some *gremios* made significant gains and the rail car workers got a modest salary increase, labor associations overall paid a large price for their leadership of the movement. In specific, the firings and blacklists caused major divisions in labor groups. This led many to break up, especially in Santiago (Ibid).

The descent from this high was rapid and dramatic: “Within a month, organized labor in Santiago and Valparaíso would be in full decline” (De Shazo 1983: 108). The rest of 1907 saw only 3 strikes in those two cities while 1908 saw only 11 (Grez 2007b: 135). Anarcho-syndicalist unions particularly felt the repression. The number of resistance societies in which this tendency was influential declined from 57 to 11 and the Workers’ Federation of Chile did not survive (Ibid).

Yet, there was one more chapter in this cycle of labor struggle. In the “great strike” of Tarapacá in December of 1907, the anarchists were able to ride the “crest of the wave” in the bloodiest confrontation with the state in Chilean labor history (Ibid). In that strike anarchists had several of their most important cadre on the strike committee and exercised great influence (Ibid). The “great strike” of Tarapacá “was, without a doubt, the largest protest mobilization of the entire decade” (Pinto 1998: 264). Owing to the presence of many well-known anarchist labor militants and to the character of the movement, whose “expression was almost paradigmatic of the strategies of worker resistance and direct action favored by that ideological current” many historians have sustained that the movement was anarchist led (Ibid). A lack of other visible leadership that might be expected, such as from the *mancomunales* or the Democratic Party support this interpretation.

On December 10<sup>th</sup>, 1907, a general strike in support of a wage increase demand by shift workers in the saltpeter works in the nitrate town of San Lorenzo began. The strike spread to Alto San Antonio and together thousands of nitrate workers converged on the regional capital of Iquique famously carrying the flags of Chile, Peru, Bolivia and Argentina and camping at a horse-racing track. The strike spread to virtually every nitrate factory and mine in the region and the vast

majority of the urban workers of Iquique. By December 21<sup>st</sup> more than 12,000 workers were on strike. Tens of thousands more appeared in support, including many women and children. Military reinforcements arrived from Santiago with orders that demanded the strikers abandon the Plaza Manuel Montt and the Domingo Santa Maria school where they had moved the protest camp to prepare to board trains back to the *pampas*. The workers refused. Amid growing tensions, the government declared a state of siege. Six workers leaving a meeting at the nitrate office of Buena Ventura were shot and killed, and others wounded. The next day funerals were held. Just after, Army General Roberto Silva Renard demanded all workers and their families leave the Santa Maria School. When the ultimatum was refused by the strike committee, the army opened fire killing the negotiators instantly and clearing the school (Devés 2018).

Although the casualties on that day remain a matter of historical debate, a most frequently cited number is around 2,200 killed, including many family members of the workers camping there (Ibid; *El Mercurio* December 21, 2007). The effect on the labor movement was dramatic. Many activists and leaders were killed or went missing following the massacre and “repression disarticulated and intimidated the workers’ movement in Tarapacá” (Grez 2007b: 136). Strike leaders who survived were persecuted by employers and the state. Bosses from then on blacklisted workers known to be in *mancomunados* or other worker associations, while the state followed, exiled, arrested and killed other known leaders, especially anarchists (Artaza 2006: 163-164; 182-202). Spying in the popular movement by police and the military increased markedly. The cover up of the massacre continued for decades. Even publicly speaking about it meant risking arrest.

Following the heavy repression, collective protest declined sharply over the next five years and did not recover for a decade. While labor organization continued, the ideological and political orientation of the movement shifted (Collier and Collier 1991: 74). From 1907-1911 both the labor movement and anarchist current recovered very slowly. May 1<sup>st</sup> remained a key rallying point. In this period the Democratic Party, with its moderate wing in control, regained its dominance in the labor movement, social movements and the working class more broadly (Grez 2007b: 225-231).

As it recovered, working class union and political activity began to crystalize in the formation of larger, politically active and militant union federations and parties. The most crucial were the Socialist Workers’ Party (POS), founded in 1912 by left dissidents of the Democratic Party led by Recabarren, and the Chilean Workers’ Federation (FOCh). The FOCh was founded in 1909 as a conservative mutual but evolved “from a mutualist society to a revolutionary federation of unions” (Angell 1972: 12). It had formally adopted a Marxist platform by 1919. After a smaller resurgence before WWI, a major labor upsurge began in 1917 (*Analisis* 177 1987: 10). At the beginning of the first Alessandri presidential term (1920-1924), the wave of militancy was met with another round of fierce state repression. It was in combination with the repression of this labor upsurge that the first institutional incorporation of the labor movement began. With the 1925 passing of the first Labor Code, the era of “free unionism” (1890-1925) came to an end (Valenzuela 1976; Mellado 2015). A “legal unionism” movement became ever more influential and co-imblicated with left political parties, culminating in the Popular Front government of 1938 (Ibid).

From 1912 the reactivation of the labor movement and its anarchist current was visible (Grez 2007b: 235). This included a bigger May 1<sup>st</sup> protest that year with notable anarchist presence, a big general strike in Punto Arenas from February 28-March 5 and a total of 19 strikes nationally as recorded by the Labor Office (Ibid: 235-239). A March 1913 cable car workers’ strike in Santiago was disruptive and showed a “notable anarchist tendency” (*El Mercurio* March 26, 1913). In 1915 the Regional Workers’ Federation of Chile (FORCh) was founded and organized many anarcho-sindicalist resistance societies, announcing the “arrival” of this tendency as a national

force (Grez 2007b: 240). In 1917 the expansion and arrival of socialists en masse in the FOCh heralded its turn to a more radical, threatening labor organization (Mellado 2015: 91). Repression stanching revival for a few years, but for the first time, talk of “social legislation” as “preventative measure” for the “anarchist” and “subversive” threat gained prominence (Grez 2001: 120).

World War I saw multiple economic crises (1917 & 1919) and major conflict among the working class over military conscription (De Shazo 1983: 184-185). As labor and social protest grew, anarchist and socialist currents of the movement grew with it. In the second half of the 1910s “the resistance societies were the most advanced expression of free unionism in Chile” (Mellado 2015: 124). The anarcho-syndicalist General Confederation of Labor was founded in 1915 and the Industrial Workers of the World arrived in 1919, quickly growing to 9,000 members (*Analisis* 177 1987: 17). It is no coincidence that 1919 also saw the first labor legislation proposed, by conservatives, on labor conflict conciliation (Silva 2000: 43). Mellado (2015: 124-125) argues:

the democratic and economic demands of the labor movement became the motor of class struggle in Chile from 1918. Said demands imposed the political agenda on the government of the first half of the 20s (Alessandri), and had a lethal effect on the Chilean state, sharpening the final crisis of the old political apparatus.

Moreover, the Russian Revolution had a profound effect on the Chilean left, heightening tensions among Marxist and anarchist labor militants. Many Marxist and POS militants left resistance societies and joined the FOCh (Rama and Cappelletti 1990: LXXXVIII). A key difference with Marxists was the anarchist insistence on “total autonomy” that “strongly rejected relations with the state, politics and politicians” (Grez 2007b: 159) and privileged direct confrontation with bosses to win demands, rejecting state intervention. The POS-dominated FOCh was characterized by a favorable inclination to government mediation in resolving strikes (De Shazo 1983: 215-337).

The FOCh expanded from 4,500 to 80,000 members from 1917-1921 (Silva 2000: 27). By 1918-1919 the FOCh mobilized very large crowds for demonstrations. Events such as the 100,000-person demonstration outside the presidential palace in August 1919, as well as the shutdown of the capital and other important cities in general strikes during September of that year demonstrated the increasing strength and activity of working class movements (Collier and Collier 1991: 74). In fact, Collier and Collier (1991: 98) call 1920 the “eve of the shift from anarchist to communist dominance in the labor movement”. It was also a year of peak labor threat. In 1920, 50,000 workers went on strike, a new high. So, “facing this social instability, worrisome to the governing elite, diverse voices emerged to channel the rebellion within containable limits” (Rojas 1993: 13).

### **Part III: The First Institutionalization Under Pressure (1920-1931)**

In 1920 the POS adopted an accord that “socialist representation in the parliament and the municipalities is useful and necessary in our actual circumstances” (Silva 2000: 27). The party ran Recabarren as a protest candidate in the first round of the Presidential election, then negotiated an electoral pact with Alessandri and his Liberal Alliance for the March 1921 Congressional elections (Ibid: 28). The FOCh allowed its local organizations to participate informally but rejected formal electoral participation. Nonetheless, in the Liberal Alliance pact 8 members of the FOCh were elected to Congress: 5 Democrats, 1 Radical and 2 Socialists (Ibid). In December 1921, the FOCh joined the Communist International affiliated Red International of Labor Unions. In January 1922, the POS became the Communist Party of Chile (PC or PCCh) (*Analisis* 177 1987: 17).



Alessandri was elected in 1920 promising social reform. His oratory was replete with peans to the working and popular classes. This contributed to strong opposition from conservative forces who still controlled Congress and were supported by the landed oligarchy (Silva 2000: 43). In 1921 he proposed a suite of “social laws” including a first Labor Code, but nearly all were blocked (Ibid). Alessandri “thought that by means of legalizing unions, entrepreneurs would be in a better condition to control the activities of the unions and to channel the movement within established norms” (Ibid). The Labor Code Project languished until 1924 when labor threat spiked again.

The 1921-1924 period also corresponded to a heightened offensive of labor repression by business and the state (Mellado 2015: 88). The February 1921 San Gregorio massacre in the North left 65 workers dead and 34 wounded at the hands of the army’s infamous “Esmeralda Regiment” (Galaz-Mandakovic 2019: 185-186). Repression intensified after the massacre; “the Regiment, after imprisoning the leaders, returned to Antofagasta in view of the effective dissuasion and fear provoked in the wage workers and their families” (Ibid: 186). Indeed the “nitrate and copper areas of the region were transformed into real ‘military encampments’” (Mellado 2015: 98). Those who attempted to organize were persecuted in the years that followed. Workers were required to sign declarations under interrogation and with two witnesses that they were not part of any labor association. Hundreds were fired. (Ibid: 98-99). Amidst repression and an unemployment crisis labor threat fell. The FOCh went from having 80,000 members in 1921 to 30,000 at the end of 1923 (Silva 2000: 38).

In the labor movement there were three currents with distinct orientations to Alessandri’s proposed labor code project. Anarchists “rejected in absolute manner any attempt at dialogue with the State on the subject of social legislation. This was considered the strategy of the dominant classes to bind and coopt the labor movement, with the objective of making it lose its autonomy” (Mellado 2015: 94). The POS “permanently oscillated” on “accepting or not the social legislation” (Ibid). For Democratic Party affiliated currents “the struggle for social legislation was always among their key doctrinal postulates” (Ibid). They had proposed labor legislation since 1901 (Ibid).

With social legislation stalled and repression high “Alessandri proved himself as nothing more than another enemy” to the PC and FOCh, who broke from the government and the Liberal Alliance (Silva 2000: 36). They moved back towards a line of labor and working class autonomy more in tune with anarchist currents (Ibid). They also broke with the Democratic Party, provoking a split in the FOCh and further weakening it in 1922-1932 as unions disaffiliated (Ibid: 37-38).

Despite this, however, labor was able to fight back more strongly than in the past, becoming an important actor in the opposition to the regime (Mellado 2015: 97-98). It did so in the first place by trying to unify left and oppositionally oriented labor currents: the IWW and leading resistance societies like the printers and garment-makers with the FOCh (Ibid). As employment began to recover in 1924, strikes began to rise again, particularly from July onwards that year (*Analisis* 177 1987: 10). By 1925 strikes again reached the 1920 peak. With labor threat rising to high levels again, major political crises erupted (Rojas 1993: 13).

Alessandri had claimed in 1924 that the “prompt dictation of laws that contemplate the interests of employers and workers, as an antidote to subversive spirits” was the “only effective remedy to avoid revolution and subversion” (Silva 2000: 44). Still, conservative intransigence remained, and labor threat continued to rise. The liberal reform project having failed to contain it, the military stepped in and began to play a central role in politics and legislation (Rojas 1993: 13).

The events of September 1924-March 1925 came in rapid succession and marked a key turning point in Chilean labor history. On September 3<sup>rd</sup> of 1924 a group of 56 military officers led by Colonel Marmaduke Grove and Major Carlos Ibáñez del Campo protested in the gallery of

Congress during a debate on Congressional pay because of the delay in passing the social laws, an event known as “the saber rattling” (*Analisis* 177 1987: 22). The next day they formed a “Military Committee” and on September 5<sup>th</sup> issued a series of demands to the government including enactment of a labor code, an income tax law, a rise in military pay and dismissal of three ministers (Ibid). Alessandri appointed Chief of the Army General Luis Altamirano to lead a new cabinet. On September 8<sup>th</sup> Altamirano appeared before Congress and demanded passage of the 16 social laws including from the Labor Code Project. Under pressure Congress passed the laws within hours (Ibid). Chile’s first Labor Code was promulgated as a series of laws that came into force three weeks later (*Leyes* 4.054 - 4.059 *Diario Oficial de la República de Chile* September 29, 1924). The laws included covered social security insurance, labor contracts, work accidents, union organization, labor conflict conciliation and arbitration tribunals and private employment (*Analisis* 177 1987: 23). On September 9<sup>th</sup>, Alessandri resigned, sought asylum at the US embassy, then fled to Italy. On September 11<sup>th</sup>, the September Junta took power under General Altamirano as President, who closed Congress (Ibid).

The reforms were “possible thanks to the strengthening of the workers movement” (Ibid), or in the words of then key Communist Party leader Luis Víctor Cruz “the reforms were the fruit of proletarian pressure, not the will of the capitalists” (Silva 2000: 55). But the content of the laws themselves was a mixture of concessions to labor and measures to contain, control and channel it. They regulated labor conditions, established an 8 hour day, mandated payment in legal currency, instituted collective contracts, banned child labor, instituted mandatory vacation days and put in place rights for women at work (Ibid: 47). The laws also created new state institutions such as the General Labor Directorate (DGT) and conciliation and arbitration tribunals, as well as legalizing industrial and professional unions (Ibid). Still, legal registration gave the state total surveillance and regulatory power over legal unions. The laws also severely curtailed strikes. They mandated 2/3rds approval to strike in a secret vote of the union, banned strikes while contracts were still in effect, banned solidarity strikes, banned collection of strike funds and empowered a Government Permanent Commission on Conciliation to rule on strike legality (Ibid: 46). All of this “opened the great debate on the theme of ‘legal reform or direct action’” in the movement (Ibid: 56).

Anarchists, led by the IWW, rejected the laws arguing they threatened labor autonomy and “the broader the reforms the more moderate the working class” (Ibid). Institutionalization would reduce labor threat. Legal unionism developed weakly between 1924 and 1926 largely because of labor distrust (Ibid). The PC and FOCh took a “wait and see” approach (Ibid: 47). When the Military Committee and Junta called for a Constituent Assembly to write a new constitution, Recabarren supported it and began to organize the FOCh and PC to send delegates (Ibid: 50).

While the Junta had a progressive discourse and attempted some economic reforms, it was still dominated by the more “traditionalist” sector of the military and labor conflict continued to increase. Before the end of 1924 large labor conflicts with trolley car workers and at the El Teniente mine spiraled into the FOCh threatening a general strike (Ibid: 52-53). While some in the organization and the PC expected support from the Junta they were met with repression instead. Once again, the labor movement was disenchanted with a government and distanced itself (Ibid).

On January 23, 1925, young officers, again led by Ibáñez and Grove, declared a coup within a coup. This January Junta demanded the replacement of the government, the return of Alessandri, a constitutional assembly and passage of more populist economic reforms (*Analisis* 177 1987: 23). The new Junta responded favorably to several FOCh and labor demands: they freed prisoners from the 1919 general strike in Puerto Natales and the 1923 conflict in San Gregorio; raised government workers’ wages; passed laws protecting domestic workers and legislated

protection for pregnant women on the job, among other measures (Ibid). The PC backed the new Junta enthusiastically (Silva 2000: 57). The FOCh, together with some independent unions and the Chilean Students' Federation (FECh) formed a "National Workers' Committee" to demand Alessandri's return and a new constitution (*Analisis* 177 1987: 23). Alessandri returned as President in March, promising a new constitution as his top priority and the inclusion of labor in the Constituent Assembly (Ibid).

This occurred in the context of continuing labor upsurge. A five day general strike centered in the North in March gained massive adhesion and won many demands (Silva 2000: 64). A series of strikes across the country demanding Alessandri's return also saw great success (Ibid: 65). The first legal May 1<sup>st</sup> was carried out in 1925 with huge crowds (*Analisis* 177 1987: 23). By June, a large strike had begun in Tarapacá (Ibid). This strike was met with severe repression at the orders of Alessandri and with Ibáñez as Minister of War (Ibid: 24). The arrest of FOCh leaders led to a general strike June 4<sup>th</sup> that took on insurrectionary dimensions across the two regions. After two police officers were killed military and naval reinforcements attacked, destroying the town of La Coruña in a massacre that killed some 2,000 workers and family (Durán 2011), part of a wave of repression leading up to the ratification of the 1925 Constitution (*El Mostrador* June 7, 2020).

Amazingly, the PC continued to back the "young military" and the government even after a massacre in which many of their own cadre were killed, and although support for both Alessandri and Ibáñez cost them dearly (Silva 2000: 65-66). This was part of a strategic re-orientation in the party that emphasized electoral work (Ibid: 60) and finding divisions among the bourgeoisie and landed oligarchy to make alliances (Ibid: 64). The PC periodical *Bandera Roja* argued that "we are obligated by their clashes and circumstance to support a flank of our own enemies" (Ibid: 63).

When Alessandri had first appointed a "Consultative Commission" for the new constitution on April 7<sup>th</sup> of 1925, 5 Communists had been named to it (Ibid: 65). However, the commission was soon split into two, the former on writing a reform text with strong presidential powers and the latter to organize a supposed Constituent Assembly that never occurred. Instead, Alessandri submitted his preferred text to a plebiscite on August 30<sup>th</sup> which passed it with 95% of the vote (Ibid: 66). Amid continued clashes with Ibáñez, Alessandri resigned in October and on the 25<sup>th</sup> Emiliano Figueroa of the Liberal Democratic Party won the Presidency. The next month the Communist Party won 6 Deputies and 1 Senator in the Congressional elections (Ibid: 69). In between these two elections the labor movement launched a large general strike on October 26<sup>th</sup> that lasted three days (Ibid: 67). At its 1925 peak, more than 200,000 workers were organized in "free" unions (Ibid: 77). The FOCh, representing 80,000 of these workers, became much more tightly connected to the PC at this time. It adopted the Red International's "workers' front" policy and distanced itself from other labor organizations as the PC did from other left political forces (*Analisis* 177 1987: 24). In 1925 "white unions", anti-communist nationalist groupings, formed a confederation, under the conservative leadership of the Catholic Church (Ibid).

Figueroa's term was brief and beset by the continued power of Ibáñez as Defense, and later Interior, Minister. Ibáñez finally pressured him to resign by exiling his brother. Ibáñez then ran himself as sole candidate for President in May 1927, garnering 98% of the vote (Rojas 1993: 19).

From the time when he gained influence in 1925, Ibáñez' leaned heavily towards repression as a response to social ferment and labor conflict. In March 1925, he had pushed the passage of an "internal security law" that banned and put under military jurisdiction responses to "subversive" speeches, meetings, publications, radio broadcasts and even telephone communications (Ibid: 26). After the La Coruña massacre he sent a message as head of the national police to all police leadership that all "red flag" protests and meetings were to be prevented or broken up (Ibid: 24).

In February 1927, as Interior Minister, he sent a notorious official directive saying, "From today, there will be neither anarchism nor communism in Chile" (Ibid). On April 27<sup>th</sup>, 1927, he had all police forces merged under military command to form the modern *Carabineros de Chile* (Ibid: 27). In his election campaign there were mass arrests of campaigners for the non-legally recognized Communist Party candidate (Ibid: 19). Thus, "The anti-communist and anti-anarchist campaign was not born with the coup... various governments had resorted to it, but now it acquired a different dimension, more systemic, permanent and unrestrained at moments of social agitation" (Ibid: 23). Domestic spying became rampant, nearly universal, as did open surveillance (Ibid: 30-32). In fact, "all meetings of social organizations (unions, co-ops, mutuals) a police functionary attended... and sent information to their superiors" (Ibid: 32). Repression was concentrated on anarchist and communist militants and principally effected workers (Ibid: 37). "Free" unions were also an special focus of persecution, and their leaders were targeted until the last moments of the dictatorship in 1931 (Ibid: 39; 42-43). The anarchist current was rather easily dissolved; labor anarchism went into deep crisis (Grez 2007b: 12). The FOCh was nearly destroyed; its reunion in 1931 had less than 25,000 workers left (Silva 2000: 73, 87). The PC had 4 central committees broken up with arrests and exile between 1927 and 1931 (Ibid: 73). A state worker purge effected thousands and hit teachers hard (Rojas 1993: 42).

The other key axis of Ibáñez' government was the enactment of social legislation. This was "the chosen mechanism to limit the extent of social conflicts within a legal schema" (Ibid: 14). In this guise he gave impulse to legal unionism. This actually began growing with Decree 2.148 on November 16<sup>th</sup>, 1928 (Ibid: 68). Likewise, previously passed labor laws were modified, amended, consolidated, then published as a first *Código del Trabajo* by DFL 78 on May 13, 1931 (Ibid: 63). Legal unions were stringently controlled. The law stated organizations whose "procedures disrupt discipline and order at work are considered contrary to the spirit and norms of the law" (Ibid: 68-69). The Ministry of Social Welfare supervised them, could preside over their meetings "and know all their acts, documents, economic administration and all the activities they undertake" (Ibid: 69). Neither unions nor their resources could be used "for ends of resistance" (Ibid). Because of government repression, active use of arbitration and the unemployment crisis, especially after 1929, labor was in a poor position to fight back (Ibid: 75). Thus, "during the Ibáñez dictatorship the strike lost a great deal of its labor and political pressure" as their number and, therefore, their potential cost declined (Ibid: 70).

Nevertheless, Ibáñez came to power and governed with a great deal of popular and even labor support. In this era unions "espousing revolutionary positions were losing ground in view of the attraction of workers to the social legislation" (Ibid: 143). Rojas (1993: 14) argues "although political repression played a notable role in the near complete disappearance of public opposition to the government, the massive support of the workers is undeniable". At the end of 1929 Ibáñez set up a government backing union, the Republican Confederation for Civic Action (CRAC) and even dissolved the "white unions" considering them too independent (*Análisis* 177 1987: 24). Of course, Ibáñez also enjoyed significant elite and business support, and the backing of the liberal bourgeois parties, Liberals, Radicals and Democrats alike (Rojas 1993: 16-18). A large part of his support was based on a promised harmonious reorganization of society along "corporatist" or "functionalist" lines, directly inspired by fascist exemplars in Italy and Spain (Ibid: 47-59). As such, "the role unions should play in social life was one of the most prominent themes" (Ibid: 59). Overall, "the creation of the legal unions marked the end of 'free unionism' and the beginning of a long epoch of increasing closeness between unions, their leaders, and the state" (Silva 2000: 80).

This environment caused many splits on the political and labor left. At first, the PC and the socialists supported the young military, while the anarchists opposed them, causing a split between the FOCh and the IWW (Rama and Cappelletti 1990: LXXXVIII). But in July 1928, the Comintern entered its “third period” declaring communist parties should be ready for revolution and fight a “class on class” battle against all reactionary and progressive bourgeois forces alike (Silva 2000: 74). This caused a split within the Chilean communists, with Trotskyist aligned members leaving, most prominently PC Senator Manuel Hidalgo, later forming the Communist Left (IC) (Ibid: 87). In this split a significant part of the FOCh went with Hidalgo into the IC and later the PS (Ibid).

The depression hit Chile particularly hard (Ibid: 93), given the country’s heavy dependence on exports, their falling value, and a contraction in world-wide trade that characterized the period. This situation conditioned the fall of Ibáñez. Wages fell 40% and unemployment spiked by 100,000 in 1931 alone (Ibid: 126). Nitrate went from employing 65,000 to 8,000 workers and copper from 16,000 to 5,000 from 1928-1932. Revenue from these two sectors accounted for 70% of government revenue and declined 70% between 1929 and 1932 (Ibid).

On June 13<sup>th</sup>, 1931, amidst rising social protest, Ibáñez named a new cabinet of “national salvation” headed by Juan Esteban Montero from the conservative current of the Radical Party as Interior and Social Welfare Minister (Ibid: 93). His first act was to re-establish freedom of speech, the press, assembly and movement (Ibid: 94). On July 18<sup>th</sup> Finance Minister Blanquier made a public speech in which he said the government had only enough resources for 8-10 more days of spending, which set off a panic (Ibid). Ibáñez tried to force him to resign but Montero backed him, undermining the President (Ibid). On July 22<sup>nd</sup> the socialist led FECh student federation called for an indefinite general strike against the Ibáñez dictatorship. Doctors, teachers, university employees as well as the FOCh, IWW and legal unions grouped in the Industrial Unions Confederation joined the strike (Ibid: 94-95). Government repression, protester deaths and militant uprisings spiraled in the following days. People began to attack police and military with sticks and stones across the capital, with lootings and arsons spreading (Ibid: 95). But repression did not work as “each death launched more people into the streets, as they had already lost their fear” (Ibid). On July 26<sup>th</sup>, Livia Videla recalled, “When Ibáñez fell multitudes came out onto the streets” (Ibid: 96).

#### **Part IV: The First Political Incorporation (1931-1952)**

The resurgence of the labor movement after the dictatorship was closely tied into the rise of the Communist Party and the new Socialist Party, founded in 1933 (Angell 1972: 83-84; Collier and Collier 1991: 360). The pro-government CRAC “fell like a house of cards” with the Ibáñez government, but legal unions experienced rapid growth (Silva 2000: 96). Anarcho-syndicalist unions experienced a semi-revival, organizing the “libertarian” General Workers’ Confederation (CGT) in November 1931 (Ibid: 97). The FOCh also began to rebuild but lost many affiliates via splits or defections to join or form legal unions (Ibid). Legal unions also began a process towards greater unity and organization on a national level (Ibid: 104-105). This included an attempt at a first “CUT” – a Unified Workers’ Central- to unite “free” and “legal” unions in 1933 (Ibid: 128). Overall, during the 1930s the leading left parties, the PC and PS, became “reformist” in the sense of having a primary strategic orientation to legal reform as the basis for social change (Ibid: 118).

Political instability continued after the fall of Ibáñez. Montero won an October 1931 vote over Alessandri, the IC’s Hidalgo and the PC’s Lafferte and became President in December. His administration was never able to consolidate a base of popular support as economic conditions continued to deteriorate. Already an attempt to cut military salaries had led to a dangerous Naval

Mutiny in September 1931. in which rebel armed forces personnel declared a “social revolution” and solidarity with the PC and the FOCh (Sater 1980). Shortly after Montero’s inauguration a PC-led failed armed insurrection gripped Vallenar and Copiapó and attempted to take the Esmeralda Regiment, resulting in dozens being executed (Silva 2000: 105-106). With repression increasing and the economy in free fall, 1932 “was a year of innumerable plots” (Ibid: 107). When Montero tried to replace Grove as Air Force head, army regulars rebelled in a coup (Ibid: 108-109).

The “Socialist Republic” that Grove’s coup initiated lasted only two weeks, June 4<sup>th</sup>-June 16<sup>th</sup>, but it became a key reference point for the Socialist Party which was founded only months later, as many socialists were appointed to senior government leadership positions for the first time (Ibid: 109-110). In turn, the Dávila government that came next only lasted 100 days, until a presidential election was held. On October 30<sup>th</sup> of 1932 Alessandri was once again elected President, for a six year term. His alliance of that period was never able to generate significant working class support, however (Collier and Collier 1991: 366).

The economy did recover during the Alessandri years (1932-1938), partially as a result of an adoption of ISI policies stimulating domestic production, demand and employment (Silva 2000: 127-128). Union elections were also democratized in the legal unions in this period, and resistance of left activists to take part in legal unions receded. First, the Socialist Party decided to cast its lot with legal unions. A national confederation of unions, the CNS, linked with the Socialist Party was formed in 1932. It helped lead strikes in 1933 and 1934, merged with a Santiago federation in 1934 and embraced all legal unions, therefore representing a majority of the labor movement (Collier and Collier 1991: 376). Even the Communist Party came to support legal unionism after its 1935 adoption of the Comintern’s “popular front” policy and was thus able to reestablish a great deal of its influence within the union movement (Ibid). Finally, in 1936, what remained of the FOCh agreed to unite with the CNS and the PR affiliated *Union de Empleados* to form the Confederation of Chilean Workers (CTCh). This confederation emerged as explicitly political and mobilized an important base of support for the Popular Front coalition (Ibid: 377). So, “from 1936 onward the electoral alliance took the place of labor direct action as the elemental plank” (Silva 2000: 143).

The Popular Front was born of an alliance between the PC and the PR, on the one side, and the IC joining the PS, on the other. Inaugurated in March 1936, by 1937 it grew to include the Radical Party, the Socialist Party, the Communist Party, the Democratic Party, and the Radical Socialist Party, as well as social movement organizations such as the CTCh, Mapuche movement unified in the *Frente Único Araucano*, and the feminist *Movimiento Pro-Emancipación de las Mujeres de Chile* (MEMCh) (Ibid: 151-152). Former Alessandri Interior Minister Pedro Aguirre Cerda of the conservative wing of the Radical Party was nominated as a first presidential candidate. Cerda won a very close election and became President in December 1938 (Ibid: 173). With “the adoption of the Popular Front” came “a fundamental change in the politics of the working class parties, from direct action, typified by the FOCh to parliamentarism” (Ibid: 174). This meant that from then on “the PC and PS were constructing an electoral relationship between the parties and the working class” (Ibid: 175). One dramatic exemplar was the agreement Grove, as head of the Popular Front coalition, signed with the National Society of Agriculture (SNA) business group to suspend organizing rural workers in April 1939, a decision the PS and PC backed (Ibid: 180). This was explicitly to appease the conservative currents in the Radical Party (Ibid). The CTCh warned its rank and file they “should avoid all classes of provocations that could create difficulties for the Popular Front Government, which today we should support with more firmness than ever” (Ibid). A northern labor leader told Cerda, “In recent labor conflicts... even when the resolution of those conflicts did not satisfy our minimum demands, we have accepted the request of the President of

the Republic to end those conflicts... on considerations of the national interest” (Ibid: 181). The PC instructed its labor cadres to respect the Labor Code, cooperate with tribunals set up in it and not go on strike “because there was already a progressive government in power” (Ibid: 182-183).

Benefits to the organizations were clear. Union membership doubled from 104,000 in 1938 to 208,000 in 1941. The PC won 3 Senators and 16 Deputies in March 1941 elections (Ibid: 195). Cerda vetoed a law to ban the Communist Party in February 1941 (Ibid: 194). One major motive for this unity was the anti-fascist struggle before and during World War Two (Ibid: 196). With the waning of the war and the dawn of the Cold War, labor conflict rose and strained the coalition.

Overall, the governments of Cerda (1938-1941), Rios (1942-1946) and Gonzalez Videla (1946-1952) seemed to represent the replacement of the center-right accommodationist alliance with an at least nominally populist coalition of center parties and left parties which appealed to the working class for support (Collier and Collier 1991: 378-379). Though these governments, especially the Popular Front under Cerda, seemed a radical break from the past and significantly more predisposed to promote policies favorable to the working class, in actuality these leaders felt little inclination to make large-scale political or economic changes (Ibid). In this period it was middle-class centrist forces, led by the Radical Party (PR), which held the political initiative, as they could ally with either the traditional right or the newly resurgent left to form a government. Political debate in this era centered on the state’s involvement in economic development. The reformist middle class, including an increasing number of public employees, was tempted by a populist alliance with the working class to press through nationalist, inward-looking economic reforms (Collier and Collier 1991: 364-365; Ugglá 2000: 48-49). The traditional oligarchy opposed reforms as their wealth was concentrated in the export-led sector (Ibid).

The coalition was used mainly for electoral and rhetorical purposes, while governing largely occurred with the support and collaboration of right-wing parties. However, the failure to match results to rhetoric pushed many in the working class to view collaboration with the bourgeois parties as ineffective and spurred many to advocate a more radical, class-based mobilization. Many in the union movement and within the left parties felt that they received too little in the way of benefits for their participation in the center-left coalition as well as in the broader coalition governments that succeeded the Popular Front (Collier and Collier 1991: 366). Thus, during the 1930s and 1940s there developed a growing radical, non-collaborationist wing within the labor movement, as well as inside the PS and PC (Ibid). Silva (2000: 175) argues “it was from opposition to this type of electoral relation that, step by step, a new alternative was born: an autonomous or independent unionism.” Despite a growing willingness to oppose both right and center, the new, democratically elected union leaders of the era did ultimately drag the labor movement into acceptance of legalization and the labor code (Collier and Collier 1991: 367).

At the end of World War II the Popular Front, and the PC-PR alliance, reached its peak. In March 1945, the PC won a record 5 Senators and 15 Deputies (Silva 2000: 210). When González Videla became President in November 1946, , the PC had 3 cabinet ministers. The PC grew 50% in the early González Videla years, and the president rescinded the ban on rural unionization (Ibid: 227). But a labor upsurge and US pressure soon combined to unravel the alliance and coalition.

A strike wave began in late 1945 and increasing social conflict made the close relations of the PC with the bourgeois parties more controversial internally and on the broader left (Ibid: 211). A January 1946 miners’ strike that saw five killed by the army at a meeting in Plaza Bulnes raised tensions (Ibid: 216). The PC made a left turn with a new line of “mass struggle” (Ibid: 213-214). President Gozález Videla and the cabinet went to the CTCh congress in February 1947 (Ibid: 228). It was too late. Labor conflict continued to rise and, under pressure, the President reversed course.

Under US pressure and the Truman Doctrine, the final nail in the coffin came with the expulsion of the PC from the cabinet in June 1947, its banning in 1948 and a new wave of military repression against labor that marked the dawn of the Cold War in Chile (Collier and Collier 1991: 390). Large coal miner and railway worker strikes in 1947 were harshly repressed. On October 21, 1947, 2,200 miners were arrested, as were leaders of the PC, and they were accused of trying to overthrow the government via the strike (Silva 2000: 233-234). The military occupied the coal mining region for 18 months (Ibid: 235). The September 1948 “Law in Defense of Democracy” banned the PC and put 26,000 people on blacklists, also removing them from the voting rolls (Ibid).

Repression temporarily tamped down strikes, which fell from including 80,000 to 8,000 workers from 1947 to 1948 (Ibid: 236). But in 1949 labor conflict and strikes began rising strongly once again, reaching 150,000 workers by 1952. This strike wave was led in crucial measure by state employees who were facing austerity as the government tried to cut expenditures to spend more on capital-intensive imports to alleviate bottle necks and reach the next stage of ISI development (Ibid: 240-241). On December 18<sup>th</sup>, 1948, the National Employees Group of Chile (JUNECH) was founded via merging several government employee unions. By 1950 it organized 300,000 state employees, a sector that had grown massively under ISI (Ibid). The union was led by legendary labor leader Clotario Blest, a Christian leftist who shared many syndicalist postulates.

On August 1<sup>st</sup>, 1949, the JUNECH called for “a struggle to unify all of the wage workers of the country around a unionist concept, strictly separated from and independent of all [political party] partisanship” (Ibid: 241). On August 16<sup>th</sup>, a major popular uprising – the “*chaucha*<sup>34</sup> revolution”- erupted. Blest and the JUNECH played a key lead role in the uprising (Ibid: 242). Student-led protests turned into clashes and riots. Repression left 8-30 dead (*La Tercera* October 19, 2019). The JUNECH and other unions backed the students by striking (Silva 2000: 242).

The PC and PS were weak and in chaos. Driven underground the PC split and expelled key members over the 1949 founding of an armed organization (Ibid: 238). The PS had split into three groups and lost much popular support (Ibid: 252). So, “what filled the vacuum of representativity left by the disorganization of the PS and PC, was an independent unionism” (Ibid: 243).

The labor movement began regrouping after the 1946 CTCh split in 1950<sup>35</sup> (Ibid: 250). Big state worker strikes in January 1950 against pay cuts and price rises forced a cabinet reshuffle and a decrease in repression of the PC<sup>36</sup> (Ibid: 245). In 1951 Blest formed and led a “Command Against Speculation and Price Rises” coalition that united labor and other social movements (Ibid: 250). It called a huge general strike June 27<sup>th</sup> which paralyzed Chile (Ibid: 251). It was clear “a new epoch had begun, an epoch in which ‘direct action’ took the place of alliances and negotiations” (Ibid).

### **Part V: Autonomy, Direct Action, Solidarity and Labor Threat (1952-1958)**

The years of Popular Front governments “left permanent scars” (Ibid: 249). Rural workers did not trust the left after their broken promises. The PS was no longer an important parliamentary party. The PC was illegal for a decade after 1947. Crucially, “during those years, the Labor Code was consolidated as an essential instrument in negotiations about wages and [work] conditions, a Code that did not accept as legitimate a relation of solidarity between unions” (Ibid). A strategy of electoralism, political partisanship and cross-class alliances had failed workers and unions (Ibid).

<sup>34</sup> A “*chaucha*” referred to 20 centavos, the Santiago Metro fare hike that set off the popular uprising.

<sup>35</sup> Twelve mainly anarcho-syndicalist unions formed the Unitary National Workers Movement (MUNT), six Socialist aligned unions formed the Committee of Relations and Union Unity (CRUS) and the two merged in September 1950.

<sup>36</sup> This was formalized in negotiations between González Videla, the Falange and PC leader Volodia Teitelboim.



This gave Blest, the anarcho-syndicalists and other advocates of labor unity, autonomy and direct action an opening. As labor strife continued in 1952, Blest's line of independence from the state and parties gained influence among rank-and-file and leadership alike in the labor movement (Ibid: 251). A teachers' strike formed ad hoc strike committees to get around the official Radical Party leadership of the unions and municipal workers, garment workers and students joined them in illegal solidarity strikes (Ibid: 253-254). Out of this struggle was born the Committee for Union Worker Unity (CUSO) (Ibid: 255). It was CUSO that called for a congress to form the CUT (Ibid).

Not only independent labor, but also ex-dictator Ibáñez took advantage of this exhaustion with the Popular Front coalition, disorganization on the left, distrust of politics and political parties and exasperation with price rises. He ran for President on an unabashedly populist and anti-partisan platform. His campaign promised "he will stop the politicking" (*Analisis* 177 1987: 29). He won the election on September 4<sup>th</sup>, 1952, with nearly 47% of the vote over candidates from the Liberal Party, the Radical Party and the Socialist Party, who ran Salvador Allende for the first time. In the campaign Ibáñez promised to rescind the "*ley maldita*" (Defense of Democracy Law) (Ibid). A PS schism- the Popular Socialist Party- backed Ibáñez and got 3 cabinet posts (Silva 2000: 265). In a first phase he pursued a "populist-inflationary" policy. He raised wages by decree, set up automatic inflation readjustment of wages and benefits for public and private workers and retirees and raised public spending (Ibid: 266). As a result, inflation and the current account deficit exploded (Ibid).

In the wake of bank employee, health care worker and teacher strikes using the "old" tactics of solidarity, autonomy and direct action that gave impulse to organized labor unity, the CUT held its Constituent Congress February 12-15, 1953 (Ibid: 267). Some 2,355 delegates directly elected by the represented base of 300,000 workers were by plurality Socialists, then Communists, then anarchists and then Trotskyists, with some supporters of the Radical Party and future Christian Democrats (Falange) and many independents (Ibid: 271). In its first elections for a 35 member National Directive Council, Blest's list, supported by the PS, PC PR and Falange along with many independents, won 23 seats. The Ibáñistas and Popular Socialists won 9 and anarcho-syndicalists won 3 (Ibid: 275). Both the PC and PS CTCHs, divided since 1946, merged into the new group. In its founding Declaration of Principles, the CUT (1953: 2-3) declared:

The current capitalist regime founded in the private property of the land, of the instruments and means of production and in the exploitation of man by man, which divides society into antagonistic classes, exploiters and exploited, should be substituted by a social economic regime that liquidates private property until arriving at a society without classes... The Unitary Workers' Central will realize a protest action framed within the principles and methods of the class struggle, conserving its full independence from all Governments and political party sectarianisms... unions are organisms for the defense of the interests and ends of the workers within the capitalist system. But, at the same time, they are organisms of class struggle that signal a means for the economic emancipation of the same [workers], that is, the socialist transformation of the society, the abolition of classes and the organization of human life through the suppression of the oppressor state.

For his first May 1<sup>st</sup> as CUT leader, Blest penned an open letter (dated April 22<sup>nd</sup>, 1953) to the worker laying out the organizations 4 key principles. These were ideological nondiscrimination, "absolute independence from the State, total independence from the political parties, and building from the base of the working class" (Silva 2000: 279). Just as the organization was born, a February

28<sup>th</sup> miners' strike in the South saw workers form a joint strike command with other unions in the region, declaring illegal solidarity strikes in support. The CUT immediately declared its backing. So, "the CUT was born as an organization of solidarity based in direct action" (Ibid: 268). Indeed, in the first years of the CUT, until 1956 when the parties recovered with the PC-PS alliance in the Popular Action Front (FRAP), the CUT and labor led the opposition to Ibáñez (Ibid: 280).

These principles were put to the test when the government violently broke up an illegal textile strike and factory occupation in the capital in July 1953 (Ibid: 288-290). The brutality and mass arrests caused the socialist Labor Minister Clodomiro Almeyda to resign. He was replaced by a member of the CUT National Directive Council, Leandro Moreno. As a result, the CUT expelled him (Ibid). The same year Ibáñez offered Blest the position of Treasurer General of the Republic if he resigned his position in the CUT, an offer the labor leader promptly rejected (Ibid: 266).

In 1954 the government changed course economically. Tensions with the CUT were also rising as 231 strikes were recorded that year in the crucial copper, nitrate and coal mining sectors. Mines and factories were shut down for months (Ibid: 290). Already the government had declared the CUT illegal in October 1953 and refused it any role in collective bargaining (Ibid). The PSP withdrew from the government, leaving it dependent on center and conservative forces (Ibid: 291). Blest was imprisoned after a particularly incendiary May 1<sup>st</sup> speech that year which led the CUT to declare a general strike on May 17<sup>th</sup> (Ibid: 295-296). The strike, which also demanded wage readjustments, a living minimum wage that was automatically readjusted, a freeze on firings and the derogation of the *ley maldita*, saw high levels of support among transport workers, industrial workers, miners and students (Ibid: 296). Ibáñez and Blest engaged in a very conflictual public polemic (Ibid: 297). September 15<sup>th</sup> the Finance Minister proposed an "Economic Rectification Plan" to detain inflation by freezing wages and banning strikes for two years (Ibid: 298). A September 30<sup>th</sup> state of emergency declaration banned protests, closed Congress and saw mass arrests and round ups of labor and student movement leaders, including Blest and CUT leaders. After their release, the CUT led a December 16<sup>th</sup> march of 40,000 workers in Santiago (Ibid: 299).

Labor conflict with capital and the state escalated further in 1955. Overall, there were 274 strikes, 212 of them illegal, which involved 126, 626 workers (Ibid). Leather and footwear workers had one of their most combative strikes starting February 12<sup>th</sup> that year, shutting down and occupying 160 factories (Ibid.) On February 25<sup>th</sup> Ibáñez held a secret meeting with Army and Air Force officials to plot a populist-military dictatorship, a plot that was exposed and led to mass resignations (Ibid). The CUTs main demand that year was for a bonus for all workers to offset increasing prices (Ibid: 300). This and many other labor conflicts in confluence led to the general strike of July 7<sup>th</sup> of that year (Ibid).

Pressure for a general strike came from the base, where worker assemblies, organized by unions and leaders as well as spontaneously by rank-and-file workers, proliferated in 1955. While CUT leadership generally supported the call there was division in the National Executive Council about exactly what type of action it should be (Ibid). They discussed the alternatives of a "warning" strike, a general strike for specific dates or an indefinite general strike (Ibid). In this discussion the anarcho-syndicalists and popular socialists argued for an indefinite strike, while the Communists, Socialists and Falange leaders argued for a "warning" strike (Ibid). The discussion turned into a serious internal debate on the merits of "direct action" versus "the parliamentary path" (Ibid: 301).

By the end of June of 1955, the bank employees' federation and the miners at Chuquicamata went on strike (Ibid). By a margin of 18-12 the National Directive Council voted for a "warning strike" that could be an antecedent for an "indefinite strike" on the cost of living, should the government not respond favorably (Ibid). Within the Council, the Communists,

“*Socialistas de Chile*” faction, Radicals and *Falangistas* had a solid majority (Ibid: 302). Underlying “the logic of the action of this majority was the supposition that the objectives of the working class would be principally achieved through parliamentary political action via the establishment of a Popular Government” (Ibid). Labor and strike action were a “support, subordinate to ‘political action’ of the class” (Ibid).

Despite this, the Popular Socialists were undergoing a left turn at that moment and decided to initiate an indefinite strike on their own accord, supported by a group of unions<sup>37</sup> (Ibid). So, on July 1<sup>st</sup> of 1955 a strike began that paralyzed nearly all transport activity (Ibid). The strike had nearly an identical platform to the “warning strike” plus a few union-specific demands. On July 4<sup>th</sup>, the CUT gave a 12 point memorandum of demands to Labor Minister General Eduardo Yañez (Ibid: 303). At a massive protest on July 6<sup>th</sup> in Plaza Artesanos a decision was made to start the general strike the next day without fixing an end date. The government had not responded to the CUT petition (Ibid).

On July 7<sup>th</sup>, 1955, Chile saw the largest and most participated in general strike in its history. In addition to public and private workers, students and shop owners also stopped activity. Most media suspended regular programming and supported the strike. Nearly everyone stayed home. A carabineros estimate was that 90% of the services of the country were not functioning and “Chile looked like a ghost country” (Ibid: 305). Perhaps 1.2 million workers, more than 90% of the labor force, participated (Ibid). The strike was totally peaceful, and the troops and tanks deployed had little to do. At CUT headquarters the National Directive Council and National Federations heads met that evening. A “violent discussion” broke out between those who wanted to extend the strike to “depose the government” and a “legalist sector” that insisted the strike was just a warning in pursuit of “economic improvements” (Ibid). After three hours of discussion without headway Blest offered a “dignified exit” for both sides: the strike would be ended, and the government given 10 days to respond to the memorandum or an indefinite general strike would begin (Ibid).

On July 11<sup>th</sup> Ibáñez received the CUT Council. He offered “technical commissions” to which the CUT could name a majority. They would work for one month on the 12 demands (Ibid: 306). The majority on the executive saw this as a way to find a peaceful solution and to neutralize the minority that backed an indefinite strike (Ibid). This bought the government time to prepare. The commissions began work July 18<sup>th</sup>, the day the indefinite strike was to have started (Ibid: 308).

With labor threat receded the government went on the offensive. Several state employee unions went on strike as their demands had not been met by the CUT agreement. In response the government arrested some 3,000 workers, 1,500 of whom were charged under The Law in Defense of Democracy (Ibid: 309). A state of emergency was declared. The CUT declared a solidarity strike September 9<sup>th</sup>, but via dialogue with PC officials it was called off two days prior. The government followed up with the Klein-Sacks Commission, a plan to halt inflation through freezing wages and liberalizing prices and trade. This led to a severe recession (Ibid: 310-311). An attempted CUT general strike on January 9<sup>th</sup>, 1956, was weak amid internal CUT divisions (Ibid). A Copper Workers’ Confederation (CTC) sectoral strike at that time led to another emergency declaration, a 2 month military occupation of the mines and the arrest of CUT leaders who had supported the strike. Blest spent the next four months in prison (Ibid).

It was in this context that the CUT switched its emphasis back to Congress, political pacts and legislative reform (Ibid: 313). In February 1956, the Popular Action Front (FRAP) was born. It united the Popular Socialists and Chile Socialists with the PC and various smaller parties (Ibid).

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<sup>37</sup> The Industrial Railway Federation of Chile, The “Santiago Watt” Machinist Stokers Federation, the State Collective Transport Federation and the Maritime Confederation of Chile (Silva 2000: 302).

The PC still sought a “broad front” that would include the Radical Party and Christian Democratic Party, formed from the Falange in 1957 (Ibid: 314). In February, the CUT held its 2<sup>nd</sup> National Conference, at which it was decided to support the FRAP who had put forth the candidacy of Salvador Allende of the PS for President. This caused the CUT to split, with the anarcho-syndicalist unions and leaders withdrawing (Ibid: 328). In March 1957, the Socialist Party reunited. From March 1957 on social conflict escalated gravely. Frequent clashes with police led to many dead and wounded. In the absence of the CUT, the student movement took the lead (Ibid: 375).

These alliances did bring some benefits. In the closing days of the Ibáñez administration the FRAP with the support of the PR and PDC got a democratic electoral reform. Among other things it ended rural over-representation, barred vote harvesting from campesinos by landowners and generally opened up electoral competition in the countryside (Ibid: 322). The Law in Defense of Democracy was also finally repealed (Ibid). The Klein-Sacks Commission policies were also reversed. Yet this progress this came at the cost of CUT autonomy and lessened labor threat (Ibid).

### **Part VI: The Second Political Incorporation (1958-1970)**

The surprising success of Allende and the FRAP in the September 4, 1958, election seemed to validate the parliamentary thesis, promising the left could gain power through voting (Ibid: 384). In a very close and competitive contest Allende finished ahead of the PDC candidate Eduardo Frei Montalva, and the Radical Party candidate, finishing with 29%, just 33,000 votes shy of Jorge Alessandri, son of the former President (*Servel Chile*). Alessandri took office November 3<sup>rd</sup> and once again tried to detain inflation by slowing wage growth and reducing government spending (Ibid: 389-391). The results were a severe recession and a balance of payments crisis (Ibid). By the early 1960s the ISI model was clearly showing exhaustion as nearly all the easy and obvious substitutions of imported goods had already been made. During the 1950s total real industrial production grew at an annual rate of only 3.5%, less than half the rate of the 1940s (Collier and Collier 1991: 558). Under the conservative Alessandri administration the CUT took a clearly oppositional role, but with an eye to FRAP electoral prospects it was still contained (Ibid: 560). With a failure to contain inflation or accelerate growth political polarization heightened (Ibid).

Alessandri’s attempt to revive ISI-based growth involved investing in intermediary and durable consumer goods manufacturing. This was more capital intensive and he therefore sought to encourage foreign capital investment, from the US first of all, which meant liberalizing rules for capital mobility and investment (Ibid: 389-390). While foreign investment grew, wages did not keep up with inflation. Costs of living grew 33% in 1959, wages just 10% (Ibid: 390).

In February 1959, Blest spoke out against Alessandri’s continuist economic policy. While supporting the FRAP and PDC fighting these measures in Congress, he also argued that the CUT should return to its founding principles “and recuperate our ancient form of struggle, direct action” (Ibid: 391). The PC, PS and PDC, who had formed an alliance in Congress, rejected this strategy (Ibid: 392). In its founding principles the PDC stated of the Labor Code, “the established structures” should be “transformed from within, by democratic and legal methods” (Ibid: 381). The PC, PS and PDC all attacked Blest and demanded a change in the CUT’s Declaration of Principles (Ibid: 393). With the clash between Blest and the FRAP escalating, the PC emerged as the dominant force in the CUT’s 2<sup>nd</sup> Ordinary National Congress<sup>38</sup> December 4-8, 1959 (Ibid). There, in the interests of unity of the PDC and PR, the CUT’s founding Declaration of Principles

<sup>38</sup> The PC had 700 delegates, the PS 600, the PDC 150 the PR 80 and the POR 36 (Silva 2000: 393).

was changed (Ibid). Among many, “there was one clear difference: in 1953 socialism was posed as an ‘immediate’ end, but in 1959 economic welfare that eliminated class antagonisms was the end, and, in the long run, emancipation” (Ibid: 395). The main axis of the Central’s praxis also changed, from direct action in 1953 to parliamentary politics and political alliances in 1959 (Ibid: 394). Despite this setback, Blest continued to push for his strategic orientation of the labor movement and CUT (Ibid: 395).

In February 1960, Blest accused the council of being overly focused on March municipal elections. He argued that, “What we need now, to confront the Government policy of wage freezes, is a solidarity of deeds. Every strike for wage increases should be backed by all unions, and if the bosses insist, all of them united should go on national strike” (Ibid). It was on just such wage and cost of living issues that strikes began to pick up again in 1960 after a quiet 1959. What began as a new year miners protest for a 50% wage increase resonated in bottom up manner.<sup>39</sup> On March 17<sup>th</sup>, the CUT called a general strike. Humberto Valenzuela, an active movement organizer, said,, put it, “despite the errors of CUT leadership, which persisted in the tactic of isolated struggles, a number of federations and unions tried to coordinate their combat through the March 17<sup>th</sup>, 1960, strike... 20 federations adhered to the strike, adding up to around 150,000 workers countrywide” (Ibid: 397). With this action the CUT again took its place as leader of popular dissatisfaction (Ibid). Blest and the CUT helped lead another major Southern miner strike came in May (Ibid: 398).

At a protest calling for a mandatory national wage increase matching the rise in the cost of living on November 3<sup>rd</sup>, Blest made an especially fiery speech inspired by the Cuban Revolution in front of 40,000 attendees, which was interpreted as a call to overthrow the government (Ibid: 399). He was beaten and arrested at the head of the protest that followed, and two workers were killed (Ibid: 400). The result was that CUT called a November 7<sup>th</sup> general strike that was nearly as big as that of 1955 (Ibid). Blest and the CUT leadership again clashed on whether to extend the strike past one day (Ibid: 401).

Upon his release from prison on December 5<sup>th</sup>, Blest began to organize labor militants in a clandestine revolutionary group called the November 3<sup>rd</sup> Movement (M3N) (Ibid: 402). The group included socialists, anarchists, Trotskyists and independent left unionists committed to revolution, expropriation, labor movement autonomy from the state and political parties and “leadership and administration of the country’s economy by Workers and Peasants’ Councils” (Ibid: 403). They began preparing for an indefinite general strike (Ibid: 404-405). They organized until the point of having a majority in the Full National Council, which oversaw the smaller National Executive Council, who ran the CUT day-to-day (Ibid: 405-406). At a March 19<sup>th</sup>, 1961, meeting of this *Ampliado* a “platform of struggle” was adopted to organize base-level workers’ assemblies for an indefinite general strike (Ibid: 406). This vote went against the party lines of the PC and PS, even as some of their own militants in the M3N supported it (Ibid). By August, numerous labor conflicts erupted<sup>40</sup>, supporting each other in often illegal solidarity actions (Ibid: 407). On August 24<sup>th</sup>, a Santiago newspaper announced 180,000 workers were on strike around the country (Ibid).

Although PS head Raúl Ampuero had found out about M3N and ordered his militants to withdraw from it, the CUT National Executive Council felt pressured by the rank-and-file strike organization to declare a 48-hour national general strike for August 29<sup>th</sup> (Ibid). Silva (Ibid) notes, “It is not hard to imagine the situation during the winter of 1961: a general strike organized (no one knew how) against the proposals of the PS and PC, and led by Clotario, a known ‘ultra’.” So,

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<sup>39</sup> As the struggle continued, it merged with other struggles by teachers, state fiscal employees and metallurgy, health care, telephone, national power company and textile workers all demanding a 50% wage rise (Silva 2000: 397).

<sup>40</sup> These included railway, steel and mineworkers as well as the education sector (Silva 2000: 406-407).

“it should not surprise us” that an emergency meeting of the National Council of Federations was called on August 28<sup>th</sup> at which only 11 out of 33 federations was represented and it was agreed to suspend the strike (Ibid: 408). Apparently the PC had made an agreement with Alessandri (Ibid). Blest resigned as President of the CUT and left the meeting and the organization (Ibid: 409). The battle between a path of autonomous direct action and partisan parliamentary politics was decided.

Although there was one last great general strike in the era, on August 19<sup>th</sup>, 1962, the rest of the Alessandri term was relatively quiet on the labor front and the CUT focused on supporting the FRAP in the electoral arena. Blest went on to form smaller “unified front” (multi-tendency) revolutionary groups: The Movement of Revolutionary Forces (MFR) in October 1962, then the PSP May 1<sup>st</sup>, 1964, then the Revolutionary Left Movement in August 1965 (MIR) (Ibid: 411-412).

In the September 4<sup>th</sup>, 1964, Presidential election Allende and the FRAP surprised again, garnering 39% and nearly a million votes. Yet, the center and right had unified behind PDC candidate Eduardo Frei, who triumphed with 56% of the vote (*Servei*). Frei’s “Revolution in Liberty” attempted to find a centrist ‘third way’ solution between Marxism and economic liberalism that might reverse the process of political polarization and drain support from the left. In this he was supported by US President Kennedy and the Alliance for Progress. His popular policies included construction of 130,000 units of affordable housing and 3,000 new schools and a rural unionization campaign that saw campesino unions grow to more than 550,000 members (Collier and Collier 1991: 560-561). He even began a land reform program in 1967 that redistributed some 3.5 million hectares of land from 1,300 expropriated properties to 30,000 landless worker beneficiaries (Ibid).

However, Frei was unable to maintain a viable policy consensus in the face of increasing pressure and radicalization on both the left and the right. The CUT maintained its oppositionist stance despite an increasing PDC membership within member union ranks, especially in the newly organized rural sector (Uggla 2000: 57). The CUT even called three general strikes during his term in office, two targeted specifically at President Frei (Ibid). In turn, Frei sought to undermine the independent labor movement by making it easier to set up parallel unions in a plant and by barring the CUT from policy-making (Angel 1972: 198-200; Collier and Collier 1991: 561; Uggla 2000: 58). In addition, the CUT opposed Frei’s plan to take 25% of annual wage adjustments for a “workers capitalization fund” and his use of violent repression to end a 1966 miners’ strike (Barria 1971: 130-131; Angel 1972: 200-203; Collier and Collier 1991: 561-562). This environment of mutual antagonism contributed to the process of labor radicalization and a broader and more political conception of issues and policies that were central to the interests of the CUT. Taxes, agrarian reform and even the war in Vietnam became conflictive labor-state cleavages (Collier and Collier 1991: 562). The Frei years were characterized by heightened labor-state conflict, rising labor movement radicalization and polarization of the political system. Even in this environment, or because of it, links between the CUT and the PC and PS strengthened. All of these trends accelerated in the last years of his term (Collier and Collier 1991: 562-563).

## **Part VII: Political Incorporation, Labor Upsurge and Crisis (1970-1973)**

Reorganized and replacing the FRAP in October 1969, the Popular Unity (UP) coalition combined the PS and PC with the PR and smaller left parties.<sup>41</sup> On September 4<sup>th</sup> of that year

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<sup>41</sup> These were the Movimiento de Acción Popular Unitario (MAPU), the Partido de Izquierda Radical (PIR), Acción Popular Independiente (API), the Izquierda Cristiana (IC) and the MAPU Obrero y Campesino.

Allende won an extremely close, 3-way election over Frei and Alessandri when the center and right split.<sup>42</sup> His lack of an absolute majority meant Congress had to ratify his elevation to the Presidency, which required the backing of the PDC. The election of the UP and Allende immediately and dramatically changed the situation of the labor movement and its relations with the state. With this election the CUT and its main allies amongst the political parties, the Socialists and the Communists, went from opposition to the head of the governing coalition. Unlike the Popular Front, the UP government was headed by class-based parties with strong ties to labor. The working class, the CUT and unions in general became the most important pillar of support for the new government (Winn 1976: 74).

The CUT received important tangible benefits quickly upon the inauguration of the new administration. CUT leaders were appointed to the cabinet, representing the finance, labor, public works and later interior ministries (Collier and Collier 1991: 563). In addition, CUT Executive members sat on important state bodies, including the national planning office (ODEPLAN) and the state development corporation (CORFO), and held important positions in several key public companies (Ibid; Ugglá 2000: 60). The CUT was given legal recognition for the first time. In a sharp break with preceding history, sectoral federations were legally recognized and allowed to collectively bargain at the sectoral level (Collier and Collier 1991: 564; Ugglá 2000: 60). Moreover, the labor movement and the CUT were actively involved in many facets of policy formulation and implementation, including in areas beyond the CUT's traditional concerns with labor policy. The CUT and government negotiated annual agreements on wages and labor matters more generally (Collier and Collier 1991: 564). Furthermore, using legislation from the Frei period, the UP government instituted tripartite commissions of labor, employer and government representatives to set wages and work conditions in the private sector. Each side had three seats on such commissions and the executive, as tie-breaker, held great power (Ugglá 2000: 60).

Another important aspect of government policy for labor was a series of nationalizations and expropriations initiated by the state. The most important case was the nationalization of the copper mines under the state run copper company CODELCO. From 1970 to 1973 the number of state controlled companies engaging in productive activities rose from 44 to 377 (Ibid). In practice, nationalizations occurred haphazardly, under labor and left social movement pressure, including from the Left Revolutionary Movement (MIR). While the original plan called for about 80 firms to be taken into the 'socialized' state sector, the actual number grew much higher. Landsberger and McDaniel (1976: 527) note, "the socialized sector grew to be much larger than anticipated. By early 1973 it consisted of approximately 250 firms and controlled 80 percent of industrial production and 50 percent of GNP. By the middle of 1973, another 250 firms had been taken over." Crucially, part of the government's plans called for increased worker participation in the running of state controlled enterprises (Collier and Collier 1991: 564). Due to the discretionary nature of much of Chilean labor law and social policy, labor's ability to obtain favorable outcomes from official government agencies increased significantly (Winn 1976: 75). In addition, by this point the CUT organized 1,500 industrial unions with 200,000 members and 2,250 professional unions with 230,000 members (*Analisis* 177 1987: 33). This was soon enhanced by the 250,000 member National Campesino Council organizing rural agricultural workers and the 100,000 member Santiago Provincial Command of Pobladores organizing shantytown dwellers (Ibid).

The working class saw concrete material gains from the installation of an unabashedly pro-worker government. During the first year of Allende's presidency, real wages grew by 35% (Winn 1976: 74) and the share of national income that went to wages increased from 55% to 66% in 1971

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<sup>42</sup> Allende won 36.6% with 1,075,616 votes, Alessandri 35.3% with 1,036,278 and Frei 28.1% with 824,849 (*Servei*).

(Collier and Collier 1991: 564). The 1971 agreement between the CUT and the government called for an increase in the minimum wage of 66.7%, more than double the inflation rate (Ibid). Winn (1976: 74) notes that the government also invested significantly in working class employment, housing, nutrition and education. On a macro-economic level, the government's wage policy, public works program and liberal monetary policy increased demand and decreased unemployment (Ibid). The UP initiated a large-scale housing program, a program for renters of public housing to own their homes, a free milk program for children, and subsidized school and factory lunches. Special clinics, local health committees and "health trains" brought low-cost or free health care to the poor, and increased funding went to the National Health Service (Ibid). Finally, the government initiated adult literacy campaigns, expanded adult education at the workplace and doubled university enrollments, with spaces set aside for workers and their children (Ibid).

In addition to material benefits, seeing the government direct its resources away from repression of the working class and towards support for that class, workers in Chile began to lose their fear of government repression and increased their confidence to challenge employers and capital as the Allende years proceeded. This factor had crucial implications for the course of the Allende presidency and the role of unions and the CUT as conflict and polarization increased.

President Allende and the UP's main faction pursued a cautious strategy on their "Chilean road to socialism", careful to stay within the institutional confines of Chile's legal and political system. This strategy envisioned an alliance with the middle classes and a clear electoral majority for socialism in the 1976 elections. In this vision, long espoused by the PC and the PS, Allende's presidency was not meant to embody the transition to socialism, but rather be a preparatory stage wherein the working and middle classes would increasingly come to see their common interests against the entrenched elite, landed oligarchs and internationally linked (especially US) capital. The "bourgeois-democratic revolution" in the PC's terminology, would nationalize foreign owned, export oriented big capital and break the landowner oligarchy via expropriation and land reform. This would leave the traditional right politically isolated and severed from its economic base. In April 1971, the UP won 50.9% of the vote in municipal elections, reinforcing this strategy (*Servel*).

However, under the conditions of increasing working class radicalization and political polarization, the government was unable to maintain this strategy. With the loss of fear, the working class was spurred in this era, "into an active agency of change, the protagonist of its own destiny" (Winn 1976: 75). A process of autonomous labor rising began early in the Allende administration and was encouraged by government efforts at worker mobilization and by hard left factions within and outside the government that promoted ever more confrontational actions. There were many calls from inside and outside political and labor institutions for the working class to seize power. In the first phase of this movement "from below" the unionization of larger industries was largely completed. Many management-dominated unions were recaptured by workers (Winn 1976: 75). Many company level unions demanded and received pay hikes higher than those staked out in agreements between the CUT and the government (Ibid). By 1972 the overall unionization rate reached its historic peak at 29.4% of the labor force (Frias 1993: 269; Ugglá 2000: 112).

After the first year of the UP the economy began to slow, and inflation increased. Political opposition to its policies mounted and politics became more polarized than ever. In this context, factory occupations neither authorized nor approved by the government began in 1971 (Winn 1976: 76). These occupations were encouraged by the MIR and left elements in the PS. They were meant to force the hand of the government to nationalize the factories. The occupations heightened the atmosphere of confrontation and spurred fears of a general attack on private property.



Faced with the reality that the first phase of expropriations had proceeded too quickly and in an uncontrolled manner, and crucially saw declining middle class support, Allende and the UP gathered at the Conclave of Lo Curro in June 1972 to map out a major strategic change. Allende and his allies in the Socialist Party, as well as the still more cautious Communist Party, wanted to decelerate the trends that had been set in motion and consolidate previous gains. They laid out a strategy to do so. They supported a policy of economic consolidation and political conciliation to tamp down the ever-accelerating political polarization afflicting the country (Winn 1976: 78-79; Collier and Collier 1991: 564-565). Economic positions were to be consolidated through legal mechanisms and a return to economic orthodoxy was intended to help quell inflation and decrease political antagonism. Meanwhile, dialogue with the PDC would attempt to bridge the working class/middle class divide and stabilize the political system. Expropriation of firms was to be limited and unauthorized factory occupations stopped (Winn 1976: 78-79; Collier and Collier 1991: 564-565). But there was strong disagreement within the governing coalition. More radical elements of the PS viewed confrontation with the bourgeoisie as inevitable and wanted to carry out a revolutionary breakthrough while working class mobilization was at a high point (Winn 1976: 79).

The CUT adopted the Allende-PC line, though the rank-and-file and leadership of the labor movement was very divided. Not only were UP divides between moderates and radicals reflected in the CUT and the movement, as well as the divides between UP supporters and radicals outside the UP, but there was also a significant sector of the CUT base and leadership that identified with the Christian Democrats and was antagonistic towards the UP government. The CUT had become a “mini parliament” importing the divides of the political system in the name of “doing politics” (*Analisis* 177 1987: 33). A private Catholic Church document noted “in the labor world the union organizations tend to align around the interest of the different parties” (Ibid). The UP-PDC conflict was especially sharp and there was a divisive split between the sectors of labor identified with each of these at the December 1971 CUT Congress. PC militant Luis Figueroa was elected President and PS militant Rolando Calderón was elected Secretary General. The PDC delegates withdrew from the Congress, “proclaimed their autonomy” and protested the representativeness of the CUT (Ibid: 34). The CUT won its first legal recognition in January 1972 (Ibid). In May-June 1972 CUT Executive Council elections, PDC candidates won nearly 30% of votes (Winn 1976: 78).

Political fragmentation within the ruling coalition contributed to popular mobilization escaping the control of the Allende government and the CUT (Landsberger and McDaniel 1976: 527; Winn 1976: 79; Collier and Collier 1991: 565). Encouraged by this split and aided by left factions in and out of government, in June 1972 workers began to form *cordones industriales* which were spontaneous, bottom-up, informally organized, geographically-based associations of factories which had been taken over by workers. The MIR and other radical groups played a significant role in this upsurge (*Analisis* 177 1987: 35). The first was *Cordón Cerillos*, made up of workers from 30 factories and established on June 19<sup>th</sup>, 1972. Ultimately 100 *cordones* were built, 20 of which were in Santiago (Silva 1998: 228). The CUT, following its adoption of the Allende-PC line, attempted to control worker militancy, behaving more as the labor arm of government than the representative of the workers to government. Accordingly, it showed a great distaste for the *cordones*, viewed as its competitors (Winn 1976: 82; Collier and Collier 1991: 565). The CUT harshly condemned the “ultraism” of the MIR and *cordones* (*Analisis* 177 1987: 35).

Over the course of 1972 the opposition was becoming more organized and united, as well as more militant in its enmity of the government. The main axis of opposition became an alliance between the PDC and the rightist National Party (PN) seeking to overthrow the government (Ibid: 34). A major attempt to do this was the October 1972 opposition strike, which included the peak

business groups - the Society for the Advancement of Manufacturing (SOFOFA) and the SNA (National Society for Agriculture). It was also supported by many medium and large commercial establishment and by the truckers and some professional schools (Ibid: 35). This spurred a radicalization on the left. In its wake, factory and land occupations and setting up of “coordinators” and *cordones* accelerated.

The government was alarmed and tried to “calm the waters” by redoubling efforts to reach out to the PDC, forming a new cabinet with heavy military representation and calling on workers to return non-authorized expropriated property (Silva 1998: 308-310). This led to the first direct government-*cordones* confrontations in January and February 1973 (Ibid: 310). While Allende and the UP adopted the slogan “no to civil war,” the Cordón Cerillos Maipú declared: “We, the workers, know... there cannot be social peace between exploiters and exploited” (Ibid: 313).

A final turning point for the opposition were the March 1973 Congressional elections. The PDC-PN, united in the Coalition for Democracy (CODE) alliance, got 54.7% of the vote while the UP got 43.4% (*Serve!*). However, that was short of the 2/3<sup>rds</sup> needed to remove Allende from office and actually resulted in CODE losing and the UP gaining 2 Deputies, out of 150 total (Ibid). The opposition’s commitment to the democratic and legal process collapsed (*Analisis* 177 1987: 35).

Labor movement divides sharpened as polarization spiked. In late April of 1973, the PDC led El Teniente copper miners’ union struck for a 41% wage rise the government had promised. The UP accused it of destabilizing the government (*New York Times* June 28, 1973). A miners’ march in Santiago clashed with carabineros. The CUT called on workers to “defend their workplaces” as the “arms control law” was approved by the opposition-led Congress and left workers subject to grave repression (*Analisis* 177 1987: 35). A new wave of occupations and *cordones* followed in May and June. In May, the Cordón Cerillos Command called on the *cordones* of Santiago to form a Provincial Command and for workers all over the country to “construct their Workers’ Provincial Commands to proceed rapidly to a National Coordinator of these provincial commands” (Silva 1998: 314). They added “we will not wait for the current leadership of the CUT to give an answer to our problems, for how much they have shown us they are distant from the real aspirations of the working class in these moments” (Ibid). On June 21<sup>st</sup>, the CUT called a general strike in support of the government as shantytowns and factories were raided under the arms control law (Ibid).

On June 29<sup>th</sup>, a military uprising led by Colonel Tupper attempted to initiate a coup. The CUT and *cordones* supported the government and constitutionalist General Prats suppressed the attempt (*Analisis* 177 1987: 35). One result was again a radicalization of the labor movement and an acceleration of occupations and the formation and organization of *cordones* which reached their peak number in September. On September 9<sup>th</sup>, the CUT called for “a general mobilization of the workers” as it was becoming aware of the impending situation (Ibid). But it was too late by then.

The government failed in efforts at dialogue with the PDC and in restraining or regaining control of autonomous worker mobilization. And the coup attempt that was carried out on September 11<sup>th</sup> was successful. When Allende died in La Moneda the day of the coup, CUT president Figueroa was with him (Ibid). Many workers had occupied their workplaces and were attacked, waiting in vain for arms promised to them by the CUT and the UP parties (Ibid).

## **Chapter 4 - The Origin of the Labor Plan: State Terror, Labor Threat and Institutionalization Under Pressure (1973-1980)**

The first period of the military dictatorship initiated by the coup on September 11<sup>th</sup>, 1973, was characterized by the spectacular use of state violence and repression, as well as by an initial reticence towards formal institutionalization. There existed a certain indecision regarding policy direction and even an incoherence in many of the actions and statements of the regime. Still, it was a highly centralized, top-down apparatus. Power was concentrated in the four-man Junta and within that in General Pinochet and his circle of key advisors. The military government oversaw a historic restructuring of the Chilean political economy, for which it became known around the world. Especially prominent were the "Chicago Boys" economic reforms, starting with a 1975 anti-inflation "shock treatment". The military state took a hardline approach to labor overall via mass violence, the resultant generation of fear and the economic decimation of neoliberal policy. Labor opposition on a "political" level faced particularly intense repression, especially left labor opposition. Despite tentative, contradictory efforts to engineer regime-loyal labor organizations, and a proposal from Labor Minister Díaz to re-legalize labor institutions, a "*mano duro*" policy prevailed, particularly after Sergio Fernández' 1976 appointment as Labor Minister.

In those first years the state did not legally institutionalize labor conflict, nor the political system. The *Junta de Gobierno* ruled by decree and with an ad-hoc and self-justifying series of pronouncements under various states of emergency. State authority rested on a constant threat of violence that awaited dissent or disobedience and the pervasive fear it engendered. State labor practice did not conform to any law and was not legitimized by representative institutions.

The fundamental conflict of interests between the state and labor emerged in stark relief. Structural conditions for the historical emergence of neoliberalism were met. Under pressure to consolidate political control and facing chronic inflation, the ruling factions of the military state saw restrictive monetary policy combined with trade and financial liberalizations were pressing needs. As a consequence, labor saw declining real wages, spiking unemployment and growing informality. Absent institutional channels to contain labor conflict, this fundamental conflict of interests could only play out on the de facto level. Even under conditions of harsh repression labor opposition grew, radicalized and unified, eventually threatening the very existence of the military government. At that point, further repression carried grave risks. Pinochet was pressured to institutionalize labor relations. This chapter will address state-labor dynamics from the onset of the dictatorship to the origin of the Labor Plan. Part One reviews the antecedent conditions in the years prior to the critical juncture labor threat. Part Two reviews that critical juncture. Part Three reviews the institutional origin of the Labor Plan spurred by that critical juncture labor threat.

### **Part I - Antecedent Conditions (1973-1977)**

#### **The State: From Absolute De Facto to Institutionalized Military Rule**

The day of the coup the military took control of Chile very quickly. They met minimal military resistance, indeed far less than they appear to have anticipated (Huneus 2000: 94-95). The coup leaders were able to impose their political authority and centralize control in the *Junta de Gobierno* rapidly and thoroughly. The morning after the coup the military declared themselves the "Supreme Command of the Nation" and formed a four-man Junta, the heads of the Army, Navy,

Air Force and the *Carabineros* national police force.<sup>43</sup> General Pinochet was named its President (*Bando* No. 2 September 12, 1973). The *Junta de Gobierno* remained the primary political decision-making organ of the state until the March 11th, 1990, government transition.

By the end of 1973 the Junta eliminated key potential institutional checks on their rule. They closed the National Congress (*Bando* No. 29, September 13, 1973) and the Constitutional Tribunal (DL 119 *Diario Oficial de la República de Chile*, November 10, 1973) and suspended review by the *Contraloría General de la República* of the legality of administrative decrees and resolutions (Barros 2002: 46-47). They rendered the Supreme Court impotent, invoking the state of war to send judgments and cases to military tribunals. The Junta later legislated formal power to veto the Supreme Court (DL 788 *Diario Oficial de la República de Chile* December 4, 1974). September 19<sup>th</sup> the Junta suspended and took control of local and regional governments and state administrations, firing mayors and appointing military commanders to govern in their place (DL 25 *Diario Oficial de la República de Chile*, September 19, 1973). On October 2<sup>nd</sup> the Deans of the National Universities were fired and replaced with military appointees who were current or former military officers (DL 50 *Diario Oficial de la República de Chile*, October 2, 1973).

Yet, owing to the lack of any initial institutional plan among the military coup leaders, a legal, institutional and political vacuum followed the coup (Barros 2002: 37-38). Plotting for the coup had to be done with great secrecy due to divisions at the top of the armed forces. Pinochet's definitive intentions were not known until just days before the coup; he was the last high-ranking officer to sign on to the plan. A "lack of prior agreement on the institutional and legal structuring of military rule was evident during the first days after the coup in the form of a situation of total legal exception and absolute de facto rule" (Barros 2002: 44).

In this context, "military commands took the place of ordinary civil and penal laws" and the armed forces issued *bandos*, defined in the *Código de Justicia Militar* as "exceptional edicts" to regulate troops and the "inhabitants of occupied territories" during time of war (Ibid). The first of the *bandos*, issued September 11<sup>th</sup>, 1973, notified the population that acts of sabotage would be punished "in the most drastic manner possible, at the site of the act, and with no limit beyond the decision of the authorities" on the scene (*Bando* No. 1). In the days to follow, further *bandos* were issued to: institute a curfew; summon prominent political figures to turn themselves in at the Ministry of Defense; ban all public assemblies; authorize summary executions for any armed resistance; institute press censorship; suspend radio and TV broadcasts; and dissolve the National Congress. The Junta even issued a *bando* to justify the coup itself (Barros 2002: 44).

The Junta itself was only formally constituted September 12<sup>th</sup>, the morning after the coup, in a quickly drafted *Acta de Constitución de la Junta de Gobierno* (DL 1 *Diario Oficial de la República de Chile*, September 18, 1973). In a grand exemplar of the basic ad hoc and de facto nature of the regime, this Act was written the 12<sup>th</sup> and retroactively dated to the 11<sup>th</sup>. It was then published in the *Diario Oficial* the 19<sup>th</sup>, the first day it re-opened following sniping downtown, in an issue itself retroactively dated to September 18<sup>th</sup>, to coincide with Chilean Independence Day (*Diario Oficial de la República de Chile*, September 18, 1973; Barros 2002: 46 footnote 22). The *Bandos* also exhibited an ad hoc and de facto character. Their own justification was not laid out until DL 4 defined the "state of emergency" (*Diario Oficial de la República de Chile*, September 18, 1973). Thus, the *bandos* evolved into, and were retroactively justified by, the Decree Laws.

On September 13<sup>th</sup>, the first official meeting of the Junta, it was agreed that each military commander should resolve emergency situations independently and inform the Junta afterwards.

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<sup>43</sup> General Augusto Pinochet Ugarte, Admiral José Toribio Merino Castro, General Gustavo Leigh Guzmán, and General César Mendoza Durán.

Decree Laws were also enacted that gave broad authority to division commanders and officers in charge of emergency zones. These included the authority to command, prohibit and sanction acts that were punishable only because they were crimes according to *bandos* issued by the very same officers (Barros 2002: 46 footnote 22). Thus, “the first days after the coup were marked by an implosion of legal norms and an explosion of military prerogative” (Barros 2002: 47).

The Act that formally constituted the Junta clarified little about whether and how it would exercise executive, legislative, and constituent functions. Similarly, though this first Decree Law designated General Pinochet as President of the Junta, it conferred no specific powers with this title (Barros 2002: 46). Thus, in the first period of military rule “executive and legislative powers were indiscriminately fused” and “the members of the Junta were little concerned with making rules that would specify who would exercise specific powers and regulate how decisions would be made among themselves” (Barros 2002: 38; 48).

In the initial months of the military regime the Junta met nearly daily, typically in secret sessions that lasted from morning until late at night, and decided on every type of problem, often in minute detail (Barros 2002: 50). Key topics that preoccupied the Junta at these early meetings included: “internal security, appointments, the handling of ‘prisoners of war,’ investigation of crimes allegedly committed by the leaders of the *Unidad Popular* (UP) government, foreign affairs, economic policy, relations with the judiciary, and administrative reorganization” (Ibid). By informal arrangement all decisions were made by unanimity with any member able to block.

On November 16<sup>th</sup>, 1973, the Junta enacted a Decree Law clarifying that "*Mando Supremo de la Nación*" entailed the full exercise of constituent, legislative and executive powers, with all three being indistinguishably embedded in the Junta as a body (DL 128 *Diario Oficial de la República de Chile*, November 16, 1973). This formalized extreme concentration of power within the Junta and the four commanders who made up this body. Yet, within the Junta, “the absence of known rules and faculties meant that, beyond informal mutual expectations, the roles and powers of the commanders in the Junta were unclear” (Barros 2002: 51). This vacuum allowed Pinochet to make multiple attempts to monopolize power. These attempts led Navy Admiral Merino and Air Force General Leigh to demand “a formal clarification of the Junta’s institutional structure” (Barros 2002: 51). This led directly to partial separation of legislative and executive functions and formalization of unanimity-rule decision making at the top of the state, a first institutionalization.

### **President Pinochet and the *Junta de Gobierno***

Pinochet is often thought to have had few, if any, limitations on his control of the state in the military dictatorship he led. Even in a collegial Junta he was “first among equals” and the key symbolic personification of the government throughout military rule. He had crucial institutional resources and structures under his sole control. He was Commander in Chief of the Army, oldest and largest of the armed forces (Huneus 2000: 139-143). In addition to being President of the Junta, Pinochet was later named President of the Republic and, as such, head of state as well as head of government (Huneus 2000: 144-148). Pinochet was the only person in the government who was able to wield any control over Colonel Manuel Contreras, and thus the activities of the DINA (Huneus 2000: 160-162). Furthermore, Pinochet exerted sole or dominant influence over the advisory committees that went on to play critical roles in regime policy formulation, such as the *Comité de Asesoría y Coordinación Jurídica* (COAJ) (Barros 2002: 50; 53).

His importance was such that some characterize the military government as personalist, even “sultanistic” (i.e. Huneus 2000; Ensalaco 1999). Pinochet was ultimately ruler of Chile for

16½ years, surpassing even the colonial era Spanish governors whose traditional title of “*capitán general*” he took (Huneus 2000: 130). Moreover, he retained the title of Commander-in-Chief of the Army for another eight years, and, even after that, transitioned to being a Senator-for-Life, a position created by the 1980 Constitution promulgated by the military government itself (Ibid).

Finally, as a political figure, he was clearly the center of the regime. It was Pinochet who gathered and maintained the support of the various factions that enabled the regime to perpetuate itself in power for 16½ years and exit with many of its prerogatives intact. In addition to support within the Army and amongst the leadership of the other armed services Pinochet maintained the political support of crucial civilian groups in the pro-regime coalition.<sup>44</sup> Pinochet maintained a significant amount of popular support throughout his time in power, and until his 2006 death.<sup>45</sup>

Given all of this, the maneuvers Pinochet attempted in order to centralize absolute power are strategically comprehensible. However, it is crucial to note, at least with respect to the other members of the governing Junta, these efforts were ultimately unsuccessful. It was the Junta as a body, where each member had an effective veto, which maintained ultimate control of the state.

Early on, the lack of definition of the powers and term of the Presidency of the Junta was a significant uncertainty. Before the coup there was an informal agreement to set up a one-year rotating Presidency, which Pinochet referred to in an early press conference (*The New York Times* September 29, 1973). However, Pinochet and his advisors, especially the COAJ, quickly began scheming for Pinochet to be named President of the Republic and do away with the idea of rotation. The ultimate strategy was institution of an absolute dictatorship (Barros 2002: 52; 56). When non-Army officers discovered this plan, it triggered crises in the regime, in December, 1973, and again in April, 1974. Draft statutes in the COAJ would have sidelined the Junta and eliminated unanimity (Barros 2002: 56). In a 1988 interview Air Force General Nicanor Díaz Estrada<sup>46</sup> recounts hearing from Navy intelligence about Pinochet making this attempt and the sharp arguments with General Leigh that followed. Foreign press also reported tensions between Admiral Merino and Pinochet over the presidency (*Latin America* January 18, 1974; Marras 1988: 112).<sup>47</sup>

After a great deal of conflict, the Junta promulgated the *Estatuto de la Junta de Gobierno* (DL 527 *Diario Oficial de la República de Chile*, June 26, 1974). This decree law laid out some

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<sup>44</sup> The “Chicago Boys” neoliberal faction; the *gremialistas* led by Jaime Guzmán; extreme right groups like the *Patria y Libertad*; an older nationalist right identified with ex-President Jorge Alessandri; a “moderate” right that had been active in the National Party; and the leaders of organized business (Huneus 2000: 153-155).

<sup>45</sup> Public opinion polls under the dictatorship and after the 1990 transition indicate he maintained the support of 35% to 45% of Chileans, many passionate supporters who considered him the “savior of the nation” from “Marxism” and “father of the economic miracle” (Huneus 2000: 148-153). The military held two plebiscites: one in January, 1978, in response to UN condemnation; and one in September, 1980, to ratify the 1980 Constitution. These votes, though held under repressive conditions, demonstrated a significant base of authentic popular support, as borne out by the 43% of the vote to remain in office under much more legitimate conditions Pinochet received in October, 1988.

<sup>46</sup> Air Force General Nicanor Díaz Estrada was a high ranking officer in the General Staff of National Defense, coordinator of military intelligence services and served as Labor Minister under Pinochet in the mid-1970s.

<sup>47</sup> The first draft of this law in the COAJ would have named the President of the Junta the President of the Republic with no term of office and no rotation. It would have eliminated the unanimity rule for legislative votes in the Junta and replaced it with an absolute majority rule and the President of the Junta breaking ties. *Carabineros* head General Mendoza, was in a weak, dependent position and rarely, if ever, adopted stances at odds with Pinochet. So, the draft law would have allowed Pinochet to overrule the Navy and Air Force commanders at will (Barros 2002: 56-57).

special presidential powers, but also stipulated many areas that required approval by the Junta, including those areas in the 1925 Constitution where Senate agreement was required<sup>48</sup> (Ibid). Most importantly, for the first time, Article 2 stated explicitly that “the Government Junta will adopt its decisions by the unanimity of its members” (DL 527 *Diario Oficial de la República de Chile*, June 26, 1974). Although rotation of the Junta presidency was eliminated, the President was not given power to promote or fire commanders in chief or high ranking members of other services of the armed forces. All high level military appointments and promotions required Junta consent (Ibid). The “commanders of the Navy and the Air Force defended the autonomy of their respective services” and limited Pinochet’s interference in them (Barros 2002: 60). Pinochet was named President of the Republic in a separate decree law in December, 1974, but was granted no additional formal powers (DL 806 *Diario Oficial de la República de Chile*, December 17, 1974).

Discussions about the regulation of legislative procedures began as soon as the Statute of the Junta was made law. Once again, General Leigh and Admiral Merino demanded an explicit separation of functions, or, as Leigh put it, the “independence of government legislation from the other Powers of the State” (quoted in Barros 2002: 64). Again, a COAJ move to arrogate control over the making of decree laws heightened tensions and drove Leigh and Merino to insist upon the separation of legislative and executive functions and to institutionalize this separation (Barros 2002: 61). The Junta ultimately reached agreement on the text of the decree law organizing this legislative system on April 17<sup>th</sup>, 1975. The system began operation on June 24<sup>th</sup> of that year and the text of the law was published on January 3<sup>rd</sup>, 1976, after “the legislative system was up and running” (Barros 2002: 66; DL 991 *Diario Oficial de la República de Chile*, January 3, 1974). In this way the institutions of the *Secretaría de Legislación* and the *Comisiones Legislativas* began.

Despite often being seen as powerless institutions dominated by Pinochet, in combination with the unanimity rule, the system “gave each commander channels to effectively influence the content of decree-laws or, when irredeemably subject to objections, block them from becoming law” (Barros 2002: 68). Therefore, by the middle of 1975, “after a period of unregulated power, the Junta had completed the codification of its internal procedures and organization” (Ibid).

The institutional design of the dictatorship was more the outcome of a conflictive process at the top of the regime than any plan preceding the coup. Pinochet emerged with the presidency, but the institutionalized legislative process and principle of unanimity set in place an effective check on Pinochet’s rule. That was crucial at key critical junctures during the military government.

This internal institutional check did nothing to alter the nature of state-society relations. Beyond the Junta itself no external institution held the state to legal or constitutional limits. Yet, this institutionalization of military rule in 1974-1975 “would decisively shape the subsequent course of military rule in Chile” (Barros 2002: 83). The autonomy and veto power the Air Force and Navy secured influenced the way external pressures refracted through the institutions of the Chilean military state. This proved crucial because, just as internal Junta and US pressure drove military regime institutionalization, labor pressure drove the institutionalization of the Labor Plan.

### **State Terror: Force and Fear**

The early days of military rule were characterized by disorganization, confusion, and ad hoc governance and “legislation”. Air Force General Gustavo Leigh, one of the four original members of the ruling *Junta de Gobierno*, claimed they arrived with “no program, no plans,

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<sup>48</sup> This included appointments of cabinet members, undersecretaries, intendants, governors and higher court magistrates, granting private pardons, and deploying the armed forces (Ibid).

nothing” (Constable and Valenzuela 1991: 26). Early on, then, the unity and coherence of the military regime was undergirded by its war against “the cancer of Marxism”, referred to by General Leigh in the Junta’s first public remarks on the day of the coup (Huneeus 2000: 98-100). Decree Law Number 1, dated September 18<sup>th</sup>, 1973 self-defined the mission of the Junta and the military government as: “to restore *chilenidad*, justice and a broken institutionality” from the “interference of an exclusive and dogmatic ideology, inspired by the foreign principles of Marxism-Leninism.” (*Decreto Ley N° 1 Diario Oficial de la República de Chile* September 18, 1973).

A key aspect of the military state was its autonomy from organized political and social interests, accomplished through the spectacular use of violence (Constable and Valenzuela 1991: 23-25). The most complete accountings of regime violence, in the Rettig and Valech reports<sup>49</sup>, establish that the opening phase of the dictatorship saw the greatest use of physical brutality and coercion<sup>50</sup>. State terror tactics included mass detentions, summary executions, imprisonment without trial, disappearances, torture, exile, constant surveillance, threats and harassment.

Indelible moments of state violence occurred early. The Chilean Air Force bombed the *Palacio La Moneda*, seat of the President of the Republic, the day of the coup. Up to 40,000 people were imprisoned at the *Estadio Nacional* from September 12<sup>th</sup> to November 9<sup>th</sup>, a site of torture and summary execution. The "Caravan of Death" travelled to “accelerate” military tribunals<sup>51</sup> for enemies of the state (*Informe Rettig* 1991; *Informe Valech* 2005; *Informe Valech II* 2011).

Institutionally, the primary organ of the Junta’s policies of state terror was the *Dirección de Inteligencia Nacional* (DINA). Headed by Colonel Manuel Contreras, who maintained daily contact with Pinochet, it incorporated members of "The Caravan". The DINA’s activities began days after the coup and it acted without formal legal authority for months<sup>52</sup>. As the dictatorship’s main instrument in its “war on Marxism,” it focused on organized left groups, including labor, in Chile and abroad. Still, the DINA targeted any opposition to the regime, including among sectors of the Catholic Church. It even spied on high-level members of government and supporters of the

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<sup>49</sup> The Rettig Report (*Informe Rettig*), officially *La Comisión Nacional de Verdad y Reconciliación* or The National Commission for Truth and Reconciliation Report (1991) was by a commission designated by then President Patricio Aylwin of the Concertación. It encompassed human rights abuses resulting in death or disappearance in Chile under military rule. It determined 2,279 persons were killed for political reasons. [http://www.ddhh.gov.cl/ddhh\\_rettig.html](http://www.ddhh.gov.cl/ddhh_rettig.html)

The Valech Report (*Informe Valech*) officially *La Comisión Nacional sobre Prisión Política y Tortura* or The National Commission on Political Imprisonment and Torture Report, was a record of abuses committed in Chile between 1973 and 1990 by agents of Augusto Pinochet's military regime. The report was published on November 29, 2004 and detailed the results of a six-month investigation. A revised version was released on June 1, 2005. The commission was reopened in February 2010 for 18 months, adding more cases. The report was prepared at the request of President Ricardo Lagos by the eight-member National Commission on Political Imprisonment and Torture headed by Archbishop Sergio Valech. The commission found that 38,254 people had been imprisoned for political reasons and most had been tortured. It found 30 people had been executed or "disappeared"; in addition to those listed in the Rettig Report. [http://www.ddhh.gov.cl/nomina\\_comision\\_nacional\\_sobre\\_prision\\_politica.html](http://www.ddhh.gov.cl/nomina_comision_nacional_sobre_prision_politica.html)

<sup>50</sup> For example, the Valech Report suggests that 2/3<sup>ds</sup> of the cases of abuse it could confirm for the whole period occurred in 1973 alone. However, victims’ rights groups have contested the report’s methodology on this question, as many cases in the 1980s did not occur at one of the 1,200 recognized detention centers, and thus were not counted. Still, it seems clear that the greatest violence did in fact occur at the very outset of the military dictatorship.

<sup>51</sup> A military coterie led by Army General Sergio Arellano Stark, its members later composed the core of the DINA.

<sup>52</sup> The creation of the DINA was approved by the Junta on November 12<sup>th</sup>, 1973 (AHGJ - *Acto del Honorable Junta de Gobierno de Chile N° 33*), while it was not formally legalized via Decree Law Number 521 until June 18<sup>th</sup>, 1974.



regime. The DINA committed a high proportion of total abuses, including executions, torture and disappearances. It also operated many notorious detention centers (Huneus 2000: 104-105).

Systematic state terror produced a profound and pervasive shock and fear (Huneus 2000: 99). Fear became a central motif of the dictatorship era. Its omnipresence and power is attested to in journalist Patricia Politzer's 1985 book *Miedo en Chile*. She draws on extended interviews to document how fear deeply structured everyday life and interactions. One crucial aspect of this was the system of *denuncias*- denunciations- set up by the military government. Anyone could inform on anyone to the authorities as being a suspected "Marxist" or "enemy of the nation". Everyone was at risk of being targeted by an anonymous denunciation. Incited by the highest levels of the state, denunciations quickly proliferated to such an extent that the government set up an office for "Investigations of Denunciations", as early as September 17<sup>th</sup>, 1973, to "adequately control and coordinate this activity and to avoid overlap" (AHJG Session 4 cited in Huneus 2000: 121).

### State Terror and Labor

Labor was a special target of the state in this period, from prominent leaders to rank-and-file workers. This meant the full range of state terror tactics: threats; torture; exile and executions (Falabella 1981: 18-19). Initially, well known labor militants at various levels of the movement were targeted for imprisonment and execution. A special unit of the DINA was set up for exactly this purpose in the Santiago Tacna garrison (Falabella 1981: 18). The killing of labor leaders and rank-and-file workers was particularly pronounced in mining and railroad areas, yet took place across Chile (Falabella 1981: 19). State terror was also chillingly capricious. At San Bernardo railroad workshops 10 workers "were picked out at random and were executed".

The military state also targeted labor through legal mechanisms. Days after the coup the CUT, SUTE, and specific plant-level and agricultural unions in the South were banned (Falabella 1981: 19, 43; *Antecedentes* 2004: 9)<sup>53</sup>. The Junta enacted numerous decrees to break up existing labor organizations<sup>54</sup> and block previous avenues of legal action in an "emergency period", as the military state defined its initial situation vis-à-vis labor (Campero and Valenzuela 1984: 114-116).

On September 17<sup>th</sup> the CUT's legal recognition was revoked and any "written or spoken propaganda" on its part was prohibited on pain of prison or exile due to "emergency circumstances the country is living in" (DL 12: *Diario Oficial de la República de Chile*, September 17, 1973). On September 18<sup>th</sup> all union meetings and activities were prohibited and the legal mechanisms of collective bargaining suspended. This included Conciliation Councils, Tripartite Remunerations Commissions and the Mixed Central Salaries Commission (DL 36: *Diario Oficial de la República de Chile*, September 18, 1973). On September 21<sup>st</sup> new causes for employment dismissal were added, including work stoppages (DL 32: *Diario Oficial de la República de Chile*, September 21, 1973). On September 29<sup>th</sup>, automatic salary and pension readjustments, critical in a context of high inflation, were suspended (DL 43: *Diario Oficial de la República de Chile*, September 29, 1973). On November 20<sup>th</sup> the suspended CUT was dissolved and its assets liquidated (DL 133: *Diario Oficial de la República de Chile*, November 20, 1973).

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<sup>53</sup> The Unitary Workers' Central (CUT) was the largest union confederation in Chile, representing some 940,000 workers in 6,700 unions at the time of the coup. SUTE (Unified Education Workers' Union) was the largest union of educators in Chile and was seen by the military regime as a key bastion of support for left wing politics at the time.

<sup>54</sup> Other unions banned at the time included the Metallurgy Federation, the Laboratory Workers Union, the Plastics Workers Union, the national electric company workers union, and the textile and construction workers federations.

On December 29<sup>th</sup>, the state promulgated the law that governed legal labor activity until the 1979 Labor Plan. Decree Law 198 stated that "It is urgent to regularize union activity in the general context of the nation". The law set up "transitory norms relative to union activity" (DL 198 *Diario Oficial de la República de Chile*, December 29, 1973). The law gave recognition to those unions, labor organizations and leaderships that had not been explicitly banned, and gave them permission to operate, but under severely restricted terms. All unoccupied positions were filled by seniority, not election. Meetings required advanced, written police permission and were "informational" only, related to immediate worker business. "Political" topics and organizing were banned. Yet, within the tight confines of DL 198, above-ground labor organizing resumed.

Institutionally, state-labor relations were initially under the Interior Ministry and not the Labor Ministry. On May 4<sup>th</sup>, 1974, a Labor and Welfare Studies Commission, headed by a member of the armed forces, took over in each province to enforce the new regulations. These institutions surveilled and infiltrated labor activities and meetings (International Labor Office 1974, cited in Campero and Valenzuela 1984: 173-176). An ILO report estimated by February of 1974 only 25% out of 130 federations and confederations affiliated with the CUT in 1973 still existed. A similar proportion of 6,677 unions and 34,000 union leaders were still active less than six months later. Some 110 deaths and 230 disappearances of union leaders had been reported.

Campero and Valenzuela argue "a deep fear affected [the] base and leadership of labor" (1984: 177). "Labor organizations," Lagos (2012: 42) concurs, "which had reached the pinnacle of their influence under Allende, were obliterated by arrests, detentions, and just plain fear".<sup>55</sup>

### State Terror and Labor Allies

The broader focus of regime repression was precisely on the political forces most closely aligned with labor. This meant left parties from the UP coalition, the Communist and Socialist parties that were dominant in the labor movement of the early 1970s above all. Labor's political party allies were illegalized, driven underground or into exile, purged from the state and other institutions and had militants killed en masse. Extra-parliamentary left labor allies like the MIR<sup>56</sup> were also decimated by violence. The Communist Party was completely dismantled, its remnants driven underground and into exile. Communist Youth leader Raúl Oliva estimated of 280,000 militants, 5,000 remained in Chile by 1975.<sup>57</sup> The Socialist Party was also decimated, and even its clandestine associations were severely weakened (Huneus 2000: 106).

Labor political allies were also subjected to repression by legal and regulatory means. On October 8<sup>th</sup>, 1973, Decree Law 77 declared the parties of the UP coalition "illicit associations", mandated their dissolution and confiscated their resources. Naming each group specifically, the law banned the Communist, Socialist, Radical, Popular Socialist Union, MAPU, Christian Left, Independent Popular Action and Popular Unity Parties. It legislated a general prohibition on "all those entities, groups... that sustain the Marxist doctrine or by their ends or by the conduct of their adherents are substantially coincident with the principles and objectives of said doctrine" (DL 77 *Diario Oficial de la República de Chile*, October 8, 1973).

<sup>55</sup> *The Southern Tiger* (2012) is Lagos' memoir. He was a 1980s opposition leader and Chile's President 1994-2000.

<sup>56</sup> The *Movimiento de Izquierda Revolucionaria*, Revolutionary Left Movement, was a guerilla movement founded in 1965 by militants of various tendencies, including labor leader Clotario Blest. At its 1973 peak it had 10,000 militants.

<sup>57</sup> This estimation, which accords with internal party documents, appears in an interview quoted in Hite (2000: 43).

The same day the parties in opposition to the UP, most importantly the center-left PDC (Christian Democratic Party) and conservative National Party (PN), were declared “in recess”, a legal status that prohibited activities but allowed the organizations to keep and administer their resources (DL 78, *Diario Oficial de la República de Chile*, October 8, 1973). While the PN had already auto-dissolved the PDC, which had a substantial if minority base in the labor movement, continued to act in a political capacity. Yet, it was fractured. Some PDC leaders condemned the coup, while others supported it, some even entering the government (Huneus 2000: 96-97).

A purge of leftists also effected bases of labor support in the state bureaucracy and public administration. Just days after the coup, DL 6 declared state personnel in all “services, divisions, organisms, business and institutions of state administration” on “interim status” except judiciary and *Contraloría*<sup>58</sup> (*Diario Oficial de la República de Chile*, September 19, 1973.) This allowed dismissal of functionaries for political reasons, such as those who were members of proscribed political parties, or those merely suspected of opposition to the regime. This purge featured the political dismissal and blacklisting of many educators subject to denunciations or suspicions, from primary school teachers to university deans (Huneus 2000: 98). The labor militants who organized state employees, especially in ANEF<sup>59</sup>, were another main target.

On October 26<sup>th</sup>, the entire public sector was declared in “reorganization”, a status which allowed for internal restructuring of state administrative institutions and personnel moves, with only a military decree needed to affect any change (Ibid). In this way the dictatorship was able to rapidly remove any opposition from within the state bureaucracy and administration itself. In the process, it also removed many allies and militants of the labor movement from their positions.

### Initial Labor Reactions to State Terror

Faced with the effects of the military regime “internal war”, labor had very limited room for movement in the early emergency period. Yet from the outset the state attempted to articulate a stance vis-à-vis labor that, while stridently anti-Marxist and anti-Communist, defined itself as neither anti-labor nor anti-worker. One goal was to integrate non-Marxist labor into the emerging regime. This remained in contradiction to the primary anti-labor dynamics throughout the 1970s.

Especially early on, the Junta treated labor predominately as an enemy to be defeated. But, days after the coup, DL 31 declared: “Chilean worker, the Armed Forces will respect your rights!” (*Diario Oficial de la República de Chile*, September 14, 1973). General Leigh even promised workers would share in the profits of enterprise (Alexander 1974: 428). Moves to reactivate a controlled, non-Marxist labor movement were tentative and contradictory, secondary to political concerns and macroeconomic policy. Still, each move in this direction provided labor some space.

An early example of this was the inauguration of the National Union Council. Set up by Christian Democrats, it gained support from left labor leaders in the wake of DL 133. Though the regime did not ban this organization, it did use the stipulations of the law to prevent its funding

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<sup>58</sup> The *Contraloría General de la República de Chile* was created in 1927 and raised to constitutional status in 1942. It was “an independent, autonomous agency which affects fiscal and juridical oversight over the state administration, including supervision and control of revenues and expenditures of all state offices, national general accounting, and review of administrative acts to assure that they conform to the constitution and the law before going into effect (*toma de razón*)” (Barros 2002: 108).

<sup>59</sup> The *Agrupación Nacional de Empleados Fiscales* was composed of predominately white-collar state administration workers. It was a central antagonist to the military regime. Its leader, Tucapel Jiménez, was assassinated in 1982. Yet, it was considered a major potential threat to the state, so it was never officially banned, despite its key opposition role.

via previously legal mechanisms or the resources of banned labor groups (Falabella 1981: 19). The shift to Christian Democratic public leadership was a common move for labor in these years. In fact, “by the time the labor movement started to resurface in 1976 perhaps 80% of the public leadership positions had passed into the hands of Christian Democrats” (Drake 1996: 132).

Another result of harsh initial repression was divisions within the labor movement. Some parts of the movement were especially targeted. A much smaller sector supported the military. Others, like those affiliated with the PDC, were not regime supporters but still looked to benefit from new circumstances (Campero and Valenzuela 1984: 177). For example, on November 14<sup>th</sup>, 1973, Interior Minister General Bonilla, the Minister of Agriculture, and Pinochet publicly met Victoriano Zenteno. A PDC militant, he was leader of the National Union of Peasant Syndicate Federations and had been an ardent opponent of Allende and the UP. After the meeting, Pinochet announced “the countryside will not see arbitrary dismissals nor the return of properties legally expropriated ... a CORFO<sup>60</sup> commission with the participation of the workers will study peasant participation in agricultural business.” Zenteno’s organization made a public display of political support, donating a day’s salary to the government. (*El Mercurio* November 15, 1973). Another example was the transfer of the CUT office to an organization called Union Technical Assistance Corporation, led by a PDC militant former head of the Santiago Province CUT branch (Campero and Valenzuela 1984: 178). While the context and circumstances provided justification for using any available institutional spaces or resources, such actions were still anathema to many in labor.

Another course of action followed by many labor militants and organizations in the early post-coup days was the withdrawal from formal or public politics, but an attempt to maintain the union as a day-to-day organization, including as an instrument for negotiation with management over firm-level wage and work issues. In some instances, this type of action resulted in success, such as salary increases or preventions of dismissals (Campero and Valenzuela 1984: 188-190).

Despite everything, this period even saw some limited (illegal) strikes, most importantly at El Teniente copper mine, according to ILO reports (Ibid). Other examples included actions by railroad workers, coal miners and Santiago subway workers, although always only expressing immediate wage and workplace demands (Ibid). Even so, repression was a common response to any worker organization, even seemingly within the tight limits of the new regulations. Indeed, employers felt so empowered that the Labor Minister was compelled to declare on January 11<sup>th</sup>, 1974, “in certain businesses they have poorly understood the spirit of the Junta and in particular the point of view of this Ministry with respect to the legal existence of the unions” (*El Mercurio* January 12, 1974). The constant re-affirmation by many rank-and-file union activists that they acted only in a labor capacity, and not politically, attests to this context.

From the beginning there was also an officialist sector of the labor movement that openly supported the coup and the dictatorship, known as “gremialistas”<sup>61</sup>. They staged public acts of

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<sup>60</sup> The state development agency, *La Corporación de Fomento de la Producción*.

<sup>61</sup> In the context of the Chilean labor movement of this period, *gremialistas* were labor tendencies oriented towards or affiliated with the larger *gremialista* political movement. This political tendency in late 1960s and 1970s Chile was a hard-right political grouping that combined hardline anti-communism with explicitly fascist, anti-democratic elements inspired by Spanish dictator Franco and a market liberal approach to “economic growth”. Its power base was in the professional guilds (*gremios*). Its most influential adherent was Catholic University conservative student leader and later lawyer and political advisor to Pinochet, Jaime Guzman.

Within the labor movement *gremialismo* had a base of support among some leaders and rank-and-file in the Banking Federation, the commercial workers group, the municipal workers association, among a group of El Teniente miners

support for the military regime, and indeed many had been calling for military intervention even before the coup. As they acted with explicit government recognition, these groups attempted to present themselves more broadly as the legitimate representatives of Chilean labor, sometimes literally taking the place of unions that had been repressed (Campero and Valenzuela 1984: 190).

The labor left attempted to organize clandestinely. Its position was “working class unity” against a government considered inherently and totally anti-labor. With little success for nearly two years, they had limited organizational presence (Campero and Valenzuela 1984: 192-193).

### **Labor Minister Díaz: The First Attempt at a “New Institutionalization of Labor”**

In the division of labor that characterized the exercise of executive power early on in the regime, the tasks of administration were divided programmatically among the different branches of the armed forces represented in the Junta. Within this scheme, the Ministry of Labor fell under the authority of the Air Force, along with the areas of health care, social security and pensions, all as part of the “social area” of responsibilities (Huneus 2000: 273). Yet, this post was thought of such little importance that it was initially given to an officer of the *Carabineros*, the least powerful of the four branches. Still, de facto control of labor relations remained within the Interior Ministry.

This state of affairs changed with the cabinet reshuffle that followed passage of the *Estatuto de la Junta de Gobierno* in late June, 1974 (Huneus 2000: 280). In this key personnel change Air Force Brigadier General and high-level intelligence functionary Nicanor Díaz Estrada was named Labor Minister. In this position Díaz eliminated the military-led Labor and Welfare Studies Commissions (Campero and Valenzuela 1984: 204). He also attempted to found a new, permanent, institutionalized, formal-legal union and labor relations system (Falabella 1981: 19).

Díaz’ term as Labor Minister was characterized by contradictory impulses on the part of the military government. The state tried to institutionalize a new legal labor regime, open spaces of dialogue between organized labor and the state, formulate an apparatus to strictly regulate and control a de-politicized labor movement, and implement macroeconomic policy greatly prejudicial the material interests of rank-and-file wage workers. In addition, “security” and “political” issues dominated the Junta’s decision making with respect to labor.

The basic idea behind Díaz’ proposed new Labor Code was creating a controlled union structure rooted in large, base-level unions organized by economic sector, or companies of more than 300 employees (Campero and Valenzuela 1984: 121). That proposed Code would have rewritten regulations covering the individual work contract, the organization of unions at all levels, and the structure and functioning of collective bargaining (Campero and Valenzuela 1984: 122).

While the proposed Labor Code sections regarding individual contracts were substantially similar to those eventually promulgated on May 1st, 1978, the proposals on union organization and collective bargaining were significantly more ample in the powers legally allowed to unions, federations and confederations than those that ultimately became law as part of the Labor Plan. For example, unions would have been allowed to participate as representatives of their members in regional social and economic development organizations, including public institutions (Ibid). The proposed law also envisioned their involvement in the creation of worker safety systems and in advisory organizations on technical, judicial, educational and cultural matters (Ibid).

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and among some transportation worker unions (truckers, maritime, airlines), as well as some peasant organizations. Key groups included: *El Comando Gremial de Trabajadores*; *La Secretaría Nacional de los Gremios* and *El Frente Juvenil de Unidad Nacional* (Campero and Valenzuela 1984: 188, 190-191; 193-194; Huneus 2000:327-376).

Collective bargaining was not circumscribed to the enterprise level, as it was in the Labor Code that eventually became law. It would have been allowed at sectoral level by province or even greater level geographically, with the mutual agreement of workers and employers (Ibid). The law did not set a time limit on legal strikes, as would the eventual Labor Plan law, while it explicitly maintained the right and capacity of the state to mediate and intervene in labor disputes (Campero and Valenzuela 1984: 123). The proposal stipulated that collective contracts applied to all workers in the sector or employers covered in the contract in contrast to later Labor Plan law (Ibid).

Crucially, the proposed Labor Code also attempted to block any possibility of mediation by the political parties in union activity, creating severe sanctions for the crime of “interference in union organizations” (Ibid). The proposal suggested a tightly state-controlled and corporatist form of labor organization. Still, it was one that recognized the institutions of labor as legitimate interlocutors with the state and capital in a way not contemplated in the 1979 Labor Plan (Ibid).

Alongside proposing a new Labor Code, Díaz ushered in his “open door” policy offering a limited space for publicly organized labor activity and government dialogue (Falabella 1981: 20). Díaz met with national labor federation leaders and cultivated a relationship with the Group of Ten, a grouping of mainly Christian Democratic labor leaders appointed by the government to attend annual International Labor Organization (ILO) meetings in Geneva (Ibid). Apart from the strategically crucial Copper Workers’ Confederation (CTC), where the regime put in place a government-supporting leadership headed by new president Guillermo Santana<sup>62</sup>, Díaz’ Labor Ministry generally avoided direct interference in union activities and the movements of (non-Marxist) leadership (Ibid; Vergara 2008: 182). Díaz also publicly opposed calls from hard liners within the regime for a permanent ban on strike activities, calling it a fundamental union right (Falabella 1981: 20). Finally, after proposing the new Labor Code, Díaz accepted a two-month “open discussion” by unions across the country on the content of the proposed code (Ibid). In the second half of 1974, Labor Minister Díaz travelled and spoke publicly in a campaign to garner support for his proposed reforms (Campero and Valenzuela 1984: 199-204). He spoke at many union events, making promises “union liberties” would be soon restored (Ibid). Junta member fellow Air Force General Leigh also made public comments favoring union rights in late 1974.

Ultimately, this proposal never became law. It was withdrawn in 1975. After imposition of radical neoliberal policies from 1975, non-Marxist union opposition to the regime and to Díaz began to build substantially, first among the Group of Ten, then eventually among the officialist leadership of the CTC (Vergara 2008: 183-184). The deteriorating economic situation and failure to pass his proposed reforms meant, as a classified US diplomatic cable put it, “he obviously does not have the most popular product to sell to organized labor (considering the effect of the GOC’s [Government of Chile’s] economic policy and tight restrictions on labor)”<sup>63</sup>. Between conflicting regime priorities and between growing labor opposition and opposition from anti-labor hard right

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<sup>62</sup> Unlike the CUT, the Junta did not dissolve the CTC. The government attempted to coopt copper miners, setting up a military regime supporting union. This project appeared realistic because of a visible division among workers during the UP government, particularly the 1973 El Teniente strike that played a role in the downfall of the UP. To this end the regime executed two prominent copper worker leaders during the “Caravan of Death”: Communist Party militant Benito Tapia, a blue-collar worker at El Salvador Mine; and Socialist Party militant Maguindo Castillo, a white-collar mining office union leader. The regime then replaced 7 of the 13 CTC leaders with military government supporters, predominantly conservative Christian Democrats (Vergara 2008: 181-182).

<sup>63</sup> Electronic Telegram to Department of State/Secretary of State February 10, 1976 (ID 1976SANTIA01097\_b).

elements in the regime, Díaz resigned in March, 1976 (Falabella 1981: 20). The “open door” was deemed a failure by Pinochet and the Junta, spurring a change of course and reactive crackdown.

### **Shock Treatment: The Chicago Boys and Radical Neoliberalism**

Early economic policy was uncertain, characterized by internal disagreements in the Junta (Valdés 1995: 16-19; Gárate 2012: 181-183). Economic ideology in the military was authoritarian, paternalistic, nationalist-developmental, and with a strong state role (Gárate 2012: 183-185)<sup>64</sup>.

A focus on counter-insurgency and internal war precluded detailed planning for a coherent economic agenda being formulated before or in the immediate aftermath of the coup (Ibid). Most of the high military officials who participated in the coup wanted no more, economically speaking, than a return to the “situation of normality” extant before the UP (Gárate 2012: 186).

Still, there always existed a sector of neo-liberal capitalist influence, famously symbolized by the document *El Ladrillo*<sup>65</sup> (The Brick). This sector was initially centered in Navy leadership and in particular surrounded Junta member Navy Admiral Merino (Gárate 2012: 187). The Navy first asked academic economists trained at the University of Chicago for an economic plan of “national reconstruction” in 1972. It was via the Navy that neoliberal economists first took roles with the government. It was Admiral Merino, who was in charge of the economic sector, who asked for the former dean of the School of Economics at the Pontifical Catholic University, the department linked to the University of Chicago in its historic exchange program, to become an advisor to the Economy Ministry on September 14<sup>th</sup>, 1973 (Ibid). That appointee, Sergio de Castro, became “the natural leader” of the Chicago Boys (Valdés 1995: 19). His close ally Roberto Kelly became head of the National Planning Office (Gárate 2012: 187).

The initial influence of neoliberal economists owed much to a lack of technical economic knowledge and capacity on the part of the military on assuming power. This was exemplified by Admiral Lorenzo Gotuzzo’s famous early plea to military leadership: “help me... I’ve never been a Minister.” (Ibid). Initial tasks given to the *técnicos*, as the armed forces High Command referred to them, were much more limited than radical economic transformations they had in mind (Ibid). It took nearly two full years and numerous internal disputes with developmentalist military leaders inside the regime before they convinced Pinochet to apply the radical neoliberal program (Ibid).

The military officers in charge of the economy saw the main tasks as balancing budgets and cutting inflation, running at around 800% annually at the time of the coup (Valdés 1995: 20). The first measures designed and implemented by civilians, “did not aim, not even implicitly, at producing radical changes in the economic system that Chile had had up to the 1970s, but only

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<sup>64</sup> In Chile, this corporatist, nationalist-developmental ideology was associated for much of the 20<sup>th</sup> Century with the figure and legacy of Army General Carlos Ibáñez del Campo, dictator from 1927-1931 and elected President from 1952-1958. It was essentially nationalist, yet highly supportive of capitalism and private property as drivers of national progress, with a strong state role, however, in strategic sectors. In this vision a strong, authoritarian state could provide for national unity and economic development by navigating between the dual risks of the “*peligro marxista*” (“Marxist danger”) and a “social disintegration” brought on by excessive liberalism (Gárate 2012: 184).

This anti-Marxist element was significantly strengthened from the 1950s onwards with the introduction of the “National Security Doctrine” and the training of thousands of Chilean military personnel by the United States- in the USA or in Panama- in the context of heightening Cold War tensions across the region (Gárate 2012: 184-185).

<sup>65</sup> *El Ladrillo*, with a foreword by Sergio de Castro, was published by the *Centro de Estudios Públicos* in 1992.

attempted to ‘normalize’ its operation and introduce gradual reforms in part of the system” (Tironi 1982: 7).<sup>66</sup> These first moves were pragmatic, cautious and came only under pressure.

Anti-inflation policy began in 1974 with Jorge Cauas’ appointment as Finance Minister. It was characterized by gradual fiscal cuts and some small-scale privatizations (Larraín et al. 2000: 728; Valdivia 2003: 111; 134; Gárate 2012: 189). Only when such gradualist policies failed to contain inflation in 1974 did the more radical neoliberal ideas of the Chicago Boys, first of all a more stringent anti-inflationary shock, begin to be echoed inside the Junta. At first this was by Admiral Merino, then later by Pinochet (Gárate 2012: 189). A major drop in copper prices and spike in oil prices aggravated the situation by causing a destabilizing balance-of-payments crisis (Campero and Valenzuela 1984: 216-217; Gárate 2012: 190).

It was in this context that the Nobel Prize-winning economist, leading liberal theorist and University of Chicago professor Milton Friedman travelled to Chile, arriving March 20<sup>th</sup>, 1975 (*El Mercurio* March 21, 1975). During his week-long trip he gave public talks, held seminars, did interviews with the press and had private meetings with Chilean public figures, including Pinochet.

On March 26<sup>th</sup>, at a *Fundación de Estudios Económicos*<sup>67</sup> sponsored seminar, Friedman argued “the only way to finish with inflation in Chile is finishing drastically the fiscal deficit, preferably reducing public spending”. Famously, he claimed Chile should choose a “shock treatment”. That meant “eliminating price and salary controls, strengthening the fiscal situation to eradicate the fiscal deficit, and keeping a strict limit on the quantity of money”<sup>68</sup> (*El Mercurio* March 27, 1975). In Friedman’s own estimation it was not his advice or ideas that were key in spurring these recommendations into policy. Rather, it was an objective economic situation facing Chile at the time. That is hyperinflation, a balance of payment crisis and then a depression<sup>69</sup>. That objective situation and dynamic led to Minister Cauas’ increasing policy influence as he advocated shock treatment. The official name of that policy became the *Plan de Recuperación Económica* - the Economic Recovery Plan. It was announced just one month after Friedman left Chile.

The radicalization of anti-inflationary policy was behind the enactment of fiscal shock. A drastic cut in public spending through a sharp reduction in state employment and the elimination of agricultural subsidies resulted in the eradication, in just one year, of the entire deficits increase of the UP period, albeit at the price of a 12.9% drop in GDP (Valdés 1995: 20). This Cauas Plan did not aim to merely halt inflation. “Chicago Boys” *técnicos*, including new Economy Minister

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<sup>66</sup> Ernesto Tironi, an economist trained at MIT, later became an influential Christian Democratic public figure, serving as Chile's ambassador to the UN and as managing director of CORFO.

This ‘normalization’ referred most importantly to the first privatizations of companies nationalized by the state development agency CORFO, but not those considered strategic for national security. These privatizations were much smaller than the large-scale privatizations that occurred in the late 1970s and 80s.

<sup>67</sup> The *Fundación de Estudios Económicos* was funded by *Banco Hipotecario de Chile* (BHC). In 1975 the bank was controlled by Javier Vial, head of the *Grupo Vial*, one of the largest industrial and financial conglomerates. It later collapsed, helping trigger the 1982 financial and economic crisis, in the course of which it was nationalized.

<sup>68</sup> Friedman later published the talk, including the public questions and his answers (Friedman et al. 2012: 17-62).

<sup>69</sup> In his memoirs Friedman wrote of the 1975 trip and its influence on economic policy: “For the first year and a half, the generals did little with the proposals [*El Ladrillo*]. Instead, they put the military in charge of undoing the damage that Allende had done. Not surprisingly, the military were largely ineffective. In 1975, when inflation still raged and a world recession triggered a depression in Chile, General Pinochet turned to the “Chicago Boys” ... and appointed several of them to powerful positions in the government” (Friedman and Friedman 1998: 398).



Sergio de Castro, who was appointed in May of 1975, saw these as opening steps in a structural overhaul of the entire Chilean political economy (Valdés 1995: 20-21; Gárate 2012 190-191).

In sum, these radical policies included: a lifting of price controls across the market, retail prices especially; from 1974 a liberalization of the internal capital market and financial sector; a sharp reduction of tariffs- immediately from an average of 92% to 52% and eventually to a 10% unified rate by 1977- along with the reduction or elimination of many customs and duties and the complete elimination of import restrictions in late 1976; liberalization of foreign investment and capital flows, giving “national treatment” to foreign capital in any economic sector; freeing interest rates and deregulation of credit controls. They also introduced a stringent fiscal regime. This meant a flat 20% value added tax, big cuts in public employment, fiscal surpluses, and privatizations that reduced state control from over 500 firms and banks to only 25 by 1980 (Valdés 1995: 21-23).

A major exception to this liberalizing trend was labor policy. The labor market was kept under “strict restrictions and control” by the military government for six years (Moulian and Vergara 1980: 88). This deviation from liberal economic tenants was justified by the need to contain “cost-push” inflationary wage increases (Valdés 1995: 21). The liberalization of the labor market did not occur until the institutionalization of the Labor Plan in 1979.

The effects of shock treatment and radical neoliberal policies were profound. One central goal of radical neoliberalism was a reduction of the public sector. Government spending and state employment fell drastically. State spending declined from 40% to 26% of GDP from 1973-1979. State employment fell by nearly 20%, going from 360,000 civil servants to 290,000 from 1974 to 1978 (Valdés 1995: 23). Another major restructuring was privatizations. The state’s direct role as owner and producer was nearly completely eliminated (Valdés 1995: 23-24).

The effects devastated labor. From 1975 wages suffered and unemployment surged. Wage levels in 1980 were 16.7% below a decade earlier (Valdés 1995: 26). The only prices restrained by the state after price liberalization, wages fell far behind inflation. Unemployment spiked in 1975-1976 (Campero and Valenzuela 1984: 215-216). Industrial production fell by 1/3<sup>rd</sup> in 1975. Unemployment surged in Greater Santiago from 13.3% in March, 1975, to 19.8% in March, 1976 (Campero and Valenzuela 1984: 217). For blue-collar workers (*obreros*) it reached 29% (Ibid). Real wages fell to 70.5% in January, 1975, and 65.9% in January, 1976, of 1970’s wages (Ibid).

Gárate (2012: 193) summarized: “these policies implied an enormous social cost and the nearly complete disarticulation of the labor movement... thanks primarily to the repressive-police context of the era.” The “repressive-police” dealt with the intense labor opposition the policies generated. These policies undermined the basis of more social and nationalist plans emanating from Minister Díaz and General Leigh (Ibid). They were accompanied by a return to a hard-line labor policy as Díaz was replaced by gremialista Sergio Fernández Fernández. The spaces of intermediation opened by Díaz were eliminated. And, state violence against labor rose once more.

The definitive turn to a radical neoliberal path came with major cabinet changes starting in 1975. In April, 1975, Cauas was named 'Superminister' – “granting him the greatest economic policy-making power anybody ever had in Chile in the twentieth century” (Büchi 2010: 22).<sup>70</sup> In 1976 de Castro became Economy Minister. He entered with many other civilian neoliberals. In the same period (1974-1976) turnover of military leadership, with the majority of high officials present at the time of the coup retiring, and many generals and officers oriented to a traditional Ibañista state-developmentalism replaced. The path opened for the Chicago Boys to use the state to impose neoliberal policy (Valdivia 2001: 225; Gárate 2012: 193 footnote 39). In mid-1976 the first wave

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<sup>70</sup> Büchi was a high level conservative economist and center-right presidential candidate in 1989.

of large-scale privatizations began. This wave focused on state enterprises in the profitable export sector, particularly agriculture, fisheries and forestry.

### **Labor Threat: Growing Opposition, Unity and Allies**

Labor opposition to the military government went public in the second half of 1974 in the context of Labor Minister Díaz' controlled opening. The most freedom was given to gremialista sectors officially allied to the state. Yet, a "conditional acceptance" of Díaz' institutionalization project, mainly by PDC-led unions, and a relative decrease in state violence against labor allowed more public dissidence on state policies across the board (Campero and Valenzuela 1984: 219). Left labor militants won local leadership positions and gained access to new institutional spaces of public interlocution with the state, though usually by concealing partisan affiliations (Ibid).

All of these trends accelerated from 1975. The "open-comment period" Díaz initiated on his proposed Labor Code, and the collapse of economic conditions in the wake of neoliberal shock, spurred intensification of labor organization and opposition (Ibid). Public criticism from left and, increasingly, PDC-led labor escalated. Even officialist labor leaders felt pressured to speak out in increasingly strong terms against state economic and labor policies (Ibid).

Labor allies mobilized more forcefully in this period. Domestic opposition counted on the Catholic Church from early on. The Christian Democratic Party became more oppositional, fully breaking with the military government in 1977. Its strategic position in the center of a polarized Chilean polity made it a dominant force in the labor and later the political party opposition.

International support was key given the heavy domestic repression. Foreign governments and international fora- the ILO, OAS and UN most importantly- were sources of pressure that constantly preoccupied the military government. These organizations pushed human and labor rights abuses in Chile onto powerful governments' agendas. Solidarity work organized in exile communities<sup>71</sup> and Chile's prominent place in Cold War geopolitics helped drive this trend.

These political dynamics generated increasing tensions in the military government's most important international relationship, that with the US Government. Tensions increased markedly after the assassination of Orlando Letelier in Washington DC on September 21<sup>st</sup>, 1976. Frictions with the US exacerbated strains within the Junta and were used as leverage in internal disputes.

Finally, international labor pressure was key to the origin of the Labor Plan. From 1975-1978 ORIT and other regional labor groups increased pressure on the Chilean state. So did US labor organizations like the AFL-CIO and ILWU. Combined with US pressure, this was decisive.

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<sup>71</sup> Solidarity movements, some of which began during the UP, grew across the world in the aftermath of the coup and continued to build throughout the 1970s. Chilean exiles, of whom at least 200,000 were for political reasons, of a total of perhaps over 1 million migrants during the period, were widely dispersed across the region and the world (Wright and Oñate 1998; Sznajder and Roniger 2007; Wright and Oñate 2007; Shayne 2009). Due to the wide dispersion of exiles and the high political profile of Chile, "international solidarity came from all parts of the world and took on all different shapes" (Shayne 2009: 78). The largest share went elsewhere in Latin America, especially Venezuela, Argentina before 1976 and Mexico, but Chilean exiles arrived in all parts of Europe and North America (Sznajder and Roniger 2007; Shayne 2009: 68-78). Many activists from the CP ended up in the Soviet Union. Even far-away Australia had an active Chilean exile community. The largest exile network NGO, *Chile Democrático*, had committees in 80 countries (Shayne 2009: 74). Exile communities received extensive political and economic support from local organized left forces and the general population in many host countries, as did the later emerging human rights movements. In addition to moral support and material resources, non-Chilean solidarity spurred political mobilizations that pressured home country governments, influencing the international political context.

In response to growing pressure the Junta repeatedly attempted a dual-response strategy. The state, particularly with respect to labor opposition, returned to greater repressive intensity. Yet, in addition, the regime attempted to formally institutionalize different aspects of its rule. These institutionalizations were, in part, for the sake of appearances, but also signified changes in actual state practices. Those new practices were to help alleviate such pressures. This section will review the antecedent conditions of growing labor threat, labor-allied opposition and state reaction.

### **The Public Emergence of Labor Opposition (1974-1975)**

Reacting to the limited opening initiated by Díaz in 1974, a practical alliance of Christian Democrat and gremialista union leaders eagerly took up the institutional spaces for labor activity this policy allowed, characterizing them as a down-payment on further progress. For example, in July, 1974, at the ILO conference in Geneva, Christian Democrat union leaders Eduardo Ríos of the Chilean Maritime Workers Confederation and Ernesto Vogel, a railroad worker leader, along with officialist copper worker leader Guillermo Medina, rejected the political isolation strategy of three European international labor centrals there (Campero and Valenzuela 1984: 219-220).

Other important labor organizations took this line as well. The Christian Democratic-led state administration employees (ANEF) and white collar private sector workers (CEPCH) were among those insisting that the government was moving towards restoring labor rights (Ibid). In this period of relative opening public events at a national level by federations and confederations were allowed, as were public petitions to the authorities, including re-opened labor courts (Ibid). This position appeared vindicated with General Leigh's proposal for various social programs in January, 1975. This was followed by the Labor Code proposal and its associated 60-day open comment period, announced on May 1<sup>st</sup>, 1975 (Campero and Valenzuela 1984: 223-225).

This period saw the first public critiques by newly emerging left labor opposition. These targeted not only the regime but also the "realism" line adopted by Christian Democratic leaders. Left critics formed a group called the National Labor Consultancy. They issued statements that sufficiently irritated the state that Labor Minister Díaz publicly threatened at a March 17<sup>th</sup> press conference that any "political" criticism would be punished by exile (*El Mercurio* March 18, 1975). This led to a labor backlash. Sixteen of 22 unionists on the Labor Coordination Committee, a state-labor dialogue institution created by the state at the end of 1974, boycotted its meetings in response to the threats (*El Mercurio* March 25, 1975).

This dynamic, criticism met with repression leading to alienation of all but the most loyal officialist gremialistas, accelerated rapidly after April, 1975. After the announcement of shock therapy, Christian Democratic leaders refused to conduct a joint May 1<sup>st</sup> event with gremialistas. Instead, many joined left unionists for Workers' Day events under cover of "sporting and cultural meetings" that still managed to mobilize thousands (Campero and Valenzuela 1984: 226).

That day a still clandestine national left labor opposition group held its first public event. Growing out of the Monsignor José Cardijn Welfare and Education Foundation, *Coordinadora Nacional de Sindicatos* (CNS) made its first, unofficial, appearance at a "Labor Day Mass" at the San Francisco Church in Santiago. It was dispersed violently by *carabineros*. The CNS became a leader of labor opposition in the 1970s, and a key space for left-PDC labor unity.

The CNS was formed by leaders of 17 organizations<sup>72</sup>. Intended to be a transitory group, it aimed to reunify the labor movement, eventually becoming strong enough to transition into a unified national oppositionist union central (Ibid). On August 20<sup>th</sup>, 1975, the 17 leaders sent an

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<sup>72</sup> Unions in textiles, plastics, construction, leather and home appliance manufacturing, among others.

open letter to the Finance, Economy and Labor Ministers. The letter articulated a comprehensive criticism of the economic situation and treatment of labor under the military regime (Ibid).

One significant actor at early CNS meetings was textile workers' leader Manuel Bustos, a PDC militant. He became leader of the CNS, then the unified national labor opposition. After the CUT, the largest national union central, was relegalized in September, 1988, he became its head. Overall, he played a key role in unification of left and PDC oriented labor in this period (Ibid).

By September, 1975, Pinochet let it be known that the Labor Code, and with it a legal and institutionalized union and labor regime, would not become law (Campero and Valenzuela 1984: 231). It had become obvious that in the wake of shock treatment and the radically increased labor opposition it generated, the imposition of radical neoliberal policies was fundamentally at odds with the aspiration to legalize and institutionalize even a tightly controlled labor movement. So, the April, 1975, announcement of the shock marks the beginning of the breakdown of relations with labor sectors predominantly led by Christian Democrats that initially offered “conditional support” to the regime. This process culminated with Minister Díaz’ replacement by Fernández.

In December, 1975, the Group of Ten was formed. It was a coalition of ten major union confederations with 500,000 workers organized into several hundred locals (Fleet 1985: 186). The Group united nine high ranking Christian Democratic Party labor leaders and one from the center-left Radical Party. Some had been strongly aligned with the “conditional support” stance, such as Guillermo Santana of the Copper Workers Confederation. Others had advocated a more oppositional stance and labor unity with the left, like Bustos. Still, at first the group maintained ideological and organizational distance from the bulk of the still-clandestine union opposition. The Ten rejected class struggle and a mass mobilization strategy to challenge the regime and firmly opposed alliances with “Marxist”-led labor groups (Drake 1996: 132). They met every two weeks with the state *Coordinadora Nacional de Gremios* (Fleet 1985: 186). Initially tepid in their critiques, the Ten quickly became a leading voice in opposition to the dictatorship. Figures in this group like Bustos and Tucapel Jiménez over time became key leaders of the opposition.<sup>73</sup>

At the beginning of 1976, a dynamic was well established that saw labor dissidence and opposition increasing in scope and intensity. Opposition was driven by regime economic policy and dashed hopes of a limited opening and recovery of labor rights. This heightened opposition could only be met with increased repression. Two main avenues of labor concessions, material gains or liberalization of organizational restrictions and freedom of action, were in contradiction to the military state’s commitment to radical neoliberal policies and anti-inflation shock therapy.

### **The *Puerta Cerrada*: Sergio Fernández as Labor Minister (1976-1977)**

Though Sergio Fernández was a lawyer and not an economist, he was closely allied to the Chicago Boys and a key part of the gremialista faction. His appointment on March 9<sup>th</sup>, 1976, as the first civilian Labor Minister under the Junta symbolized the elevation of this current over the more statist-nationalist factions on labor policy. He moved quickly to shut down official lines of

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<sup>73</sup> The Group of 10’s original founders included Manuel Bustos (textile workers union), Pedro Cifuentes (sugar workers union), Andrés del Campo (bank workers union), E. Díaz (maritime workers union), Tucapel Jiménez (public employees union), Enrique Mallado (peasant federation), Antonio Minimiza (oil workers union), Francisco Mujica (private employees union), Eduardo Ríos (maritime workers union), Guillermo Santana (Copper Workers Confederation) (*El Mercurio* December 30, 1975). Jiménez was the Radical Party militant.

interlocution and re-emphasized repression as a labor control strategy. Fernández' tenure was characterized by a 'hardening' of the regime and escalating labor opposition to the government.

Leaving the Labor Ministry to become Comptroller for a brief but critical moment at the end of 1977, and then Interior Minister from 1978-1982, Fernández became Pinochet's closest civilian political and legal advisor. He played a key role in the 1978 *consulta nacional*,<sup>74</sup> and the referendum on the 1980 Constitution, as well as the 1988 plebiscite on Pinochet's continued rule. Ricardo Lagos (2012: 92) later commented that "at the same time the Chicago Boys had rolled the dice on the Chilean economy, Fernández had completely reorganized the state."

One of Fernández' first acts was a public statement on May 1<sup>st</sup>, 1976, that strikes, then in a legal grey area but had increased under Díaz, would not be tolerated (Falabella 1981: 21). In that statement, Fernández, referring to strikes, asserted "the parties should not employ means of force... These instruments correspond to eras that civilization should consider superseded" (*El Mercurio* May 2, 1976). Fernández' leadership of the Labor Ministry involved a return to early dictatorship conditions and the "state of emergency" rules of DL 198.

Fernández' tenure also coincided with a deepening of radical neoliberal policies. By 1976 these had ceased to be justified as mainly targeting inflation or the balance of payments. Rather, they became part of a long-term, large-scale military regime project to restructure the political-economy. During this period labor policy was firmly subordinated to this restructuring.

Another characteristic of this era was the direct role Pinochet took controlling and managing labor issues. Pinochet and Fernández adopted a policy of "direct relations" with hand-picked pro-government labor leaders (Campero and Valenzuela 1984: 240-243). These "direct relations" with selected leaders<sup>75</sup>, began with meetings of 20 and expanded into larger gatherings in 1977 and 1978. Based in a Copper Workers' Confederation recently purged<sup>76</sup> of its Christian Democratic leader Guillermo Santana,<sup>77</sup> the state founded the *Unión Nacional de Trabajadores Chilenos* (UNTRACH) in September, 1976. The group had leaders from banking, health care, nitrate, municipal employee and some peasant groups (Ibid). Its leading figures were Bernardino Castillo and Guillermo Medina of the Copper Worker's Confederation. These unions gained institutional, legal and political support from the regime over the course of 1977 and 1978. They were coordinated via a new *Secretaría Nacional de los Gremios* created in March, 1976 (Ibid).

The state and Fernández were especially interested in creating alternative pro-government unions in sectors where the PDC or independent-led labor turned to open opposition (Ibid). This officialist sector and its associated state apparatuses were a key power base for right-nationalist and fascist gremialista factions. A *modus vivendi* existed with the neoliberal faction based on a need to control labor to implement neoliberal policies (Ibid). Major officialist labor organizations at the time included The Labor Front for National Unity, intended as base for mass mobilizations in support of the military regime, led by municipal employees union head René Sotolichio, the

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<sup>74</sup> The National Consultation was a vote to reject United Nations condemnation of human rights violations in Chile.

<sup>75</sup> Key officialist union leaders were: Guillermo Medina and Bernardino Castillo (copper workers); Martín Bustos (maritime workers); David Ahumada (plasterers); Juan Chacón (peasants) and René Sotolichio (municipal workers)

<sup>76</sup> Other important unions that were purged of Christian Democratic or independent leadership previously associated with "conditional support", or had parallel unions set up, in September 1976 were: COMACH (Maritime Workers Confederation); Pacific Steel Company (CAP) workers; and at the National Electric Company (ENDESA).

<sup>77</sup> Santana himself had been appointed by the military in the wake of the coup, owing to his vocal opposition to the UP and Allende and had been among the most prominent PDC labor leaders calling for "conditional acceptance" of the proposed new institutions of labor and a cooperation, with limited criticism, of the regime on that basis.

National Trade Union School, founded in April, 1977, to train officialist labor militants, and the Union of Federations, Confederations and Trade Unions, set up in December, 1976 (Ibid).

A final instance of pro-government labor institutionalization was the reopening of the so-called “Tripartite Commissions” in 1977, which had historically been a state organization for the binding arbitration of labor disputes. In this instance, however, the labor representatives on the commissions were named by the government, were only used in a few cases, and never became fully operational in practice (Campero and Valenzuela 1984: 248). In fact, these “represented transitory actions, whose end was to present an intention to normalize in the face of internal and international pressure” (Ibid). The goal of creating a military regime allied labor movement failed and none of these institutions lasted more than a few years.

Fernández’ hard line policy for dealing with labor organizations not tightly politically controlled by the regime was known as “the closed door,” in contrast with Díaz’ “open door”. Efforts at dialogue with parts of the labor movement Díaz had thought might offer support to the regime, especially conservative sectors of the Christian Democratic Party, were terminated. This meant Fernández denied all requested audiences with the Ministry, very rarely responded to any correspondence sent by labor groups and rejected nearly all required applications for permission to hold union conventions, congresses or May 1<sup>st</sup> events (Campero and Valenzuela 1984: 243).

It is also notable that no major labor law changes were legislated during Fernández’ term as Labor Minister, nor were any major potential labor law reforms publicly proposed (Campero and Valenzuela 1984: 247). This was in accord with the preference for strict authoritarian control and the return to using emergency powers, violence and repression which characterized this era. Fernández made a particular point of persecuting- including arrests, exiles, disappearances and confiscation of resources- those left oppositionist labor forces that had begun to emerge in 1975 (Campero and Valenzuela 1984: 242). A notorious instance of state terror was the case of Juan Gianelli, a teacher at Santiago Girls’ School 24 and leader of the Chilean Educators’ Federation (FEDECH). A CNS founding militant and early regime opponent, he was disappeared from the school’s front door in broad daylight on July 26<sup>th</sup>, 1976 (*Antecedentes*). The repression of labor also increasingly targeted Christian Democratic and independent leaders, even those who had earlier cooperated with the government (Fleet 1985: 187). This repression escalated, culminating with the arrest and internal exile of several key leaders during 1976 and 1977 (Winn 2004: 24).

A coherent strategic logic linked the closed door, return to emergency laws and violence. His first May 1<sup>st</sup> speech as Labor Minister Fernández said, “You cannot implement a [new] labor policy without first extirpating the evils that drove us to a social crisis. Because of this collective bargaining and trade union elections have been suspended” (*El Mercurio* May 2, 1976). For Fernández and the gremialistas “cleansing” the labor movement to prepare for institutionalization of a new labor regime was the main goal. While in contradiction with liberal ideology, this policy was functional for the neoliberals as it suppressed dissent to the effects of their economic policies.

This hardline stance had important results. The economic situation, combined with a very anti-labor stance by the government, led to a massive surge in firings in 1976, and a condition of ubiquitous labor law violations (Campero and Valenzuela 1984: 243). Workers “faced a situation of persistent blockage of their protests not only politically but institutionally owing to a lack of recourse to state organs for mediation and protection” (Ibid).

The closed door approach also created a backlash. Many sectors of the Catholic Church became more involved in the struggle for labor rights from 1976, as a mediator with the regime and as a voice for labor demands (Ibid). Labor backlash was also sharp, including conservative

sectors of the PDC and previously cooperative independents in the Group of Ten<sup>78</sup>. The closed door policy directly stimulated labor unity and eased left labor isolation (Fleet 1985: 187-189).

### **A Mass Labor Opposition Emerges and Escalates (1976-1977)**

Days into Fernández' tenure, on March 11<sup>th</sup>, 1976, the first "open letter" from the labor opposition to the regime was released. Addressed to the Interior Minister from 11 rank-and-file unionists, it formally solicited authorization "to debate broadly the critical situation of the trade unions" (quoted in Campero and Valenzuela 1984: 254). This solicitation, perfunctorily denied, was more than a symbolic protest at a time when all union meetings, indeed all public gatherings of more than five people, legally required the state's prior permission, the "*permiso previo*".

This tactic of open letters and other collective public pronouncements, which began in the second half of 1975, "during 1976 acquired a significant political relevance" as the reduction of approved spaces of intermediation with the state drove more unionists to public and oppositional orientations (Ibid). A second "public letter", sent to Fernández a month later, was signed by four federations and 104 union leaders and militants. It demanded "the reestablishment of trade union rights and liberties" (Ibid). That month, labor groups also publicly requested permission to hold an independent political event on May 1<sup>st</sup>. This was also rejected. The official May 1<sup>st</sup> program included only a speech from Labor Minister Fernández', none from any unions. This epitomized the hard-line stance of the government and Labor Ministry in this period, as did Fernández' harsh and uncompromising language. He made clear that neither strikes, nor collective bargaining, nor union elections were on the table (Ibid).

Then, May 28<sup>th</sup>, 1976, a large document addressed to the government, with grievances and demands, was published (Campero and Valenzuela 1984: 254-255). It announced the public existence of the "Group of Ten" for the first time. More, as political act it represented the final rupture between the dictatorship and this tendency of union leadership. Though once committed to "conditional support," from then on this important current in the labor movement embraced an alternative strategy. The new strategy was to put "pressure" on the government (Ibid). Reflecting on the dramatic fall in wages, the decline in the level of consumption for Chile's workers and the high level of unemployment, the Ten concluded that "the social situation" was undergirded "by the coercive capacity of the government" (quoted in Campero and Valenzuela 1984: 256). The Group of Ten claimed support from 400 unions representing 600,000 workers for this text. Many of these groups had never taken stances directly confrontational to the regime before (Ibid).

Yet, the Group retained a posture of stringent anti-Marxism and attempted to maintain a distinction from heavily repressed left labor opposition. Justifying the prior strategy, it argued, "the difference with the first phase is that this tendency is no longer only the consequence of emergency measures, rather it appears as a permanent line in trade union and labor policy... this scheme tends to create a propitious environment for class struggle... whose proponents will find a fertile path to utilize trade union organizations in the pursuit of a totalitarian system" (Ibid). As the Group of Ten warned, the state's shift to a hardline stance benefited the left labor opposition.

One key example was PDC Group of Ten member and port worker leader Eduardo Ríos. He took the lead dealing with military authorities and offering support for regime policies in the early years after the coup. He travelled to Geneva to meet with the ILO and represented Chilean labor in diplomatic and international fora. He represented unionists opposed to Allende and the UP and who expected a rapid return to democracy, presumably with Christian Democratic Party

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<sup>78</sup> Tucapel Jimenez, leader of ANEF, and Federico Mujica of CEPECH were the most important examples.

control following the elimination of their rivals for power on the left (Compa 1988: 21-28, 38). The official legitimacy of this political position in post-coup Chile, as well as the domestic and international alliances the conservative and centrist currents of Christian Democratic unionism represented by The Ten could call upon, were key political resources and provided space. This space and the symbolic impact of the break allowed The Ten to become the public face of trade union opposition to the regime at a time of little overt domestic dissent (Drake 1996: 133-134). Still, opposing the regime on even these grounds carried risks for labor militants and leaders.

Throughout this period, divisions remained within PDC labor. Older, more conservative Christian Democratic labor leadership that had operated with an “initial affinity” for the military regime started to move towards a public and oppositional stance only under duress (Barrera and Valenzuela 1986: 230). Labor had long been the most anti-Marxist sector of the PDC. By 1976, labor leaders were under pressure from rank-and-file members and local leadership to resist the regime’s economic and political attacks on workers more firmly (Collier 1999: 152). Given this political-economic context, harsh state rejection of its entreaties left the Group of Ten “no other alternative... than the pursuit of a confrontational and oppositionist course in order to retain a place among the leading sectors of Chilean unionism” (Barrera and Valenzuela 1986: 244-245). This “definitive break of non-leftist union leaders with the government” provided the basis for enhanced cooperation with left labor as the competing currents “began to draw closer together rapidly on the basis of a commonly shared opposition to the military regime’s economic and labor policies” (Ibid). A formal alliance with the left labor opposition remained a complicated and divisive issue, significant enough that it ultimately caused the division of the Group of Ten itself.

Fleet (1985) notes, “Younger Christian Democratic labor leaders had moved left despite the strenuous objections of party officials”, (189) as both leftist and centrist tendencies expressed greater interest in unity than at any time in recent history. This dynamic owed in large part to the fact that “the political parties with which unionists on both sides were affiliated were neither in power nor as dominant as they might be in normal times. As a result unionists were freer to act on their own and less fearful of manipulation at one another’s hands” (Ibid). In 1976, the FUT (United Workers’ Front) emerged. It was a more left PDC labor group whose largest affiliates were taxi drivers, private road transport, textile and wood workers (Falabella 1981: 28-30).

As repression against Christian Democrats and the Group of Ten increased, four founding member-unions withdrew. One, the private sector white collar employees group CEPCH, moved back to a more compliant stance with the regime. The other three, textile, construction and mine workers confederations, joined the still clandestine CNS, whose first leader was Bustos (Fleet 1985: 187). Bustos’ “*doble militancia*” or dual membership in the CNS and the Group of Ten and his cooperation with labor movement Marxists later generated significant controversy.

Fernández responded harshly to emergent oppositional dissent from the Group of Ten. He angrily announced to the press that the unionists were ignorant of the situation of the country and questioned their representative legitimacy (Campero and Valenzuela 1984: 256). In a July 21<sup>st</sup>, 1976, response from the Ten, they dared the Labor Ministry to allow free and fair union elections to determine representativeness (Ibid). Meanwhile, this oppositional stance gained them three new labor groups as members: the Plastic Workers Confederation, Professional and Technical Workers of the National Health Service and the *Banco Español* Unions’ Federation (Ibid).

On July 26<sup>th</sup>, 1976, gremialista Copper Workers' leader Guillermo Medina demanded the directorate of the CTC be declared illegal as its president, PDC member Guillermo Santana, had signed the Group of Ten text. Medina, appointed to Pinochet’s newly created Council of State, launched a public campaign accusing Santana of collaborating with communists (Campero and



Valenzuela 1984: 256; Vergara 2008: 183-184). On September 6<sup>th</sup>, Santana was dismissed as President of the CTC, along with its leadership, for having supported the Group of Ten. Santana was replaced by pro-regime labor leader Bernardino Castillo (Campero and Valenzuela 1984: 257; Vergara 2008: 183-184; Drake 1996: 124-126). Especially notable about this event was that Santana himself gained that leadership position as a result of the military regime's reorganization of CTC leadership in the aftermath of the coup (Vergara 2008: 182-183).

Left labor militants also made use of the tactic of open letters. These, over the course of 1976, became more daring in their opposition to the regime, bordering on a public calling for its overthrow. In a preview of future protests, left labor organized miners at the key Chuquicamata mine staged a two hour work stoppage in late 1976 (Campero and Valenzuela 1984: 257).

All these trends accelerated in 1977. Labor unity, militant opposition to the government, increased presence of left labor in the public opposition and leadership, and direct actions on the job and at the point of production, including work stoppages, increased significantly. More, from 1977, the presence of international labor movement allies became a major and increasing factor.

On April 29<sup>th</sup>, 1977, a group of left affiliated union leaders (miners, construction workers, pensioners and sanitation workers among the most important) published an extensive document addressed to the government. It demanded authorization to celebrate May 1<sup>st</sup>, offered an analysis of the political-economic situation, set out a series of concrete material demands and called for democratization (Campero and Valenzuela 1984: 258-259). "Analysis and Aspirations of the Chilean Workers at 44 Months of Military Government" was written by leaders affiliated with a still not public CNS. It was the most forceful intervention to that point for left labor opposition. Economic reforms- a minimum wage, automatic wage readjustments, agrarian land reform- were central to its demands. It declared "the labor movement the most authentic voice... of the nation" and pressed "as the first question" for a labor-led "democratization from a social base" (Ibid). Finally, it called on the government to respect the self-governance and the rights of unions (Ibid).

From this point onward, the public leadership of the labor opposition was defined by two large currents: those who identified with the Group of Ten and those aligned with the left groups that emerged as the CNS. Together, these two groups lead the labor opposition in a dual struggle: for the rehabilitation of labor's material conditions and for political democratization (Ibid).

One important moment on this path of growing labor opposition and unity was the illegal May 1<sup>st</sup> events of 1977, organized by communist, socialist, PDC and independent labor together. Perhaps 5,000-10,000 workers and students participated (Fleet 1985: 187). The day was capped off by a dramatic mass for the feast of St Joseph the Worker convened by Cardinal Silva at the main cathedral in the center of Santiago. In attendance was a secret delegation from the British National Union of Mineworkers (NUM) who left a memorable recounting of the event. A crowd of more than 2,000 overflowed into the plaza. A delegation of 100 opposition labor militants and leaders, including the NUM delegation, entered at a signal from the Cardinal to seats of honor at the front and a raucous reception. Outside the cathedral stood DINA and machine-gun carrying *carabineros* backed by army tanks. After a rousing homily on participatory democracy and mass chants of "*libertad!*" a spontaneous mass protest meeting ensued (Jones 2014: 100).

The regime's conflict with labor- and the Church, Christian Democratic Party, foreign governments and international civil society- only deepened after Pinochet's July, 1977, speech at Chacarillas announcing the institutionalization of the regime. It appeared a plan to install himself as ruler and the Junta in power for another decade or longer. From then on The Ten, and Ríos particularly, became more radical foes. Ríos spoke out strongly against the regime at the annual

ILO meeting in Geneva. In response, in September, 1977, a planned meeting of 375 labor leaders in support of The Ten was banned by military order (Campero and Valenzuela 1984: 261-262).

In late 1977 illegal protests, direct actions on the job, and strikes escalated significantly. Crucially, the mining sector saw growing unrest. This sector was the source of most of Chile's foreign exchange earnings. Owing to its paramount strategic importance, including to the direct income of the state and the military, privatization had been minimal. Still, like in all sectors, the combination of suspended salary adjustments and circumscription of collective bargaining, in a context of continued high inflation, severely weakened real wages in four years of military rule.

In mid-September, in the copper mine of El Teniente, workers staged "empty lunch box" (*loncheras vacías*) protests at the high cost of meals in the company cafeteria. These slow-downs saw about 1,000 workers returning late to work after lunch (Campero and Valenzuela 1984: 262; Vergara 2008: 184). Forty rank-and-file organizers were threatened with dismissal for the direct actions, which were planned without even opposition union leaders knowing about them (Ibid). In the next two months, the cafeteria protests spread to the El Salvador and Chuquicamata mines. Called "*movimientos de viandas*" (lunch actions) and "*cuchareos*" (banging of spoons), labor tactics escalated to work slowdowns and absenteeism strikes (Vergara 2008: 184-185).

On November 2<sup>nd</sup>, 1977, a planned "partial strike" at El Teniente garnered overwhelming worker support. The mine nearly shut down completely as 2/3<sup>rds</sup> of mine and 1/3<sup>rd</sup> of surface workers struck. Participation grew throughout the day. During first shift, 54% of workers took part, 2<sup>nd</sup> shift 69% struck, and 81% did not work 3<sup>rd</sup> shift (Campero and Valenzuela 1984: 263). The threat was such that Pinochet intervened directly. He convened a meeting of the state copper company (CODELCO) and officialist CTC leadership and forced an agreement to pay a bonus, the trigger for the strike, and an extra profit sharing payment for the month of December (Ibid).

A major crackdown also began. More than 80 workers were fired and four opposition organizers were arrested and sent into internal exile (*Solidaridad* No. 31, November 1977). The repressive response was opposed by the officialist labor leadership. It led to increasing criticism, some public, of government and mine management by CTC leaders Castillo and Medina (Wall Street Journal December 12, 1977; *Ercilla* December 28, 1977). This repression also brought copper worker militants from the PDC, PS, and PC together. For the first time, they united to organize an opposition force to contest regime-loyalist union leadership (Klubock 1997: 114).

In the aftermath, Pinochet reaffirmed his dual policy of "direct relations" with select loyal unionists and the use of repression with opponents. In a November 23<sup>rd</sup> speech he insisted, "this path of direct and frank dialogue is the only way to hear and resolve the concerns and problems of the productive masses" (Quoted in Campero and Valenzuela 1984: 241). In December, 1977, three more mining sector labor militants were exiled (Campero and Valenzuela 1984: 244).

The end of 1977 also saw a major work slowdown action at the most important port in Chile, at Valparaíso (Campero and Valenzuela 1984: 249). Crucially, 1977 was also the year a significant amount of pressure began to be put on the regime by international labor organizations in solidarity with Chilean labor (Campero and Valenzuela 1984: 258). Increasing pressure from labor and its allies again yielded a dual response: heightened repression and institutionalization.

### **Labor Allies and Escalating Labor Threat (1973-1977)**

From the moment of the coup, events in Chile had a resonance disproportionate to the economic and political weight of the country. Especially in the 1970s, Chile figured prominently

in international politics, at the crux of East-West and North-South Cold War era cleavages. For labor in Chile, international reservoirs of support were vital throughout the dictatorship period.

### **International Labor Solidarity**

Falabella (1981) notes, “under the political conditions created by the Junta, including the unions’ weakened relationships with political parties and the unions’ lack of access to the State... international unions have become a most important support for union struggles in Chile” (51). This international labor support was crucial in multiple ways. Many unions pressured their home country governments and parties to maintain the international isolation of the military regime. A continuous stream of condemnation by international unions at international fora, particularly the ILO annual conference, played a similar role in pressuring the regime. Some international labor groups provided financial assistance for union activities in Chile, such as the AFL-CIO for the Group of Ten. Finally, political support for specific labor activities inside Chile was important, such as on May Day, “when union leaders have counted on the valuable participation in Chile of union leaders from different countries” (Ibid). International labor support helped increase union mobilization inside Chile, raised the cost and visibility of repression, and, thus, opened “a wider political space... for the struggle of the unions” (Ibid). Such support began right after the coup.

Many unions called for a boycott of trade relations by their respective countries with Chile after the coup. A leading voice was the International Transportation Workers Federation, who advocated an international boycott to coordinate various unions in Europe, Australia and North America that were discussing such an action (Tinsman 2014: 189). Already November 3<sup>rd</sup>, 1973, International Longshore and Warehouse Union (ILWU) San Francisco Bay Area Local 10 voted to cease loading or unloading Chilean cargo “until such a time that the junta or government in Chile restores full rights to the trade unions, their membership and leaders” (Tinsman 2014: 181). This led to several 24 or 48 hour stoppages on the US West Coast in the 1970s, especially symbolically important dates like the day of the coup (September 11<sup>th</sup>) or Independence Day (September 18<sup>th</sup>). The strikes never made a big financial impact but “the ILWU’s resolution was certainly noticed inside Chile”. The “government lambasted the ILWU as communist inspired” (Ibid). A 1978 US port worker refusal to load bomb parts destined for Chile had more practical effect and drew uncomfortable international attention to US military aid to the regime (Ibid).

From 1974 onwards the ILO also became a critical protagonist for Chilean labor rights. It sent delegations to review the labor rights situation each year and addressed the situation in Chile in its annual conference in Geneva. The seriousness with which the dictatorship regarded these issues is attested to by the amount of effort expended on sending cooperative representatives of labor to meetings with the delegations or to the Geneva conferences, and the extensive responses the government prepared answering to the various ILO reports accusing it of rights violations.

International and regional labor organizations were also crucial sources of support. From early on the International Confederation of Free Trade Unions (ICFTU) backed Chilean unions financially and politically, via the CUT’s External Committee based in Paris (Falabella 1981: 52; Campero and Valenzuela 1984: 266). Its Latin America regional affiliate ORIT was also an early critic of regime repression of labor. The Eastern-bloc aligned World Federation of Trade Unions (WFTU) had the strongest connections with the labor left, particularly Communist Party labor militants. The Christian Latin American Workers Confederation (CLAT) was also an important financial and political supporter, particularly of the progressive sectors of Christian Democratic unionism like those that joined the CNS and made up the FUT (Falabella 1981: 53).

Perhaps most influential, however, was the American AFL-CIO. Through its American Institute for Free Labor Development (AIFLD), the AFL-CIO played a role in organizing labor opposition to the UP and supporting the coup (Hirsch and Fletcher 1977). From 1973-1975, it supported Christian Democratic labor groups that backed the regime. Then, 1975-1977, the AFL-CIO and AIFLD financially and politically backed the Group of Ten and ANEF. These groups became increasingly critical of the dictatorship while keeping an ideological and political distance from “Marxist” labor and promoting a “free” unionism (Falabella 1981: 51-54; Campero and Valenzuela 1984: 266-267; Vergara 2008: 182-184). After the 1975 split between the military regime and cooperative PDC and independent labor sectors, the AFL-CIO, its president George Meany, and ORIT began to threaten the Junta with an international boycott of Chilean commerce (Vergara 2008: 184). The AFL-CIO continued to call for an anti-communist union alliance with UNTRACH. AIFLD Chairman Peter Grace noted AIFLD’s purpose was to “prevent communist infiltration and where it exists... get rid of it” (Hirsch and Fletcher 1977: 15; Falabella 1981: 52).

Beginning in 1977, all of these international labor organizations significantly stepped up their backing of Chilean labor and opposition to the regime. Milestones included Meany’s highly critical February 9<sup>th</sup>, 1977, letter to Labor Minister Fernández, in which he wrote “the excesses committed by the government, in the name of anticommunism, are typical of the most tyrannical fascist governments of our century” (quoted in Campero and Valenzuela 1984: 246). CLAT and WCL delegations in September were important for bringing together Church, Group of Ten and left labor leaders at a key juncture. These trips resulted in labor rights reports sent to the ILO’s *Comité de Libertad Sindical* (Campero and Valenzuela 1984: 266). The IFCTU and the WFTU also increased financial support for Chilean labor significantly starting in 1977 (Ibid).

A major problem with this international union backing was that it tended to import into Chile geopolitical divisions of the international labor organizations themselves. Like party links for much of Chilean labor history, international political links were significant obstacles to labor unity and autonomy, and thus the potential power of labor threat (Falabella 1981: 53).

### **The Catholic Church: The Most Important Domestic Labor Ally**

In Chile, opposition to the dictatorship grew broadly after the economic contraction that followed shock therapy and radical neoliberal policies. There was a deepening sense military rule would not be a short-term or transitory phenomenon. Yet, on an organized basis, few institutions were able to take on a public oppositional profile in such a repressive atmosphere. With parties and political organizations formally banned, much early opposition took refuge and organized in non-governmental and formally non-political institutions and groups. None was more important than the Catholic Church. Because of the key role it played culturally, historically and politically in Chile, not least among conservative sectors that supported the regime, it maintained a special, albeit not complete, autonomy from military authorities, even in the worst days of repression.

Church opposition to the regime began early and always focused on human rights issues, particularly the cases of the disappeared, whose families often had no other recourse. The policy of quiet, private advocacy for human rights and the politically repressed was replaced by more active and explicit opposition as the dictatorship wore on. In 1975, the government ordered the Church to close the “Pro-Peace Committee” it had been supporting, because of its work with the families of the disappeared and other regime victims. The Church still maintained a heavily anti-Marxist discourse, in part to combat charges by the regime that it was infiltrated by Marxists. It did work with, defend and employ Marxists at the Pro-Peace Committee (Allen 2009: 101-109).

The conservative newspaper *El Mercurio* printed an article titled “An inconvenient conversation” in which it stated “public opinion well knows that the Marxist infiltration is not innocuous and can easily explain the tone and orientation of the said Committee” (*El Mercurio* October 8, 1975). Later, revelations the Church had sheltered members of the armed opposition caused the final decision by the dictatorship to repress Church based opposition. Members of the MIR sought shelter in churches and Church buildings while being pursued by the authorities, sometimes even giving rise to tense standoffs regarding whether the military or *carabineros* could enter the Church (Allen 2009: 101-109). The government responded with a crackdown.

The Pro-Peace Committee was closed, scores of *Pro-Paz* workers were arrested, and all foreign born clergy involved were deported (Aguilar 2004: 91-100). In just days, on January 5<sup>th</sup>, 1976, the Church formed the *Vicaria de la Solidaridad* (Solidarity Vicariate), part of the Church itself (the previous grouping had been ecumenical). This institution went on to become the most important domestic human rights advocate in Chile, keeping records of human rights abuses and providing legal, economic and moral support to victims of the regime (Ibid).

The Catholic Church offered critical physical, legal and social protection to labor leaders, leftists and more conservative factions of Christian Democrats. It “kept alive” a labor movement in the first post-coup years, particularly through the efforts of the Workers’ Pastoral Vicariate. It was a key institutional space where attempts at opposition labor unity began (Angell 1996: 187).

In early 1977 Cardinal Raúl Silva Henríquez began a Workers’ Pastoral Vicariate headed by Monsignor Alfonso Baeza. It provided crucial backing for the work of the CNS. Even the first clandestine CNS office was housed in a garage that was Church property (*Antecedentes*). As an organization, CNS grew out of the Monsignor José Cardijn Welfare and Education Foundation. In 1975-1977 key union meetings and events, such as May 1<sup>st</sup>, 1977, were often held in churches and offered protection by the clergy. Explaining the *Pastoral Obrera* mission early in its history, Bishop Baeza wrote, “We shall not discuss human rights from an abstract historical perspective, but rather within a specific, a profound historical one: the perspective of the working class and the workers’ movement... our very mission in the *Vicaria de la Pastoral Obrera*” (Archbishop of Santiago *Documento de Trabajo* number 7, quoted in Falabella 1981: 50).

In these years the Church was more important to labor than the political parties, a major distinction from earlier periods (Falabella 1981: 51). It played a crucial role in rebuilding the institutional infrastructure of the unions, and particularly the left, and of regional union councils (Ibid). One of its strongest influences was in pushing for non-sectarianism and labor unity within a union movement ideally autonomous from political party control (Falabella 1981: 49-51). To this end the Church provided material resources as well as moral guidance. By 1977, the Church, Cardinal Silva and Bishop Baeza were all central labor protagonists opposing the regime (Ibid).

### **The Christian Democratic Party: Divided Support to Unified Opposition**

Over the first four years of the military dictatorship, the Christian Democratic Party had the most dramatic shift in its stances and actions of Chile’s major political actors. Its importance lay in the fact that it occupied a strategic position in the center of Chile’s long-time “three-thirds” spectrum of political forces. A PDC record of progressive reform during the Frei administration (1964-1970), including important labor gains and agrarian land reform, gave its intransigent opposition to Allende and early support for the coup and military regime a legitimacy in many international and domestic contexts that neither the nationalist nor neoliberal right could claim. As a result, the party had much more freedom of action in the early years than the UP parties.

However, the party was sharply divided in the early period of the dictatorship. Prominent progressive-tendency Christian Democrats opposed the coup and military government from the beginning. These political forces thus became a target for violence and repression, in Chile and around the world. Other high-profile PDC figures supported the regime, with some even joining the administration. Many quit or were ejected from the party for such collaboration. Some of the most important neoliberal reformers came from the PDC tradition. Others advocated “conditional support” or maintaining a low-profile. Many party leaders changed positions over time.

President Eduardo Frei Montalva of the PDC was President of Chile from 1964 until the inauguration of Salvador Allende in 1970. Convinced he saw a “totalitarian project” to “impose a model of society clearly inspired by Marxism-Leninism” in Allende’s Popular Unity government, he led congressional opposition to the UP as President of the Senate (Frei 1973 in Gazmuri et al. 1996: 4). He lent key support to the August 22<sup>nd</sup>, 1973, resolution asking for the armed forces to “re-establish the rule of law”, which became a primary legal-political justification for the coup.<sup>79</sup>

By April, 1975, Frei had grown disillusioned with the military. He published a strong critique of the government and its economic policy<sup>80</sup> and refused to serve on the Council of State, formed by Pinochet to advise the Junta on the “*nueva institucionalidad*”, the project of founding the new institutions of the Chilean state (Huneus 2000: 282-283). He considered the attempt a step to consolidate authoritarian rule. He insisted institutions would only be legitimate if created under a Constitution written by elected representatives and ratified by plebiscite. He called for the military to be replaced by a transitional government (Frei 1976: 15).

This publication marked a break with the military regime by leading sectors of the PDC which had previously supported it. Yet, some important party members, including some who had served in President Frei’s own administration, continued to politically support and serve in the government, splitting party conservatives and centrists. Frei’s Minister of Defense, Juan de Dios Carmona, for example, resigned from the party to serve on the Council of State. William Thayer, who was Frei’s Labor Minister and Justice Minister, also left the party.<sup>81</sup>

One faction of the PDC opposed the coup and dictatorship from the start. It was led by former party President Renán Fuentealba, Frei’s Vice President, Bernardo Leighton, and Radomiro

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<sup>79</sup>Frei also wrote a famous letter to the President of the International Christian Democrats, Mariano Rumor of Italy. In it, he rationalized both the coup and Christian Democratic Party support for it. He argued, “naturally Christian Democracy could not remain silent... it was its duty to denounce this totalitarian attempt that always presented itself in a democratic mask to gain time and cover up its true objectives... to install... a totalitarian dictatorship.” He insisted: “The Armed Forces- we are convinced- do not act out of ambition... their failure now would be the failure of the country... for this Chileans, in their immense majority, beyond any partisan considerations, want to help... reestablish peace and freedom in Chile” *Carta a Mariano Rumor, Presidente de la Unión Mundial de la Democracia Cristiana*. Santiago Nov. 8, 1973. In Gazmuri, Arancibia and Gongora (1996) *Eduardo Frei Montalva (1911-1982)* pp. 476-496

<sup>80</sup> The book was *El mandato de la historia y las exigencias del porvenir* (1976). Publishing it required government permission, which was given only after extensive internal debate due to Frei’s international prominence.

<sup>81</sup> Although less prominent in the PDC politically, some key civilian economics advisors came from the party. Jorge Cauas, who was Vice President of the Central Bank during the Frei administration, then served as Economy Minister from 1975-76, initiating shock therapy. José Piñera, author of the Labor Plan, also came from a family of prominent Christian Democrats. Raul Saez, a key economic advisor, also served in the Frei administration.

Tomic, head of the “progressive” wing and 1970 Presidential election candidate.<sup>82</sup> Yet, the official party leadership did not embrace this position until Andrés Zaldívar took over as PDC head from Patricio Aylwin- first post-transition President (1990-1994)- in early 1977 (González 1992: 72).

As the public break of the PDC with the government proceeded, the party moved closer to sectors of the Catholic Church that had begun publicly criticizing the regime for human rights violations and the social effects of its economic policies. The state reacted with repression. In February, 1974, the PDC newspaper, *La Prensa*, closed, its finances unviable after numerous threats (Huneus 2000: 114). In October, 1974, former Vice President Bernardo Leighton was barred re-entry to Chile returning from Italy. Weeks later, former party leader Renán Fuentealba was exiled (Huneus 2000: 97). From 1975-1977 repression of the party became more severe<sup>83</sup>. Firing PDC militants from state administration jobs, state-owned companies, universities and municipal government posts became more common, as did imprisonment and exile of leaders and militants. The monthly magazine considered “official voice of the party”, *Política y Espíritu*, was forced to close in mid-1975 (Huneus 2000: 96). On October 6th, 1975, Leighton and his wife were shot in an assassination attempt in Rome. The act was a part of Operation Condor, planned by the DINA, with help from the CIA as well as Spanish, Cuban and Italian fascists.<sup>84</sup>

This confrontational dynamic culminated in March, 1977. The state discovered internal documents in which prominent party leaders questioned the regime’s legitimacy. The leadership elections of the party, held clandestinely and won by Andrés Zaldívar with a more pronounced anti-regime line, were deemed illegal according to the party recess of DL 78. On March 12<sup>th</sup>, 1977, Pinochet abolished all political parties, including those previously “in recess”. This action clearly targeted the PDC, as leftist parties were already illegal and the conservative parties had auto-dissolved after the recess. This move was part of the “state of siege” extension issued one day prior (DL 1689, *Diario Oficial de la República de Chile*, March 11, 1977). This prohibited “the existence, organization, activities and propaganda” of parties, with sanctions of up to fines, imprisonment or exile. The state of siege also allowed censorship of mail, a ban on unauthorized printing of news magazines or newspapers or on importing publications (*New York Times* March 13, 1977). The weekly magazine *Ercilla* was neutralized. It was close to the PDC. Though it had been constantly censored and threatened, it had remained as the only above-ground opposition publication still in operation nearly four years after the coup. In mid-1977, it was purchased by a regime-allied conglomerate. Its editorial line changed to regime supportive (Huneus 2000: 115).

From 1977 on the PDC political line was characterized by a rapprochement with political forces of the non-Communist left, particularly moderated or “renovated” Socialist Party currents then emerging (González 1992: 72). This rapprochement was gradual, however, until 1983.

Overall, then, the labor movement found itself with more allies and more united, with a more militant oppositionist stance, as the military regime was under growing pressure by the end of 1977 and into 1978. As labor and allied opposition pressure culminated, the regime reacted in a dual manner. It enacted harsher crackdowns but also opted to institutionalize. This dual regime reaction occurred within the international political context of the time period.

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<sup>82</sup> *Revista Cosas* interview “Anita Fresno y Bernardo Leighton: Una pareja que volvió de la muerte.” November 14, 1985. “The coup was the 11<sup>th</sup>, the 14<sup>th</sup> we met with a group of 16 PDC parliamentarians and signed a declaration condemning the coup even though we were not in favor of the government. We were in opposition to Allende.”

<sup>83</sup> For details of repression of PDC members in that period the periodical *Chile América* has a thorough accounting.

<sup>84</sup> “Two Chileans Convicted in 1975 Shooting”. Associated Press. June 23, 1995. DINA head Manuel Contreras and deputy director Raúl Iturriaga were tried and sentenced, though never extradited, by an Italian court 20 years later.

### **International Politics: Foreign Governments, the OAS and the UN (1973-1977)**

Tales of brutality emerging from Chile from the coup onward and powerful solidarity movements across Latin America, Europe, North America and elsewhere drove dynamics such that even US-aligned governments were pressured to oppose the Junta, at least publicly. The international pressure this generated was a major concern and source of conflict at the very top of the military state. It was often a central fault-line inside the regime. States and multilateral organizations used symbolic pressure as well as military and economic aid to increase leverage.

So, by 1974, “foreign relations dominated the government’s deliberations” (Barros 2002: 161). To stave off international sanctions, Pinochet made an announcement the first anniversary of the coup that the “state of siege” in “time of war” was to end (Barros 2002: 158). A cosmetic change because the Junta had just legislated the state of “internal defense” by DL 640, this was “a tactic it would use whenever punitive measures by the United Nations or other international organizations appeared imminent” (Ibid). In this early period, the Junta “met virtually every two weeks in extended sessions to hear reports on the international situation and bilateral relations from delegates and ministers who had just returned from trips to Europe and the United States... or to attend international meetings” (Barros 2002: 161-162). One example was a message from the West German Foreign Minister to Raúl Saez, economic advisor heading debt renegotiations. They would not disburse \$21 million in loans so long as UP Foreign Affairs Minister and Socialist Party leader Clodomiro Almeyda remained imprisoned (*Latin America*, January 17, 1975). This international situation generated significant pressure on the state, which encountered “difficulties in obtaining credits from multilateral organizations, in renegotiating the foreign debt, in accessing foreign bilateral credits and assistance, and... efforts to organize an economic boycott” (Barros 2002: 163).

One particularly crucial venue for this international pressure was the annual opening of the United Nations General Assembly, held in September. The Chilean government was harshly condemned for its human rights violations in these sessions, and averting feared actions at them was a major preoccupation of the Junta. The General Assembly passed resolutions condemning human rights abuses, including torture, deportation and violation of trade union rights in 1974, 1975, 1976 and 1977 (Resolution 3219 November 6, 1974; Resolution 3448 December 9, 1975; Resolution 31/124 December 16, 1976; Resolution 32/118 December 16, 1977).<sup>85</sup>

Another important multilateral venue in the campaign against the dictatorship was the Organization of American States. A Cold War geopolitical arena, questions of rights violations by US-backed military regimes in the region and particularly in Chile garnered high interest. One key event was the OAS’ Inter-American Human Rights Committee report published January 5<sup>th</sup>, 1976. It detailed and strongly condemned human rights violations. Sections of it published by the most important newspaper in Chile, *El Mercurio*, a conservative, pro-government outlet. This constituted the first public denouncement of this magnitude and detail made in Chile in a public venue since the military coup (*El Mercurio* January 6, 1976).

### **Relations with the United States Government (1973-1977)**

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<sup>85</sup> Resolution 3219 “Protection of human rights in Chile” <http://www.worldlii.org/int/other/UNGARsn/1974/19.pdf>; Resolution 3448 “Protection of human rights in Chile” <http://www.worldlii.org/int/other/UNGARsn/1975/88.pdf>; Resolution 31/124 “Protection of human rights in Chile” <http://www.worldlii.org/int/other/UNGARsn/1976/126.pdf>; Resolution 32/118 “Protection of human rights in Chile” <http://www.worldlii.org/int/other/UNGARsn/1977/135.pdf>.



The international relationship most crucial for the military regime was with the United States. Although internal US Government documents provided a fuller picture when they were released some 30 years later, even contemporaneously the role of the Nixon Administration - particularly the CIA and the State Department under Henry Kissinger- in the destabilization of the UP administration leading to the coup was suspected by many people and indicated by much public evidence.<sup>86</sup> On September 13th, 1973, a classified cable from the State Department in Washington DC to the American Embassy in Santiago said: “The USG wishes to make clear its desire to cooperate with the military Junta and to assist in any appropriate way.”<sup>87</sup> Support was concrete: in less than a month Washington granted \$24 million in aid for the purchase of wheat, “effectively ending the shortages of the Allende era” (Lagos 2012: 31). US Government support was also critical for loans from international institutions to start flowing again. Between the coup and 1976 more than \$237.8 million came from the Inter-American Development Bank (Ibid). The World Bank was also a key source of funding in those years, with \$66.5 million in credit. Between 1974 and 1976 the Nixon and Ford administrations also endorsed the renegotiation of Chile’s foreign debt at the Paris Club, a group of creditor states (Muñoz 2008: 89-90).

As information about the violence, repression and human rights abuses carried out by the military regime grew around the world, dissent to U.S. Government backing for Pinochet grew in the U.S. Congress. A secret State Department transcript of Secretary Kissinger’s “Regional Staff Meeting” on December 3<sup>rd</sup>, 1974, records his anger at the recently passed Kennedy Amendment in the U.S. Senate Foreign Relations Committee, characterized as a “ban on arms assistance.” “I think it’s a disaster,” said Kissinger, “How are we going to square away the human rights issue? ... I think the consequences could be very serious, if we cut them off from military aid... They could fall...When we have a Castro-like government in Chile what are we going to say?”<sup>88</sup>

By the middle of 1975 Ford had replaced Nixon as President following his resignation. Internal State Department & Congressional opposition to support of the dictatorship grew. A July 11<sup>th</sup>, 1975, internal State Department memorandum states, “in the eyes of the world at large, we are closely associated with this Junta, ergo with fascists and torturers.”<sup>89</sup> The Cold War context was also changing somewhat, as the Helsinki Accords between the U.S. and the Soviet Union in August, 1975, ushered in a period of *détente*, or the relative lessening of tensions.

Growing concern in Congress pushed Ford to send Secretary of the Treasury, William Simon, to Chile in May, 1976. Simon suggested economic assistance was tied to human rights.

Kissinger also offered key support for the military government to host the Organization of American States meeting in Santiago in June, 1976, in an effort to improve its image.<sup>90</sup> At that meeting Kissinger made a speech imploring the government of Chile to improve its human rights record, but he briefed Pinochet personally in advance that it was merely intended to appease the U.S. Congress. He told Pinochet, “We have a practical problem we have to take into account,

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<sup>86</sup> A large scale de-classification in the late 1990s and early 2000s provides the material for Kornbluh (2003), The Pinochet File: A Declassified Dossier on Atrocity and Accountability. A National Security Archive book.

<sup>87</sup> Department of State, “SENSITIVE” Cable, “USG Attitude Toward Junta” September 13, 1973.

<sup>88</sup> “The Secretary’s 8:00 a.m. Regional Staff Meeting Tuesday, December 3, 1974”. Department of State document December 5, 1974 marked “SECRET” pp.25-32.

<sup>89</sup> Department of State, Memorandum, "Ambassador Popper's Policy Paper," July 11, 1975

<sup>90</sup> Department of State, Memorandum of Conversation, Secretary's Meeting with Foreign Minister Carvajal, September 29, 1975

without bringing about pressures incompatible with your dignity, and at the same time which does not lead to U.S. laws which will undermine our relationship.”<sup>91</sup>

Despite Kissinger’s efforts, the Senate passed the Kennedy Amendment in July, 1976. It severed military aid to Chile.<sup>92</sup> By October the law had been enacted. It banned arms sales and limited economic aid, though by this point the need was less acute (Muñoz 2008: 89-90).

However, the final and irrevocable rupture from those early years of support came as a result of the Washington D.C. assassination of former Allende Defense Minister and high-profile coup and Junta opponent Orlando Letelier and his American colleague on September 21<sup>st</sup>, 1976. This over-reach of state terror occurred in a context of escalating political violence by the state. The peak of state violence in 1976 saw the greatest number of disappearances and deaths within Chile save for the months of initial violence following the coup (Retting Report 1994; Valech Report 2004). Increasingly, violence was carried out internationally, in an escalating campaign of world-wide state terror. Initiated by the Chilean Junta, it was helped by several allied states.

### ***The Plan Cóndor***

First suggested by Pinochet at a November 25<sup>th</sup>, 1975, conference in Santiago “Operation Condor”- named after the national bird of Chile- was a campaign of political violence as well as an intelligence sharing operation undertaken primarily by the dictatorships of the Southern Cone. It was conceived in anti-communist terms, but broadly targeted at regime opposition (McSherry 2002; Dinges 2004). Its key members were Argentina, Uruguay, Paraguay, Brazil and Bolivia, with technical support and aid initially from the United States. The proposal laid out by DINA head Contreras to the intelligence directors of the other five member governments was “a three-stage process: first, to establish in Chile a Coordination Center that would be a clearinghouse for information backed by the latest technology”. In this capacity the U.S. provided key assistance. Then, “second, to engage in operational activities within the 6 member countries that would be totally secret and deniable, and third, to extend operations- particularly assassinations- beyond South America.” (Muñoz 2008: 96) It was such an operation, designed by Contreras and Pinochet, which led to the two deaths in Washington DC and the largest crisis in relations with the U.S.

### **The Assassination of Orlando Letelier**

Within two weeks of the bomb exploding in the US capitol a CIA memo suggested what came to be known later, “that the Chilean government is directly involved in Letelier’s death”<sup>93</sup>. Contreras was found guilty of the murder and ex-CIA agent US citizen Michael Townley was extradited to the US to face charges to which he confessed. Townley, Contreras and other witnesses stated Pinochet directly ordered the hit (Muñoz 2008: 99). Peter Kornbluh, a lead investigator in

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<sup>91</sup> Department of State, SECRET Memorandum of Conversation between Henry Kissinger and Augusto Pinochet, "U.S.-Chilean Relations," June 8, 1976

<sup>92</sup> During a visit to the United States in September, 2008 President Michelle Bachelet awarded Senator Kennedy with the Order to the Merit of Chile, the government's highest civilian award, for his commitment to human rights and democracy during the dictatorship. “You, Senator Kennedy, were such a friend to Chile in our hour of need,” said Bachelet, “You were there for us when human rights were being massively and systematically violated ... You understood what was happening from the very beginning ... and you acted accordingly.”

<sup>93</sup> CIA, SECRET Intelligence Information Cable, [Assassination of Orlando Letelier], October 6, 1976

the case, has said of US involvement, in September, 2010, "One of the major questions regarding the Letelier assassination was what the United States government knew and when the United States knew it."<sup>94</sup> The assassination and its aftermath caused a major rupture between the US and Chile.

### **The Carter Administration and Human Rights**

The transition from the Ford to the Carter administration promised renewed emphasis on human rights in US foreign policy. It led to a different relationship with Chile. (Pflüger 1989). The effect on Pinochet was immediate. November 16<sup>th</sup> and 17<sup>th</sup>, 1976, two weeks after the US election, the regime released 304 political prisoners in the context of a growing internal debate between *duros* (hard-liners) and *blandos* (soft-liners) about responding to international pressure (Muñoz 2008: 109). Official ties between governments began to deteriorate. March 8th, 1977, Brady Tyson, US delegate to the UN Human Rights Commission, gave a speech. He expressed "profound regrets" for "the despicable acts of subversion of the democratic institutions of Chile, taken by certain US officials, agencies and private groups... policies and persons responsible for those acts had been rejected by the American people" (*The Washington Post* March 9, 1977).

The Administration immediately disavowed the speech. Still, Carter did welcome such opposition figures as ex-President Frei and UP foreign minister Clodomiro Almeyda, to high level receptions in the US during early 1977.<sup>95</sup> Increasing pressure from the US, who Pinochet thought of as leader of a global anti-communist struggle, played a decisive role in internal Junta deliberations on the most consequential political decisions. Time and again the US position and US pressure was key in other factions in the Junta surmounting opposition from Pinochet. In the critical juncture that followed the US break, US labor and domestic politics were crucial for Chile.

### **The Military Government's Pattern of Institutionalization Under Pressure (1974-1977)**

Along with the use of violence and repression, the other consistent strategic and tactical response of the Junta to external and internal pressures was to formally institutionalize aspects of its rule. The overall evolution of the regime is from one of basically absolute de facto power to a more and more regulated and formal-institutional form of rule. This occurred on a political level from 1974 onwards, generally in response to international pressure. The US Government was always the most important actor for the Chilean Junta in this regard. Political institutionalization of the military regime culminated with the 1980 Constitution. Labor pressure at the end of 1978 drove the institutionalization of the Labor Plan of 1979.

Institutionalization episodes ranged from small, superficial changes such as altering legal stipulations of various states of emergency or war, to consequential decisions regarding the form and nature of the Junta, the state, and the labor relations regime. In terms of both labor and the state, key decisions were reached in 1978 amidst a harsh crackdown on the labor opposition.

This dynamic was quickly evident with the military government. Internal pressures and Pinochet's attempts to monopolize power led the Junta to institutionalize the dictatorship. The executive powers were regularized in mid-1974 and legislative powers in mid-1975. On the 1<sup>st</sup> anniversary of the coup, "the Chilean armed forces took first steps towards restricting by law their extensive emergency powers" (Barros 2002: 150). This decision was explicitly to stave off

<sup>94</sup> Russian Television interview September 22, 2011 "Questions linger 34 years after Letelier assassination".

<sup>95</sup> They were received with official meetings with Vice President Walter Mondale and under-Secretary of State Christopher Warren, respectively (Muñoz 2008: 109).

international pressure. Until 1978, enactments and modifications of emergency powers were made every September, just before the convening of the United Nations (Barros 2002: 158).

Similarly, the original appointment of Díaz and the support given to a project of limited and controlled legal labor regime opening were conceived of as measures to deal with pressure. In this case, pressure came particularly in the form of bad reports from the ILO on labor rights.

The 1980 Constitution, written by the dictatorship and still in effect, was an outcome of a process begun in these years to mitigate such pressures. Barros (2002: 166) notes that, “recourse to promulgating a partial constitution as a further attempt to deflect international pressure proved to be a strategy that inadvertently precipitated sharp conflicts within the Junta, whose eventual resolution took the form of the 1980 constitution”. The pattern was regime institutionalization came in response to external pressures as refracted through internal divisions.

From 1975 on, the regime used constitutional measures to ameliorate its international isolation. Especially as relations with the US deteriorated post-Letelier assassination, diplomatic considerations were considered urgent. Yet, these pressures were refracted through the conflicts inside the Junta itself (Barros 2002: 180-181). Those closest to Pinochet consistently favored retrenchment, while other factions, most notably represented by Naval Admiral Merino, were much more sensitive to international condemnation and much more concerned about the stability of the regime (Ibid). In addition, in the period leading to the 1980 Constitution, Pinochet made another play to centralize power and sideline the Junta, prompting higher tensions and stakes in the internal debates about institutionalization (Ibid). It was only after the Navy and Air Force rejected an Army proposal to restructure the Junta that transition plans began to be discussed, even as Pinochet’s supporters advocated for permanent military rule (Ibid).

The issues of a constitution and the institutionalization of the regime were “pushed onto center stage inadvertently by the Junta’s ploys in 1976 to stave off international critics” (Barros 2002: 181). According to the minutes of Junta meetings, the strategy of *Actas Constitucionales*, or authoring Constitutional Acts, was first mooted in mid-1975, in anticipation of the 30<sup>th</sup> UN General Assembly (Ibid). September 11<sup>th</sup>, 1975, the second anniversary of the coup, Pinochet announced that “six or seven” constitutional acts would be enacted, the first three of which were to be decreed in the first half of 1976 (Ibid). Ultimately, just three “were ever promulgated, all on September 11<sup>th</sup>, 1976, one of which, A.C. No. 4 on emergency powers, never went into effect” (Ibid). This was because immediately upon their announcement, major internal conflicts emerged within the Junta on the content of the acts, the structure of the Junta itself, and questions about an eventual new constitution and the institutionalization of the regime (Barros 2002: 182).

Ultimately, cleavages inside the Junta were decisive, since outside of this structure there was no effective institutional check on state action. Yet, divisions cut across different issues. In economics, Air Force General Leigh was the dissenting voice arguing against neoliberal policies. On constitutional and institutional questions Naval Admiral Merino was the leading voice of opposition to hard-line and authoritarian positions taken by the Army (Barros 2002: 185-186). He was the most attuned to international opposition and the most concerned with abandoning Chile’s constitutional tradition. On such issues Leigh often stood with him, but not always (Ibid).

Initially, the sharpest debates that ensued within this process were about how to reconcile rights and guarantees, as articulated in *Acta Constitucional 3*, with the continued prohibition on political party and union activity (Barros 2002: 187-188). But the debates also touched on the structure of the Junta, how it would relate to the “new institutionality,” and the end of military rule (Barros 2002: 168). These internal debates “set the stage for sectors within the government to push for a hard-line response to the regime’s continued international isolation” (Barros 2002: 193). In

the course of this process it became clear that “Pinochet... would have preferred to rule with no constitution at all” (Barros 2002: 168). When the issue of legal activity by “democratic” parties and unions- those that had been declared in recess, not the “Marxist” parties that were banned- arose, Pinochet’s legal advisors suggested “expressly derogating Art. 9 of the 1925 Constitution that recognized freedom of political parties,” thus doing away with them (Barros 2002: 187-188). Merino objected strenuously, arguing in a September 3<sup>rd</sup>, 1976, Junta session, “you cannot restrict the right of association, freedom of labor, censor correspondence... never has this been in the Constitution” (quoted in Barros 2002: 190). Merino questioned Jaime Guzmán, the central legal architect of the military regime’s new institutions, in an exchange during that same session, asking:

“What are we interested in? What our Courts say or the international judgment, which tomorrow can boycott the entire country?” A few minutes later, Merino asked what the International Labor Organization would do in response to provisions restricting labor rights during a state of siege. After one advisor responded, “Nothing,” Guzmán added, “nothing good for us is going to happen.” To which Merino replied, “Yes, but let’s avoid having bad things continue to happen to us” (*Actas del Honorable Junta de Gobierno* September 3, 1976).

These debates grew more intense as the international position of the Junta deteriorated. Yet, the regime’s initial response was to take the hard-line position, whose most dramatic public instantiation was the crackdown on the Christian Democratic Party in early 1977. DL 1697 of March 12<sup>th</sup>, 1977, which dissolved political parties then in recess and imposed additional penal sanctions on individual political activities, opened big divisions inside the regime (Barros 2002: 194-196). Mendoza and Leigh objected, the Junta’s Constituent Committee, tasked with writing a constitution, openly criticized the move, and two prominent PDC members, Enrique Evans and Alejandro Silva Bascuñán, resigned from this key committee. Former conservative President of Chile and head of the Council of State Jorge Alessandri also disagreed vehemently (Ibid).

It was at this point that the office of the President submitted a proposal to restructure the Junta in a way that would have given Pinochet the essentially absolute powers he had sought in 1974. The formula once again tried to do away with consensus decisions and vetoes within the Junta and gave the President a tie-breaking vote in the four-man body. It would have also given Pinochet the right to name a Vice-President, his own replacement, and to hire and fire the heads of the other armed forces at will (Barros 2002: 199-200). The Navy and Air Force rejected every point of the plan. “Pinochet’s proposal to restructure the organization of the Junta precipitated a deep internal crisis among the armed forces,” as Guzmán heard at meetings of the other three branches’ “high commands” (Barros 2002: 202). Understanding and telling Pinochet that “there was no consensus to restructure the Junta and establish a non-elected authoritarian regime as the normal institutional order of Chile” a new transition plan was developed (Barros 2002: 203).

The plan was announced July 9<sup>th</sup>, 1977, by Pinochet in his famous “Chacarillas speech”. The constitutional act on the Junta the Army proposed was formally jettisoned on August 23<sup>rd</sup> (Barros 2002: 203-204). The divisions exposed by this attempt drove internal conflicts towards subjects of regime transition and future constitutional and institutional orders. A lack of internal support for the hard-line authoritarian solution opened the way for Pinochet’s civilian advisors in favor of an institutional solution. The most important was Jaime Guzmán (Barros 2002: 205).

Guzmán was a key *gremialista* leader from the movement’s founding at the Pontifical Catholic University in the late 1960s. There, he and the movement served as critical opponents of

Allende and the UP. Guzmán became a key ideologue for the hard right, Catholic views of this current. Still, his views shifted over time from more Franco-inspired corporatist-nationalist stance of this group to a greater sympathy for a Hayek-inspired liberal capitalist social vision. In this he embodied an ideological trajectory that was a trend within the most influential factions of the regime and possibly of Pinochet (Huneus 2000: 327-370). Guzmán was the most important advocate for and designer of the military regime *nueva institucionalidad* (Barros 2002: 205). He wrote the “Chacarillas Speech”, devised political-institutional structures for the military regime and the state, and conceived of a strategy for their long-term stability and perpetuation (Ibid).

Guzmán’s positions were laid out in a series of papers in 1977-1978. His basic strategy was to “introduce and consolidate a constitution prior to any transition to civilian rule” within the constraint that the institutional status quo- most importantly the unanimity rule of the Junta- had to remain unchanged (Ibid). He argued from historical case studies of other authoritarian systems that military rule was unsustainable over the long run. But, looking at events in Spain in 1976, where a strike wave led to the termination of the Franco regime and elections for a constituent assembly, he warned that this outcome had to be avoided at all costs (Ibid). A new institutional order thus needed to be established and consolidated that would remove the armed forces from politics in a defined and controlled manner “prior to the emergence of mass pressure for a return to democracy, lest the government lose control of the process” (Barros 2002: 206). However, his most important concern was to guarantee the stability of these institutions over time. To this end, he saw the lynchpin of successful institutionalization and transition as the creation of new “civic habits” and “a new generation of political actors... formed to sustain and support” the institutions that would inculcate those habits over time (Barros 2002: 207). This could only be accomplished, he argued, by “real civilian participation in decision making” (Ibid). As such, he was extremely critical of the crackdown on the Christian Democrats arguing, “to push into the opposition every person who sympathized or worked in some manner alongside the Christian Democrats is one of the gravest tactical errors the Government can make” (quoted in Barros 2002: 207).

At the same time the Pinochetista hard-liners’ over-reaching power play was rebuffed and Guzmán’s position of influence was elevated, relations with the US were declining precipitously. August 6<sup>th</sup>, 1977, US Assistant Secretary of State for Latin American Affairs Terrence Todman visited Chile and met with Pinochet to deliver a serious message about human rights. By then the connections between the highest levels of the regime, especially DINA director Contreras, and the Letelier case were becoming apparent to the US. On August 13<sup>th</sup>, 1977, Pinochet formally disbanded the DINA. Contreras was soon be forced to resign as tensions inside the regime grew. Still, the messages were mixed as Carter met Pinochet in person at the White House September 6<sup>th</sup>, 1977. That day Pinochet told a press conference that his government had “nothing to do” with the Letelier assassination and that he and President Carter had “agreed completely” on the human rights issue (Ensalaco 1999: 127-128). Yet, by the end of 1977 most of those arrested by state agencies were no longer being put in long term detention and many detention camps had been closed (Retting Report 1993; Valech Report 2004). Moreover, from 1978 to mid-1980 the number of disappearances and deaths by intelligence agencies fell markedly.

On November 10<sup>th</sup>, 1977, Pinochet put his weight behind Guzmán’s strategy decisively, sending a memo to the Constituent Commission, titled “Basic Orientations for the Study of the New Constitution” (Barros 2002: 209). It instructed the commission to proceed along the lines indicated in the Chacarillas speech, although “institutionalization was still conceived of in terms of a cluster of *Actas Constitucionales*” (Ibid). This strategy was quickly reformulated into one of

a single constitution with transitory articles as US diplomacy hit a nadir following major public breakthroughs in the Letelier investigation by the US Justice Department (Barros 2002: 210).

On December 16<sup>th</sup>, 1977, the United Nations voted to condemn the “serious human rights violations” in Chile for the 4th year in a row, by the widest vote margin yet, 96-14.<sup>96</sup> Pinochet was furious and, after considering several courses of action, called for a national plebiscite to repudiate the UN resolution and demonstrate popular support. The Air Force and Navy heads did not hear about the plan until 2 days before its December 22<sup>nd</sup>, 1977, announcement. When they met in private with Pinochet the debate was tense and confrontational. Both wrote formal letters opposing the idea on the grounds of damage to the image of the armed forces and because the plan for a vote “projected the image of a personalist regime” (Muñoz 2008: 73-74).

Another obstacle to the *Consulta Nacional*, as it was later renamed due to its non-binding status, was December 28<sup>th</sup>, 1977. The *Contralor*, Héctor Humeres, refused to certify a plebiscite as legal without a constitutional reform, which General Leigh refused to endorse. His retirement, already in process, was accelerated to take effect that very afternoon. This made way for one of Pinochet’s most trusted advisors, Sergio Fernández, to assume the position and redraft the decree as a mere symbolic consultation. It was allowed to go ahead, but “at the cost of precipitating an extremely severe internal crisis, as Merino and Leigh refused to back a sham plebiscite” (Barros 2002: 209). Merino ultimately withdrew his letter, although Leigh did not (Muñoz 2008: 73-74).

## **Part II - Critical Juncture (1978)**

Labor pressure on the military government culminated in 1978. From protest letters and declarations to illegal protests like May 1<sup>st</sup>, labor pressure escalated. By 1978 direct actions on the job, including in the crucial export sectors of mining and transport, and a highly unified and oppositional labor movement, combined with an international boycott of Chilean commerce by the AFL-CIO and ORIT to exert major pressure on the state. The pressure of this labor threat drove Pinochet's decision to liberalize and institutionalize labor policies in the Labor Plan Labor Code.

### **Reactive Sequence of State Repression and Escalating Labor Threat**

The *Consulta* was held on January 4<sup>th</sup>, 1978, under a state-of-siege and without voter rolls, which had been destroyed after the coup, poll watchers, public debate or critical press coverage. The ballot had only two options. For the first option, “*Si*” underneath the national flag read, “Faced with international aggression launched against our Fatherland, I support President Pinochet in his defense of the dignity of Chile and reaffirm the legitimacy of the government to lead with sovereignty the process of institutionalization of the country”. In the second, “*No*” beneath a black flag was bereft of text.<sup>97</sup> More than 75% of valid votes, 4 million, were in favor of the proposition. Only on the job since December 30<sup>th</sup>, Fernández had approved the needed legal norm and directed a victory. Over 100 union leaders signed a public declaration advocating a “No”, writing, “the *Consulta* will be used to seek support for the process of institutionalization of the regime” (quoted in Campero and Valenzuela 1984: 267-268 footnote 185).

The day before the vote Fernández’ sub-secretary, and one of the young leaders honored at Chacarillas, Vasco Costa Ramírez, was named the new Labor Minister. He maintained a hard-line stance, like his predecessor, and oversaw a period of escalating conflict with labor. January

<sup>96</sup> The text of the resolution is available at [www.un.org/documents/ga/res/32/ares32r118.pdf](http://www.un.org/documents/ga/res/32/ares32r118.pdf)

<sup>97</sup> For copy of the ballot see [http://upload.wikimedia.org/wikipedia/commons/9/96/Voto\\_1978\\_consulta\\_26x15.jpg](http://upload.wikimedia.org/wikipedia/commons/9/96/Voto_1978_consulta_26x15.jpg)

10<sup>th</sup>, 1978, fourteen Christian Democratic Party leaders who had been arrested for taking part in an illegal meeting the previous November were relegated to exile. On January 19<sup>th</sup> and 25<sup>th</sup> the leadership of the port and national airline workers' unions, respectively, both PDC-led, were dismissed and replaced with officialist union leaders (Campero and Valenzuela 1984: 244; 267).

Labor activity continued at a high pace in early 1978. Labor-led protests and assemblies against pension cuts that were part of neoliberal economic reforms were organized by textile and metallurgy workers' organizations (Campero and Valenzuela 1984: 267). Deindustrialization due to trade policy had been accelerating, which also provoked labor protests in small and medium manufacturing sectors for the "defense of national industry" (Ibid). In February, 1978, leading forces of left unionism united in one organization for the first time under the dictatorship, the Committee for the Defense of Human and Union Rights (CODEHS). Its first leader was Clotario Blest, who had been the first President of the original CUT, in 1953, and a renowned national figure in the labor movement (Campero and Valenzuela 1984: 269).

By this time, the unity of all center and left labor forces behind a total opposition to the regime, and the prioritization of regime change above and beyond other specific labor demands, gave crucial additional cover for left labor forces. They had taken this line since the inception of the dictatorship. Still, the insistent anti-Marxism of many centrist, independent and Christian Democratic labor leaders precluded the formal unification of forces in an organization (Ibid).

At the beginning of March, 1978, tensions with the US came to a head. *El Mercurio*, March 1<sup>st</sup>, and the *Washington Star*, March 3<sup>rd</sup>, published leaked photos of American Michael Townley and Chilean army Captain Armando Fernández Larios, who were identified in a US Justice Department investigation as the authors of the Letelier bombing in Washington (Huneus 2000: 293; Barros 2002: 210). Being resident in Santiago, Townley's extradition to the US was demanded, which precipitated a crisis within the regime. Rumors of Pinochet's resignation or even democratic elections within a short time circulated in foreign press. Tension and uncertainty within the Junta and government was extreme (Barros 2002: 212). At a March, 1978, general staff meeting, 13 army generals called for Pinochet's resignation, though they were outvoted 13 to 17 (*Latin American Political Report* April 28, 1978).

Rapid changes followed. March 10<sup>th</sup>, 1978, it was announced the "state of siege" would be lifted the next day (Ibid). March 14<sup>th</sup> the Constituent Commission rewrote a transition plan in the form of a single constitution with transitory articles. Townley was deported and confessed. On April 5<sup>th</sup>, 1978, Pinochet made a high-profile speech wherein he announced that there was in preparation a new constitution that would be subject to plebiscitary approval. However, he also stated there would be no elections during the transition period (*El Mercurio* April 6, 1978).

Sergio Fernández also gave a high-profile lecture at the Pontifical Catholic University on April 6<sup>th</sup>, 1978, titled "Elements for the protection of the new institutionality" (Huneus 2000: 292). Then, on April 14<sup>th</sup>, Fernández was named Interior Minister, the first civilian to hold the position under military rule (Ibid). He was given a wide remit and significant power, including to propose a first civilian-dominated cabinet to Pinochet, announced that same day. *El Mercurio* (April 14, 1978) reported, "Minister Fernández proposes cabinet to President Pinochet: S.E.<sup>98</sup> specifies that the attainment of the new institutionality will be in the hands of just one person: the Interior Minister". It was the gremialista faction, and specifically Jaime Guzmán, that suggested Fernández for the post and advocated for a civilian cabinet and a further turn to liberalization. Huneus (2000: 292) called this "Fernández cabinet" a Chicago Boys-gremialistas coalition. One of the more important civilians Fernández brought on was businessman Hernán Cubillos as head

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<sup>98</sup> *Su Excelencia* (His Excellency)



of External Relations. He was president of the magazine *Qué Pasa*, a regime-backing monthly, but one with a *blando* (soft-liner) profile that he shared. Through his businesses he also enjoyed extensive contacts in the United States (Huneeus 2000: 293).

In his first act as Interior Minister, Fernández wrote DL 2191, a general amnesty for all “political crimes” committed during the state of siege, September 11<sup>th</sup>, 1973, to March 10<sup>th</sup>, 1978. This was a move to “assure conscripts and officers directly implicated in acts of repression that they would not bear the costs of transformation in the dictatorship” (Barros 2002: 212; DL 2191: *Diario Oficial de la República de Chile*, April 19, 1978; *El Mercurio* April 20, 1978).

The same day as the amnesty law was published, a major neoliberal economic plan was announced. It proposed the most extensive neoliberal reforms since the original Chicago Boys package. Officially called the “Plan for the Development of Employment and Social Action”, it was known as the “Kelly Plan”, after its author, Roberto Kelly, head of ODEPLAN, the National Planning Office (Campero and Valenzuela 1984: 249-250; 272-273). It proposed radical changes to labor market laws in an effort to lower labor costs across the board. These proposals included eliminating the minimum wage, significantly scaling-back employment security protections, and lowering the legally mandated employer contributions to retirement funds (Ibid).

The announcement of the Kelly Plan set off a tremendous reaction of opposition by all forces of labor, including the officialist UNTRACH. Protests, declarations, assemblies, petitions and written publications across the world of labor denounced the plan vociferously (Ibid). The Catholic Church also spoke out harshly against the proposed reforms. The reaction was severe enough that Kelly himself had to publicly step back and clarify it was merely a proposal (Ibid). The leading sectors of this crescendo of labor and allied opposition came from those areas most negatively affected by the neoliberal, deindustrializing model: textiles, metallurgy, electronics, and construction (Campero and Valenzuela 1984: 273 footnote 197).

This tension and rapid change set the stage for May 1<sup>st</sup>, 1978. This was the largest effort organized by the labor opposition to that date under the dictatorship. For the first time since the coup the labor forces of the center and left, most importantly the Group of Ten and the left-led federations, jointly organized and planned the actions. They also released a common statement and document in conjunction with them (Campero and Valenzuela 1984: 274-275).

“Convergences of concrete actions”, as this movement was called, was a major step for labor unity. The joint document stated, “The economic model has impoverished the workers”. It demanded: democratization of the country; revocation of laws impeding union activity; an end to sales of state companies to transnational corporations; defense of national industry; a higher minimum wage; and an end to privatization of land redistributed in agrarian reform (Ibid). The Group of Ten and the AFL-CIO also issued a joint statement in which they demanded an end to “an essentially nondemocratic system”. This language evoked the threat of an international commercial boycott of Chile, which had already commenced at some US and other ports (Ibid).

May 1<sup>st</sup> also marked the public emergence of the CNS after three years of underground activity and organizing. This labor alliance united the left-led sectors allied with the heritage of the banned CUT with the most radicalized and progressive tendencies in Christian Democratic unionism. These were the PDC labor militants willing to act in pluralist alliance with the left, including avowed Marxists and Communist Party militants. All told, this grouping represented nearly 400 base unions, concentrated in the industrial, construction and small and medium mine sectors (Campero and Valenzuela 1984: 270-271). The three most prominent Christian Democrat leaders in the CNS since its inception in 1975 were Hernán Mery of the Agricultural Workers

Federation, Juan Manuel Sepúlveda of the National Federation of Metalworkers' Unions and, of course, Manuel Bustos, textile workers leader, head of the Group of Ten and leader of the CNS.

The government rejected permission for this event, but the emboldened labor activists held a press conference in which they announced the event would go on as planned at the time and location publicized. They invited 38 international labor organizations, including the three global groups, to attend the event (Campero and Valenzuela 1984: 275). Labor also counted on Church backing. Cardinal Silva made a speech very critical of the Kelly Plan, regime economic policy generally and labor rights violations in particular in his May 1<sup>st</sup> “Message to the Workers of Chile” (Campero and Valenzuela 1984: 273). Bishop Baeza and the *Pastoral Obrera* also spoke out powerfully, condemning the regime and Kelly Plan (Ibid).

On May 1<sup>st</sup>, 1978, 10,000 students and workers gathered to protest. The police attacked with water cannons and tear gas, with more than 600 detained (Campero and Valenzuela 1984: 275; Lagos 2012: 50-51). Some of the demonstrators were able to take refuge in a church, where the protest continued, and union leaders called for labor unity to confront the government (Ibid).

Future President Ricardo Lagos’ account of that day gives an evocative portrayal of the first demonstration he attended upon returning to Chile for the first time during the dictatorship.

[W]e... learned of a workers’ protest to be held that day. When we arrived at the site of the demonstration, we found only an awkward agglomeration of a few people who, like ourselves, were waiting for something to happen. Well-dressed men with the mannerisms of Pinochet’s secret police also combed the area, and we tried to troll innocently for a bit. Nothing happened, and we left. Later that night, we learned that there had indeed been a protest- just not where we had been. So tenuous were the contacts between workers at the time that the location had been transmitted incorrectly. Across town, a modest-sized group had turned out, but the demonstration ended violently, broken up by the police with water cannons and tear gas... As we tried to keep up with the few demonstrations taking place against Pinochet, we grew closer to the union leaders, who were beginning to emerge in opposition. Through their powerful characters and constituencies, a social movement was beginning to organize itself (Lagos 2012: 50-51).

Reaction to the repression was strong. In addition to officialist labor condemnation, the church and many foreign governments, including the US, spoke out. Thus, “at the national and international level, the pressure on the regime had grown” (Campero and Valenzuela 1984: 275).

Despite all of this, the government took the opportunity of May 1<sup>st</sup> 1978, to announce perhaps the most important legal change to labor law the dictatorship made up until that point. The Junta promulgated DL 2200 on the individual employment contract and protections. The law incorporated many controversial features announced in the Kelly Plan, including measures to significantly lower labor costs and employment security. Among provisions were: a new “trainee contract” paid at 60% of the minimum wage to those under 21; an increase in hours to 12 before overtime pay was required; elimination of minimum wage and employment protections for “at home” workers (changing their legal status to “at will” employees); and a new employer right to unilaterally change the “nature or location of services” specified in a contract. The law included new reasons for job dismissals without paying an indemnity, as previously required, including a blanket “needs of the firm” reason for dismissal without pay with 30 days’ notice, or immediate dismissal with one months’ pay. Total indemnities for dismissals “without cause” were capped at

5 months' pay, a major decrease. The act also rescinded special rights enjoyed by pregnant and sick workers and canceled employer contributions to union housing and social funds that had been negotiated in the past (Campero and Valenzuela 1984: 126-132; Winn 2004: 32-33).

Some employment protection changes clearly targeted union activity and strikes.<sup>99</sup> The Law's stipulations were used to threaten opposition political activity with legally justified firings (Ibid). DL 2200 abolished the 50-year-old distinction between blue collar workers (*obrerros*) and white-collar employees (*empleados*) (Sehnbruch 2006: 55). The state argued: "there should be an automatic end to industrial trade unions, and the socially pejorative classification of 'worker' should disappear" (Inter-American Commission on Human Rights 1978: Sec 2 Part I).<sup>100</sup> These classification were the legal basis for different sets of labor rights owed to each group.

This Decree Law replaced Books I and II of the Labor Code of 1931 and represented the first permanent changes to the institutionalization of the labor relations and labor law fields that outlasted the dictatorship. DL 2200 spurred a massive reaction on by labor, with even officialist labor groups, like UNTRACH, condemning the law (Campero and Valenzuela 1984: 276).

Labor opposition continued to escalate over the Chilean winter. In May, 1978, the United Workers Federation (FUT) was publicly announced. It was led by Carlos Frez, PDC militant and erstwhile leader of the port workers union dissolved by the state that January. This formation had been active under the auspices of the Young Catholic Workers and the Catholic Action Workers Movement, its public emergence gained support from international labor bodies affiliated with Christian trade unionism the World Confederation of Labor (WCL) and Latin American Workers Central (CLAT). The FUT's importance lay in its attempt at a non-partisan unionism. Explicitly acting in opposition to the regime but without connection to political parties, the FUT took "a line of emphasis on self-management and the autonomy of unions with respect to partisan leadership" (Campero and Valenzuela 1984: 271).

Later that month, a delegation from the AFL-CIO, led by Thomas Gleason, the president of the International Longshoremen's Association, and the head of the Garment Workers Union (ILGWU), Sol Chaiken, visited Chile. They gave Pinochet a letter in which they demanded the return of collective bargaining, a reinstatement of trade union rights and the authorization of the right to strike (Campero and Valenzuela 1984: 267). Pinochet later told the press of the meeting with the AFL-CIO delegation: "I asked if they were threatening [a boycott]. I said if it was a threat, that it didn't frighten me" (Associated Press Wire Report December 2, 1978).

Despite unity evident on May 1<sup>st</sup>, 1978, divisions within the labor opposition persisted. The influence of the AFL-CIO and ORIT "free trade unions" line, combined with their financial and political sway over a tendency within centrist Christian Democratic unionism, contributed to a June split in the Group of Ten. While tensions within PDC labor between the "pro-unity" and the "pro-American" tendencies existed the entire period of the dictatorship, one point of rupture in this dynamic came with the public emergence of top PDC labor militants as CNS leaders. The

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<sup>99</sup> These included new causes for dismissals based on: "illicit acts that impede workers getting to their job or completing their labor"; "acts that lower the value or cause the deterioration of materials, instruments, products or goods of a company"; "direction or active participation in the illegal interruption or paralysis of the company or work places"; or, most broadly, "inciting... the interruption of public or private installations" (DL 2200 *Diario Oficial de la Republica de Chile* May 1, 1978).

<sup>100</sup> Inter-American Commission on Human Rights, Organization of American States. "Information Provided by Some Governments of Member States of the Organization of American States on the 'Progress Achieved in Realization of the Goal Set Forth in the American Declaration of the Rights and Duties of Man'" (1978). Available at: <http://www.cidh.oas.org/annualrep/78eng/section.2.part.1.htm>

AFL-CIO leadership renewed a call for a Group of Ten-UNTRACH anti-Marxist labor alliance (Falabella 1981: 34-35; 52). So, in June, 1978, the Group of Ten “marginalized” Bustos, Mery and Sepúlveda and took the Presidency of the group from Bustos, who became head of the CNS (Campero and Valenzuela 1984: 270-271). Hence, there were three major centers of influence in the labor movement in this period: the CNS, the AFL-CIO, and government-allied. Yet, while the government had largely failed to cultivate an influential labor following, and even its modest successes were headed for collapse in the middle of 1978, “the Americans” were “somehow more successful” in their labor movement “divisionist policies” (Falabella 1981: 34).

This division came in the context of a broader implicit unity characterized by the massive labor reaction against DL 2200, which officially entered into force on June 15<sup>th</sup> (DL 2200: *Diario Oficial de la República de Chile*, June 15, 1978). Again, this adverse reaction included officialist union leadership in the UNTRACH, who declared, “we criticize it on all points, for it considers labor a commodity and leaves the worker unprotected” (Campero and Valenzuela 1984: 286).

After May 1<sup>st</sup> strikes broke out in other industries. Compa (1988: 27) notes, “most did not win immediate gains, [though] they reflected increasing impatience and boldness by rank and file”. Tensions had never been put to rest in the mining sector. June and July, 1978, saw numerous smaller-scale work actions organized by rank-and-file workers in *La Gran Minería* (Ibid).<sup>101</sup> State repression against miners involved in these actions produced serious tension with the officialist leadership of the CTC, and hence with UNTRACH as a whole. On July 16<sup>th</sup>, 1978, in the El Salvador mine, Bernardino Castillo, CTC and UNTRACH president, declared that CODELCO and the government were “systematically persecuting copper workers, humiliating them, doing arbitrary dismissals, violating legal dispositions, and refusing to accept fair labor demands” (*La Tercera* July 17, 1978). By the end of that month tensions escalated further in the mines.

### **Culmination of Internal Regime Pressure at a Critical Juncture: The Air Force Massacre**

In the wake of Pinochet’s attempted power play in 1977, Air Force General Leigh began to attack the political conduct of the Junta. He starkly criticized the January *Consulta Nacional*, calling it “typical of governments in which power is in the hands of a single dictator” (*The Guardian* October 1, 1999). In June, 1978, he gave an interview to the Italian newspaper *Corriere della Sera* in which he called for a short-term return to elections and civilian rule, an end to press censorship, and the restoration of an independent judiciary. He argued “ideas cannot be abolished through decree laws” and that the country should permit leftist parties “in the same way the Swedes do” (quoted in *The Guardian* October 1, 1999).

The result was the July 24<sup>th</sup>, 1978, “Air Force massacre”. Pinochet, supported by other members of the Junta, demanded Leigh's resignation. When he refused, he was retired. The next 18 out of 20 Air Force Generals in line for the position also resigned in protest or were removed (*The New York Times* July 25, 1978). This was the only change in the Junta in 16½ years in power. Leigh was replaced by Air Force General Fernando Matthei (Ibid). Yet, this event did not change the Junta’s unanimity rules, nor give Pinochet power to select senior officers (Barros 2002: 78). There is also evidence that in exchange for his support of this measure, Admiral Merino received guarantees: that the constitution and transitory articles, then being written, would preserve Junta privileges and the unanimity rule throughout the transition period and that Pinochet would not again try to institute a permanent authoritarian regime or monopolize control. (Barros 2002: 167).

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<sup>101</sup> The name given to the six largest mines that produce the lion share of Chile’s export minerals, especially copper.

### Bottom-Up Labor Pressure in Crucial Sectors

In late July, 1978, another sequence of major labor actions challenged the regime. As at the end of 1977, on July 31<sup>st</sup>, 1978, workers at Chuquicamata mine began a series of "*huelga de viandas*" or lunchtime strikes. This involved a refusal to eat in the company cafeteria, and also a slowdown in returning to work in the pit after lunch, often accompanied by worker assemblies instead (Zapata 1986: 212-213). The first demand of the movement, made at a labor assembly August 8<sup>th</sup>, was to rehire six rank-and-file worker organizers (Ibid). The entire labor movement declared solidarity with the miners, including not only the officialist-led CTC and UNTRACH, but even the most hard-line of pro-regime labor organizations, the gremialista *Frente Laboral*. This was the only group that supported the recent labor law (Campero and Valenzuela 1984: 277). The response was unforgiving. More than 75 workers were arrested, ten were relegated to internal exile, and dozens were fired. El Loa province was put under military occupation and declared in a state of siege. The state claimed "the Communist Party is taking advantage of the situation" (*El Mercurio* August 10, 1978). However, the hard-line government response to continuing labor unrest elicited sharp public criticism from pro-government labor leaders Guillermo Medina and Bernardino Castillo (Remmer 1980: 291-292).

Crucially, "during the conflict the bases overtook their leadership on various occasions and pressured them not to cede in the face of repressive threats. In particular, they opposed signing accords if CODELCO did not reinstate six workers fired at the start of the movement" (Campero and Valenzuela 1984: 276). The movement lasted until September 4<sup>th</sup>. The company claimed it could not readjust salaries as workers demanded because collective bargaining was suspended. However, after another personal intervention by Pinochet, a significant bonus was paid to the workers and the six fired miners were reinstated (Ibid).

From August 17<sup>th</sup>, of 1978 the same type of movement had developed at the El Salvador copper mine. This movement also saw repression in the form of military occupation and firing of six rank-and-file organizers (Campero and Valenzuela 1984: 277). The actions at lasted until September 11<sup>th</sup>, when the state agreed to negotiate with local leadership and the CTC (Ibid).

By the coup's 5<sup>th</sup> anniversary "the accumulation of confrontations" had built "a climate of hardening" on the part of both labor opposition and the state (Ibid). Since May 1<sup>st</sup>, 1978, the growth of an "organic unity" between left labor and progressive PDC labor sectors, based on a total opposition to the regime and a firm insistence on its dismantling as precondition for other particular economic and social demands, had been seen in practice, even if not always explicitly acknowledged. Countervailing this tendency, however, was political conflict between the anti-Marxist Group of Ten, under the strong and growing influence of the AFL-CIO and ORIT, and the left labor opposition, constantly wary of presumed PDC control (Ibid).

Expressing both dynamics were dual public declarations the first week of September, 1978. One was written by the CNS and the FUT, the other issued by the Group of Ten and UNTRACH.

The CNS-FUT document denounced the regime as "illegitimate... based on the super-exploitation of labor". It charged "pure capitalism" was "only possible in an antidemocratic regime" and demanded a constituent assembly to draft a new constitution. It insisted on the "independence of the labor movement from political parties" ("*Los trabajadores enfrenten al presente y futuro de Chile*" 1978). Crucially, this labor group was oriented in total opposition to the government and regime – to the state as it existed, calling for its abolition- as inherently anti-labor. The CNS and FUT of this era were also oriented to autonomy from the political parties.

The Group of Ten and UNTRACH published a letter to “President Pinochet”. In it, they denounced the socio-economic conditions of labor in Chile. The document also contained a strategic political analysis and warning. “The situation of the workers has hit bottom”, it said. “Weakness and disarticulation of union channels has endangered the substance of the democratic union organizations,” it continued, referring to their own anti-Marxist labor movement currents, “they appear incapable of obtaining the most elemental solutions... many groups of workers feel pushed to act outside of their leaders, condemned to ineffectiveness, and protests and resistance movements spontaneously emerge, whose results are difficult to predict and more so to control” (“*Carta abierta a Presidente Pinochet*” 1978).<sup>102</sup>

Evidently, these labor groups felt pressure to produce concessions in order for their less oppositional and labor autonomous line to remain viable with a restive rank-and-file. They also felt threatened by rising ‘unchanneled’ opposition from below. A clear example of interlocutor type labor movement practice, these labor organizations sought to position themselves as managers of a relationship, trading state concessions for channeling such uncontrolled labor opposition.

Following the publication of the left labor opposition document, tensions with the regime reached a breaking point. The Labor and Interior Ministers publically attacked the CNS as a Communist front and a tool of international Marxism and accused them of using a union facade to destabilize the country (Campero and Valenzuela 1984: 280). The CNS escalated its position, publicly calling for the overthrow of the regime (Falabella 1981: 47). This was the type of open oppositional orientation that produced a threat sufficient to prod the state to action. The contrast in orientation towards the state at this moment was clear. The militant oppositional practice of the left labor opposition was more threatening to the regime and resonant with the labor base.

In early October, Pinochet held a special meeting of the Military High Command, with all the highest ranking officers of all four services, specifically to deal with the labor situation. In a context of heightened tensions over a possible war with Argentina about the Beagle Islands, the armed forces decided, for national security reasons, they had to deal with the “internal enemy” of labor opposition before the “external” threat of possible territorial invasion (Ibid). “Alarmed by growing labor militancy, the dictatorship struck back in October” (Compa 1988: 27) by initiating a wave of repression and authoring a set of Decree Laws written October 17<sup>th</sup> and promulgated the 20<sup>th</sup> (DL 2345; 2346; 2347: *Diario Oficial de la República de Chile*, October 20, 1978). That is, beyond simply resorting back to its primordial tool of state terror, the military regime began to pursue seriously a controlled institutionalization to contain and channel the threat from labor.

On October 19<sup>th</sup>, Interior Minister Fernández announced new laws and a labor crackdown on live television and radio, accusing opposition unions of “having a clear Marxist orientation” and acting “against public order and the security of the state” (*El Mercurio* October 20, 1978). Seven of the most prominent labor opposition organizations were banned. Unions in the mining, metal, textile, construction, and peasant sectors were proscribed, as was the CNS itself (Falabella 1981: 21-22; Compa 1988: 27). This “cleansing” (“*limpiar*” in Fernández’ words) of the union sector involved the arrest of scores of labor leaders and rank-and-file unionists, mostly from the CNS and left-affiliated militancy, but also the FUT and the Group of Ten (Compa 1988: 27). Even the sometime regime-backing union of private sector white-collar employees, CEPECH, saw its leader Federico Mujica arrested. The labor groups also had their resources confiscated, their offices closed and their bank accounts seized (Campero and Valenzuela 1984: 280).

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<sup>102</sup> Demands included rights to: meet without prior permission from the government; freely elect union leadership; to form union organizations; petition; collective bargaining, and legal strikes (Ibid).

DL 2345 empowered the Interior Minister to dismiss any public sector worker, including union leaders, without regard for existing protections. DL 2346 dissolved banned labor groups, leaving up to half of the organized labor force without legal representation (*Solidaridad*, N.57, October, 1978: 18; *Solidaridad* N.58, November, 1978: 7; Chile Newsletter 5, Fall, 1978: 1). DL 2347 made union activity by groups not legally registered and recognized subject to criminal penalties under national security laws and prohibited nonregistered groups from receiving union dues (DL 2345; 2346; 2347: *Diario Oficial de la República de Chile*, October 20, 1978; Remmer 1980: 288). This combination of state anti-labor actions was a key moment. Labor Plan author José Piñera later wrote it was “the drop that overflowed the glass” (Piñera 1990: 32).

The very day of this dramatic announcement, October 19<sup>th</sup>, 1978, *El Mercurio* published the Constituent Commission’s *Anteproyecto de Constitución Política*. It had been submitted to Pinochet the day before (Barros 2002: 174-175 and footnote 13). This document, which formed the basis of the 1980 Constitution, was the first public declaration that laid out the process of institutionalization and transition that actually from 1980. It proposed a single Constitution that included transitory articles that would govern a Junta-controlled transition period (Ibid).

October 27<sup>th</sup>, Labor Minister Vasco Costa announced on radio and television the fourth decree law (DL 2376: *Diario Oficial de la República de Chile*, October 28, 1978). This law did two main things. First, it restructured the legal basis of unions. Second, it set rules for new union elections. They were held under restrictive conditions just four days later, on October 31<sup>st</sup>.

Legally, union organization was restricted to the plant or shop level, what it called “the natural place for the expression of the right to organize” (Ibid). The law made no provision for federations, confederations or other organizations linking workers in more than one enterprise. It abolished the “closed shop”, allowing multiple unions to operate in a single enterprise (Ibid).

Union elections were limited to the private sector. Beyond public sector unions, they also excluded the maritime and agricultural sectors. The elections featured extremely restrictive rules. Current union leaders and those who had participated in “political activity” in the previous 10 years were barred from standing for election. Those elected were required to swear an oath that they would not participate in any political activity or movement. It gave the Labor Directorate broad powers to certify, or not, and to dismiss elected labor leaders. It prohibited campaigning and formal candidacy for union office (Remmer 1980: 289; Campero and Valenzuela 1984: 244-245). All told, the design was intended to replace labor opposition aligned leadership with an inexperienced and “apolitical” cadre of local union leaders.

The backlash against these measures was the largest yet, domestically and internationally. On October 26<sup>th</sup> leaders of the FUT, CNS and other banned unions held a press conference at the *Vicaría de la Pastoral Obrera*. They vowed not to go underground and declared that “the people have never taken such a violent, repressive decree” (quoted in Campero and Valenzuela 1984: 281). Within days the global labor confederations- the ICFTU, WCL and the WFTU- as well as labor groups in Holland, Sweden, the UK and the US had strongly condemned the measures. The Catholic Church emitted many declarations in staunch opposition, and from a broader array of its organizations and leaders than those who had traditionally organized to support labor (Ibid). The ILO issued a report before the union elections. It expressed major concerns with repressive acts and exclusionary rules leading up to the elections (ILO: N. 187 Case 823 Section 396).

The day of the elections CNS and FUT leaders, along with 50 other labor activists, began a vigil and hunger strike at the *Iglesia de Santiago* (*El Mercurio* November 1, 1978). Yet, the elections did not significantly change the ideological or partisan complexion of labor leadership

among the 2,400 unions and 450,000 workers who took part in them (Campero and Valenzuela 1984: 282; Barrera and Valenzuela 1986: 250-251; Collier 1999: 153).

In fact, the attempt to produce a “cooperative, non-leftist union leadership... backfired” (Collier 1999: 153). The new laws did produce a constrained legal framework with debilitated unions, yet allowed space for “the reactivation of local leaders and rank-and-file workers” (Ibid). Furthermore, “the frequent union assemblies turned into channels for the expression of workers’ opinions over a broad range of local and national questions” (Barrera and Valenzuela 1986: 259). The harsh measures also encouraged labor movement unity, faltering under AFL-CIO pressure for the Group of Ten to maintain an anti-Marxist line. Indeed, the CNS, the FUT and CEPCH, which had left the Group of Ten precisely because its affiliations with the AFL-CIO clashed with CEPCH’s national and independent line, argued that the urgent situation demanded labor unity more than ever, an argument that began to see results in 1979 (Falabella 1989: 220). Enhanced unity between the PC, PS and progressive PDC sectors “furnished the union movement with the seeds of new developments of pluralism, internal democracy and autonomy” (Frías 1993: 20).

Immediately after the announcement of the October 1978 decrees, several European labor federations and the AFL-CIO reiterated their threat to boycott Chilean commerce (Compa 1988: 27). The government attempted to portray the measures, particularly the reinstatement of union elections, as a liberalization and an advance in labor freedoms, as seen in its responses to the ILO complaints. Yet violence and repression coincident with this legal union reactivation, combined with the restrictive election conditions and the targeting of the Group of Ten, finally pushed the AFL-CIO to take action on its threat (Campero and Valenzuela 1984: 282). The AFL-CIO met with President Carter, who gave his formal approval to the boycott. He saw it as consonant with his pressure on the Pinochet regime to respect human rights, which had escalated in the wake of Letelier case revelations (Tinsman 2014: 188-189). At a November 25<sup>th</sup> ORIT meeting in Lima, Peru, the 22-nation group voted to launch a “hemisphere-wide boycott of all land, sea and air traffic with Chile” (*New York Times*, November 27, 1978). Then, on November 30<sup>th</sup> of 1978 the bodies of 15 disappeared peasants were discovered in the lime kilns of Lonquén, an event whose public announcement by the Catholic Church Solidarity Vicariate shocked many internationally and in Chile. The revelation added urgency to human rights opposition to the regime, helping to build moral and political support for the boycott (Ensalaco 1999: 133; Tinsman 2014: 204).

Initially, all of the labor opposition in Chile supported this AFL-CIO and ORIT measure, as did the officialist UNTRACH (Campero and Valenzuela 1984: 283). On December 15<sup>th</sup>, 1978, the president of the AFL-CIO, George Meany, announced that if the Chilean government did not move to implement the restoration of labor rights included in the March memorandum presented to the Junta, the boycott would be launched in January, 1979 (*El Mercurio* December 16, 1978).

It was in order to avoid this pressing outcome that Labor Minister Vasco Costa resigned and the series of Labor Code reforms known as the Labor Plan were rapidly promulgated by José Piñera. Pinochet quickly sent Finance Minister Sergio de Castro to meet Meany. They agreed to negotiations with AIFLD co-chair and CEO Peter Grace as interlocutor. Grace was a partisan of the AIFLD mission to combat Marxist tendencies in the labor movement. In fact, Grace himself first suggested his personal friend José Piñera for the cabinet position (Tinsman 2014: 204-205).

For labor, 21 officialist leaders, led by unionists from the Copper Workers Confederation, offered to serve as interlocutors with the AFL-CIO, but were rejected by Meany in favor of the Group of Ten (Campero and Valenzuela 1984: 283). This set the stage for negotiations to follow (*Associated Press* December 2, 1978). These determined how the military government addressed



the demands of the AFL-CIO: a reinstatement of labor freedoms, most crucially union meetings and elections; a resumption of collective bargaining; and a recognition of the right to strike.

It was in this context that José Piñera entered the Labor Ministry with a mandate to rapidly and dramatically liberalize and institutionalize labor relations. He did so in just six months.

### **Part III – Institutional Genesis: Pinochet, Piñera and the Labor Plan (1979)**

#### **The First Meeting (December 22<sup>nd</sup>, 1978)**

“When President Pinochet received me in his office at five in the afternoon that Friday, the 22<sup>nd</sup> of December, 1978,” wrote José Piñera in his memoir, *La Revolución Laboral en Chile*, “he made me an offer that would change my life. He wanted me to enter the cabinet and advised me we were in an extraordinarily difficult moment in the life of the country” (Piñera 1990: 11-12).

José Piñera was a liberal economist and intellectual with a recent PhD in economics from Harvard University. By his own account, he was highly motivated by an ideological commitment to liberal principles of liberty and a concrete economic agenda of liberal reforms that he thought would open the way to a new era of growth and development for Chile.

“In that meeting,” wrote Piñera, “the President- in uniform, very serious, tense... saved all introductions and began immediately. He was notably worried and his words were emphatic” (Ibid). Pinochet had two urgent concerns: “military intelligence... indicated categorically that the hours were counting down for Argentina to initiate a war of great scale against our country because of the dispute over the three Beagle Islands.” Last minute diplomacy including by the Vatican appeared to have failed and conflict loomed. Second was that, “pushed by the powerful North American union central the AFL-CIO,” ORIT had decided on the boycott of Chilean commerce. They cited human and labor rights violations, the October union elections and the jailing and exiling of union leaders. Piñera noted, “The boycott took effect the 8<sup>th</sup> of January, 1979 and, thus, less than 15 days remained- counting holidays and days off of work- to fix the problem” (Ibid).

For Piñera, “with this decision a campaign of disinformation and pressure headed by a group of politicized Chilean union leaders and intending to crush the government with the arms of the solidarity of the global trade union movement finally triumphed” (1990: 12). Indeed, for him, “the danger to Chile was of such magnitude... to ask for time to give an answer would have been an unpardonable vacillation... within the first 15 minutes I had already accepted becoming a Minister.” The rest of the account we are given of the 45-minute meeting consists of Piñera winning backing for the broad ideological vision he would operate within in government:

I spoke with conviction and enthusiasm about the dream of converting Chile into a developed country with a free society, about a great leap forward in the modernization of our institutions and laws, and why it was necessary to broaden radically the margins of liberty for Chileans... a liberty... resistant to statist thought and totalitarian causes (Piñera 1990: 13).

That weekend Piñera met with “key ministers in the cabinet”, Interior Minister Fernández and Finance Minister de Castro. Analyzing the “urgent problem of the boycott” it was decided Piñera should go to the Ministry of Labor and Social Provision where his main tasks would be to author “profound reforms of the trade union and pension schemes” (Piñera 1990: 14). All three

agreed that “labor modernization would be a key part of a social and economic model founded on the liberty of people,” a key “modernization” for a “free society” (Piñera 1990: 14-15).

Given direct backing and a broad remit by Pinochet and his key civilian officials, Piñera enjoyed an autonomy from institutional and political pressures unique among those who have written Chilean labor law. Although he tells of opposition within the regime, in Piñera’s account it is completely and rather easily overcome (Piñera 1990: 72-83). His access to Pinochet and his intellectual and ideological influence in the media allowed the Labor Plan to be “converted into law” with “the coherency it needed” to reflect his vision (Piñera 1990: 76; 83). By the end of June, 1979, Piñera’s vision had been converted into a set of Labor Code laws, the Labor Plan.

### **Avoiding the Boycott and Announcing the Labor Plan**

On December 26<sup>th</sup>, 1978, Piñera was sworn in as Minister of Labor and Social Provision. He announced a soon to be unveiled “*Plan Laboral*”, a series of major labor law reforms (Piñera 1990: 27). In a meeting with Finance Minister Sergio de Castro the next day, the two arrived at a consensus on five basic principles they strategized would address multiple concerns. The Plan had to satisfy international critics of restrictions on labor freedoms, most specifically the AFL-CIO. It had to spur economic growth and development in Chile in accordance with an already imposed neoliberal restructuring of the political economy and liberalized insertion into the world market. And, it had to advance what Piñera considered economic and labor liberty. These principles were:

Full union liberty (in affiliation and the creation of unions), genuine democracy in decision making (election of leaders, affiliation to federations and confederations, strike votes, determination of union dues), the existence of collective bargaining in each firm, strikes subordinated to the discipline of the market and without a monopoly on job positions, and no state intervention in union life and collective bargaining. (1990: 33-34).

The same day the two met with Pinochet to gain his approval for what Piñera supposed would be a controversial proposal, particularly on the re-legalization of strikes (Piñera 1990: 34). To Piñera, “the President saw our proposition as an open door for the action of political agitators to compromise public order and paralyze the country” (Ibid). Pinochet feared the potential of labor threat and needed convincing that the de facto approach utilized up to that point was not the best way to contain such a grave threat to “the country”. In Piñera’s account:

we were thinking of a strike that really responded to a free decision of the workers assembly - and not pure capriciousness by leaders docile to political dictates- and that did not imply an indefinite monopoly of the strikers to their jobs (Ibid).

Although he attributes Pinochet’s decision to support their ideas to “confidence in his ministers”, it is crucial that the right to strike and legalized collective bargaining were two of the AFL-CIO and ORIT’s key demands to prevent the commercial boycott. The same can be said of Pinochet’s suspicions regarding “so much democracy” and labor demands for free union elections. Despite his “inquietude”, Pinochet put his initials on the memo containing the five points. “It was,” says Piñera, “a key moment” (Ibid). It was a key moment when labor pressure and strategic political interests at the commanding heights of the state and liberal ideology all converged. Yet, it was

clearly labor pressure that drove the political situation and strategic dilemmas that confronted Pinochet, dilemmas to which Piñera's liberal institutionalization offered a potential solution.

On December 28<sup>th</sup>, at 8:30am, Piñera relates in a section titled "The grace of Grace", he held a meeting in Santiago with AIFLD chairman Peter Grace (Piñera 1990: 35). Piñera credits this "informal mediation" with Grace for the suspension of the boycott threat, announced just over two weeks later. Piñera characterized this deed as "a great service to Chile" (Ibid).

Grace was, according to Piñera, not only a CEO with personal business interests and experience in Chile, but an admirer of General Pinochet (Ibid). Moreover, because of his own loss of assets to nationalizations during the Allende presidency, Grace offered "lucid testimony of the profoundly destructive action of the Popular Unity" (Ibid). In sum, for Piñera, Grace was the "support we needed before the all-powerful George Meany", head of the AFL-CIO (Ibid).

The immediate subject of their conversation was the five points approved by Pinochet (Piñera 1990: 37). After a short dialogue on the basis of the formal-legal liberalization of union elections, strikes and collective bargaining, Grace enthusiastically agreed to transmit the message to Meany (Piñera 1990: 38-39). With that, Piñera began preparations for the January 2<sup>nd</sup>, 1979, speech that announced the first legal changes under the Labor Plan.

First, however, as per the dialogue with Grace and demands of the Chilean labor leaders tasked with reporting to Meany, Piñera had to request of Interior Minister Fernández one crucial concession: the immediate suspension of the infamous *permiso previo*. This rule, then in effect over five years under the legal state of emergency, mandated the prior authorization of the state to conduct union meetings (Piñera 1990: 39-40). This was a first concession to the 1978 labor threat.

By the end of 1978 a good portion of the labor opposition- most of all the Group of Ten who had been seemingly significantly empowered by the turn of events- had expectations of a substantial loosening of repression and improvement of the conditions of the labor movement (Campero and Valenzuela 194: 283). They expected a "normalization" of labor institutionality and an end to the "emergency" phase (Ibid). They hoped for an opening of the regime (Ibid).

The labor left, meanwhile, maintained a stance of skepticism. At the very end of the year the CNS, the FUT and CEPCH published a document in which they cautioned that labor should focus on creating "its own capacity" to guarantee recuperation of labor rights. A capacity based in labor unity and continued pressure on the state (Campero and Valenzuela 1984: 283-284).

On January 2<sup>nd</sup>, 1979, José Piñera made a speech in the auditorium of the Labor Ministry. In it he laid out definitively what would unfold over the next 6 months. That is, legislative decree laws he and the regime called "the new institutionality of labor" or simply "the Labor Plan". In attendance were 58 labor leaders, including from UNTRACH and the Group of Ten, along with representatives from international labor organizations and diplomats (Campero and Valenzuela 1984: 285). At the event Piñera announced the immediate rescission of the *permiso previo*. He went over the five basic points that would govern the reform of labor laws. Piñera promised that the government would have the legislation finished by June 30<sup>th</sup>, 1979 (Piñera 1990: 40-41).

Piñera claimed the speech was a "bombshell" and "surprised everyone with how liberal it was" (Ibid). He recalled the "excellent" reaction from abroad and the excited call from Grace, who transmitted how satisfied he was with the news (Ibid). He also emphasized his view of the great symbolic significance of the event, in that "for the first time in a long time the doors of the Ministry had been opened without discrimination to the union leaders" and so it "inaugurated a period of open doors in the Ministry" (Ibid). He even quoted the "honest" Tucapel Jiménez as saying to the press after the meeting: "for the first time in three years they open the doors of the Ministry of Labor for all of the workers, without any type of distinction" (Piñera 1990: 41).

In a real sense, the speech did mark an opening of the regime in terms of labor policy as well as in contacts between the government and some sectors of the labor movement. Indeed, the day after the speech Piñera held a private audience with the Group of Ten (Piñera 1990: 42-43). In fact, he held further meetings with unionists from CEPCH, the Bank Workers Federation, and the CTC that month, totaling more than 400 labor leaders at these “information sessions”. Yet, as Campero and Valenzuela (1984: 285-286) note, the sectors represented by or affiliated with the CNS and the FUT were excluded from all of these interlocutions, and the use of repression and intimidation by the regime hardly ended at that juncture. It was rather an “exclusionary opening” (Ibid). The January 3<sup>rd</sup> Group of Ten meeting was preceded by a threat Pinochet communicated to Piñera: that if the boycott indeed took effect, those labor leaders supporting it would be exiled immediately, they would be “put aboard a Jumbo jet for abroad” (Piñera 1990: 42).

A controlled opening garnered immediate benefits for the state. In that first meeting, Piñera claims to have detected divisions within the Group of Ten (Piñera 1990: 43). Port worker leader Ríos was firmly opposed the Plan, but Jiménez of ANEF was disposed to give it a chance (Ibid).

After the meeting with Piñera the Group of Ten members who had served as interlocutors with their American counterparts solicited the AFL-CIO to postpone the start of the boycott for one week, from January 8<sup>th</sup> until January 15<sup>th</sup> (Ibid; Campero and Valenzuela 1984: 283). In that time Group of Ten leaders Jiménez and railroad workers leader Ernesto Vogel travelled to the United States to meet with the AFL-CIO and ORIT in a closed-door meeting on January 15<sup>th</sup> (Campero and Valenzuela 1984: 310; Tinsman 2014: 204). They also took UNTRACH member and postal workers leader Hernol Flores, who was later kicked out of that officialist group and joined The Ten upon their return to Chile (Campero and Valenzuela 1984: 310). Eduardo Ríos was disinvited from any future meetings with Piñera and the Labor Ministry (Ibid). However, most of The Ten believed they would have a crucial role to play as privileged interlocutors upon arrival in Chile, and thus advocated for a further postponement of the boycott in order to evaluate the actual content of Labor Plan law as it was promulgated (Ibid). Piñera had recruited Christian Democrat, and ex-Labor Minister under President Frei, William Thayer to lobby the AFL-CIO, where Thayer had close contacts (Falabella 1981: 23; Piñera 1990: 43). Political and financial links between Group of Ten/Christian Democratic Party aligned forces in the labor movement and their US contacts made a critical difference at this juncture. These links fractured in practice the totally oppositional labor movement unity that had proved such a potent threat to the state.

On January 16<sup>th</sup>, the AFL-CIO and ORIT announced a six-month suspension of the boycott to evaluate labor legislation proposed by the regime (*New York Times*, January 16, 1979). The boycott threat theoretically remained in effect. Yet, Piñera notes, “in those days of January, 1979, the idea of an international boycott really died” (Piñera 1990: 43; Tinsman 2014: 204).

### **Legislating and Announcing the Labor Plan Laws**

On February 9<sup>th</sup>, the Labor Ministry announced the first set of laws promulgated by Piñera and his team, which they called the “appetizer laws” (Piñera 1990: 46). DL 2544 derogated the 4<sup>th</sup> article of DL 198, which had prohibited union meetings without the written authority of the state, thus formally ending the period of the *permiso previo* and explicitly guaranteeing the “free right to assembly” for unions, federations and confederations<sup>103</sup> (DL 2544: *Diario Oficial de la*

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<sup>103</sup> It should be noted, however, that even this very liberal law (by Chilean labor law standards) noted that “these new norms... should preserve the faculties of the Authorities to guard order and public security” and that to these ends,

*República de Chile*, February 9, 1979). DL 2545 fixed norms for “free affiliation” with unions, federations and confederations. It also spelled out regulations for the deduction and collection of union dues.<sup>104</sup> A first major change from pre-coup law was that dues would only be mandatory for members of a union (Campero and Valenzuela 1984: 286). Membership criteria had been set by DL 2376 October 28th of the previous year, the same law that initiated union elections (DL 2376: *Diario Oficial de la República de Chile*, October 28, 1978).<sup>105</sup>

For Piñera organizational changes, in particular, were paramount. A change from an open vote in assembly to a “secret and universal vote” meant “for the first time in Chilean unionism... confidence was placed in a decision of persons to exercise a true ‘democracy of the base’” (Piñera 1990: 47). This was “not trivial”, insisted Piñera, as “for decades the most militant and politicized sectors of Chilean unionism had manipulated common workers through pressure and intimidation that they could exercise in a non-secret vote” (Ibid). Piñera continued, “The communists even used physical violence in those meetings and this method allowed them to control the union movement in the years of the ‘60s” (Ibid). These considerations underscore liberal ideology and immediate political-strategic concerns were closely intertwined in the origin of the Labor Plan. Yet, practical strategic concerns of state and politics predominated in this key moment of controlled liberal legal incorporation of labor, as in regulations governing meetings, affiliation, dues and bargaining.

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Article 2 stipulates that these “ordinary or extraordinary meetings” of “unions, federations or confederations” must take place in their own official headquarters (“*sus propias sedes*”), “outside of work hours” and “have as its object” the discussion of subjects of interest to the organization among its associates. If such a “*propia sede*” is lacking, the meeting “may take place in a private location, determined by the leadership, in conformity with the law, with the prior notification of the nearest police unit (*la Unidad de Carabineros más próxima a dicho recinto*) at least 24 hours in advance” (DL 2544: *Diario Oficial de la República de Chile*, February 9, 1979). As a majority of unions did not have offices of their own, they could not take advantage of this provision until the law was changed again in April, 1979, after major labor protest on the issue and a negative assessment from the AFL-CIO (Falabella 1981: 22).

<sup>104</sup> Analogous to American “dues check offs”, the *descuento por planilla* is a mechanism of Chilean labor law that dates back to the first labor laws of the 1920s. Basically, an employer can deduct union dues from an employee’s paycheck and transfer them to the organization. The exact workings of this mechanism have changed over time.

<sup>105</sup> Under this law, union membership was limited to the enterprise level, and to those on “indefinite” contracts (Ibid). In it “affiliation and disaffiliation” was declared “personal, free, voluntary and non-delegable” (Ibid). This meant that a “closed shop” with mandatory affiliation was illegal and that multiple unions could operate within one enterprise or factory. A union could be formed by a vote of at least 30% of the permanent employees in the factory or business, with a minimum of 25 workers (Ibid). DL 2545 stipulated that non-affiliates could not be made to pay dues or fees of any kind (DL 2545: *Diario Oficial de la República de Chile*, February 9, 1979). Article 3 states that in “unions that group workers from only one factory, establishment or business” dues may be deducted by the employer and transferred to the elected leadership of the organization (within 6 days) so long as the absolute majority of union members agree to it in a secret vote, or a worker authorizes this dues withholding in writing to the employer (Ibid). The assembly in which such decisions could be made had to be announced for such a purpose 48 hours in advance and required the presence of a labor inspector or public notary (Ibid). Either method needed renewal every two years (Ibid). In the case of unions of workers from more than one shop, dues could only be deducted by the written authorization of the employee, and also required renewal every two years (Ibid). Finally, an assembly of the union could decide to affiliate with a federation or confederation, essentially re-legalizing this option, under the same condition as a vote for dues deduction (Ibid). That is, the assembly and its purpose had to be announced 48 hours in advance, required the presence of a labor inspector or notary public, and a “free, secret vote” was required at the same time as the assembly (Ibid). In addition, the amount of dues to be sent to the federation or confederation had to be made known to the membership at the time of the vote (Ibid). Affiliation to a federation or confederation also required renewal by a vote of the membership at least every two years (Ibid).

The same day as preparation of a Labor Plan, the Labor Ministry announced a pension reform. It raised retirement age from 60 to 65 for men and 55 to 60 for women. This previewed dramatic pension reforms to Piñera authored in 1980 (DL 2546: *Diario Oficial de la República de Chile*, February 9, 1979; Campero and Valenzuela 1984: 286 and footnote 216).

This conjunction of legislation produced significant criticism from all sectors of the labor movement, including the officialist leadership of UNTRACH (Campero and Valenzuela 1984: 286). In fact, it produced the end of the brief period of cooperative interlocution between the Group of Ten and the regime (Ibid). The Ten's expectations of a privileged position within the new political scenario were enough that it founded a new national union central called the National Council of Democratic and Free Organizations at the end of January, which it had called upon all in the labor movement to join (Campero and Valenzuela 1984: 310). The Ten presumed an officially recognized role as interlocutor with the government, backed by its links in the US, would deliver pro-labor reforms, which would, in turn, cement their labor leadership.

Although this attempt at a unified labor organization never took hold, the decree laws of February, 1979, sparked renewed attempts at labor unity in opposition to the regime. These laws augured a weaker form of union organization and prejudiced the economic interests of much of the Chilean population. Despite strong economic growth in 1978, material conditions for the vast majority of workers had not improved. By the end of that year, unemployment was still at 22.1%, including the state Minimum Employment Program<sup>106</sup>. Real wages in January 1979 were still only 76.6% of what they had been in January 1970 (Ibid). Outside the restricted "information sessions" Piñera and other government officials held, there was no real dialogue or effective participation regarding new labor policies being written and announced (Campero and Valenzuela 1984: 311).

One immediate result was reactivation of contacts across the labor movement in search of greater unity, contacts that began in earnest in 1978 but had been suspended after the repressive measures of October of that year (Ibid). The same day as publication of the February Decree Laws, CEPCH put out a public call for a common labor front among all movement sectors (Ibid). This led to the first common declaration from CEPCH, UNTRACH, the Group of Ten, the FUT and the CNS. It took the form of a letter to the Labor Minister sent March 9<sup>th</sup>. It demanded repeal of the February laws and DL 2200 of May, 1978. It also agreed to a common series of actions to achieve demands (Campero and Valenzuela 1984: 311-312). This coalition called itself the Common Front and demonstrated a continued ability to mobilize a mass base of labor militants (Campero and Valenzuela 1984: 313). Yet, unity was precarious. At a mass assembly of some 400 labor leaders in Santiago on March 24<sup>th</sup>, 1979, the CNS called for a broader repudiation of government social and economic policy. It proposed a "platform of mobilization" aimed at "radical rupture with the regime". This provoked UNTRACH to leave the Common Front just three days later (Ibid).

March 28<sup>th</sup> Ernesto Vogel and Eduardo Ríos, Group of Ten leaders, travelled to the US to hold consultations with the AFL-CIO on initial results of the "normalization" plan, as these parties referred to the reforms intended to address the demands of the AFL-CIO/ORIT (Ibid). On their return April 5<sup>th</sup>, they announced they held a letter sent by Ernest S. Lee, the AFL-CIO's director of International Affairs, to Piñera in which he expressed concern at the actions of the government

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<sup>106</sup> The *Programa de Empleo Mínimo* (PEM) or Minimum Employment Program was legislated in 1974 and became operational during the severe recession of 1975. It paid about 1/3<sup>rd</sup> the minimum wage for jobs such as street and plaza repair or assistance in preschools. See: <http://www.eurosur.org/FLACSO/mujeres/chile/trab-4.htm>

since the “good faith” announcements in January of that year (Campero and Valenzuela 1984: 314). It was this pressure that led to the minor reforms of the February laws in April, 1979.<sup>107</sup>

Notwithstanding the withdrawal of UNTRACH, the four remaining labor organizations (CEPCH, the FUT, the CNS and the Group of Ten) continued to act under the umbrella of the Common Front, and began to organize actions for May 1<sup>st</sup> (Ibid). The four co-sponsors of non-official May 1<sup>st</sup> commemorations solicited permission for the events from the Interior Ministry, but were denied once again (Ibid). In addition, many foreign labor delegations were denied entry to the country for these commemorations (Ibid). Despite this prohibition, as in previous years, thousands of workers and students marched on the capital and in other cities in illegal protests and rallies (Campero and Valenzuela 1984: 314-315). Also as in prior years police attacked and broke up protests, with many taking refuge in a Catholic Church and continuing demonstration there (Ibid). Inside, two Catholic bishops and Juan M. Sepúlveda, CNS and metalworkers leader, spoke about the need for a return to democracy and the recovery of labor rights in a framework of “democracy, pluralism and participation” (Ibid). In total, 365 people were arrested (ILO Interim Report - No 194, June 1979, Case No 823 (Chile): 170) in May 1<sup>st</sup> events in 1980.<sup>108</sup>

Piñera, at a government-organized official Labor Day event, announced the basic outlines of the Labor Plan laws then being written (Campero and Valenzuela 1984: 286). In a speech at the Diego Portales building, the seat of government, he offered a highly critical reading of “35 years” of “rampant state intervention” in labor matters (Ibid). He reiterated the main planks of labor policy: collective bargaining at firm level, attuned to “productivity” and not “redistribution of wealth”; unions as vehicle for “technical and social”, not “political” participation; the “closed shop” as absolutely incompatible with “labor liberty”; and owner-labor harmony as key common good (Campero and Valenzuela 1984: 287). He stated emphatically that unions should not aspire to “co-govern” because they “represent partial interests that only the authorities can harmonize” (Ibid). The same day Pinochet made a widely-known response to a worker's question on labor input in the Labor Plan reforms: “I am not co-governing, this is an authoritarian government” (Campero and Valenzuela 1984: 287 footnote 218). Lastly, the speech announced Piñera's future pension reform to privatize nearly all retirement accounts (Campero and Valenzuela 1984: 289).

A broad spectrum of labor groups and the Catholic Church strongly criticized the content of the proposed laws and their exclusionary drafting process (Ibid). Though the labor opposition was able to mobilize a broad array of opinion against the actions and proposals, it did not “create sufficiently strong practical deeds to paralyze governmental action” (Campero and Valenzuela 1984: 315). The labor opposition at this juncture had mass backing for dissent in terms of public declarations and protests, it “still did not have conditions to break the wall of fear that blocked the passage, from this situation, to a superior one, in which the union base would mobilize beyond denunciation” (Ibid). Among copper workers some smaller direct actions of the base appeared in the form of “lunch pail strikes”. Although these generated favorable results on some particular issues, they did not transform into broader pressure. The vast majority of labor organizations were not able to generate pressure on the state at this juncture (Ibid). Piñera passed the reforms easily, with little change. Yet, a small number of key, revealing changes were made at the process' end.

### **The Last *Tropiezos***

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<sup>107</sup> Most substantially, a repeal of the requirement that union meetings held outside of an officially recognized union headquarters building, which many unions did not have, needed to be reported to the police 24 hours in advance.

<sup>108</sup> [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002\\_COMPLAINT\\_TEXT\\_ID:2899859](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID:2899859)

In late June, as the Junta neared approval of the Labor Plan, three "stumbling blocks" worried Piñera (Piñera 1990: 114). In combination, they reveal critical strategic and political-economic issues under careful consideration at this pivotal moment of institutional genesis.

The first two involved crucial groups of workers the government worried could not be successfully incorporated into the proposed new regime of labor institutionalization without running excessive risks. These were port workers and copper workers (Piñera 1990: 114-117).

With respect to the port workers, Piñera narrates that to "legislate in this area" meant to take on "old, enormous and shadowy interests" that could threaten the entire project and revive the AFL-CIO boycott (Piñera 1990: 115). Piñera judged US port worker head Thomas Gleason as even more important in decision making about the boycott than George Meaney (Ibid). Not only could the port workers of Chile exert great political and economic pressure through a strike, but repression required to counter that threat entailed the potential to "radicalize Gleason behind the port workers' positions" (Ibid). This amounted to a tacit recognition of the potential power of these laborers and demonstrated the fundamentally strategic lens through which such questions of labor policy were understood and adjudicated at the highest levels of the military state. Pinochet and Piñera decided "it was not the moment to go into this battle... there was too much at play to gamble with the boycott suspension in our eagerness to achieve 100% of our objectives" (Ibid). They chose to wait until the threat of the boycott had definitively passed. It was two more years and another decree law before maritime workers were brought under the Labor Plan (Ibid).

The copper workers were the other "critical sector" that gave pause to the government in terms of applying the new laws to all workers at once (Ibid). Piñera was clear on the basis of the power of the then-30,000 copper workers. CODELCO, the state-run copper company, at the time controlled by military officers, was responsible for a great majority of foreign currency reserves in Chile, particularly US Dollars (Piñera 1990: 115-116; 131). On this basis a major bulwark of institutional protection had been erected. There were special union laws for copper workers in the pre-coup period and specific constitutional amendments that regulated CODELCO and the Copper Workers Confederation. They spelled out specific financial benefits for workers (Piñera 115-116). Moreover, these Articles had been supported by the Christian Democrats. Indeed, they originated as part of the "Statute of Guarantees" the PDC negotiated with Allende not to block his ascension to the Presidency in 1970 (Ibid). Like the nationalization of the copper industry itself, these special dispositions had broad political and social support across the spectrum, not least within the military itself. Therefore, to incorporate the copper workers into the Labor Plan would take not just a Decree Law, but a Constitutional Act (Piñera 1990: 117). On this the Junta could not achieve consensus and legislation continued along without the copper workers (Ibid).

Just before the final law was approved, Pinochet convened, at the behest of the Labor Ministry, an extraordinary session of the *Junta de Gobierno*. There, a Constitutional Act was approved that allowed the Labor Plan to include copper workers (Ibid). All CODELCO copper workers were allowed use the new legal strike mechanism, except for those at the largest mine, Chuquicamata (Piñera 1990: 131). Like the delicacy dealing with port workers, special concern given to copper workers demonstrates state recognition of and reaction to potential labor threat.

The final "stumbling block" touched on the most basic material interests of rank-and-file workers under the new laws: wages and the payment of indemnities for job dismissal. Since 1974 the military regime had mandated nation-wide automatic wage readjustments. The readjustments were renewed annually in December, at the level of an official inflation index, the IPC (Index of Consumer Prices). Yet, the original proposal for collective bargaining did not contain any system of wage indexation or a lower limit (floor) for wage offers at all (Piñera 1990: 118). A first ad-hoc



proposal revised this to mandate that employers' offers had to at least equal workers' current wages in nominal terms, which still left significant room for real wage cuts (Ibid). Here, wage proposals ran into the issue of indemnity payments for workers dismissed from their jobs (Ibid).

Until 1966 employers could hire and fire workers at will and without express cause. Blue collar workers (*obreros*) received either one month's notice or one month's severance pay. White collar workers (*empleados*) got one month's severance pay per year of employment (Sehnbruch 2006: 53). In 1966 Congress passed the Immobility Law (*Ley de Inamovilidad*) as a job security measure (Ibid). It had broad parliamentary support across the political spectrum and was socially popular. It made firing workers without "justified cause" illegal (Ibid). Cause could be worker conduct or economic reasons and was appealable in a labor court (Ibid). If the court found in the employees' favor, the employer could either hire the worker back or pay compensation of one month's pay per year of tenure (Ibid). In addition, labor courts of the time were favorable venues for workers, making it difficult and costly to dismiss workers (Ibid). Dismissals of more than 10 employees per month, for example, required approval by two separate ministries (Ibid). This law became a target, as "employers viewed it as the root of all their problems" (Ibid). DL 2200, in 1978, had abolished this provision, allowing for dismissal "without express cause". Yet, until a 1981 ceiling was put on payments, employers owed severance of one month per year of work. It was for Piñera a "great disincentive to employment. But it was a reality and the government had ratified it a year before with the dictation of Decree Law 2200" (Piñera 1990: 118).

The problem was the new system of collective bargaining proposed that after 60 days of a legal strike, prior employment contracts be considered null and void. This meant workers would lose rights to payment (Ibid). Combined with no wage indexation, a way to avoid severance pay obligations set up a perverse system of incentives: "the employer, with the objective to eliminate the liabilities represented by accrued indemnities for dismissals, offers remunerations manifestly inferior to those of the market to provoke a strike that lasts more than 60 days" (Piñera 1990: 119). A concession was made to establish a wage floor for employer offers. Piñera explained that "given the projected level of inflation- 20 to 30 percent ... there was an ample margin of flexibility for variations in real wages if the market required it" (Ibid).

However, yet again the strategic political exigencies of the moment convinced the Junta to back away from this measure. "The reasoning, not exempt from political considerations," said Piñera, was that if workers outside the collective bargaining process received wage increases and those subject to the system did not, rejection of the legal institutionality could be universal (Ibid). It was decided that if those outside the system were indexed, that a floor on employer offers in the collective bargaining process must be put at previous wages plus the IPC (Ibid). Piñera said with regret that the Finance Ministry renewed wage indexation in December 1979, 1980 and 1981. But, wage indexation and the collective bargaining floor were eliminated in mid-1982.

### **The Content of the Labor Plan Laws**

On June 29<sup>th</sup>, 1979, the government promulgated four Decree Laws that were published over the next week and constituted the main body of Labor Plan laws. Piñera announced the laws on all national radio and television stations on the evening of July 1<sup>st</sup>, 1979 (Piñera 1990: 123).

They were DL 2756 on union structure and organization, DL 2757 on the professional associations (*asociaciones gremiales*), DL 2758 on collective bargaining and DL 2759, which revised several components of labor laws previously passed by the military regime, including on the individual labor contract (DL 2756: *Diario Oficial de la República de Chile*, July 3, 1979; DL

2757: *Diario Oficial de la República de Chile*, July 4, 1979; DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979; and DL 2756: *Diario Oficial de la República de Chile*, July 6, 1979). For the government, these laws represented the “new institutionality of labor” about which they had been speaking for years, and with which they hoped to fend off American and international pressure regarding labor rights for good (Campero and Valenzuela 1984: 315).

DL 2756 created a new legal and organizational structure for unions, from the company level through national federations and confederations. In place of the two types of base-level unions that existed previously (industrial and professional), the new law created four types: company unions; intercompany unions; independent unions and construction unions. Only company unions had rights to collective bargaining (DL 2756: *Diario Oficial de la República de Chile*, July 3, 1979). Within the agricultural sector, each property was considered its own firm.<sup>109</sup>

The law confirmed a multiple union shop model of voluntary affiliation and disaffiliation, and reduced the percentage of workers needed to approve the formation of a union to 10% of the permanent employees or at least 250 workers<sup>110</sup>. It also lowered the number of union leadership positions in firms with less than 250 workers (Ibid). In the old Labor Code a union had at least five official leaders, under the new law the size of a leadership team depended on the size of the union: 1 for less than 25 members; 3 for 25 to 349 members, 5 for 250 to 999 members and 7 for over 1,000 members. The key functional aspect of this regulation was that official union leadership was protected from dismissal from the time of their election until six months after leaving the post under the *fuero sindical*. The law eliminated any formal requirements or processes for leadership candidacies in unions (except a requirement of being a union member). It also prohibited any union meetings or assemblies on the day of any leadership election (Ibid). The financial affairs of unions were also tightly regulated. Financing by employers outside of the union dues stipulated by the February 1979 law was prohibited, even in the case of leaders taking time off of the job to do union work full time (which was allowed for up to six months). Use of “ordinary” and “extraordinary” union dues (*cuotas*) was strictly limited to “projects and activities” previously authorized by a secret vote in a union assembly by an absolute majority of all members (Ibid). Finally, DL 2756 established that labor federations and confederations could play only advisory roles. They were explicitly prohibited from taking part in collective bargaining or signing employment agreements. As such, the law barred the formation of union centrals like the historic CUT (Ibid).

DL 2757 created a unified system of regulations for professional associations (*gremios*). For the purposes of the labor plan, these associations were barred from collective bargaining and “political activities” (DL 2757: *Diario Oficial de la República de Chile*, July 4, 1979).

DL 2758 set up the new collective bargaining system (DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979). Piñera (1990: 49) wrote that the “main idea was to refound everything existent and return to the fundamental questions”. Collective bargaining was defined:

a process whereby an employer deals with one or more unions of a respective enterprise, or with workers that lend services to that enterprise and that unify for that end with the objective of establishing common conditions of and remunerations for labor for those party to the process, for a fixed period of time and in accord with

<sup>109</sup> This provision was modified by DL 3355 in May, 1980, recognizing all properties of the same owner as one firm.

<sup>110</sup> In the historical Labor Code, an “industrial union” (the most analogous to the new “company union”) was formed with a vote of a minimum of 55% of the workers of a company. Once officially recognized as a legal union, all blue collar workers (*obrerros*) of that employer automatically become members (Campero and Valenzuela 1984: 134). Thus, in any one firm, factory or plant, there was no legal basis for more than one “industrial union” to exist (Ibid).

the norms contained within the law (DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979).

One key provision was only members of a union or “bargaining group” negotiating a collective contract were covered by its terms. This allowed the formation of employer-favored bargaining groups and the punishment of activist or oppositional unions. In fact, these “collective contracts” did not even cover union members or employees who were hired and joined the union after the contract had been negotiated, only those who were members during collective bargaining.

As the above definition indicates, collective bargaining in Chile was to be circumscribed to only one enterprise, with the parties being an employer and one or more unions or “bargaining groups” (Ibid). This structure was an innovation of Piñera and his team. Even DL 2200 of June 1978 had envisioned the process of collective bargaining as mechanism to generate a “collective contract... between an employer or association of employers... and a union or association of unions... for one enterprise, determined departments of an enterprise or a group of enterprises” (DL 2200: *Diario Oficial de la República de Chile*, June 15, 1978). Further, there were several other restrictions on who could be party to collective bargaining. Most government employees as well as employees of companies that had received more than 50% of their income in the previous two years from the state were excluded from the process. Those on training contracts or with a temporary or contract work status could not collectively bargain either (DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979). The decree established a binding timetable for collective bargaining that severely circumscribed these negotiations, and thus potential conflicts (Ibid).<sup>111</sup> A major intent of this scheme of organization was to spread out processes of collective bargaining throughout the year in order to avoid unified actions during the negotiations.

DL 2758 also limited the subject matter on which collective bargaining could take place. Implicit or explicit discussion of financing unions or other worker organizations was prohibited. It barred any agreement that limited the “freedom” of the employer to “organize, direct and administer the enterprise”. Negotiation on worker participation in management of the firm or work rules was banned. Overall, collective bargaining was prohibited on anything “other than the functioning of the enterprise or the wellbeing of its workers” (Ibid).

This Decree Law re-legalized strikes, yet new legal strikes were impractical. They were tightly circumscribed and bound to the process of collective bargaining. First, many groups, even some allowed to collectively bargain, were prohibited from striking. This included government employees, workers for “public service utilities”, and those in private firms providing “services important to the public interest” or “whose stoppage might cause serious damage to the health or supply of the population, to the economy of the country or to national security”, as designated by Defense, Labor or Economy Ministers (DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979). Once on strike, workers’ jobs were protected for 59 days, 60 being the maximum legal length of a work stoppage, after which they were determined to have quit the firm voluntarily, with no right to severance pay. After 30 days strikers could return individually on the terms of the old contract. If a majority did so, the strike was legally over. Hiring replacement workers from the first

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<sup>111</sup> Thus, in the first round of collective bargaining held under the law, a specific timetable for the presentation of offers from workers was published by the Labor Ministry, divided by whether the contract would be for one or two years, by size of company, and alphabetically by the first letter of the name of the company. So, those contracts for one year with company names that began P-Z and that were smaller than 25 employees were to have the first offer presented between August 16<sup>th</sup> and 21<sup>st</sup>, 1979, with the resultant contract to enter into effect on October 1, 1979. Campero and Valenzuela (1984: 141) reproduce the table of this first schedule of collective bargaining process.

day of a strike was permitted. The Decree Law made striking workers responsible for both their and employer state mandated pension payments (DL 2758: *Diario Oficial de la República de Chile*, July 6, 1979). Paying workers on strike was barred from negotiations (Ibid).

Collective bargaining began with the presentation of a first offer from any union or group of employees that included: 8 workers and at least 50% of permanent employees at firms with less than 25 workers; 25 workers representing at least 10% of employees; or 40% of employees regardless of number at enterprises of over 25 workers. Unions or groups of at least 250 workers could also make offers (DL 2758: *Diario Oficial de la República de Chile* July 6, 1979). Next, employers had 10 days to respond, 15 if there were multiple offers or more than 250 workers were participating in the bargaining (Ibid). After that, the parties could meet as many times as they agreed to. The labor negotiating team could appeal to the Labor Inspectorate within five days of receiving the employers offer. At any point in negotiations either party could voluntarily decide to go to mediated arbitration, a process with a ten day limit.

Arbitration<sup>112</sup> was mandatory in cases where strikes were barred. The body of arbitrators for mandatory cases was named by the President (Ibid). The employer's last offer at the end of the period of negotiations formed the basis for legal strikes. Workers could accept the offer, by majority vote, or decide to go on strike, also by a majority vote. If a strike vote failed, the employer's last offer was considered automatically accepted (Ibid). The strike had to begin within three working days of this vote (or up to eight with the agreement of the employer). If a majority of negotiating workers did not actually stop work, this also meant that the employer's last offer was de facto accepted (Ibid). Once a strike began, the employer had a right to initiate a "lock-out", partially or totally closing the company or shop temporarily, up to 30 days from the start of the strike (Ibid). During the strike the previous contract was considered not in effect, meaning employers did not have to pay wages, benefits or state pension payments (Ibid). After 30 days workers could return to work individually, on the terms of the old contract, or they could negotiate individually with the employer (Ibid). On this basis a strike was considered over if a majority of the bargaining group or union was no longer in actual work stoppage at any point.

The last decree promulgated that day, DL 2759, contained various minor revisions to the set of labor laws passed in 1973, 1974, 1976, 1978 and 1979. It also applied the anti-monopoly law to certain union activities (DL 2759: *Diario Oficial de la República de Chile*, July 6, 1979). This concept later attained constitutional status and continued to define the possible institutional path of labor reform decades later, throughout the whole history of the Labor Plan under study.

### **Labor Reaction to the Labor Plan**

The reaction against the Labor Plan laws was stronger and from a broader array of actors than the February laws. Even the most regime-loyal labor organizations, such as the federation of bank workers, harshly criticized the decrees (Campero and Valenzuela 1984: 316). UNTRACH, founded by the regime as an instrument of labor support, not only condemned the measures, but also began a process that ended with its withdrawal of support for the military government (Remmer 1980: 279). UNTRACH also called for a nation-wide "labor plebiscite" to pronounce on the Labor Plan. The Copper Workers Confederation went a step further, with the workers at El Salvador mine demanding a national plebiscite on the laws, which the CTC called a "regression of

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<sup>112</sup> The form of arbitration called for in mandatory cases was "pendulum arbitration". That is, arbitrators were not permitted to "split the difference" or take elements from both labor and owner proposals, but instead had to choose one or the other in its entirety. This was supposed to incentivize "responsible" bargaining (Piñera 1990: 112-114).

30 years” in labor rights (Campero and Valenzuela 1984: 316). Caletones mine in El Teniente sector saw a “lunch pail strike” that 981 workers joined in protest (Ibid). The FUT went furthest of the labor opposition, at least rhetorically, calling for a constituent assembly and a return to democracy in response to the Labor Plan laws (Ibid).

The most serious reaction, however, came from the Group of Ten. The group met with the AFL-CIO in the US at the end of July. Returning to Chile, they issued a joint declaration with the AFL-CIO stating the government had not kept its promises and that they condemned its actions as a trick (*burlas*) (July 26, 1979, quoted in Campero and Valenzuela 1984: 317). At that event Group of Ten leader Eduardo Ríos threatened a strike in response, exclaiming “the strike is the most effective means to oppose the *Plan Laboral*” (Ibid). The AFL-CIO backed the call for a strike (Campero and Valenzuela 1984: 292). The international labor confederations ICFTU and ORIT went even further, declaring at a meeting in Caracas that they would begin a commercial boycott of Chile between September 9<sup>th</sup> and 16<sup>th</sup> (Campero and Valenzuela 1984: 317).

This backlash produced a furious reaction on the part of the government. It explicitly threatened severe punishment of opposition union leaders in Chile and threatened harsh penalties for the proposed strike (Ibid). Even Piñera, who attempted to stake out a public profile very distinct from the language of force and threat often employed by the military regime, stated July 29<sup>th</sup> “the proposed strike is nothing but a ridiculous bluff, lacking any reality because of the null backing it has among the workers” (quoted in Campero and Valenzuela 1984: 292-293). He warned that “should these measures of aggression materialize, the authorities will apply all the rigor of the law and will proceed with the necessary energy, not only with respect to the political-union leaders committed to plotting against the nation, but also those who, from the shadows, support them” (Ibid). The government also threatened the political parties in opposition, including the PDC, which they viewed as supporting the Group of Ten and the strike. In the face of these threats and the fear they induced, the labor movement was unable to pull off the threatened strikes.

The sense of impotence this failure occasioned in the rank-and-file and leadership of the labor movement was profound (Campero and Valenzuela 1984: 317-318). However, one crucial reaction was the impetus this gave to another, even stronger, attempt at labor unity and a common struggle against the regime (Ibid). The most important concrete outcome of this new push for unity in July and August 1979, was the formation of the Command for the Defense of Union Rights, or CDDS. On August 17<sup>th</sup>, 1979, leaders of the CNS, FUT, Group of Ten, ANEF and CEPCH came together to announce a common coordinating leadership headed by Eduardo Ríos (Ibid).

While this new organization did not represent a political unity of the various factions of the labor opposition, it was a mechanism of combined action and appeared at the time a key step to a unified anti-regime labor struggle (Ibid). In its announcing declaration the CDDS explained, “The Command has as its origin and specific principle objective to effect a struggle of confrontation, of opposition and of rejection of the so-called Labor Plan” (Ibid). The CDDS proposed a plan of action including public assemblies, meetings with foreign diplomats, national tours, organizing institutionally on the regional and local levels, and the preparation of documents espousing alternative labor policies, based in the historical 1931 Labor Code (Ibid). However, there was not yet support or readiness on the part of this group to organize production-level direct actions such as slowdowns or strikes, because of political disagreements and fears of repression (Ibid). The CDDS, nonetheless, became a principle organizing institution for labor in this era. It also represented the first time the four main union bodies (but not UNTRACH) were united in a single formal organization (Falabella 1981: 23; Collier 1999 153). Finally, the left labor opposition

in the CNS was able to exercise its greatest influence to date in this formation. Its line of “global” opposition to the regime was adopted by the CDDS (Campero and Valenzuela 1984: 318).

For the rest of 1979 many unions all across Chile responded to the call of the CDDS and organized actions against the Labor Plan and regime socio-economic policy more broadly, and in favor of democratization (Ibid). These included national meetings against the Plan and of women and youth workers, a national hunger strike called for by the port workers, and numerous public documents and declarations (Ibid). While these actions did keep opposition to the regime and its labor and social policies on the national and international agendas, they could not reverse them.

### **The Labor Plan in Action**

Notwithstanding increasingly unified oppositional struggle by labor in the latter half of 1979, the institutional mechanisms of the Labor Plan came into effect in this same time period. The new official process of collective bargaining began in August 1979, and shortly thereafter obligatory base-level union elections took place in the vast majority of unions<sup>113</sup> (Ibid). The launch of this process was, for Piñera, “a decisive phase in our strategy” (Piñera 1990: 127). One way the state prepared for this decisive phase was through a program of training base-level union leaders in the intricacies of the new law. In July more than 1,500 labor leaders took part in such trainings, while in August more than 5,000 union leaders participated (Piñera 1990: 129).

These tasks took up a great deal of time and energy among base labor activists during the second half of 1979 and 1980 (Campero and Valenzuela 1984: 319). In this way, a “machinery” that contained “union activity within the framework imposed by the regime” was given impulse (Campero and Valenzuela 1984: 293). This did not mean an absence of struggle outside of these institutions, but it did reflect the reality that at this juncture the labor opposition was unable to “create political deeds that effectively intercepted the initiative of the government... the brutal asymmetry of government power determined the spaces of struggle and obligated the unionists to follow the footsteps of its own strategy” (Campero and Valenzuela 1984: 318). As labor threat receded and new labor institutions began functioning, the pressure to change the law dissipated.

Piñera saw participation in “the new institutionality” draw energy away from other, more oppositional forms of labor protest. He assessed that “The space dedicated to populist rhetoric from the [labor] leadership” in media declined as the specifics of collective bargaining came to predominate in daily reports. Piñera also took rank and file participation in the new process as a “plebiscite... at the level of the bases” showing support for the Labor Plan (Piñera 1990: 132-133).

This type of misattribution of consent to relatively compliant participation by labor in the institutions of the state thus co-originate with the Labor Plan, from its own author. Of course, a major reason for compliant participation was “the fear of repression” (Campero and Valenzuela 1984: 299). The high level of unemployment since 1975 also provided a strong check on worker militancy. Sectoral differences in wage gains and worker testimonies from the time indicate fear of unemployment was a strong driving factor for rank and file labor behavior in the period.

On August 16<sup>th</sup>, 1979, the first phase of the collective bargaining process began. It was scheduled to last until May 1980 (Campero and Valenzuela 1984: 293). By the end of 1979, 850 collective bargaining processes had taken place, covering 80,000 workers. Overall, these workers saw an average 8% real wage gain. Of those involved, only 1.6% of enterprises involved saw a legal strike (Campero and Valenzuela 1984: 294). By May 1980, 600,000 workers, 20% of the

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<sup>113</sup> The law of union organization obligated all unions to reformulate their statutes to be in line with the new laws, and to hold elections within 90 days of their first collective contract (Campero and Valenzuela 1984: 319).

labor force, had taken part in collective bargaining, yielding 2,574 contracts. Just 74, with 26,648 workers, less than 1% of the labor force, saw strikes (Campero and Valenzuela 1984: 298).

About a third of wage workers with a formal employment contract participated in collective bargaining. This gives an indication of exclusions written into the law. Excluded from the process were nearly all public sector workers, construction workers not employed by a single firm, and “temporary” forestry and agricultural laborers, representing the majority of workers in those two industries, which grew strongly starting in the late 1970s (Ibid). The 600,000 workers who participated represented about two thirds of those with the legal ability to do so (Campero and Valenzuela 1984: 299). This was the result of a very low participation rate in the rural agricultural (*campesino*) sector; only about 5% of workers took part (Ibid). Of collective contracts negotiated, about 90% were negotiated by unions, and 10% by new non-union “bargaining groups” (Ibid). The average real wage gain for workers was 8-9% (Campero and Valenzuela 1984: 300-301).

Within this, the general trend was workers in industries favored by the liberal export-oriented model did the best, among them mining, banking, and forestry, as well as those sectors that benefited from liberal import rules, like laboratory equipment (Campero and Valenzuela 1984: 302). Conversely, those workers who benefitted least from taking part in official collective bargaining processes were those in industries most harmed by these political-economic changes, among them textiles, metallurgy and glass manufacturing (Ibid). Collective bargaining processes that went to strikes did not have outcomes different than those that did not- an 8.4% real wage gain, but workers lost an average 23.4 days of pay on strike (Ibid).

Yet this real wage increase was the first negotiated wage readjustment for most workers in over 5 years, during which time a real devaluation in wages of more than 20% was the norm. In January 1980, real wages were 84% of a decade earlier (Campero and Valenzuela 1984: 303).

One key reason more was not achieved this round of negotiations was ineffectiveness of re-legalized strikes as a tool of pressure on employers. In part, this was because of “limitations imposed by the law” (Campero and Valenzuela 1984: 299). This was intentional. Piñera said, “The strike is no longer a weapon to impose new rules of the game, it stopped being that terrible instrument of pressure” (Piñera 1990: 110). The new collective bargaining process “neutralized the risks posed by negotiation by area of activity, which in case of conflict translated into a total shortage of certain products” (Piñera 1990: 111). Piñera wrote that state policy was designed to “replace the ‘struggle of classes’ (workers versus capitalists) with the ‘struggle of companies’ (workers and capitalists of the same company versus those of another that competes with them), which is functional for a free market economy” (Piñera 1990: 108). This was a clear statement of the functional and strategic purpose of the new Labor Plan Labor Code institutional structure, to channel and contain labor conflict and so labor threat.

The government also enacted a series of other labor policies to accompany the Labor Plan in the second half of 1979. The military regime intensified its policy of mass layoffs in the public administration. By the end of 1979, 65,000 fewer employees worked in the state administration than in 1974, a 20% reduction. Stringent wage policy also saw to it that the real wages of these workers had diminished 40% since 1972 (Campero and Valenzuela 1984: 294). Along with this, privatizations also grew in speed and size in 1979 (“*Informe de la Cámara de Diputados como resultado de Comisión Investigadora sobre las Privatizaciones 1973-1990*” 2005).

Another key effort to liberalize the labor market was DL 2950, which ended many sector-specific privileges, such as licensing and permits for professions ranging from barbers and radio and television announcers to notaries, actors and artists. This law also derogated Law 16,757, which had prohibited the practice of subcontracting in many industries (DL 2950: *Diario Oficial*

*de la República de Chile*, November 21, 1979; Campero and Valenzuela 1984: 294; Piñera 1990: 98-99; Sehnbruch 2006: 55). The total effect was further pressure on wages and employment.

### **The Trial by Fire at El Teniente (January, 1980)**

The Labor Plan was a design for the controlled incorporation of a legal labor relations system within an authoritarian neoliberal capitalist state. It was structured according to political imperatives at a specific historical moment. These were to re-legalize union elections, collective bargaining and strikes in a manner acceptable to international audiences, in particular to the US AFL-CIO, while also not threatening the longer-term strategic requirements of the state. State development strategy demanded labor threat not threaten capital accumulation or political control. An institutionally weaker labor movement institutionally than pre-coup was a strategic necessity. Such strategic decisions were made in a context of international and domestic political and economic conditions (Álvarez 2011: 94). They were justified by liberal political-economic philosophy and concepts of liberty, free association and state non-intervention. Yet, when putative guiding principles contravened perceived strategic needs, the latter predominated. All of these dynamics were starkly evident in the event of a January 1980, strike at El Teniente copper mine, which Piñera (1990: 136) called “the most critical moment for the Labor Plan”.

In January 1980, mine workers at the El Teniente division of CODELCO, in Rancagua, declared a legal strike after the failure of collective bargaining negotiations (Ibid). The historical resonance of the event was deeply unnerving to the military regime. As Piñera explains, “the strikes in that mine... had a nearly legendary history and that which took place in the time of the Popular Unity was considered a crucial event in the defeat of the government of Allende” (Ibid). He goes on, “It appeared many in the military believed firmly in this version and, being so, it was not strange that they became nervous when a strike was produced at the end of the collective bargaining process” (Ibid). In reality, the conflict was formally between a worker demand for 9% real wage increases and a company offer of 6% real wage gains (Ibid). Nonetheless, within 24 hours of the strike commencing, Pinochet called an emergency meeting and helicoptered back to the capital from his summer vacation stay at an army grounds in Bucalemu (Piñera 1990: 137).

At his home, Pinochet announced to Piñera, Interior Minister Fernández, and the senior command of the armed forces that he had put the Army’s Sixth Division on alert and had tanks on the way from Santiago to Rancagua. He demanded, from Piñera, “What have you done?” He exclaimed he would not abide a strike and that “the communists are behind all of this” (Ibid).

According to Piñera, it was left up to him to calm down the Commander in Chief and to “lower the tension of the environment” (Piñera 1990: 138). Piñera explained to Pinochet: “This is not a revolutionary strike, but only a bourgeois strike, which the government has no reason to fear” (Ibid). To Piñera, the belligerent operation was but a tragic overreaction that only showed fear to the Labor Plan’s opponents. And the worst outcome would have been state interference. Piñera convinced Pinochet to back down and was vindicated days later when the management and workers at the mine came to a wage agreement that ended the strike (Piñera 1990: 139).

“The truth is,” Piñera confesses, “if things went bad in that meeting with the President, we had a card up our sleeve to maintain the situation within the norms of the Labor Plan” (Ibid). That is, the law on collective bargaining contained a legal provision that allowed the government to suspend a strike for 90 days if its “repercussions gravely prejudiced the society or economy” (Ibid). The President of the Republic retained the formal legal power to stop the strike without calling in tanks. Piñera reassured this legal “disposition was inspired by North American [US] legislation



with the objective, in exceptional cases, to stop a strike in a key sector” (Ibid). It was, he says, “a weapon of last resort” (Ibid). In fact, what proved to Piñera “the good functioning of the Plan” was exactly “that this mechanism... has never been used” (Ibid).

## Part IV – Conclusions

### The Origin of the Labor Plan: State Strategy, Institutions and Ideology (1978-1979)

“The Labor Plan,” wrote José Piñera, “in reality is only and exclusively a union plan” (Piñera 1990: 49). It had nothing to do with “individual worker rights”, only “collective labor rights... the Labor Plan aims only at the norms about union organizations and about collective bargaining” (Ibid). These specific labor institutions-of-state merited a specific plan and a specific strategy, for both historical and structural reasons.

Piñera's distinction corresponds to the two main sections of the Labor Code: one on the individual work contract and one on “collective rights” of unionization and collective bargaining. Piñera distanced himself from DL 2200 and the changes to the individual work contract contained in the law, which came into effect before his term as Labor Minister, including “the famous Article 155 letter F of the Labor Code which permitted dismissal without cause” (Piñera 1990: 49).<sup>114</sup> Yet, its liberalizing, flexibility-enhancing design was reaffirmed and incorporated into the Labor Plan laws. The logic of both was a move from de facto to liberal legal modes of labor-state relations.

Yet, the Labor Plan, understood in Piñera’s narrow sense, even more clearly appears as a specific political strategy of institutionalization by ruling (military) state factions. It responded to the concrete demands of the AFL-CIO, and international pressure generally, to re-legalize and institutionalize collective bargaining, strikes, unionization with free elections and the possibility of forming federations and confederations. Yet it did so in a way that institutionalized labor as a much weaker formal-legal actor than in the pre-coup period. Crucially, this institutionalization came in the wake of neoliberal political-economic restructuring and crisis. These had already decimated sectors that were previously labor bases of strength and ushered in a period of high unemployment and low job security, which undermined wages and labor bargaining power.

Piñera understood these particular legal institutions, unions and collective bargaining, as key problems for Chile's political economy. His reasons were specific, historical and political. In his July 1<sup>st</sup>, 1979, speech announcing the Labor Plan laws Piñera addressed them. The new laws were “overcoming a situation in which for the union leaders it became fundamental to count on the favor of the political powers to promote their interests, all of which favored partisan control and the predominance of Marxism among them” (quoted in Campero and Valenzuela 1984: 290). Piñera argued, “collective bargaining, until 1973, was an unstoppable weapon of power for certain labor groups, well organized and with a strong force of pressure” (Ibid). Institutionalization had to be managed to pre-empt the labor threat associated with these institutions in the pre-coup period.

Piñera and Pinochet both repeatedly emphasized their common view of the two central “deformations” in the old system: unions' links with political parties and their “monopolization” of labor supply. To eliminate these would promote a true “union freedom”. In his July 11<sup>th</sup>, 1979,

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<sup>114</sup> Piñera was at pains to make this distinction in his memoir, lamenting the fact that “people still mix up the Labor Plan with norms and dispositions that are distant from it like, for example, the norms about worker dismissal” (Piñera 1990: 49). However, most scholars who have studied labor issues have defined the Labor Plan more broadly, as the set of changes in state political-economic policies that affected the power and interests of labor in this period (see, for example, Campero and Valenzuela 1984; Haagh 2002; Winn 2004; Berg 2006 and Sehnbruch 2006).

speech at Chacarillas Pinochet asserted, “the government considers the Labor Plan as one of the most original and creative steps that it has undertaken... we have configured, for the first time in our history, a real union freedom (*libertad sindical*)” (Ibid).

Even more clearly, a text published by the Labor Ministry that month titled “Principles of the law on Union Organizations” argued that “it is necessary to put shackles on politicization (of unions), which is expressed most principally in the Federations and Confederations... Collective bargaining by industry is class struggle of the working class against the business class” (quoted in Campero and Valenzuela 1984: 291). Such emphasis on conflict was, “a socialist concept that ends with the expropriation of capital by the workers” (Ibid). Thus, liberal ideological discourse combined with clear designs for a tight state institutional control in order to contain and channel labor conflict and respond to forms of labor threat from both pre-coup and de facto periods.

A principle strategy to arrest this partisan politicization of unions was the liberalization of the process of founding them. Whereas under the old law an onerous bureaucratic process had to precede the legal establishment of a union and required the approval of multiple ministries, under the Labor Plan a union acquired its legal personality automatically, as soon as the proper forms were deposited at the Labor Inspectorate (Piñera 1990: 102). Ease in forming new unions went along with a prohibition on closed shops and the institutional promotion of “union parallelism” or multiple unions in a single enterprise. The intended outcome of the law was an accelerated atomization of legal-institutional Chilean unionism (Ibid). The strategy was justified in terms of “union freedom” and the philosophical precepts of classical liberalism, freedom of association in affiliation and disaffiliation. Yet, the specific design of the law was selectively liberal in a way that accorded with the strategic political and economic imperatives of the military regime at a key historical juncture. It avoided the boycott while originating new, weaker, labor institutions.

Piñera also argued that the new scheme benefitted workers economically. “The Labor Plan,” he asserted on July 19<sup>th</sup>, 1979, “will reduce unemployment because it guarantees the freedom of labor by eliminating the economic feudalism owing to the monopoly of the unions” (Ibid). He insisted that multiple unions and bargaining groups in collective bargaining was an advantage, because “the real differences between workers have to be expressed in effective form” (Ibid). Yet, in the same speech, he adamantly re-asserted the necessity of prohibiting solidarity strikes, a stance at odds with liberal principles of free association and state non-intervention. Philosophical, ideological and economic principles of Piñera’s liberalism were made to correspond to political exigencies, priorities and strategies of ruling factions at a particular historical moment.

The same could be said for Piñera’s multiple and fulsome paeans to base-level unionism. The requirement for a vote of the membership to elect leadership, determine the level of union dues, go on strike, or join a federation or confederation, comport with what Piñera calls “union democracy” and the “sovereignty of the bases” (Piñera 1990: 104-105). Yet, his respect for “the decisions of the bases” is clearly limited to the confines of a political-institutional and economic structure imposed by the military dictatorship in the most illiberal and top-down way possible. A private property right in the 1980 Constitution criminalizes workplace occupations, for example.

Liberalism may be one way Piñera and his team understood the drafting and content of the Labor Plan laws. Liberalism was part of the ways the laws were justified. Piñera (1990: 121) even credits the Labor Plan with initiating the opening that led to “democratic transition”, calling it a “dress rehearsal”.<sup>115</sup> Liberalization accurately describes some provisions and the overall direction of the Labor Plan laws, especially in comparison with the preceding de facto era of labor relations.

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<sup>115</sup> “In the end, here began the real opening of the regime to the social base... the democratizing project of which the Labor Plan was in truth the first dress rehearsal.”

However, the *cause* of the Labor Plan and of its specific form are not found in this political-economic philosophy or set of ideas. Neo-Liberalism was more a rationalization than a rationale. The cause of the Labor Plan and its specific institutional form was instead the strategic exigencies of the moment which confronted the military government. The Junta realized an “imminent need” (Garretón 1989: 138; Collier 1999: 151) to formulate a de jure institutionalization of labor. This “new institutionality” needed to preempt the boycott and alleviate international labor pressure. It also needed to re-institutionalize formal legal labor institutions that were less threatening than those before the coup and de facto period, and so more functional to an already imposed neoliberal political-economic framework and structural position in the world market.

By late 1978, Pinochet was convinced liberalization and institutionalization of state-labor relations could best address this “imminent need”. This realization was the culmination of years of building labor pressure, itself spurred by neoliberal policies that began in earnest with the shock treatment and ensuing economic crisis of 1975-1976. Mass, public, domestic labor opposition began to emerge in 1976, in the depths of economic crisis. It was centered in the mainly centrist Christian Democratic Group of Ten leaders and left labor leaders of federations and confederations that became the CNS. Growing opposition and labor protest “did not achieve a modification of the political and economic orientation of the regime,” but, “created a national and international climate that pressured the government to see the necessity to accelerate a normalization process from the ‘emergency’ situation they had maintained since 1973” (Campero and Valenzuela 1984: 267). The state reacted to labor pressure by shifting from a de facto form of authoritarian labor control to a liberal institutional incorporation of labor into the emerging neoliberal state’s legal mechanisms.

The political-economic context and timing of this shift was crucial. Institutionalization, strategized Jaime Guzmán, military regime policy architect, had to be accomplished prior to any next economic downturn. A legal labor regime, the 1979 Labor Plan, and a political-institutional structure of the state with a planned transition from military rule, the 1980 Constitution, were in fact implemented before economic crisis hit Chile. As Guzmán forewarned, a crisis in 1983 gave birth to a mass movement for democracy. It was fortuitous for the neoliberal political-economic project that its institutionalization occurred between the two major economic contractions, 1975-1976 and 1982-1984. In 1978, as labor threat culminated, GDP growth was 8.2% and talk of the Chilean “economic miracle” began to spread worldwide (Corbo and Fischer 1993: 2).

A strategy of controlled liberalization guided dissent and opposition into institutionalized channels. This was thought more sustainable than reliance on force (Álvarez 2010). Still, the institutionalization option, and conditions that allowed its successful long-term projection, were based on the state’s capacity in a prior era to use the means of de facto rule. Imposition of neoliberal policies and resultant structural transformations occurred in an era of heightened labor repression.

Álvarez (2011: 96) argues that “The designation of José Piñera at the head of the Labor Ministry should be understood as a strategic bet by the military regime” to “recover the political initiative in the face of the union offensive”. After seeing the results of the first round of legal collective bargaining, the symbolically weighty strike at El Teniente, and a failed strike at the “Panal” textile mill, Piñera judged the Labor Plan strategy successful (Álvarez 2011: 99).

Piñera argued “those who think because of a half-dozen strikes or threats of them, the authority of the government is weakening, have committed an error” when “it was the government itself that sponsored and promulgated the legislation that authorized this instrument of action” (*La Segunda* November 6, 1979: 3). “The bet” made by “Piñera and the neoliberals, in the sense of legalizing the strike... had success... part of the social discontent was channeled within the neoliberal rules, which were legitimated by the path of deeds” (Álvarez 2011: 99).

What made the Labor Plan successful was not that workers or union leaders believed in or accepted it- they did not- but that they nonetheless participated in and within its institutional framework. Some, especially the rank-and-file, saw it, reasonably, as the best option they then had. They feared a return to harsher violence and repression, which never went away completely but diminished in these years. They feared unemployment in a new precarious and insecure labor market. Campero and Valenzuela (1984: 305) suggest, "The workers, despite their resistance were stuck within of the functional logic of this new institutionality of labor relations". The Junta did not enact it, and workers did not participate in it, out of any ideological belief in it or consent to it.

### **The State and Capital: Autonomy, Capacity and Re-Structuring (1973-1979)**

Finally, state-led economic reforms in this era fundamentally altered the capitalist class structure (Silva 1991; Martínez and Díaz 1996). Silva shows the regime was able to gather around it a coalition of capitalist interests that benefitted from regime policies of trade and financial liberalization and mass privatizations. This was despite deindustrialization, unemployment and a sharp decline in domestic consumer demand severely prejudicing interests of key components of domestic capital (Silva 1991). In their place the state grew an export-oriented and internationally integrated capitalist class. For Martínez and Díaz (1996: 6-7) "the great economic transformation... in Chile... was the development of a state elite." The state, "rather than the existence of previously constituted social classes... permitted the capitalist revolution" (Ibid).

In a position of de facto control based on ruthless violence, the state was able to exercise clear autonomy from particular material interests of specific capitalist class fractions established pre-coup. So "the economic transformation the state carried out by a technocratic elite... paved the way for a new and innovative business class" (Martínez and Díaz 1996: 8). In this way the heralded "efficiency of the state is derived from its brutal nature" (Ibid). This type of state-society relationship is shown in clear relief in the way Piñera crafted the Labor Plan. Like the 1980 Constitution it was written by a small, select group of authors with clear autonomy from outside political interference and implemented with strong, centralized, policy implementation capacity.

Piñera's Labor Plan and pension reforms were the capstone to the "capitalist revolution" that had seen profound structural transformations in the Chilean political economy since the advent of the dictatorship in 1973, but especially since the radical policy shift in 1975. In terms of the structure of production, the composition of the labor force and the nature of the dominant non-state capitals, Chile had a significantly different political-economy in 1980 than in 1973.

From 1975, state-led economic strategy opened Chile to imports and international capital flows. A large decrease in tariffs and a loosening of capital controls significantly altered market incentives domestically. This transformed the productive structure of the Chilean economy. The large financially based, internationally integrated conglomerates known as *Grupos Económicos* rose. These groups were spurred by a loosening of regulations on capital flows and privatizations of state resources. The structure of capital ownership in shifted significantly, from concentration in the state and national industrial groups to emerging financial conglomerates (Fazio 1997).

Symbolic of tight links between state policy and the creation of these groups was the relationship of Chicago Boy Economy and Finance Minister Sergio de Castro and Manuel Cruzat, head of one of the two largest Groups (Cavallo et al. 1997: 76-80). The two largest groups by the late 1970s were the Vial Group and the Cruzat-Larraín group. These two were also the main beneficiaries of the privatization process (Fazio 1997: 12-13). By 1978 these two groups controlled over 50% of the assets of the 200 largest corporations on the Chilean Stock Exchange. They

controlled 62 of the 250 largest enterprises. The two groups dominated international credit newly flowing into Chile, especially in the late 1970s (Yotopoulos 1989: 696; Fazio 1997: 137).

The period between the initiation of "shock therapy" in 1975 and the economic crisis of the early 1980s has been called the "capitalist revolution" or the "radical neoliberal" phase of the regime because of major transformations in political economic structures. The economic base shifted from state and national industry to international and financial capital, concentrated in internationally linked, finance-dominated and politically well-connected *Grupos*. Class structure was also transformed by deindustrialization, informalization and de-unionization of labor.

### **The State and Labor: Suppression, Re-structuring and Liberalization (1973-1979)**

As the political economy of Chile was transformed from an industrially based productive structure under ISI policies to an export, finance and services led economy with sustained levels of high unemployment, the composition of the labor force changed. The "industrial proletariat" declined from 63.4% of the economically active population to 53% by the end of the 1970s (Campero 2000: 2). During the same era the "informal" share of the labor force increased from 26% to 27% percent, even as the average across Latin America declined from 60.3% to 30.2% (Portes 1985: 23 Table 2; Camargo 2013: 121 Table 5.8). The proportion of informal labor rose through the 1980s. This sector was excluded from the Labor Plan.

Only after these were accomplished did the dictatorship move, under labor duress, to a regulatory and institutional framework rather than direct wage suppression and labor repression.

Far from applying liberalization to the labor markets, as was the case in other areas of the economy, the military government implemented from 1973 to 1979 strict control over labor organizations and a fixed wage policy, showing that... a strict orthodoxy policy of non-state intervention in the market was not valid for those who had to pay the cost of the adjustment: the workers (Camargo 2013: 120).

Given repressive political conditions and the effects of structural transformation, it is no surprise the proportion of unionized workers fell 57.7% 1973-1980 (Campero 2000: 8-9), from a peak of 32% of the labor force in 1973 (939,319 workers) to less than 10% in 1980 (395,955 workers) (Campero 2000: 18; Sehnbruch 2006: 132). The strike was greatly diminished: banned for over 5 years at the outset of the military regime and only brought back in a much weaker form after the Labor Plan. In the first round of re-legalized collective bargaining, only 26,648 workers, less than 1% of the labor force, took part in strikes (Campero and Valenzuela 1984: 298). This compares to over 500,000 workers on average, 16.3% of the labor force, from 1971-73 (Mesa-Lago 2000: 31).

This was reflected in a significant decline in the share of Gross National Income that went to labor, by 1980 just 86.1% of the 1973 level<sup>116</sup>. These changes also drove major increases in poverty and inequality. In the 1970s poverty- 17.9% to 44.3%- and indigence- 6% to 14.4%- grew in Greater Santiago (Ibid). Share of household consumption for the poorest 20% of the population sank from 7.7% during the UP to 5.2% by 1979 (Ibid). The Gini Coefficient rose from 0.518 in 1974 to 0.578 in 1981 (Mesa-Lago 2000: 158). Chile's historically high inequality rose even more.

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<sup>116</sup> This was an improvement from the 73.7% trough of 1977, during the recession (Camargo 2013: 122 Table 5.10).

## **Chapter 5 – Political Incorporation: State Institutionalization, Labor Opposition and Political Parties (1980-1990)**

### **Institutionalization, Crisis, Stabilization and Transition (1980-1990)**

Having successfully subdued labor threat through institutionalization, the Junta turned its attention to the political institutionalization of the state. Soon after the Constitution of 1980 went into effect, a major economic crisis hit Chile. Labor movement political influence peaked as the labor opposition initiated and led a mass movement seeking an end to the military regime. The military state, though threatened, was able to beat back challenges to its rule from labor-led general strikes, mass protests and armed insurgency, overwhelmingly through violence. Labor willingly ceded leadership of the opposition to the political parties. They pursued a US-backed strategy for transition negotiations based on the institutional framework of the 1980 Constitution. The US supported a negotiated transition they presumed would empower conservative sectors of the PDC with close US links as the threat of PC-led insurgency grew along with the state violence aimed at repressing opposition. Labor was incorporated into political party led opposition. The government legislated a Labor Code minimally changed from the original Labor Plan laws. The institutions of the military state were stabilized and successfully perpetuated beyond the Junta's direct rule.

#### **Part I: Institutionalization of the Military State (1980-1981)**

##### **The 1980 "Constitution of Liberty"**

In January 1980, Jaime Guzmán, the chief architect of the political institutionalization of the military government, prepared a document for the Interior Minister that analyzed regime political-strategic positioning domestically and internationally. In it, Guzmán argued the situation presented the government with “extraordinarily stable and solid” political circumstances, which allowed it to concentrate on “its own creative task” (quoted in Barros 2002: 181).

Specifically, Guzmán mentioned continued implementation of liberal reforms in the areas of labor, social security, education, healthcare and agriculture. He also argued the timing was right for a new constitution to institutionalize the regime (Ibid). The political problems Guzmán identified as having been “definitively surpassed” included U.S. pressures regarding the Letelier assassination, the AFL-CIO boycott threat and tensions with Argentina over the Beagle Channel (Ibid). The economy had also shown solid growth for over two years since the severe recession. Still, tensions inside the Junta that gave impetus to the constitutional project persisted. By 1980, Pinochet perceived an “imminent need” to act upon institutionalization (Garretón 1989: 138).

##### **Drafting the Constitution and the Plebiscite**

Junta members agreed to the broad outlines of a political institutionalization and transition plan in 1978. This was a new constitution and an extended transition period leading to elections in a “protected democracy”. Details of institutional arrangements were negotiated in mid-1980. The process of drafting the constitution was officially led by the Constituent Commission and the Council of State. All final decisions were made, in minute detail, by the Junta. It “blocked any strategy of liberalization that involved a diminution of the Junta’s powers” and any threat to the unanimity and veto rules with which it operated (Barros 2002: 215). In two key meetings, in March

and April 1980, Pinochet told Council of State head ex-President Alessandri proposed transition formulas involving dissolution of the Junta had produced a “delicate situation” (Barros 2002: 216). The bottom line was that the power and prerogatives of the Junta could not be attenuated.

On June 1<sup>st</sup>, 1980, the Council of State presented Pinochet a draft constitution (Ensalaco 1999: 133). A Constituent Commission draft prefigured the institutional logic of the final “Political Constitution of the Republic” (Barros 2002: 220). In July, the Junta produced a final draft (Barros 2002: 218). Its main text was drafted separately from the transitory articles that would govern the transition period. They were written later, in a separate process (Barros 2002: 219). One revealing departure from committee recommendations was the “decision to maintain the state’s exclusive, inalienable monopoly over mining property” (Barros 2002: 220; see also Fontaine 1988: 125-128). The work of the committees and Junta revealed the idea of an explicitly authoritarian or military-dominated regime had been definitively discarded<sup>117</sup>. Even so, “A conservative bias against any use of democratic institutions to alter property relations within society was a central motivation behind these schemes of institutional reformulation” (Barros 2002: 222-223). The new constitution was also a profoundly reactive document. Nearly all departures from the 1925 Constitution were motivated by “institutional deficiencies” exposed by the Popular Unity. “The imprint of the Allende experience upon the process of institutional design within the Constituent Commission cannot be overstated”, argues Barros (2002: 227). Rather than assume a long-term dictatorship or a militarily-dominated institutional set-up, the drafters of the 1980 Constitution imagined open political competition would return and that the left could win power again. “This anticipation of a possible return of past political alignments fundamentally shaped the strategy of institutional design which emerged in the Constituent Commission”, notes Barrows (2002: 228).

On August 11<sup>th</sup>, Pinochet publicly announced the 1980 Constitution and the plebiscite a month later to ratify it, on September 11<sup>th</sup>, the 7<sup>th</sup> anniversary of the coup. The results supplied by the *Colegio Escrutador Nacional* (National Election Observer College) were as follows<sup>118</sup>.

Option	Votes	%
<b>"Yes" votes</b>	4,121,067	65.71%
<b>Blank votes</b>	83,812	1.33%
<b>"Yes" total</b>	4,204,879	67.04%
<b>"No" votes</b>	1,893,420	30.19%
<b>Invalid votes</b>	173,569	2.77%
<b>Total votes cast</b>	6,271,868	100%

Before counting finished Pinochet had declared, “Chile has won. The country has faced Marxism from within and without. This is a triumph for the people of Chile”. During the vote spontaneous demonstrations broke out, with at least 100 arrested (AP Wire, September 12, 1980).

<sup>117</sup> The one such proposal was voted down in the Council of State 13-2. The dissenters, Pedro Ibáñez and Carlos Cáceres, presented a public “minority report”, published on July 10<sup>th</sup> (“Voto de Minoría en Informe Sobre Anteproyecto Constitucional,” *El Mercurio*, July 10, 1980).

<sup>118</sup> Blank votes were actually counted towards the “Yes” total.

### The Content of the 1980 Constitution<sup>119</sup>

The Constitution of 1980 consisted of 120 "permanent" and 34 "transitional" articles. The latter applied to a transition period from March 11<sup>th</sup>, 1981, to March 11<sup>th</sup>, 1990. The former only went into full effect afterwards, with the transition to "constitutional government" on March 11<sup>th</sup>, 1990. By that time there had been a package of constitutional reforms as part of the negotiated transition in June of 1989. The transitional articles provided the Junta with sweeping powers and outlined the procedures for the 1988-1989 plebiscites on retaining Pinochet, the Constitution and the election of a legislature. The most controversial provision was Transitional Article 24, which allowed the President to curtail the rights of assembly and free speech, as well as to arrest, exile, or banish into internal exile any citizen, with no rights of appeal except to the President himself. The "permanent" articles of the 1980 Constitution were intended to create a "modern and protected democracy." This meant a version of representative Republican government that guaranteed "national security" in three ways. A permanent role for the armed forces as "guarantors" of the Constitution's institutions was established. Restrictions were imposed on political activity, including banning movements or ideologies deemed "hostile to democracy". Finally, institutional mechanisms were designed to limit the scope of popular electoral influence.

One cornerstone of the military regime's constitutional doctrine was the establishment of a permanent institutional role for the armed forces. The principal manifestation of this role was the National Security Council (*Consejo de Seguridad Nacional* or Cosena). It was composed of seven voting members<sup>120</sup>, only two of whom were to be elected officials. Military leaders retained an absolute majority.<sup>121</sup> The Constitution empowered it to "express to any authority established by this Constitution its opinion regarding any fact, action, or matter which in its judgment gravely attempts against the bases of institutionality or which might affect national security" (Article 96). Cosena could thus admonish top government leaders and institutions, including Congress and the President, on any matter it determined relevant to national security.

The Constitution gave Cosena significant powers of "authorization" and "nomination." It required the President to seek approval from Cosena to impose any state of exception and gave it authority to solicit any information it deemed necessary in "national security" matters from any government agency. Cosena could name four of the nine designated members of the Senate and two of the seven members of the powerful Constitutional Tribunal. The President and the Senate could nominate only one each. Finally, only Cosena could remove military commanders. Perhaps the most significant protection of military prerogatives was provided by Article 93, which strictly limited civilian control over the armed forces. Although the President named the commanders of each of the military services and the director general of the *Carabineros*, those nominees had to be selected from a list of the five highest-ranking, most senior officers. Once a commander was

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<sup>119</sup> This section is based on reference to the original document. Analysis also draws on Luis Maira (1988) *La Constitución de 1980 y la Ruptura Democrática*; Hudson, Rex A (1994) "The Constitution of 1980" in *Chile: A Country Study*. Washington: GPO for the Library of Congress; Siavelis, Peter (2000) *The President and Congress in Postauthoritarian Chile: Institutional Constraints to Democratic Consolidation* Chapters 1 and 2; Barros, Robert (2002) *Constitutionalism and Dictatorship: Pinochet, the Junta and the 1980 Constitution* Chapters 5 and 6.

<sup>120</sup> These members were the President of the Republic, the Senate president, the Supreme Court president, the commanders in chief of the Army, Navy and Air Force and the director general of the *Carabineros*.

<sup>121</sup> Nonvoting members of the Cosena included the Ministers of defense, economy, development, reconstruction, finance, foreign relations, and interior.



appointed, that appointee was safe from presidential dismissal for the duration of their four-year terms, unless certain specific, "qualified" charges were brought against them.

A second set of instruments for the establishment of a "protected" democracy excluded from political life individuals, parties, or movements whose views and objectives were judged as "hostile". Article 8 was aimed specifically at parties of the Marxist left but was applied to others. It stated, "Any act by a person or group intended to propagate doctrines that are antagonistic to the family or that advocate violence or a totalitarian concept of society, the state, or the juridical order or class struggle is illicit and contrary to the institutional order of the Republic." Moreover, any organization, movement or political party that supported such aims was deemed unconstitutional. Article 19 barred parties from intervening in any activities that are "foreign to them," including the labor movement and local or community politics. Finally, Articles 23 and 57 specifically barred leaders of "intermediate groups," such as unions, community organizations, and other associations, from the leadership of political parties, and vice versa. As a sanction, Deputies or Senators could even lose their seats in Congress for acting on behalf of such groups.

Third, the military regime sought to limit the influence of popular elections by placing a series of checks on state institutions whose memberships derived from such elections. The most dramatic example of this was the elimination of elected local governments. Since colonial times, Chileans had elected municipal governments with some substantial local powers and autonomy. Article 32 initiated direct presidential appointment of regional intendants, provincial governors, mayors of large cities and boroughs of the capital. Unlike prior eras, the 1980 Constitution built in an exaggerated presidentialism, limiting Congress' power. Article 32 was particularly notable, giving the President power to dissolve the Chamber of Deputies once per term. Presidents were also given exclusive power to initiate legislation in several critical areas. Electoral representation in Congress was checked through the appointment of nine "designated" Senators, more than 25% of the 35-member chamber. Ex-Presidents who served for six years, including Pinochet, became Senators-for-Life. The appointment of "*designados*" furthered executive and military power.<sup>122</sup>

A further check on popularly elected institutions were extensive powers given to "organs of constitutional control", specifically the *Contraloría General de la República* (the Comptroller General of the Republic) and the *Tribunal Constitucional* (Constitutional Tribunal) or TC. The most important power of the *Contraloría* remained the *toma de razón*, the prior review of the legality and constitutionality of executive decrees. This power was raised to constitutional rank, which also eliminated the President's ability to override its determinations. The President could appeal verdicts of unconstitutionality to the TC. The TC was final arbiter in case of constitutional conflicts among institutions. It ruled on the constitutionality of laws and executive actions, with prior review before they pass or go into effect. The TC also ruled on and administered political exclusions written into Articles 8, 19, 23 and 57. Of the seven members of this tribunal, one was appointed by the President, one by the Senate, two by Cosena and three by the Supreme Court.

Finally, the 1980 Constitution made reform of its basic text very difficult to accomplish. It required the concurrence of the President and two succeeding Congresses, each with a 3/5<sup>th</sup> super-majority in both Chambers. Any laws "interpreting constitutional precepts" also required a 3/5<sup>th</sup> super-majority. Other sections of the Constitution required a 2/3<sup>rd</sup>s supermajority to amend. These included individual rights, where property rights were codified, status of the armed forces, Cosena, the TC and Presidential powers. Three-fifths "quorums" were also required to approve, amend or

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<sup>122</sup> Designated Senators were appointed in the following way: two by the President (required to be a former University Dean and a former Minister of State); three by the Supreme Court (required to be two former justices of the Court and one former *Contralor*); and four by Cosena (required to be one former head of each armed forces branch).

abrogate “organic constitutional laws”. Though lowered to 4/7<sup>ths</sup> in 1989, organic constitutional laws remained subject to mandatory prior review by the Constitutional Tribunal.

One crucial silence in the 1980 Constitution was the manner and form of elections for the Congress. While it stipulated the size and composition of the two chambers, it did not define the electoral system that would generate their members. Nor did it regulate the electoral process.

The decision to write and be bound by a single constitution that contained a process for a transition to a civilian regime was driven primarily by “internal conflicts over prolonged military rule” (Barros 2002: 252) and secondarily by pressure from the US government. The content of the constitution was not a plan to entrench the military or Pinochet in power. Rather, it was to bind the institutional reform and policy options of civilian regimes the constitution’s designers presumed would follow, including potential left governments (Barros 2002: 254). Though the dictatorial state represented by the transitory articles is often perceived as a personalization of power by Pinochet, in reality, the transitory regime reflected the constitutionalization of the unanimity and veto rules of the Junta. It was thus “the navy’s and the air force’s antidote to personalization” (Ibid).

One exemplary moment that illustrates the import of these political cross-pressures was the May 1978 debate and decision by the constituent commission on the powers of the National Security Council. The *duros* (hard-liners) argued for empowering Cosena to qualify presidential candidates, initiate legislation, veto cabinet resolutions, veto constitutional reforms, and override presidential determinations regarding a state of siege. Yet, Guzmán prevailed on the commission to significantly scale back these powers, leaving its “chief authority... restricted to representing its opinion to any authority as it judged warranted” (Barros 2002: 244). Here, Guzmán’s central concern was to prevent what he called “the politicization of the armed forces, since it is evident that if one seeks to preserve an institution’s character as a permanent safeguard one should take precaution not to waste it upon the contingent” (quoted in Barros 2002: 244). This decision was made at the apex of both internal and US pressure. Even more broadly, “Guzmán insisted [that] the armed forces were the exceptional safeguard, not the ordinary mechanism of institutional control” (Barros 2002: 248). Indeed, Guzmán was involved in a very public debate, as well as with an internal one, on whether a civilian republican state with democratic elections, or even a constitution at all, were advisable. His hard-line opponents in that debate, in late 1979 and early 1980, explicitly advocated the establishment of a “Catholic, authoritarian, military state, which Guzmán held was viable only under a system of ongoing totalitarian repression”<sup>123</sup> (Barros 2002: 252 footnote 60). Again, Guzmán’s vision of a controlled constitutional liberalization prevailed. In the first instance it was the institutional forms of the 1980 Constitution that prevented later structural alterations to the Labor Plan’s formal-legal framework. Generally, the institutions defined in the 1980 Constitution functioned precisely as “ordinary safeguards” for the broader policy framework and the neoliberal model imposed by the military state. As Camargo (2013: 184) maintains, “The Constitution of 1980 was the definitive victory of the *gremialistas*-Chicago Boys’ alliance in their attempt to preserve the all-encompassing neo-liberal project, which would be at the bottom of the model inherited by the *Concertación* in 1990.” Yet at a more fundamental level this institutional framework was founded on de facto impositions by the armed forces, and so on the state’s historical capacity for the use of force. As Campero and Valenzuela (1984: 303) note, of several key Labor Plan legal principles written into the 1980 Constitution, “These norms were

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<sup>123</sup> A memo written by influential *duros* reached Pinochet in 1979 internally advocating this strategy. Guzmán felt the need to “expend considerable energies” refuting this, as well as publicly advocating for a constitution. Public debates were held in pro-regime newsweeklies *Ercilla* and *Qué Pasa* in early 1980 (Barros 2002: 252 footnote 60).

established in a strongly authoritarian context that consecrated an extremely restrictive political regime... by means of a process firmly controlled by the governmental authority”.

### The Opposition Political Parties and the 1980 Constitution

The major political parties in opposition to the regime were still secondary inside Chile to the labor opposition in 1980. The passage of the 1980 Constitution, its plans for an extended transition with the Junta still in power, and the manner of the plebiscite in which it was ratified, were particularly significant experiences in realigning strategic-political positions of the PS, PC and PDC alike. Each party went through notable strategic shifts in this institutionalization era.

The Christian Democrats had moved to full regime opposition in early 1977 when Andrés Zaldívar assumed leadership of the party from Aylwin. The PDC then advocated a broad alliance of all "democratic forces" against the regime, though explicitly excluding the Communist Party. However, the repressive backlash against the party in reprisal for that turn had rendered it largely ineffective as a force for organized opposition within Chile. During 1979 and 1980 the lightening of repression that accompanied economic growth, US pressure, and the controlled liberalization embodied in the Labor Plan, saw some PDC leaders and activists allowed to return from exile. Ex-President Frei also retained a special status and was thus in a position to become a leading opposition figure in 1980 with respect to the plebiscite. In April of that year, in a secret plenary session, PDC leadership called for a reinforced policy of opposition centered on organizing for a 'no' vote in the 1980 plebiscite (Camargo 2013: 177-178). In this the PDC was implicitly aligned with the Communist Party, as the only two parties calling for engagement with the plebiscite and a no vote. The Socialist Party, MAPU and others instead called for abstention (Fleet 1985: 194).

The period between the August 1<sup>st</sup> announcement and the September 11<sup>th</sup> plebiscite was just six weeks. In that time Frei became the leading public voice for a 'no' vote. On August 27<sup>th</sup> the regime permitted the first official opposition political rally held under the military state. At this event at the historic *Teatro Caupolicán* the ex-President addressed some 10,000 people and admonished them that the plebiscite was “illegal, science fiction and a fraud” (Frei 1981).<sup>124</sup>

The victory of the 'yes' was considered a catastrophic strategic defeat by the PDC (Fleet 1985: 195-196). It led to a period of desolation and relative political inactivity that stretched until late 1981. One major loss was the indefinite exile of party leader Andrés Zaldívar, who was sent abroad after denouncing the plebiscite results as fraudulent (Camargo 2013: 177-178). The PDC presidency remained unoccupied for more than a year (Fleet 1985: 195-196). A conservative, hardline anticommunist approach associated with Frei was discredited among the party bases, yet open opposition and alignment with the left had not achieved results either. In offering counsel to disheartened partisans, Frei articulated a perspective that became a signal line for the party in the years to come, “politics is the art of the possible” (quoted in Fleet 1985: 196).

The Socialist Party was even less a factor in organized political opposition in Chile in this period, owing to the profound changes and organizational fragmentation the party experienced at the time. Its transformations, however, later came to play a crucial role in Chilean party politics.

During this traumatic aftermath of the coup, the assessment of the party leadership was centered on self-criticism of the political leadership of the Popular Unity and Socialist Party for its

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<sup>124</sup> *Discurso de Eduardo Frei pronunciado en el teatro Caupolicán con motivo del plebiscite de 1980 (27 de agosto de 1980)*. The crowd estimate comes from The New York Times (January 23, 1982). The original text is available at [http://es.wikisource.org/wiki/Discurso\\_de\\_Eduardo\\_Frei\\_pronunciado\\_en\\_el\\_teatro\\_Caupolic%C3%A1n\\_con\\_motivo\\_del\\_plebiscito\\_de\\_1980\\_\(27\\_de\\_agosto\\_de\\_1980\)](http://es.wikisource.org/wiki/Discurso_de_Eduardo_Frei_pronunciado_en_el_teatro_Caupolic%C3%A1n_con_motivo_del_plebiscito_de_1980_(27_de_agosto_de_1980))

conduct and perceived failures leading up to the coup. The theoretical stance the Party would take to guide its struggle against the dictatorship was a call for a transformation of the party into a properly Marxist-Leninist organization based upon “democratic centralism” and class struggle (*Documento de 1974*; Furci 1982: 7-9; Arrate 2003: 213; Camargo 2013: 161). This line was most visibly embodied by PS leader Carlos Altamirano, a prominent left radical in the party’s pre-coup instantiation. In his 1977 essay, *Dialéctica de una Derrota*, he argued that the central error of the party “was the incapacity of the revolutionary leadership to build a military defense of the process, to assume the confrontation as inevitable” (Altamirano 1977: 213). He advocated “the Chilean Socialist Party as a Marxist-Leninist party, organized with the principle of democratic centralism...to define the road to the Chilean Revolution” (Altamirano 1977: 290).

Yet, by 1977 Altamirano changed his mind profoundly. He became a powerful symbol of a deep-seated transformation of the PS known as the socialist renovation. The PS was deeply fragmented in practice owing to dispersal of leadership and militants throughout the world, severe repression in Chile, and the absence of a strong underground party structure inside Chile. It also fragmented organizationally. Altamirano re-valorized the traditional “revolutionary, democratic and popular” character of the PS and shifted his ideas on the causes of the coup.<sup>125</sup> The refusal of a faction he led to go along with institutional changes that he had recently advocated sought by exiled party leadership was the reason for a PS split in 1979, at a Central Committee meeting in Chile (Oppenheim 2007: 147). A division into a PS-Altamirano and an ‘official’ PS-Almeyda, led by Allende’s Foreign Minister, had strategic and philosophical<sup>126</sup> dimensions.

This fault line traced a tension between “revolution” and “democracy”; the former centered on “class struggle” and the latter defined by re-valorization of “formal” or “bourgeois” democracy. The theory of Gramsci and Laclau played a key role among intellectuals of the renovating Chilean left, especially the PS, to explain a new strategy (Camargo 2013: 163-164). Citing Gramsci and Laclau, leaders of the renovation made an essentially institutional argument about the ultimate strategic viability of working within and defending the institutions of capitalist states (Camargo 2016: 176-178). This went along with differing strategic perspectives: one for a Marxist-Leninist party organized on Democratic Centralist lines and aligned with forces seeking an overthrow of the military regime; another for a liberal democratic type party of open factions and disputes aligned with forces of the center-left and moderate right seeking a return to a more republican and liberal institutional order. This axis of division between “renovated” and “non-renovated” factions defined the party throughout most of the 1980s. The PS continued to divide into more factions in and outside of Chile, with little organizational coherence from 1979 to 1981.

Another key figure in the socialist renovation was future President and former Allende ambassador to Moscow Ricardo Lagos. He wrote key texts expounding the theses of this current (Lagos 1985; Lagos 1987) and also became a key organizational figure in the inter-party process of communication, arbitration, and ultimately, re-unification, as a leader of the so call “Swiss”

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<sup>125</sup> *Mensaje a los socialistas en el interior de Chile*. Carlos Altamirano (1977)

<sup>126</sup> Altamirano came to believe “3rd world nations” like Chile were obligated to operate in the capitalist world economy. An old strategy of state-driven socialist development initiated by violent revolution was moot and unviable. Instead, he advocated a peaceful “evolution” to a “more socially just society” containing a mixture of state and private ownership (Politzer 1989: 165-182). Altamirano’s is a symbolically poignant case of what happened among large sections of the Chilean left, especially within the Socialist Party. In these years it became increasingly clear the military regime was long term (Hite 2000). Indeed, “from the early 1980s it seemed that all manner of class confrontations and class analysis... suddenly disappeared... it became an unmentionable... rejected as ‘old fashioned’” (Ibid).

faction, or those neutral in the party's main factional disputes. He also was the central figure in Socialist Party coordination with other parties (See: Lagos 2012).

At the beginning of 1980 Ricardo Nuñez clandestinely returned to Chile and, as Secretary General of the PS-Almeyda, began to organize base level renovated socialists. In Chile, these militants had few ties to grass-roots organizations, PS members or groups (Roberts 1992: 107). Strategically, renovated socialists reformed their political commitments. They were open to an alliance with all other “non-violent, democratic” forces seeking a peaceful, ultimately negotiated “transition to democracy”. This meant negotiations even with right sectors willing to negotiate a transition, while excluding the socialists’ historic allies in the Communist Party.

The hard-line PS-Almeyda, meanwhile, maintained traditional party lines: Marxism-Leninism; support for violence, if necessary, to overthrow the military regime and the historical anti-capitalist left alliance with the Communist Party (Oppenheim 2007: 148). In the end, the two distinct party tendencies and factions remained divided throughout the transition period.

The Communist Party also experienced profound transformation in strategic orientation in the late 1970s and early 1980s. This shift had its roots in the trauma of the coup, the PC assessment of its own and the UP’s errors during the Allende years, and, most of all, the strategic situation of an apparently long-term, institutionalizing dictatorship. Proportionally, the PC suffered more than any of the other parties that made up the UP, despite its history as a moderating force within it. Many members went into exile in the countries of the Eastern Bloc as well as to Cuba. Party leader Luis Corvalán was held by the military until he was exchanged for Soviet dissident Viktor Bukovski in Switzerland in December of 1976 (Furci 1982). By the end of that year military intelligence had penetrated the party, killing over 100 members including 78 mid-level officials in just 1976. By 1978 almost the entire leadership of the party in Chile was dead (Roberts 1992: 207).

The Party was not able to have its first Central Committee meeting in exile until August 1977. This gathering was to prove important, however, as the experience of persecution under the dictatorship had radicalized the party, shifting its analysis of the fall of the UP government from the adventurism of the ultra-left to the “historical lack” of a political-military capacity to challenge right wing forces in Chile.<sup>127</sup> This line of thinking culminated in the early 1980s<sup>128</sup> with a policy of “all methods of struggle” in the “popular rebellion of the masses” (Roberts 1992: 207). Support for armed opposition to the dictatorship by the PC encapsulated one of the most profound political changes of the era. Historically, the PC had been the more moderate force of the two main left anti-capitalist parties. The PS was more ideologically diverse and had a strong “revolutionary” current. Divergent analyses of the coup led to a political reversal (Oppenheim 2007: 150).

In September 1980, just after the constitutional plebiscite, Secretary General Corvalán began to publicly advocate for revolutionary insurrection. He issued a famous call for “all forms of resistance” against the dictatorship, declaring “popular rebellion against Pinochet’s tyranny [is] legitimate” in a radio address (Roberts 1992: 107-110). He thus initiated in principle the policy of “mass popular rebellion” to overthrow the military regime. In practice, an armed force was not created until 1983, as a separate organization. This strategic turn was made under pressure from base-level militants who remained in Chile. They faced the most brutal repression. Young militants

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<sup>127</sup> “*La revolución chilena, la dictadura fascista y la lucha por derribarla y crear una nueva democracia*,” Report to the Plenary Meeting of the Central Committee of the Chilean Communist Party, August 1977.

<sup>128</sup> Corvalán published a document in September 1980 titled “*El Derecho del Pueblo a la Rebelión es Indiscutible*”. A policy of “popular rebellion of the masses” addressed the “*vacío histórico*” by making military policy a key aspect of PC practice, as “Fascism gives rise to a situation in which people have no other route” (Corvalán 1980).

only knew underground party militancy (Furci 1982: 91; Camargo 2013: 171-172). Corvalán made organizational changes to increase the power and autonomy of base groups in Chile (Ibid).

This strategic turn ended the PC's long-term effort, in effect since the coup, at forming a broad 'anti-fascist front' which was itself rooted in the party's decades-long historic orientation towards the broadest possible popular front and the "pacific path" (Camargo 2013: 168-172). In part this was the result of disillusionment with the other forces of the anti-dictatorship center and left, particularly after the constitutional plebiscite seemed to implicate an institutional nonviolent path as hopeless. The PDC had maintained a stringent anti-PC line throughout the dictatorship. The PS appeared in disarray, and the socialist renovation a capitulation (Roberts 1992: 306; 380-383). The 1980 constitution also banned the party in Article 8 (Oppenheim 2007: 149-150). Yet, this turn caused the political isolation of the party for more than three decades afterwards, as the center-left PDC-PS alliance excluded the PC throughout the transition and *Concertación* eras.

Instead, both the hard-line Socialists and the PC formed a de facto, and at times de jure, alliance with the radical left forces of the MIR and other smaller groups during the 1980s. The MIR began organizing *Operación Retorno* at the end of 1978. This was a plan to train hundreds of militants in Cuba and clandestinely return them to Chile to form a guerilla *foco* and fight the dictatorship. MIR Leadership began returning to Chile in 1979, and the first guerilla unit arrived to the mountain area of Neltume in July, 1980 (*La Nación* February 4, 2007). Neltume was chosen due to the presence of an indigenous Mapuche population and "a large and explosive rural proletariat" among forestry sector workers. It was also strategically located near the cities of Valdivia, Temuco and Osorno (Centro de Estudios Miguel Enríquez 2004). The idea was to foment a "popular guerilla war" in Southern Chile, the historic geographic base of the MIR.

Some attacks were carried out by *miristas* in this period, most famously the assassination of Lieutenant Colonel Roger Vergara, director of the army intelligence school. He was killed with two others on July 15<sup>th</sup>, 1980 (*New York Times* July 16, 1980). The *foco* was discovered by the military in July 1981 and in October its last members were captured. Though this first *foco* had only thirty guerrillas (Ensalaco 1999: 146), left anti-regime violence was first a factor in this era. Overall, the political cleavages that defined the transition and *Concertación* eras were in many ways set in this period, particularly by the constitutional plebiscite. Most important was a new pattern of alliances defined by a split between a renovated PS-PDC center-left and the PC.

### Other Important State Labor Policies

In this institutionalization era, the state enacted several other important policy changes with the liberalization of the labor market that had long-term effects on the share of income to labor. These included: the privatization of pensions; further reductions of personnel and limits on public sector wages; "improvements" to Labor Plan laws on individual labor contracts, union organization, and collective bargaining; and the abolition of the specialized labor courts.

On November 4<sup>th</sup>, 1980, the state enacted José Piñera's most famous reform, a new pension system for old age, disability and deceased workers' surviving dependents (DL 3500; DL 3501: *Diario Oficial de la República de Chile*, November 13, 1980). The original scheme established in 1924 was a "solidarity" system, in which taxes collected from current employers and workers financed the economically inactive. The new system was of mandatory individual contributions and accounts managed by private entities called AFPs<sup>129</sup> (Campero and Valenzuela 1984: 304). In

<sup>129</sup> *Administradoras de Fondos de Pensiones* or Pension Fund Administrators, which are privately managed funds.

effect, the former system redistributed wealth to the poorest citizens whereas the new system has tended to augment inequalities through its basis in formal wage incomes (Ibid). The state's role was limited to a subsidy up to a (very low) minimum pension (Ibid). The same reform privatized the health care system in an analogous way. Private accounts managed by private institutions, ISAPRES<sup>130</sup>, replaced a public system financed by shared employee-employer taxes (Ibid).

Another key reform was DL 3551, which altered the system of salary adjustments in the public sector and changed personnel rules to make dismissals easier (Campero and Valenzuela 1984: 305). The salary adjustment created two separate categories of public workers: a smaller group of "directors and professionals" of higher ranks, and a much larger group of lower-ranked workers (Ibid). The latter group got much smaller salary readjustments, resulting in real wages losses during the early 1980s (Ibid). The reduction of personnel also accelerated after this (Ibid).

A set of smaller changes to the three main components of labor law reform undertaken in 1978 and 1979 were also dictated in this period. In May 1980 DL 3355 modified the main Labor Plan Laws on union organization and collective bargaining in light of the experience of the first round of collective bargaining and the experience of the first several months of having the laws. In August of 1981, Ley 18,018 modified the individual labor contract, most importantly by again changing the law on indemnities with regard to dismissals. This law capped the indemnity at one month's salary per year worked up to five months, and also stated that employers and employees were to agree contractually on the amount of indemnification, obviously advantaging employers (Ley 18,018: *Diario Oficial de la República de Chile*, August 14, 1981; Sehnbruch 2006: 56). In September 1981, Ley 18,032 applied Labor Plan legislation to maritime and port workers.

Finally, on March 10<sup>th</sup>, 1981, DL 3648 abolished specialized Labor Courts which ruled on labor law applications and violations. Employer violations had to be taken to the regular court system, where the presumption was of two equal parties, rather than an institution set up with the express purpose of safeguarding the rights of workers (Campero and Valenzuela 1984: 149-150).

On December 30<sup>th</sup>, 1980, José Piñera left the Labor Ministry to become the Minister of Mining. His Labor Plan and pension reforms were in some sense the capstone to the "capitalist revolution". That was a set of profound structural transformations in Chile's political economy since the advent of the dictatorship in 1973, but especially since the radical policy shift in 1975.

### **The New Institutionalality (1981)**

On March 11<sup>th</sup>, 1981, the new constitution went into effect. Pinochet wore the traditional tricolor presidential sash for the first time. In front of the Junta, the cabinet, the Supreme Court and the Constitutional Tribunal, "he took the oath of office and swore allegiance to the constitution and the law" (Barros 2002: 255). The next day, he moved into *La Moneda*, just repaired from its destruction by the Air Force. With "great pomp and ceremony...the constitutionalization of military rule was... embellished with all of the traditional Republican pageantry of the past" (Ibid). For nine years Pinochet was President of Chile. This was despite Chile's gravest economic crisis since the Great Depression, huge protests and uprisings far greater in scale and severity than anything seen in the 1970s, the return of opposition political parties, and a major erosion of international support, including the United States. He did not relinquish the office until March 11<sup>th</sup>, 1990, in accordance with the timetable and rules of the 1980 Constitution, to PDC head Patricio Aylwin. Despite key negotiated changes in 1989, its basic institutional framework survived intact.

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<sup>130</sup> *Instituciones de Salud Previsional* or Health Provision Institutions

José Piñera left the Labor Ministry in late December 1980. The new Minister was Chicago Boy Miguel Kast. His mission was to make “technical adjustments” to “perfect” the Labor Plan (Piñera 1990: 135-136). Most were in 1981. DL 18, 018 was key. It ended guaranteed indemnities for firings. DL 18,032 incorporated port and maritime workers into the legal strictures of the Labor Plan (Ibid). His tenure was scarcely a year but saw the “deepening of neoliberal measures and an increase in conflict with the labor movement” (Álvarez 2011: 100). Kast was a central ideologue in government. He “reformulated the most orthodox neoliberal version of the Labor Plan” (Ibid).

## **Part II: Crisis (1981-1984)**

### **Financial Crisis (1981-1982)**

In May 1981, the *Compañía de Refinación de Azúcar de Viña del Mar* (CRAV) went bankrupt due to speculation in a collapsing sugar market. Part of the Ross Group, among the largest *grupos económicos*, this bankruptcy in a context of rapidly rising interest rates triggered acute pressure on the financial sector, and so the large conglomerates at the base of Chile’s new political economy. The Chicago Boys dismissed CRAV’s highly leveraged internal debt structure, financed by institutions in the same Group, as an aberrant case of speculation. Yet privately Sergio de Castro worried and ordered an investigation of the Groups he had helped create (Oppenheim 2007: 119-120). The recession that quarter deepened into a depression and lasted for years. It also birthed a political crisis that seriously tested the Junta's grip on power and the influence of the neoliberals.

### **Crisis Response: Labor Repression under Minister Kast**

The plebiscite, which labor opposition mobilized strongly against, left labor demoralized. This depressed opposition union activity for months (Campero and Valenzuela 1984: 328-329). The Group of Ten and their leader Eduardo Ríos analyzed the “balance of forces” and issued a public call to support a “social pact”. This meant backing ex-President Frei and his conservative PDC sector’s strategy of a civic-military transitional government. This was a clear choice for an “institutional path” of compromise with business leaders and the armed forces (Ibid). Adding to disillusionment, at the end of 1980 a legal strike at the PANAL textile factory was defeated. This had been the most combative labor action within the new legal regime. There were militant street protests, solidarity from university students, hunger strikes and broad labor support. Nonetheless, at the end of the 59-day legal strike limit, a very unfavorable contract was agreed to. Soon after the mill shut its doors for good, leaving its 1,400 laborers unemployed (Campero and Valenzuela 1984: 330-331). This showed the weakness of legal strikes, particularly in depressed industries. In this context, the leadership of the CNS, like the Group of Ten, began to express the “revalorization” thesis of the socialist renovation and call for a leadership role for the opposition political parties, albeit while still maintaining a strong line regarding labor autonomy (Ibid).

Despite this, when the economy began to weaken in early 1981, the regime responded by hardening its stance with respect to the labor opposition and beginning to escalate once again the level of violence and repression (Campero and Valenzuela 1984: 333). This was largely because the primary indicator of economic weakness that became apparent was the massive trade deficit Chile accrued under open import policies. In the face of this and the looming balance of payment issues it augured, the government opted for a policy of suppressing wages and demand (Ibid).



The first expression of this new repressive policy was a judicial accusation against CNS leaders for “arrogating false representation”, banned union political activity under the Labor Plan laws, and intent to destabilize the government. In early 1981 Manuel Bustos and key Communist Party and CNS labor leader Alamiro Guzmán were convicted of the charges and jailed (Campero and Valenzuela 1984: 333-340; Álvarez 2011: 103-105). Convinced that in prevailing conditions the broad political and social accord they sought was impossible to achieve with left leadership, the Group of Ten dissolved itself in April 1981. Its key leaders formed the *Unión Democrática de Trabajadores* (UDT). This self-consciously “centrist” grouping sought to mobilize a broader social group than its Christian Democrat milieu of prior eras. In practice, this meant a long-term strategy of negotiations working within the new state institutions. The UDT called for opposition political party leadership, yet it restated a commitment to labor autonomy (Ibid).

There were also more oppositional responses to the crackdown. In the sectors of Maipú and Vicuña Mackenna, industrial centers of Greater Santiago, geographically based, bottom-up “solidarity” unions were set up among base-level industrial workers of the zone (Ibid). This was a strategy to counteract perceived “bureaucratization” of labor organizations on the national and sectoral levels. They successfully became important activist centers in the areas in 1981 (Ibid). In April, 1981, nine unions and 11,000 workers went on strike at El Teniente copper mine, despite a union structure divided between officialist and opposition labor leaders. This strike threatened, too, to break out of the legal confines of the Labor Plan, with street protests, hunger strikes and civil disobedience (Ibid). Workers and labor leaders threatened to take the strike past the 60-day limit, despite the legal right to fire all strikers after that point, as the government remained intransigent and refused to intervene (Ibid). Yet, in the face of this threat, more and more workers began to make individual settlements. In June, contracts were agreed to on very unfavorable terms (Ibid).

This defeat caused a backlash among the mine workers, however. The more oppositional sectors, centered in the Caletones smelter and the Sewell mine, had wanted to continue the strike, and the workers' agitation led to the dismissal of officialist union leadership. The CTC emerged from the experience radicalized and more clearly oppositional as an organization (Ibid).

On June 18th, 1981, the CNS emitted the most important and widely supported dissident labor document. Signed by Bustos, Guzmán, and two thousand base-level union leaders, the *Pliego Nacional* came after six months of harsh measures. These included the January reformulation of public sector wages, the February elimination of the Labor Courts, the March dissolution of the Professional Colleges and their mandatory licensing requirements, and the May initiation of the privatized pension system (Ibid). The *Pliego* combined: a condemnation of labor rights violations; a specific rejection of the Labor Plan and new political institutionalality; a broad rejection of regime political-economic policy; and a series of specific and universal wage and salary demands.<sup>131</sup>

The government reacted violently. Pinochet declared the CNS “a de facto organism of international communism” (Ibid). It was for preparing this document that Bustos and Guzmán had been arrested in the first place. They were accused again, with the added threat of invocation of Article 8 of the Constitution, the “propagation of totalitarian ideologies or those based in class struggle” (Ibid). The document was strongly denounced in *El Mercurio*, which editorialized for judicial sanction. The Interior Minister declared the CNS had committed “open opposition to the government” which could only “show the Marxist character” of the group (*El Mercurio* July 16, 1981). All 10 leaders of the group were jailed. Bustos and Guzmán, denied bail, were sentenced to 541 days imprisonment (Campero and Valenzuela 1984: 338-339).

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<sup>131</sup> These included a universal minimum wage of US \$253, a policy of permanent and automatic wage readjustments for inflation, an immediate 31% across the board increase in wages and salaries and a US \$205 minimum pension.

This, too, caused a backlash. Overwhelming labor solidarity was expressed in opposition to these measures. It even spurred the UDT back to a more oppositional stance. In addition, the CNS received support from broader political, intellectual, professional and church sectors (Ibid). This did not, however, sway the state as pressure from a declining economy continued to mount.

The government's response was to deepen neoliberal labor measures. In August, the state enacted Law 18,018, the last act in the package of laws that substantially rewrote the Labor Code (Ley 18.018: *Diario Oficial de la República de Chile*, August 14, 1981). This law reformed the regulations governing the individual employment contract and was a deepening of the neoliberal character of DL 2200. It legalized dismissal without cause with 30 days' notice and made paying indemnities a matter of negotiation between employers and employees, with no legal minimum (Ibid). It set the maximum work day at 12 hours and work week at 48 hours (without overtime). It eliminated the minimum wage for those under 18, over 65, or on "apprentice" contracts (Ibid).

This law also caused a fiercely negative reaction, including the other major labor conflict of 1981, with the port workers. One of their major demands when they went on strike that month was the derogation of Law 18,018 (Álvarez 2011: 104). Once again, Minister Kast showed the harshest face of the state, promulgating Law 18,032 on September 14<sup>th</sup>, specifically directed at port workers. This not only brought them under the legal regime of the Labor Plan, it unilaterally canceled previous collective agreements. This meant an immediate increase in the retirement age from 55 to 65, the elimination of the requirement of a union card to be hired, which resulted in the unemployment of many workers, and a loss of collective bargaining rights (Ibid). During the intense conflict dozens of port workers were arrested and a few relegated to internal exile (Ibid). On September 14<sup>th</sup>, 1981, *El Mercurio* argued, "The duration and intensity" of the recession "should not be great, and depends on the reduction of prices and, why not say it, wages."

During that same time period the second round of legal collective bargaining finished. In this round the workers received even less than the first time, averaging a 4% real wage increase (Campero and Valenzuela 1984: 339). Many workers did not participate, fearing losing ground. At the end of the year Bustos and Communist Party construction workers' leader Héctor Cuevas were exiled from Chile (Álvarez 2011: 103). Finally, February 25<sup>th</sup>, 1982, ANEF head Tucapel Jiménez was assassinated by army intelligence agents. At the time of his death he was involved in the most serious project to date of unifying the opposition labor movement across all party and organizational lines, a prospect the government apparently feared deeply (Álvarez 2011: 102). In January 1982, former President Eduardo Frei died mysteriously at a hospital. Though suspected but not proved at the time, evidence emerged decades later that he, too, was assassinated.<sup>132</sup>

### **Economic Crisis (1982-1983)**

The origin of the economic crisis that effected Chile in the first half of the 1980s was how the economy was tied into the international credit system. A loosening of capital controls from 1975 increased debt dramatically, concentrated in the financial sector and in the newly dominant *Grupos*. They had the easiest access to international credit flows (Gárate 2012: 284-295).

Then in the early 1980s the Volcker interest rate shock hit Chile. The US Federal Reserve Chairman quickly raised interest rates, which reached over 20% by June 1981 and peaked at 21.5%

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<sup>132</sup> For a report the day after his death see [the New York Times](#) January 23, 1982. For a detailed look at the evidence of Frei's murder, see "Expert blames poison in 1982 death of Chile's President Frei" [McClatchy Newspapers](#), July 9, 2008; and "Chilean judge rules ex-president Frei was assassinated in 1982" [Associated Press](#), December 7, 2009.

for the Fed's "prime" rate in June 1982. This policy was intended to detain inflation, but also served to contribute to a major global recession. Global growth averaged less than 3% from 1980-1983, with a low of just 0.9% in 1982, according to the IMF. The global recession affected Latin America, which had grown increasingly indebted in the years leading to the crisis, particularly severely. Even within Latin America, Chile was hardest hit, with its economy closely linked to international financial and credit flows (Ibid). Another mechanism through which the global economic slowdown especially affected Chile was through a significant decline in global commodity prices, including copper. Copper and other mineral exports made up more than 95% of export earnings in the early 1980s, and the copper price reached a low in mid-1982.

The *Grupos*, reeling from interest rate spikes and a growth slowdown, had expanded massively into multi-sector conglomerates. These had loaned significant amounts of money to companies within the same conglomerate as the financial units extending the loans (Ibid). The last crucial factor was exchange-rate policy. From June 1979, the exchange rate had been fixed at 39 Chilean Pesos to the US Dollar. For three years this policy held, even as the economic crisis deepened. The Chicago Boys theory was that prices and wages would "automatically adjust" in order to re-align factor prices and production and end the recession. This fixed exchange rate policy strongly incentivized dollar denominated debt, the largest outstanding portion (Ibid).

When the crisis hit Chile full force in 1982, the economy was decimated. The immediate effect of sharp interest rate rises was a spike in bankruptcies. By November 1981, the government was obliged to intervene in four failing banks and four other failing financial entities (Ibid). Yet, the orthodox neoliberals were opposed to state intervention in the banking sector or a devaluation of the currency to assist exports and the current account deficit. Finance Minister Sergio de Castro led this faction. He and Miguel Kast argued instead for an elimination of the minimum wage and ending automatic wage and salary adjustments (Ibid). Macroeconomic indicators collapsed. The high point of Chicago Boys influence on Pinochet and state policy ended. Real GDP declined by 14.1% in 1982. Unemployment shot up to 19.6%, 26.1% including the PEM and POJH employment programs. Investment fell by over 30% (Ibid). On April 22<sup>nd</sup>, 1982, Sergio de Castro was removed as Finance Minister, marking the start of the "pragmatic neoliberal" period (Ibid).

That day, Kast was named Central Bank President. He was the last administration member to fight peso devaluation. Devaluation was announced when he was out of the country, on June 14<sup>th</sup>, 1982 (Ibid).<sup>133</sup> Devaluation accelerated debt problems into a full-blown banking crisis. In June the state ended automatic wage and salary readjustments (Ley 18.134: *Diario Oficial de la República de Chile*, June 19, 1982), initiating five consecutive years of declining wages (Piñera 1990: 119; Sehnbruch 2006: 57). Minimum and public sector wages were lowered by policy. By 1987 the real minimum wage had declined by 41% and public sector wages by 24% (Sehnbruch 2006: 57). In mid-1982, reports in the Chilean press began to circulate that the Junta was under pressure to renegotiate IMF loans. Some military officers publicly expressed their discontent.

At the end of 1981 Joaquín Vial and Rolf Lüders, main Vial Group bank VP and later de Castro's replacement as Finance Minister, told de Castro about the critical situation facing the largest Group (Cavallo et al. 1997: 312). In 1982 the banking system continued to weaken. The state intervened to bail out and liquidate three more financial institutions (Gárate 2012: 291).

On January 14<sup>th</sup>, 1983, the government abruptly announced it was closing three major private banks and taking control of seven other financial institutions. These included the *Banco de*

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<sup>133</sup> The devaluation of June 1982 was 18%. It marked the start of a series of periodic devaluations that continued until the end of military rule. These amounted to a total 40% in 1982 and 55% in 1983 (Camargo 2013: 127-128).

Chile and the *Banco Santiago*, the two largest, owned by the Cruzat-Larraín group. It also included the *Banco Hipotecario*, Lüders bank (Cavallo et al. 1997: 336-337). From November 1981 to December 1983, the state intervened in 14 banks and four other financial institutions (Camargo 2013: 128). In quick succession, the state took control of the vast majority of the private financial system. Owing to the massive expansion of conglomerates in years prior, it also acquired indirect control of a many other enterprises absorbed by financial groups (Gárate 2012: 290). This meant the state took control of more than 60% of all deposits in the financial markets and 69% of deposits in private funds (Mesa-Lago 2000: 66). As well as a glaring contradiction with supposed neoliberal postulates, this systemic intervention created “paradoxically, a great state-ization of companies” along with the functional nationalization of the banking and financial systems (Gárate 2012: 290).

The military government never intended to keep these companies in the state sector. It absorbed many of their losses via subsidies and the central bank buying bad debts (Camargo 2013: 128-129). This gave birth to the “*área rara*”, a “strange” or “rare area” of the economy where businesses were “not private, but neither were they State completely, since its proprietorship was transitory” (Gárate 2012: 290). Bank system losses ultimately absorbed by the state came to 35.2% of GNP (Held and Jiménez 2001: 153). This was done to make the institutions attractive to private investors to privatize them, often right back to ownership from which they had come. In fact, between 1984 and 1985, when most of those enterprises were re-privatized, the institutions in the “rare area” were re-capitalized with a total value of over US\$ 1.1 billion, more than 6 percent of total GNP for those two years (Meller 1996: 267; Camargo 2013: 128-129).

### **Political Crisis: Labor and the *Protestas Nacionales* (1983-1984)**

In an environment of increasing repression and economic destitution, the state’s decision to take control of the financial institutions caused panic and unleashed tensions and anger. There were rumors of a government shake up, devaluations, confiscation of savings or even a military coup. On February 1<sup>st</sup>, 1983, Pinochet “emerged from several weeks of summer vacation to tell Chileans he was in full control of the government” (*The Washington Post* February 2, 1983). He announced that the previous day Economy and Finance “Super Minister” Lüders told him Chile’s 12 most important international lenders had agreed to a 90-day moratorium on payments of Chile’s US \$17.1 billion in foreign debt. Pinochet insisted on the government’s “monolithic cohesion” in the face of “our opponents and international Marxism” (Ibid).

US Media noted “anger over Pinochet’s handling of an economic slump” and “serious conjecture that President Augusto Pinochet may be losing his iron-fisted grip” as “a record 810 bankruptcies” were filed in 1982 (*The Chicago Tribune* February 7, 1983). In the days after the bankruptcy and nationalization announcement, “long lines of angry savers” withdrew “\$292 million of the \$400 million they had kept in peso mutual funds, most of which were controlled by two conglomerates under investigation”. Still, “some savers lost up to 60% of their money” in accounts at the affected financial institutions (Ibid). Lüders was forced to guarantee “bank deposits in the Chilean peso currency for the rest of 1983”, arguing “this detour from free-market principles would restore confidence in the banking system. But an atmosphere of fear and uncertainty lingers.” Some “business leaders...railed against... the creeping socialization of Chile” (Ibid). Ruíz-Tagle (1989: 88) argued that “workers... perceived themselves as a class repressed by economic and legal structures imposed by the authoritarian state”. In a situation of severe pressure on their basic material interests and harsh state violence, “The rank-and-file saw the need to obtain... a democratic reorganization of the political system” (Ibid).

Pinochet's first priorities reacting to a new and unstable situation were to reinforce his support base within the military and start moving towards a pragmatic/moderate policy framework that departed from important aspects of neoliberal doctrine. The most pressing reason for the latter decision was to reinforce key support bases in Chilean business sectors suffering in the recession. The state also moderately expanded the main employment programs, the PEM and POJH, which, while modest in sum per worker, gave material benefits to labor. Finally, the regime embarked on a policy of "*apertura*" or opening, meaning beginning to move towards negotiations with the opposition. Each of these decisions came amidst discontent and pressures from the military and Chilean business. Both were advocates of a "pragmatist" course of action.

These measures did not significantly ameliorate material losses. In 1983, unemployment continued to rise, to more than 26%. Some 12% more were in emergency employment programs. By February 1983, about 463,000 people were working in the PEM and the POJH (Vergara 2008: 186). Wages in general also continued to decline steeply (Gárate 2012: 293).

Labor unrest also accelerated in early 1983. In January the first major illegal strike of the Labor Plan era took place at Colbún-Machicura hydroelectric power station construction project. Spurred by low pay, poor working conditions, and the dismissal of local union president José Villegas, a six-day strike ended with his reinstatement<sup>134</sup>. The conflict was notable as executives of state-owned energy company ENDESA, including Region VII intendant Colonel Ricardo Canales Varas, openly negotiated in an official capacity with the president and secretary general of the National Confederation of Construction Workers. Both labor leaders were members of the illegal Communist Party, a blatant contradiction with legal limits in the Labor Plan and 1980 Constitution (Álvarez 2011: 107-108). Rather than vote in secret on a January 12<sup>th</sup> company offer as envisioned by the law, it was rejected in a workers' assembly the 7<sup>th</sup> and the strike recommenced (*La Segunda* February 26, 1983). Against all regulations in the Labor Plan the illegal strike lasted 3 months and incited declarations of labor solidarity across the country. Even officialist metallurgy leader Manuel Contreras Loyola stated his support. Within a few days the company declared a lock-out, and fired all of the workers, but the strong solidarity in the area prevented the large scale hiring of strikebreakers (Ibid). By the end of March, strikers did not get their jobs back, but were given the maximum indemnity for job dismissal and a bonus to end the conflict (*La Segunda* April 1, 1983).

This conflict was a direct precursor of the labor-led National Protests that soon followed. In February a major, conflictive strike occurred at the copper manufacturer MADECO. In April another large strike occurred at the textile manufacturer *Vaña* (Álvarez 2011: 108-109).

In the copper mines, CODELCO management took advantage of the adverse economic and political situation of historically strong labor unions to accelerate efforts to reduce employment. It restructured production, increased mechanization, outsourced labor and externalized previously company-provided services like health care and education. CODELCO reduced and sought to eliminate profit sharing. These squeezes on labor produced a backlash, despite an unfavorable context. In 1982 the CTC removed officialist leader Guillermo Medina. In 1983 he was replaced by oppositionist PDC militant Rodolfo Seguel (Vergara 2008: 187-189).

In April, the CTC held its national congress during which its radicalized position against the military regime became apparent. The congress' final document combined sectoral demands with calls for broader economic and demanded a "return to democracy" (Ibid). The problem was not "one law more or less... but a complete economic, social, cultural, and political system that has us smothered and bound"; it was time "to stand up and say enough". The congress called for a

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<sup>134</sup> Committees were also appointed to study the other worker demands (Álvarez 2011: 107-108).

national general strike (“Resoluciones del Congreso de Punta de Tralca, abril 1983” quoted in Vergara 2008: 188). This represented a major shift and escalation for the CTC.

The call shocked the government and the opposition political parties alike. Seguel’s own PDC was so fearful and skeptical of the strategy that, according to PDC leader Aylwin’s account, the party convinced the CTC to change their call to less threatening a “national protest” (Aylwin 1998: 276-277). Seguel at the time attributed the change to “pressures exercised on the people” by the state (*La Segunda* March 9, 1983). At this potentially key moment the state and opposition political parties worked, via distinct mechanisms, to channel and contain labor opposition.

The call that launched the series of massive monthly “National Protests” on May 11<sup>th</sup>, 1983, was co-written, and the protest was jointly organized, by the CTC and CNS. Many other unions and the opposition political parties backed the protest call (de la Maza and Garcés 1985: 29).

On that day turnout and participation were far greater than expected by organizers or the government. Workers engaged in slowdowns, absentee strikes, lunch strikes, and banging spoon protests (*cucharadas*). Copper workers in the El Salvador, Andina and El Teniente mines struck (Vergara 2008: 188). Many parents kept children home from school and many universities saw student strikes, occupations and protests. Large numbers avoided public transportation and did not shop. Hundreds of neighborhood, workplace and student assemblies were held. Large scale protests occurred in Santiago and several other cities. That night a loud *cacerolazo* and *bocinazo* (banging of pots and honking of car horns) protest echoed across middle class, working class and shantytown areas of the capital alike, a first in nearly ten years of dictatorship.

The state responded with repression. Tear gas was deployed at many protests. Protesters were also shot at with live ammunition. Two people were killed, more than 50 were wounded, and more than 300 people were arrested across the country (de la Maza and Garcés 1985: 27-29). CTC leader Seguel claimed in the media that over 70% of Chileans took part in the protests.

Perhaps most surprising, including for protest labor leaders, was the massive outpouring of rage and opposition from the poorest, peripheral shantytown neighborhoods. Street barricades were set up. Fires were set in the streets. Running battles between *carabineros* and protesters armed with stones, bottles and Molotov cocktails, and continued through night (Ibid). The use of direct action tactics by *pobladores* terrified the authorities (Campero 1987). On May 14<sup>th</sup> “troops brandishing submachineguns seized... 1,000 people in predawn raids” and took them “to soccer stadiums and police stations in... retaliation for the first widespread protests against President Augusto Pinochet’s military regime” (*Washington Post* May 14, 1983). Media reported “about 300 soldiers in battle dress, backed up by an estimated 300 policemen and plainclothes agents, surrounded two shantytowns in southern Santiago shortly after midnight. Using bullhorns, they ordered everyone over age 14 to come out” (Ibid). As the National Protests continued during 1983, state violence escalated further, especially in shantytowns (on shantytown protests see Campero 1987, Schneider 1995, and Oxhorn 1995).

Days after May 11<sup>th</sup>, the labor leadership announced the protests would become monthly actions until the regime accepted what became the three basic movement demands: exit for Pinochet, a provisional government, and a constituent assembly (Garretón 1995: 220). Labor saw new support for the protests. The Catholic Church, student groups, newly emerging civil society and neighborhood organizations, professional organizations and the opposition political parties joined (Araya 2014: 17). The labor opposition felt “euphoria” (de la Maza and Garcés 1985: 30) and “union pronouncements escalated from the incrementalist demands of the late 1970s to... calls for massive changes in the national labor, economic and political systems” (Drake 1996: 135).

The regime responded to labor, and copper workers specifically, through a strategy of “divide and punish” (de la Maza and Garcés 1985: 28). Overall, “the action of the government faced with the realization of the protests was characterized by the use of the most diverse forms of repression” (de la Maza and Garcés 1985: 96). This was particularly true vis-a-vis copper workers. Systematic firings for participation in protests became common (Vergara 2008: 189). Even before May 11<sup>th</sup> militants and organizers were frequently harassed and arrested (de la Maza and Garcés 1985: 96-97). Along with repression specifically targeted at the CTC the state invited non-left sectors of the labor opposition<sup>135</sup> to an official “dialogue” (Ibid).

This effort at division and repression generated a critical counter-reaction. On May 21<sup>st</sup> the National Workers Command (CNT) was formed. For the first time all labor opposition forces combined in a single organization, including conservative Christian Democrats and Communists<sup>136</sup> (Araya 2014: 18-19). They united in explicit repudiation of the repression of copper workers and in explicit distinction with the political parties of the opposition that could not unite these diverse ideological and partisan forces (Ibid). The CNT named copper workers' leader Rodolfo Seguel its president<sup>137</sup>. In their first public announcement they stated their “principle objective” and purpose of their unification was the “reestablishment of democracy” (*Solidaridad* N. 156 May 15-31, 1983: 16). At this key moment labor exercised opposition leadership, including over the political parties, a high point for autonomy and political protagonism (Araya 2014: 18). Drake (1996: 135) argues:

As workers switched from defense to offense, they taught their fellow citizens to overcome fear and challenge the dictatorship. Unions transcended many of their occupational and ideological divisions by uniting around the desire for an end to military rule. Virtually all agreed on their antipathy toward the authoritarian regime, the neoliberal economic model, and the individualistic Labor Plan.

José Ruiz di Grigorio, leader of the petroleum workers, had a similar assessment. He argued, “in the period of the dictatorship, the union movement assumes an eminently political role, one that goes far beyond sectoral demands to make only one fundamental demand, that is democracy” (quoted in Centro de Estudios Sociales, “Unidad: Problemas actuales del movimiento sindical” 1984: 4). In the countryside, where the Labor Plan barred agriculture strikes, *campesino* unionism and rural labor conflict were revived by national mass protest (Silva 1988: 274).

The CNT called a second national protest for June 14<sup>th</sup> in a context of rising confidence. It was even larger, more widespread geographically and more violent than the first. Four were killed, more than 70 wounded and 1,351 arrested the day of the protest. The day after, the state arrested CNT and copper workers' leader Rodolfo Seguel, as well as *campesino* leaders Carlos Opazo and José Oróstica and construction workers' leader Sergio Troncos (*Los Angeles Times* June 15, 1983). That day the remaining CNT leadership “met in emergency session to decide whether to call a strike in protest against Seguel's arrest” (Ibid). Pinochet announced that he would prevent “disturbances... at any cost.” He also insisted he would “not give in to demands to reform the 1980

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<sup>135</sup> These were the UDT, ANEF and CEPCH

<sup>136</sup> This included the CNS, UDT, CTC, FUT, ANEF and CEPCH.

<sup>137</sup> On the CNT executive committee were: two representatives from the CTC; one each from the CNS, UDT, FUT and CEPCH, printers' union head Arturo Martínez, miners' head Alamiro Guzmán, *campesinos* leader Raúl Aravena and construction workers' leader Luis Fuentealba (Ibid).

Constitution” (Ibid). “Union leaders,” notes Araya (2014: 19), “especially those from copper, paid a high cost for having convoked the first protests” as they became the focus of state repression. The day of Seguel’s arrest another 23 copper miners were fired for taking part in protests (Ibid).

On June 16<sup>th</sup> and 17<sup>th</sup> the CTC called for a strike at major copper mines. Thousands of workers walked off the job at Andina, El Salvador and El Teniente mines. Pinochet announced that all strikers would be fired and that the state would use what he called the “strong hand of government” (*The Washington Post* June 17, 1983). Reports noted, “Labor leaders are seeking to escalate what has become a major political confrontation with Pinochet by organizing a national general strike... At stake... is the future of a mass political opposition movement led by labor” (Ibid). The night of June 16<sup>th</sup> over 1,000 workers at El Salvador mine received dismissal notices. By the second day of the strike, more than 3,000 workers had joined, and CODELCO officials announced that a further 1,700 would be dismissed (*The New York Times* June 18, 1983).

On June 17<sup>th</sup> Pinochet made a nationally televised address. In it he offered concessions for the first time since the National Protests began. Concessions included: an end to censorship of printed materials; to publish the previously secret deliberations of the legislative commissions; and the legal return of up to 30,000 exiles (Ibid). Yet, the announcement of mass dismissals and arrests of strikers was stepped up. By that night most strikers returned to work (Ibid). Beyond repression, the situation at Chuquicamata, the largest mine that did not strike, revealed pressures on labor. There, “more than 4,000 people” were “reported to be on waiting lists for jobs in the Chuquicamata mine alone, reflecting Chile’s economic depression” (Ibid). While university students struck at the *Universidad de Chile*, other labor unions did not join in the strike (Ibid).<sup>138</sup>

Labor attempted to strike back at the repression facing the copper workers. On June 20<sup>th</sup>, the CNT and the National Land Transport Confederation (bus, taxi and truck drivers) called for a “*Paro Nacional Indefinido*” or “Indefinite General Strike” (de la Maza and Garcés 1985: 30-33). By then, over 1,800 CTC members had been dismissed and replaced and the top 11 leaders of the confederation had been arrested. Seguel and four others were still in jail. The El Salvador and Chuquicamata mines were put under military occupation and martial law (*The Washington Post* June 21, 1983). The strike got formal backing from opposition political parties, student and professional groups, including the association of lawyers. Labor sectors that backed the call included construction, textile, and oil production, mining and transport (Ibid). Yet, clear divisions remained: “A number of labor and political leaders were reluctant to support the... strike because they believed neither their unions nor the Chilean opposition were yet in a position to launch a full-scale confrontation with the military regime... the first such action attempted in a decade of military rule and the most severe challenge ever made to the government of Pinochet” (Ibid).

The state response was a violence driven “repress and divide” strategy. Labor arrests and firings rose. Yet, “In a significant concession to opponents, government officials announced that they would permit the return beginning Wednesday [June 22<sup>nd</sup>] of 128 exiles, including centrist Christian Democratic Party leader Andrés Zaldívar and five other former political leaders” and Orlando Letelier’s widow (*The Washington Post* June 21, 1983). Pinochet also announced a 5% increase in public sector workers’ salaries.

Just hours after this announcement, trucker’s union leader Adolfo Quinteros was arrested. The state filed new charges against four other labor leaders. Ex-Senator Jorge Lavandero, PDC leader of a still informal coalition of opposition political parties under the banner of the recently

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<sup>138</sup> See also: Los Angeles Times June 21, 1983 “General Strike Fails in Chile; New Move Planned”



issued “Democratic Manifesto”, was arrested and charged (Ibid). PDC leader Gabriel Valdés was detained (de la Maza and Garcés 1985: 34). The government sent a notice to all news media strictly forbidding reports on protests and explicitly banned mention of the general strike call. Pinochet promised greater “energy” controlling opposition demonstrations on campuses (Ibid).

These moves “continued a government strategy of attempting to isolate leaders of a week of unprecedented antigovernment protests while offering concessions to rank-and-file workers and moderate-to-conservative political sectors” (Ibid). Ultimately, on June 25<sup>th</sup>, with the strike gaining only modest support from rank-and-file workers amidst a heavy military presence, the press blackout and public threats from Pinochet and other officials, the government offered to start separate talks with truckers and released Quinteros, who announced a retreat from demands (*The New York Times* June 26, 1983). On June 26<sup>th</sup>, the CNT and truckers issued a joint statement suspending the strike (*The Washington Post* June 27, 1983).

The most important immediate result of the failure of the attempted general strike, as well as the harsh repression experienced by parts of the labor movement, particularly copper workers, was that Rodolfo Seguel called upon the opposition political parties to take leadership of further protests (de la Maza and Garcés 1985: 33; Araya 2014: 19). Another key outcome was that labor did not attempt another national general strike for nearly a year (de la Maza and Garcés 1985: 98). A final result was that the state was emboldened to stop the national protest movement by force. So, it escalated significantly its use of repressive violence against the next protests (Ibid).

The opposition political parties, most prominently the PDC<sup>139</sup>, renovated Socialists and Radical Party politicians who signed the “Democratic Manifesto” made the call for a 3<sup>rd</sup> national protest on July 12<sup>th</sup> (de la Maza and Garcés 1985: 33). Crucially, “The protest was called by an informal group made up of representatives from six former political parties ranging from conservatives to socialists but excluding the Communists” (*The Wall Street Journal* July 8, 1983). For the first time a military curfew was imposed. Soldiers and tanks were in the streets along with the *carabineros* (de la Maza and Garcés 1985: 98). Pinochet ominously announced, “This is over, gentlemen” (de la Maza and Garcés 1985: 33). Two were killed and over 1,000 arrested (de la Maza and Garcés 1985: 35). For the first time armed opposition groups were a key presence. Multiple bombings and reports of gunshots at soldiers and police occurred (Ibid).

Despite violence, the protest again attained mass support. Participation was perhaps larger (Ibid). The geographic extension was notable. Large demonstrations and clashes occurred in Valparaíso, Concepción, Talcahuano, Temuco, Valdivia, Osorno, even Ancud on Chiloé (Ibid). The most important result of this protest was that the government began to talk, internally and publicly, about negotiations with the moderate opposition and changes in the orientation of government policy, including the economy. This was the first preview of a strategy dubbed the “new political plan” or “policy of opening”. In part, this policy was a result of pressure from the US Government, which, though initially closer to the military regime in Reagan's administration, was upset by repression of PDC leaders. The day before the protest, with Valdés and Lavandero in jail, the US Secretary of State declared their detention was “deplorable”. He said the situation required “the establishment of basic consensus, necessary for the democratic transition the vast majority of Chileans desire” (*El Mercurio* July 12, 1983). Another prominent call for negotiation in the period following this protest was a letter from the Pope signed by several Chilean bishops advocating dialogue between government and opposition (de la Maza and Garcés 1985: 37).

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<sup>139</sup> PDC President Gabriel Valdés and Lavandero announced the protest at a press conference (Ortega 1992: 229)

The government made concessions. Labor Minister Mardones solicited written criticisms of the Labor Plan from union leaders (*La Segunda* June 29<sup>th</sup> and 30<sup>th</sup>, 1983). Hundreds of exiles returned (de la Maza and Garcés 1985: 98). Seguel, Valdés and other political prisoners, mainly PDC, were released. The AFDD began to hold public vigils (de la Maza and Garcés 1985: 37).

On August 6<sup>th</sup>, the formation of the *Alianza Democrática* was publicly announced. It was based on the recently written and circulated "Democratic Manifesto" (Ortega 1992: 123). The AD was presented after an event at the *Circulo Español*. It included five "currents", as parties were still officially banned. These were the Democratic Republican Right, Social-Democrat, Radical, Socialist<sup>140</sup>, and Christian Democratic groups (Ortega 1992: 233). In his speech Valdés said the group had "decided... to offer the country what we have called bases of dialogue for a great national accord" (Valdés 1986: 63-64). The accord had three points formally agreed to for the first time at this event. These were a Constituent Assembly for a new constitution, resignation of Pinochet as President, and establishment of a provisional transition government (Ortega 1992: 233-234). The AD proposed direct talks with the government (de la Maza and Garcés 1985: 33).

The 4<sup>th</sup> national protest was convoked by the AD and the CNT for August 11<sup>th</sup> (de la Maza and Garcés 1985: 36-38; 99). By this time "the protest had been converted into an instrument that the people had appropriated to express their discontent. With much autonomy in its forms and an 'inevitability', the Protest 'is coming'" (Ibid). Left political currents outside of the AD- the MIR, the PC and the PS-Almeyda- also called for protests, but for the 11<sup>th</sup> and 12<sup>th</sup>, with an intent of making them continuous, escalating, ultimately, to an insurrection (Ibid).

The government intensified its dual response. It, apparently, made its most serious attempt at negotiations. It also significantly increased state violence and repression (Ibid). The protests on August 11<sup>th</sup> were the largest, most intense and most violent of the entire sequence, most likely the greatest of the entire period of military government (Ibid). From this protest on a "distance between popular dynamics and national representation" was evident, and "the protest extended for two days in the shantytowns in a manner independent of the convocation of the AD" (Ibid). Autonomous, 'non-represented' and more insurrectionary protest received the brunt of state violence, leaving scenes of dramatic government destruction in the shantytowns (Ibid).

Just hours before the protests on August 11<sup>th</sup>, Pinochet announced the appointment of a new Interior Minister, Sergio Jarpa, to negotiate a "political exit" with the AD (Ibid). "The idea" of this double strategy "was to definitively channel expressions of discontent through" Jarpa and the policy of *apertura* (opening) he advocated, while "avoiding by means of fear a repetition of protest" (Ibid). This announcement was part of a major cabinet change (Ibid). As part of this change Hugo Gálvez, an opponent of the Labor Plan, was named Labor Minister.

Gálvez was a senior statesman politician of the nationalist right who served as the Labor Minister under President Alessandri in the early 1960s (Alvarez 2011: 110-111). From the start he was a public critic of the Labor Plan and advocated major changes to it (*La Segunda* August 19, 1983). Gálvez publicly called for an end to the 60-day strike limit, the ability of employers to unilaterally rescind contracts, the need to reestablish the Labor Courts, and a return to bargaining by sector in key areas like construction, commerce and agriculture (Alvarez 2011: 110-111). He also pushed for the creation of permanent instances of tripartite business, labor and state dialogue called a *mesa de cooperación* (Ibid). Gálvez faced resistance within the state on all the measures, and the debate at times became unusually public and polemic. Only one of his proposals actually

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<sup>140</sup> This represented two renovated Socialist Party factions, the *Convergencia Socialista*, which signed the original Democratic Manifesto, and the faction that became the PS-Núñez, which officially took that name only in 1986.

took effect, a creation of dialogue commissions. Four were established: on labor contracts; union organization; collective bargaining and “special rules” (*La Segunda* August 25, 1983). The labor opposition never took part, leaving only officialist labor representation (Alvarez 2011: 111).

State violence was massive. A nation-wide curfew was put into effect and 18,000 soldiers occupied Santiago with tanks and heavy weapons. Automatic weapons were fired at demonstrators and university students, campus buildings were stormed and “massive attacks on shantytowns... left a trail of destruction, deaths and wounded” (Ibid). Particularly in the shantytowns, many homes and buildings were burned and destroyed (Ibid). In the chaos, numbers were difficult to verify, but at least 29 were killed, including several children. Over 100 were wounded and over 1,000 were arrested, as reports of torture and military and police brutality multiplied (Ibid).

Violence exacerbated the Junta's tensions. As “protests continued for a third straight day... the Air Force publicly questioned government accounts of violence” (*The Washington Post* August 13, 1983). In a highly visible break, “Gen Fernando Matthei, the commander in chief of the Air Force... disclaimed responsibility of the Air Force for the killings and added that ‘it is time for us to come to an understanding with the political parties’” (Ibid). Matthei “privately expressed his dissatisfaction to several leaders of the government opposition and added that he had told Pinochet that the Air Force would not participate in further repression” (Ibid).

These protests were also more violent, with more clashes, barricades, fires and attacks upon police and soldiers than in previous months. The violence in the shantytowns and the ‘new society’ of mass occupational informality and unemployment inspired fear not just among the government but also the moderate opposition. Camargo (2013: 133-134) argues, “In fact, it is clear that, particularly after the fourth ‘*Protesta*’... the center-left political opposition began to understand that... calling for open social demonstration was a risky opposition strategy”. This, in turn, led to the dominance of left sectors within the movement (Oxhorn 1995: 238-240; Serrano and Cavallo 2006: 191). Finally, the violence and political polarization also alarmed the Reagan administration, pushing it to support the PDC and negotiations (Morley and McGillion 2006).

Pushed by this fear the government began a new phase of “dialogue” and “opening”. This included inviting Seguel to La Moneda and the start of negotiations between Jarpa and the AD (de la Maza and Garcés 1985: 99). The first session was held August 25<sup>th</sup>, 1983 (Tovar 1999: 7). A list of exiles allowed return was also released by the government, including several prominent opposition politicians, among them an important PDC leader, Andrés Zaldívar (Ortega 1992: 237). Large gatherings, some that turned into protests, greeted many such arrivals (Ibid). Funerals for those killed also generated mass demonstrations (Ibid). The government also canceled the state of emergency, allowing some protests without repression. One was a large teachers’ march held in downtown Santiago at the end of August 1983 (de la Maza and Garcés 1985: 40).

On August 22<sup>nd</sup>, 1983, the AD released its “document of constitution” the “Bases for Dialogue for a Great National Accord”. Its first signatory was future president Patricio Aylwin (Ortega 1992: 238). September 6<sup>th</sup> renovated socialist groups announced the *Bloque Socialista*. It reunited several currents and formed the basis of the later reunification of the Socialist Party. Its political stance was “democratic, popular and national”. It declared the need for a left autonomous from the Communist Party, dedicated to nonviolent methods and premised upon a strategic unity of left and center. It joined the AD as a block (*Constitución del Bloque Socialista* 1983). Thus, the period between the 4<sup>th</sup> and 5<sup>th</sup> protests was clearly one of accelerated political developments.

The AD and the CNT, notably without the support of the UDT, called for a 5<sup>th</sup> national protest on September 8<sup>th</sup>, 1983. The left opposition announced at their first public press conference a running series of protests from the 8<sup>th</sup> to the 10<sup>th</sup> anniversary of the coup on the 11<sup>th</sup>. The call

was supported by many popular protest groups (de la Maza and Garcés 1985: 41). They also reiterated their stance that “the people have a right to self-defense” (Ibid). On August 30<sup>th</sup>, the MIR assassinated the Intendant of Santiago, Gen. Carol Urzúa Ibáñez (Ibid). On September 7<sup>th</sup>, five MIR militants were killed by police (*The Boston Globe* September 9, 1983). The PDC and AD, having met with Jarpa twice, heightened their insistence on peaceful and orderly protest (Ortega 1992: 246). Another centrist opposition group, PRODEN, received authorization to hold the first permitted demonstration in O’Higgins Park (Ibid). Other moderate opposition forces rejected participation in this officially authorized act and instead called for a large-scale sit-in at the Plaza Italia. The AD also called for protests to be over the night of the 8<sup>th</sup>, which did not occur (Ibid).

Therefore, in the wake of the defeat of a labor-led general strike to force the institutional changes of the three demands and the decline of clear labor leadership, the opposition polarized internally and fractured. The military state’s “repress and divide” strategy was partially behind this change in dynamics, but the new leadership by political parties also played key role. These parties had different social bases, strategic interests with respect to gaining power, different histories and experiences under the dictatorship and thus very different strategic orientations.

Notwithstanding the beginning of dialogue with the opposition, the fifth national protest was again met with heavy repression. The sit-in at Plaza Italia was dispersed violently with tear gas, water cannons and police beatings. It included the gassing, soaking, arresting and beating of Christian Democrat leaders Genaro Arriagada, Gabriel Valdés and Patricio Aylwin in front of national and international media (*Hoy* September 14-20, 1983; *La Segunda* September 9, 1983). The AD decried “the use of repression as a basic instrument of support of the government” (*El Mercurio* September 9, 1983). This time, rather than an overt military occupation, much of the violent repression was carried out by civilian supporters of the government mobilized by a call made by Jarpa to organize in “self-defense” (de la Maza and Garcés 1985: 39-43). In those days of protest 16 were reported killed, more than 400 wounded and some 600-800 arrested. Again, the vast majority of serious violence occurred in the shantytowns of peripheral Santiago (Ibid).

The protests and clashes were large and dramatic, and again occurred across Chile, but were somewhat smaller than August. A significant change in composition meant youth, students and shantytown residents were much more predominant and a notable diminishment of middle class participation (Ibid). The ‘period of dialogue’ in September and October, 1983, showed the greatest distance between more popular, militant and autonomous forms of protest on the ground, especially in poor and working-class areas, and a moderate opposition led by political parties, oriented to negotiations for an eventual “orderly transition” (Ibid). For example, even though the AD declared the dialogue with Jarpa suspended after the repression on September 8<sup>th</sup>, it had little alternative strategy as it began to lose leadership of the protest movement (Ibid). So, the AD ultimately agreed to a third meeting with Jarpa on September 29<sup>th</sup> (Ortega 1992: 248-249).

By this point a hardening of positions had occurred and political polarization had accelerated. On September 20<sup>th</sup>, 1983, the hard left opposition formally constituted itself in the *Movimiento Democrático Popular* (MDP), made up of the MIR, the PC, the PS-Almeyda (non-renovated) and some factions of the Christian Left and MAPU. The MDP demanded immediate, non-negotiated termination of the military regime, voiced support for “all forms of struggle” and proposed a general accord with the AD for a provisional government “without exclusions” (Ibid). The hard right *gremialistas*, led by Jaime Guzmán and Sergio Fernández, organized a political party on September 24<sup>th</sup>, 1983, *Unión Demócrata Independiente* (UDI) (Tovar 1999: 7-8). UDI criticized the AD-Jarpa dialogue, defended the institutionalization of the 1980 Constitution and its project of a “protected democracy”, and demanded a return to the more orthodox neoliberal

policies of the “Chicago Boys”. Soon thereafter, the moderate right formed the MUN (*Movimiento de Unidad Nacional*), which supported Jarpa and a negotiated transition to democracy. This represented the division of the right within the military state (Ibid).

In the third and final meeting between the AD and Jarpa, the opposition presented five demands. The first was a plebiscite for the creation of a Constituent Assembly in 1984. Jarpa said further negotiation could be had on the other four points<sup>141</sup>, but ruled out absolutely the first demand (Ortega 1992: 248-250). Jarpa expressed interest in a future meeting and said formal agreements could be drawn up later (Ibid). October 2<sup>nd</sup>, 1983, Pinochet ruled out any deviation from the timeline and content of the Constitution, including the transition it laid out (Ibid).

October 4<sup>th</sup>, the AD demanded an “immediate and clear response” from the government about its intent to negotiate a transition. Jarpa replied on the 6<sup>th</sup>: “the Constitution is the only possible path and solid foundation to construct democracy” (Ibid). This was the end of the first failed attempt at negotiations between the moderate opposition and the government (Ibid). The AD decided to re-take “the peaceful path of resistance” (*El Mercurio* October 10, 1983). Yet, the AD withdrew its support for a march at the 6<sup>th</sup>, left-led, National Protest (de la Maza and Garcés 1985: 43-45). This was, in part, because the government refused authorization for the AD’s proposed march. It was the MDP instead that issued a call for protests from October 11<sup>th</sup>-13<sup>th</sup>. The main act was a permitted rally co-sponsored with PRODEN that attracted perhaps 80,000 people (Ibid). There were university protests and barricades erected in some of the most militant shantytowns, yet the participation was again lesser than at the actions in September (Ibid).

The labor opposition had come to regret its decision to pass leadership of the movement and protests to the political parties (Araya 2014: 19-20). The AD’s decision to enter negotiations with the regime led labor leaders to fear demobilization (Ibid). Manuel Bustos, recently returned from exile, argued “The union movement made a grave error in losing leadership of the struggle when they gave a blow to the CTC... this allowed the political parties to take the initiative” (*Apsi* October 18-31, 1983: 10). They viewed the greatest weakness of the political party opposition to be partisan divisions (Ibid). Their resolve to retake a primary role in opposition increased when Rodolfo Seguel was again arrested after the September protests (de la Maza and Garcés 1985: 44-47). Copper workers held a big protest march and he went on a prison hunger strike in prison, generating solidarity hunger strikes (Ibid). In October copper workers formed the *Comando de Defensa del Cobre*, separate from the CTC, to oppose repression and proposed privatizations. The CNT called the 7<sup>th</sup> national protest on October 27<sup>th</sup>, retaking a leading role (Ibid).

Originally, the CNT applied for authorization to hold a rally, but it was denied. This was part of hardening of the regime’s stance in closing of the *apertura*. Between the 6<sup>th</sup> and 7<sup>th</sup> protests the government denied entry to exiles on approved lists, made a law punishing the organizers and attendees of unauthorized protests (Ley 18.256: *Diario Oficial de la República de Chile*, October 27, 1983) and evicted occupations<sup>142</sup>, relegating organizers to internal exile (Ibid). Since the August protests, the government had begun a process of militarization of the police. It trained them to specialize in operations for “anti-subversive war” and created a new *Dirección de Comunicaciones de Carabineros* (DICOMCAR) to this end (de la Maza and Garcés 1985: 99).

The October 27<sup>th</sup>, 1983, protest was successful for the labor opposition in a few regards. First, they re-took a leadership role in the opposition. Second, they were able to re-center specific

<sup>141</sup> These were: a mixed commission to elaborate new Political Laws on parties and elections; a commitment to a transition to democracy; the adoption of an emergency economic plan; and opposition access to the media.

<sup>142</sup> Most famously 5,000 families in the La Granja neighborhood September 22-23. This caused panic on the right, in the government and in the media as the “return of occupations” (*La Tercera*), a reference to the UP period.

concerns of labor in the movement, especially symbolized by the large march to La Moneda with a letter signed by Seguel and Bustos laying out Labor's primary issues. Third, the protest gained unified opposition political support, from the MDP, AD and BS. Fourth, labor led broader social sectors. The AFDD, students and *pobladores* acted in solidarity, and some greater middle-class support was evident in *caceroleos* that night (de la Maza and Garcés 1985: 44-47). Finally, the turnout and participation were overall larger and broader than at the previous protest (Ibid).

Still, participation did not reach the levels of August and September. In this sense a state strategy of targeted repression combined with "dialogue" can be said to have worked, to have channeled some discontent out of the street (Ibid). Not only the CNT, but some political party actors involved in the dialogues also saw it this way. In a letter sent by Socialists in the AD to PDC leadership they characterized the effort as a failure that left "the opposition front perceived as... opposition within the regime and not an opposition to the regime" (*La Tercera* October 21, 1983). This was causing a rupture, argued the Socialists, between the AD and its social base, which demanded an oppositional orientation (Ibid).

The November, 1983, national protest was the last until March, 1984. It marked the end of the first sequence of protests. It saw diversification of actions, large participation and emergence of new actors in the movement. The Catholic Church, families of the detained and disappeared, human rights and anti-torture movements, and the women's movement played key roles (de la Maza and Garcés 1985: 48-51). The government, without recourse to dialogue, more openly resorted to repression of these movements. Institutionally, the CNI took a leading role (Ibid).

On November 11<sup>th</sup> coal miner and construction worker Sebastián Acevedo self-immolated in front of the Cathedral of Concepción in a desperate protest at the disappearance of his son and daughter at the hands of the CNI two days prior. This spurred a movement for the dissolution of this repressive arm of the state. One day later the Archbishop of Concepción called for the CNI to be disbanded. On the 14<sup>th</sup> Monsignor Juan de Castro publicly echoed him. *El Movimiento Contra la Tortura Sebastián Acevedo*, a key human rights actor, was founded that day (Ibid). The key pro-democracy women's group *Mujeres por la Vida* was inspired by this event. Its first actions included protests in front of CNI headquarters and at the Plaza Baquedano that month demanding its termination<sup>143</sup> (Ibid). On the 17<sup>th</sup> the *Colegio Médico*, the professional organization of doctors, formally condemned the Army head doctor for supervising torture in secret CNI detention centers. They also called for the CNI's closure. November 18<sup>th</sup> the AD received permission to hold a large rally in O'Higgins Park, which drew the largest crowd of the year, perhaps 500,000 people (Ibid). The state responded to each of these opposition moves with violence and repression. In the first days of November, government labor program workers in the PEM and the POJH protested at several program offices in working class areas of Santiago. Each protest was violently dispersed by police (Ibid). At the funeral of Sebastián Acevedo tear gas flooded the church. The Women for Life protest at Teatro Caupolicán and the protest in front of the CNI building were broken up by beatings, plastic bullets, tear gas and water cannons. A permitted rally at O'Higgins Park was attacked as the crowd dispersed. One was killed and dozens wounded, sparking clashes with police (Ibid). The government stepped up sending shantytown, labor, protest and social group leaders and organizers into internal exile, relegating dozens of dissidents to far-off locales in November (Ibid). The last protests of 1983 were strikes and marches of PEM and POJH workers. Violence met many actions. The programs cancellation and mass firings of POJH workers ensued (Ibid).

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<sup>143</sup> A fascinating primary document by one of the founders of the movement, from 1985, that relates the inspiration of its founding in the death of Sebastián Acevedo is "The Struggle of Chilean Women for Democracy". Museo de la Memoria y los Derechos Humanos. <http://www.archivomuseodelamemoria.cl/index.php/181566;isad?page=1>

A lull in the protest movement resulted. The labor opposition and political parties felt the impact of repression. Each re-evaluated their strategies in the wake of the mass mobilizations of 1983 failing to produce a rapid defeat of the regime or a transition to democracy (Ibid). In the AD, Socialists proposed taking a clearer posture of opposition and forming a broader political coalition, even to include discussions with the PC. They also wanted to call local assemblies to lead to a National Assembly (*Hoy* October 26-November 1, 1983). The PDC rejected the idea of a coalition with the PC (*El Mercurio* November 20, 1983). This position became firmer as PDC relations with the United States deepened in 1984 (Drake 1996: 138). The PDC's strategic orientation still conceived of the party as the 'natural' party of government in a reinstated electoral system. It viewed the AD as a proto-political pact for a coalition government in the post-dictatorship period. Gabriel Valdés proposed continuity for the AD: "a joint action now, a coalition action during the transition, acting conjointly during the constituent period and at least a first coalition Government of democratic forces" (*La Segunda* December 2, 1983). This strategy left little room for political coordination with the left opposition and PC. Overall, while the AD had shifted back to a strategy of social mobilization after the failure of the *apertura* in 1983, it always maintained a primary interest in negotiations with the government.<sup>144</sup>

The labor opposition distrusted the political parties' negotiations with the government. The CNT analyzed that the labor movement's main weakness was its inability to bring sufficient pressure on the regime through staging large-scale strikes at the point of production- "productive strikes" as they termed them. These would raise the costs of regime intransigence (Araya 2014: 20). Therefore, during the last months of 1983 and the first months of 1984, the CNT attempted to form its own broad-based social and political grouping, which would make concrete proposals and dialogue with the government, called the Comisión Patriótica de Reconciliación Nacional (*Análisis* April 10-24, 1984: 21). The strategy was to garner a larger "accumulation of forces", given a leadership assessment it lacked the ability to generate sufficient pressure (Ibid).

The strategy was well received by the Catholic Church and opposition social movements but was ultimately rejected by militants of the political parties amidst partisan divisions (Araya 2014: 20). The apparent failure of this option, and a total unwillingness by the Junta to abrogate institutions and timelines in the 1980 Constitution, led the labor opposition to once again center its strategy on direct action to confront the regime. In early 1984, consideration of a general strike as a potential next move came to the forefront (de la Maza and Garcés 1985: 48-51).

### **The Second Wave: General Strike and State Violence (1984)**

The first step in this strategy took place at the CNT meeting in Puente Alto in February of 1984. The CNT founded Confesin<sup>145</sup>, a group that resumed calling and organizing national protests, "to recuperate the social mobilization headed by the workers" (*Declaración del Encuentro Sindical de Puente Alto* February, 1984). At this meeting it was agreed to re-evaluate the movement after the first national protest of the year, called for March 27<sup>th</sup>, and to begin preparing for a national general strike, without yet agreeing to a date for the action (Ibid).

Labor organizing stepped up in the period before this protest. A big labor and *pobladores* leadership meeting in Santa Rosa drew 1,500 organizers. An anniversary commemoration for the founding of the CUT drew a larger than expected crowd. A solidarity rally and march of bank and

<sup>144</sup> See: Carta de la Alianza Democrática a los Comandantes en Jefes del Ejército, Armada, Fuerza Aérea y General Director de Carabineros December 1984; Mensaje al país de Gabriel Valdés September 16, 1985 in Valdés (1986).

<sup>145</sup> *Consejo de Confederaciones, Federaciones y Sindicatos Nacionales*

copper workers against privatization saw thousands of workers attend. In the public sector, Committees for the Defense of State Enterprises were set up at numerous sites, including the national airline (LAN Chile), the state railway company (FFCC Chile), the national telecommunications company (Entel) and others. At its National Congress, the CTC re-elected Seguel as its leader, affirming his political stance (de la Maza and Garcés 1985: 49-52).

In the weeks and days leading up to the resumption of National Protests, regime violence escalated dramatically. The Santa Rosa meeting was broken up by *carabineros* with 3 wounded and 12 arrested. The state made use of the new anti-protest law powers of preventative detention and “relegation”<sup>146</sup>. At a protest against a Pinochet visit to Punta Arenas, petroleum workers’ leader and CNT VP José Ruiz di Giorgio was arrested. At a march demanding his release, CNS leaders Sergio Troncoso and Bustos were arrested. As the protest approached, the government declared a “state of emergency” and put the capital and other large cities under curfew (Ibid).

Notwithstanding this increasingly repressive atmosphere, organizing by political parties, and other social groups and opposition movements, accelerated in this period. The left was even able to make public appearances despite government attempts at control. In February, 1984, the MDP had its First National Assembly, and in March the BS held its first public act, an homage to Salvador Allende (Ibid). Even more surprisingly, in March the Communist Party held a public national conference in Santiago, its first public meeting of the dictatorship era (Ibid; Camargo 2013: 172). Many of these attempts faced violence, but renovated Socialists were particularly targeted. The homage to Allende was broken up and 24 Socialists in the AD were arrested at a meeting at the Santiago Montessori School (Ibid). The PDC held open assembly “town hall” meetings- *cabildos*- across the country with implicit cooperation from the MDP.

The women’s movement held a large rally and protest on International Women’s Day, March 8<sup>th</sup>, which was violently broken up. Conflict with the Catholic Church sharpened after a group of MIR militants were given asylum at the Vatican’s diplomatic mission (Ibid). Insurrectionary activity by armed groups also increased markedly in this period, a trend that continued throughout 1984. Beyond the MIR, the FPMR, the armed guerilla group formed by the Communist Party, began to carry out significantly more armed attacks, including shootings and bombings. Detentions, relegations, military and police operations against armed militants and state violence in the shantytowns spiked in the days immediately before the March, 1984, protest (Ibid).

The eighth National Protest on March 27<sup>th</sup>, 1984, had the largest amount of labor support and the greatest number of political and social groups backing it thus far (de la Maza and Garcés 1985: 54-56). Called by the CNT, the call was echoed by the Cepch, UDT, FUT, CNS as well as the organizations of truckers, taxi drivers, collective transport vehicles (*colectivos*), commercial merchants (small businesses) and educators (Ibid). It also received the support of the AD, BS and MDP. In addition, many shantytown groups were on board, and many student organizations were involved with a massive student strike that day (Ibid). Because of the large number of unofficial strikes and work stoppages, the absence of transportation, the blocking of many main arteries, the large amount of students missing from school, and the shutdown of many small commercial establishments, this day was dubbed a “*paralización sin paro*” or “paralysis without a strike” (*Apsi* April 3-9, 1984 N. 140). According to *carabinero* statistics a majority of students did not go to school, and by the afternoon a transportation and commercial shut down was “nearly total” (Ibid). Moreover, the construction, banking and metallurgy sectors were significantly affected. For the first time, a noteworthy percentage of the industrial capacity of the capital was shut down (de la

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<sup>146</sup> This is the legal term used for sending those arrested to distant locales for their detention or ‘internal exile’.



Maza and Garcés 1985: 54-56). In shop and transport closures and the *cacerolazos* that evening broad and deep middle class support was evident (Ibid). Major professional group participation (lawyers, doctors, teachers, accountants and clergy) attested to this cross-class nature (Ibid).

Faced with the largest protests since the previous August, and the action with the greatest economic impact, one key measure of labor threat, the government again attempted a “repress and divide” strategy. Repression was especially prominent in poor areas of Santiago. Concessions were aimed at the middle class (Ibid). In terms of repression, 7 were killed and 638 arrested. Yet, this was almost exclusively in shantytowns, while protests in middle class areas were met with much less violence than before, particularly leading to the protest (*Apsi* April 3-9, 1984 N. 140: 2-6).

Limited political concessions offered in the *apertura* had proven ineffective in pacifying any major part of the opposition. The government moved to a strategy of dividing the opposition through economic concessions. This involved specific policies directed at parts of the middle and professional classes and *gremios*. More dramatically, just days after the protests the government changed the whole economic team. The Junta appointed new Economy and Finance Ministers<sup>147</sup> who dissented from the “Chicago Boys” line, at the behest of internal and external business critics of the orthodox neoliberals (de la Maza and Garcés 1985: 54-56; Camargo 2013: 185). Still, the regime insisted unequivocally in the institutionality of the 1980 Constitution.<sup>148</sup>

Reinforced by the success of this protest, the debate within the CNT focused all the more intently on the conditions and a possible date to call for a national general strike (de la Maza and Garcés 1985: 55). Immediately, however, the labor opposition began organizing for May 1<sup>st</sup>. That day they presented an important document to the government, the *Pliego Nacional*. It was the largest May Day rally during the dictatorship and attracted 250,000 people to O’Higgins Park (*La Tercera* May 2, 1984; de la Maza and Garcés 1985: 57-58). The *Pliego* demanded an immediate return to democracy and the derogation of the Labor Plan (*Análisis* May 8-22, 1984 N. 81: 20).

At its April leadership meeting, the CNT had agreed to call a general strike in 90 days, and also called another national protest for May 11<sup>th</sup>, the anniversary of the first National Protest. On April 12<sup>th</sup> a student strike attained 70% participation nationally (*El Mercurio* April 13, 1984). The labor opposition at this point, however, was mixing calls for a general strike and big protests with proposals for dialogue with the regime which they had ardently rejected the year before.

This was seen in the *Comisión Patriótica de Reconciliación Nacional* and the call for a *Mesa de Concertación Social* (de la Maza and Garcés 1985: 58). When asked why they were supporting dialogue when the year before they called the AD’s dialogue with Jarpa the reason for demobilization, CNT leader Seguel answered, “OK, it was the Alliance that went to the dialogue and demobilized everything. Now we put certain conditions to go to dialogue but we believe that for there to be a change in Chile you have to talk to someone” (*Apsi* April 3-9, 1984: 6-7).

Di Giorgio argued a “concertation” was necessary for the broad national unity that would make the general strike possible (Araya 2014: 21). He also suggested the political parties had to play a key role, “We the workers have had, in good measure, a monopoly on the convocations of social mobilizations, we believe that the moment has arrived to share in this responsibility” (*Solidaridad* May 18-31: 18-19). Speaking at the May 11<sup>th</sup> protest he was clear: “we the workers are asking today, to the political organizations fundamentally, that this effort that the union movement has made... is assumed by the political parties” (Ibid).

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<sup>147</sup> Modesto Collados and Luis Escobar Cerda

<sup>148</sup> See, for example, quotes from Sergio Jarpa in *El Mercurio* March 28, 1984.

This ambiguity was closely related to political divisions in the party opposition. The PDC refused any formal political unity with the [MDP] left (Araya 2014: 21-22). Partisan disunity was transmitted to the labor movement somewhat, as links with political parties became more important as they redeveloped in 1983-1984. This delayed organization of a general strike (Ibid). The most salient labor split in this sense was within the PDC. At a PDC Union Congress June 22-24, 1984, tensions came to a head between those closer to the CNT leadership (Bustos, Seguel and Di Giorgio) and those linked to the UDT (Ríos and Vogel most prominently). The former defended opposition unity without exclusion. The latter advocated partisan/ideological union centrals, rejecting collaboration with the Communist Party (Ibid).

At the congress, the anti-Marxist group closer to political party leadership won the day. The influence of the AFL-CIO and US government on the UDT was crucial. It continued to influence their and the party's anti-communist line (Ibid; Angell 1995: 198).

The CNT split over the issue. A reorganization expanded the CNT Executive Committee from 25 to 31 members and integrated leaders linked to the left. The UDT accused the organization of being run by communists and the CNS (Araya 2014: 22). The UDT withdrew from the CNT to form the *Central Democrática de Trabajadores* (CDT). (*Análisis* July 17-August 31, 1984). This group got \$856,000 from the US National Endowment for Democracy 1984-1988 (Angell 1995: 198). This reflected growing PDC contacts with the US in the mid-1980s.

PDC leadership also reiterated its anti-communist line. They embarked on a strategy of broadening the alliance through reaching out to civilian political sectors of the right, in particular the recently re-founded National Party (PN) associated with Sergio Jarpa (*La Tercera* March 2, 1984: 14). Encouraged by Archbishop Fresno, PDC leader Valdés put out a public call for accords with any "political forces that aspire to democracy" (*La Tercera* April 21, 1984: 11). This attempt was deemed a failure after a few months (de la Maza and Garcés 1985: 60). Still, the effort caused tension within the alliance and ultimately led to the reorganization of the AD and its system of rotating party presidents (*El Mercurio* June 12, 1984).

These months of 1984 also saw further escalation of regime repression. From the March 27<sup>th</sup> protests there was press censorship, harassment and a new media law<sup>149</sup>. Arrests, waning in prior years, increased sharply (de la Maza and Garcés 1985: 58-64; 101-102). Opposition publications *Hoy*, *Análisis*, *Apsi*, *Cauce* and youth culture magazine *La Bicicleta* were censored. The head of *Análisis* was detained.<sup>150</sup> Opposition radio station *Radio Cooperativa* was closed or censored on numerous occasions (Ibid). The government also began cracking down harder on the public appearances of the hard left. Several MDP leaders were sent to jail or internal exile (Ibid). Finally, a series of military and police operations were carried out against the armed left sectors from April-August, amidst a steady toll of attacks from these groups, principally the FPMR and the MIR (Ibid). Many militants of left organizations were killed in in what the government termed "armed confrontations" but that were either suspected or later proved to be attacks against unarmed

<sup>149</sup> The "Ley de Abusos de Publicidad" or the "Law on Abuses of Advertising", dictated in May, 1984.

<sup>150</sup> The publications often still went to press, but without the material denied permission by the government, which led to other ways of expressing dissent, as in the September 12-18 issue (N. 22) of *Revista Cauce* which had a blank box on the cover captioned "His Excellency Captain General Augusto Pinochet Ugarte, who completes 11 years in command of the country" with the text "(Note: His image disappears by the express order of the Chief of the Zone in the State of Emergency Metropolitan Region and Province of San Antonio, major general René Vidal Basauri.)" The issue is available at: <http://www.saladehistoria.com/Revistas/Cauce/pdf/Cauce022.pdf>

suspects on the basis of political affiliation (Ibid). This revived tactic culminated with 10 killings in one day. With acts from the early dictatorship like summary executions of political opponents on the rise Pinochet threatened to unleash a “new September 11<sup>th</sup>”<sup>151</sup> (*El País* August 21, 1984).

These factors led to a decline of opposition unity. The CNT’s “Mesa” failed as the PDC would not join it. Opposition labor unity was fractured by the UDT-CDT break. The AD lowered its profile markedly as the Socialists and PDC disagreed on how to broaden the alliance. The PDC-PN dialogue did not bear fruit. The state forced MDP leadership semi-underground (de la Maza and Garcés 1985: 58-64; 101-102). The armed left had a spike in actions, but was effectively countered by a state counterinsurgency campaign under the national security doctrine (Ibid).

Opposition activity from April-August, 1984, was divided. There were MDP and left-called actions that gained support in shantytowns, with students and among left sections of labor and social movements, but were not as massive as previous actions, and Catholic Church led human rights protests that gained major middle class and centrist support but did not threaten the regime (Ibid). The key event of the latter type was the August 9<sup>th</sup> “Day For Life” led by the Church and supported by human rights groups and prominent independent figures (*Análisis* July 31-August 4, 1984 N. 87: 9-11). Participation spanned the political, class and geographical spectrum. Though it did little to stop heightened repression or spiraling violence, it served as a re-initiation of attempts at opposition unity and protest (*Apsi* August 14-27, 1984: 4).

Tensions inside the government were growing as well. Labor Minister Gálvez, brought in ostensibly to ease tensions with labor and to reform “excesses” in the Labor Plan, was stymied by internal opposition (Álvarez 2011: 111). A polemic escalated in February, 1984, and the reforms the Labor Minister proposed were put off again for several months. Frustrated, in early August Gálvez went public with his criticisms of divisions within the government on the issue and his position in favor of sectoral-level collective bargaining (*La Segunda* August 6, 1984). This set off a fierce public polemic. Finally, Pinochet himself publicly rejected reforms, upholding firm-level bargaining and voluntary affiliation and union dues (*La Segunda* August 30, 1984: 2).

All other paths appeared closed and the regime unmovable. The badly divided opposition coalesced on returning to the strategy of national protests. The CNT continued to propose a strategy of social mobilization<sup>152</sup> combined with a general strike, on the basis of the broadest possible opposition unity (*Análisis* July 31-August 4, 1984 N. 87: 4-8). Bustos argued “you will never know how much you will move the people against it [the dictatorship] until someone convokes them to confront it” (Ibid). Even in the face of decreased labor unity, increased oppression and disorganization in the political opposition, labor pushed for a “protest-strike” in September, 1984. The AD, including the PDC, was ultimately persuaded by these calls in the face of the failures of dialogue with the government and with the “democratic right” (*Análisis* August 28-September 2, 1984 N. 88: 7-8). So, the AD formally made the call for a 10<sup>th</sup> National Protest September 4<sup>th</sup> and 5<sup>th</sup> that included a national strike the second day. The main organizing slogan was “without protest there are no changes” (*Análisis* August 14-August 28, 1984 N. 88: 9-11).

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<sup>151</sup> In reference to the day of the coup in 1973. The threat was made at a speech in San Carlos in anticipation of the 10th national protest that had been called for early September, 1984.

<sup>152</sup> It is important to note the distinctions in emphasis within the CNT, as well as the divisions in the larger opposition labor movement with the UDT and the recently created MSU (Movement for Union Unity). The “Foro Sindical” (Union Forum) in this issue of *Análisis* gives a good indication of these subtleties in the labor movement at this key juncture, just before the first “protesta-paro”, or organized attempt at a protest with a strike component, was called.

The call generated a surprising unity, spurred in part by Pinochet's hardline inflexibility. This was expressed most clearly in an interview that ruled out any real political alterations (*The New York Times* August 8, 1984). The call quickly got support from the BS, MDP and CNT. With the AD, they formed the National Protest Command (CNP) (de la Maza and Garcés 1985: 65-67). The idea was to have protests and marches the first day and a general strike on September 5<sup>th</sup> (*Cauce* September 3-9, 1984 N. 21: 4-6). The perspective had changed from making political agreements in order to protest, to the idea that "through the path of mobilization you can advance better understandings" (*Análisis* August 28- September 2, 1984 N. 89: 5). Of course, unity in protest still came with much tension, predominantly centered on the PDC's at times harsh anti-Communist Party line. A key example was when PDC leader Zaldívar told the press on August 25<sup>th</sup> that the PDC "has nothing to do with communists... has never accepted and would not accept a pact with them" and would never co-govern with the PC in coalition (*El País* August 26, 1984).

The 10<sup>th</sup> national protests September 4-5 were among the largest of the dictatorship. They were the first to include an explicit call for a general strike in all sectors: productive, commercial, transport and student. Participation extended across classes, the opposition political spectrum and the geography of Chile (*Análisis* September 11-25, 1984 N. 90: 4-7). Crowds were large across Santiago, with a particular mass turnout of students, including in the days leading to the protest, and heightened participation and militancy in the shantytowns, despite, or perhaps because of, harsh violence unleashed on them (*Apsi* August 14-27, 1984 N. 152: 4-6).

The 4<sup>th</sup> also saw the assassination of popular French-Chilean priest André Jarlan, shot at his home in the *población* of La Victoria (*Apsi* August 14-27, 1984 N. 152). Like in March, the afternoon and evening of the first day of the protest saw a dramatic shut down of economic and social activity. Similar numbers of students and workers participated as in the March action (de la Maza and Garcés 1985: 66-67). Confrontations with police and military, barricades and blockades of major transportation arteries in the periphery were greater than March. The number of student occupations that ended in dramatic confrontations also increased (Ibid). A student and a CNI agent were killed, and 400 people were arrested, in an occupation and eviction at the University of Atacama. Some 12 people were killed during these two days of protest (Ibid). Crucially, this first attempt at a *paro-protesta* came at a time when many thought that "unions were neutralized" as a *New York Times* article put it (*New York Times* August 26, 1984).<sup>153</sup>

The time between the 10<sup>th</sup> and 11<sup>th</sup> national protests, the last of the 1983-1984 sequence, was one of heightened political activity, confrontation and polarization. Among the most notable actions of the time was the reestablishment and free elections of the Chilean Students Federation, the occupation of the ILO office, a hunger strike by fired copper workers, and new occupations of land in Puente Alto and San Luis (de la Maza and Garcés 1985: 68-69). Stepped up repression in this time included mass expulsions of students, mass arrests in shantytowns, relegating protest organizers to internal exile, and the violent dispersal of protests, especially in the shantytowns. One infamous incident included the deaths of two small children on October 9<sup>th</sup>, 1984 (Ibid). Finally, relations between the government and Catholic Church reached a nadir as agents of the

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<sup>153</sup> The *New York Times* (August 26, 1984): "General Pinochet has largely neutralized the nation's militant unions by firing thousands of protesting strikers last year and by jailing union leaders such as Rodolfo Seguel, a young firebrand from the powerful copper workers.... Seguel is a faded presence and the rank and file are deaf today to strike calls."

state<sup>154</sup> dynamited the church in the parish of Punta Arenas (*Apsi* October 15-28, 1984:12-13; *Análisis* October 23-November 6, 1984: 19-22).

Increasingly bloody repression led to a steep public image decline internationally (*Análisis* September 24-October 8, 1984: 42). Tensions with France over Jarlán's assassination and with the US over the ascent of the hard left came to the fore (*Análisis* September 24-October 8, 1984: 40-41; *Cauce* September 17-24, 1984: 4-6). A series of peso devaluations culminated in October with another price spike for many basic goods (Morandé and Tapia 2002). This led to an October 10<sup>th</sup> protest against rising prices<sup>155</sup> (*Análisis* October 9-23, 1984: 4-6).

On October 4<sup>th</sup> the CNT, at its national leadership assembly, called for the 11<sup>th</sup> National Protest and a general strike for October 30<sup>th</sup>. They warned "the Military Regime has brought the country to a situation that threatens to explode with violence" (*Análisis* October 9-23, 1984: 11-13).<sup>156</sup> The MDP and the BS called for a national protest the day prior, and the CNT joined that call, transforming October 29<sup>th</sup> and 30<sup>th</sup> into a protest-general strike. Meanwhile, the AD only pronounced a tepid "solidarity" with the call, and the UDT came out in opposition to the general strike (*Análisis* October 23-November 6, 1984: 4-6). The general strike call was said to be "born weak" but gained strength during a tense October (Ibid). Dramatic events included the protest on the 10<sup>th</sup>, an announcement from the FPMR promising escalation, followed by an "apagón" or attack on power infrastructure that left the capital and seven regions of the country in darkness the 16<sup>th</sup>, and mass arrests with hundreds sent into internal exile in Pisagua in late October (Ibid). In another escalation, one key new feature of the general strike call was that it was "prorrogable" or could be extended beyond one day depending on "how the government reacts; the level of repression it deploys" (José Ruiz Di Giorgio quoted in *Cauce* October 29-November 5, 1984: 13).

The 11<sup>th</sup> national protest on October 29<sup>th</sup>, 1984, saw another massive turnout. Crucially, despite the heavy police and military presence and constant threats and repression leading up to the day, there was less state violence than previous protests and no deaths (de la Maza and Garcés 1985: 70-72). All media were, however, banned from reporting on the protests. That night on national television, Pinochet rejected all opposition demands and threatened to further harden the regime. He insisted on the maintenance of the Constitution of 1980, including its transitory articles and transition timetable, rejected further dialogue with the opposition, and threatened to institute a state of siege and martial law (*Cauce* November 6-12, 1984: 4-7). This, however, only served to drive opposition unity and participation in the *Paro Nacional* on the 30<sup>th</sup> (Ibid).

The general strike on October 30<sup>th</sup> was a "definitive success" (*Análisis* November 6-13, 1984: 25). The opposition movement "reached its highest level of actualization" with broad support across class and geography (de la Maza and Garcés 1985: 70). The call asked professional

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<sup>154</sup> At the time it appeared the work of the far-right group ACHA (Chilean Anticommunist Action) but later revelations indicated military and intelligence agents were directly involved and ACHA was a planned cover story.

<sup>155</sup> The *Comité Contra las Alzas*, which called for the protest, had representatives from the women's movement, the CNT, the three major shantytown protest organizations and several prominent independent opposition figures. They "demand[ed] of the Government an immediate readjustment of wages for all the workers of the country, including pensioners and the retired, starting from September 18th, of 100% of the increase in the cost of living produced from August 1981 and the date in which it is made effective; the establishment of an automatic readjustment mechanism; the installation of a minimum wage of 1,200 pesos [monthly] and the fixing of prices of a popular basket [of goods]" (call to protest published by the Committee Against the Increases quoted in *Análisis* October 9-23, 1984 N. 92: 12).

<sup>156</sup> They demanded: an economic emergency plan; a 1,200 peso minimum wage; a basic goods price freeze; dissolution of the CNI; end of the dictatorship; appointment of a provisional government and a constituent assembly (Ibid).

and commercial organizations, transport workers, *pobladores*, and students to participate in the strike “in the form that their organizations determine” (*Cauce* October 23-29, 1984: 61).

From before dawn, especially in the shantytowns, roads were blocked by barricades and protest lines. From early in the morning collective transportation was also at a standstill, as most *micros* (local buses) and *colectivos* (fixed-route collective taxis) did not work (*Análisis* November 6-13, 1984: 25-28). Schools were largely empty, commercial strips mostly closed, traffic almost absent. Milk and gas trucks did not deliver, even in wealthy neighborhoods (*Ibid*). The leader of the truckers’ *gremio*, Adolfo Quinteros, who had publicly opposed the strike, recognized by mid-morning that the stoppage of trucks was “one hundred percent across the whole country” (*Ibid*). Crucially, in industrial areas of Santiago like Maipú many factories did not open (*Ibid*). The situation was similar in key provincial cities Arica, Iquique, Antofagasta, La Serena, Valparaíso, Rancagua, Concepción, Temuco, Valdivia, Osorno, Puerto Montt and Punta Arenas (*Ibid*).

The national police gave their own estimates to *El Mercurio* on October 31<sup>st</sup>: 82.8% absence of university students, 76.8% in the secondary schools and 71% in the primary schools; 78.7% of urban and 52.7% of rural collective transport shut down. Only 54% of industrial workers went in (*Ibid*). The work stoppage was even greater according to labor and the opposition press. Up to 80% in metallurgy, construction and garment industries, 70% in textiles, 80% in printing, 50% in banking and nearly total in baking, restaurants and hotels (*Análisis* November 6-13, 1984: 25-28). One police General said, “the impression [is] that the strike has been a success” (*Mensaje* November 1984: 560). The summation of the opposition periodical *Análisis* (November 6-13, 1984: 25-26) was an apt characterization of the importance of the day:

overcoming the thousand obstacles imposed by the government, the prior repression, the threats, the disinformation; overcoming the criticisms of the UDT, and even the skepticism of some opposition political leaders (the AD backed but did not actively support as an organization), the convocation of the National Workers Command achieved what for many appeared impossible: it made real the first General Strike in eleven years of Dictatorship.

At a press conference that evening CNT leader Rodolfo Seguel sent a message to the divided opposition parties: “From today we will demand of the political forces that they unite” (*Análisis* November 6-13, 1984: 28). The CNT Vice President José Ruiz Di Giorgio added in an interview that Pinochet “should go” (*Análisis* November 6-13, 1984: 29).

The day of the strike the government stepped up its violence. Ten deaths, 54 civilians wounded, mostly by gunshots, 435 arrested and 135 relegated to Pisagua were reported (*Análisis* November 6-13, 1984: 27). After this strike, state repression escalated further.

This dynamic accelerated processes of political polarization for and against the dictatorship and opposition unity in social mobilization and protest to defeat the regime and push for a return to democracy (*Cauce* November 6-12, 1984: 4-7). Student elections to the FECH, in which a unified AD-BS-MDP opposition block beat the officialist list, the October 29<sup>th</sup> Pinochet speech in Viña del Mar closing off hopes of dialogue and the success of the strike all contributed to this acceleration. Pinochet stated: “the government will not promote any dialogue with the opposition nor accept any initiative that means modifying the itinerary fixed in the Constitution” (*Ibid*).

The most important result was the early November signing of a Constitutional Pact. This was an agreement among the parties of the AD, BS and MDP (excluding the MIR) on the future form of a democratic-republican state. New Socialist Party AD head Ricardo Lagos was much

more disposed to broad opposition unity including the left than prior PDC leadership. Lagos also emphasized, “there is no dialogue possible with Pinochet who continues to cling to the letter of a constitution that nobody accepts” (Ibid). Yet, despite intense efforts by the PDC, Social Democrats and AD, moderate right groups<sup>157</sup> did not sign the Pact.

A related outcome of the protest-strike was the increasing prominence of the left and its growing integration into a broader and more radicalized opposition unity (de la Maza and Garcés 1985: 70). This factor was a particular concern to the US Government, and the greatest source of tension with the regime (Constable and Valenzuela 1991: 290; Morley and McGillion 2006: 7). Morley and McGillion (2006: 2) show based upon declassified US government documents that “It was the emergence of social movements (across the social spectrum of class, occupation and political persuasion) posing a direct political challenge to the regime in 1983-1984,” and the “subsequent radicalization of the leadership of these movements and their forms of struggle, that forced Washington to rethink its approach and push for a speedy end to military rule.” Of course, this was premised on “two vital” concerns: the nature of the regime that replaced the military in power and “survival of key institutions of the... Chilean state” (Morley and McGillion 2006: 1). That is, the Reagan administration and US government supported a transition to democracy

To the extent that the incoming government did not portend a challenge to existing constitutional and economic arrangements, and... that the ‘old’ military – the perceived ultimate guarantor against any kind of radical transformation- was in a position to survive the transition with its power and prerogatives intact.

US displeasure grew after the repression of the strike with State Department “demands” that the regime show a willingness to transition to democracy (*Cauce* November 6-12, 1984: 4).

For this very reason, rumors had been circulating in Chile that the regime was waiting until after Reagan’s re-election November 6<sup>th</sup> to declare a state of siege (*Cauce* October 23-29, 1984: 4; *Análisis* November 6-13, 1984: 12). Indeed, the very day of the US election Pinochet declared a state of siege and re-imposed the harshest security measures of the dictatorship. Santiago was put under nightly curfew, the opposition periodicals were shut down, total press censorship returned, and the right to gather without state permission was again rescinded.

The headquarters of the AD, MDP, BS, CNT, Miners Confederation, Construction Confederation and the three main *campesino* confederations were broken into, robbed and destroyed. National and local labor leaders were among the arrested. The regime initiated massive military and police invasions and roundups, particularly targeting shantytown centers of opposition actions (*Mensaje* November 1984: 561-562; Tovar 1999: 9). Infamously, these sent thousands of *pobladores* to mass detentions at Santiago stadiums, an echo of the early days of the regime. Up to 4,000, all males age 15 and older, were sent from La Victoria to the Estadio Ferroviario Hugo Arqueros Rodríguez November 15<sup>th</sup>, 1984 (*Mensaje* November 1984: 561-562; *El País* November 17, 1984). The Chilean Human Rights Commission noted 12,929 detentions in Santiago the first month of the state of siege (Aylwin 1998: 276). On November 15<sup>th</sup> the regime was harshly criticized at an OAS meeting in Brasilia by Latin American states for a spike in torture reports (*El País* November 17, 1984). This added to protests by European embassies in Chile: Spain, Belgium, the Netherlands and France (*Cauce* November 6-12, 1984: 4). Despite a rapidly deteriorating

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<sup>157</sup> The AD under Social Democrat leader Mario Sharpe had negotiated with the National Party (PN) and National Democratic Party (PADENA) to sign the Constitutional Pact up until the last minute.

international situation, the state of siege and repression achieved their aim. The cycle of National Protests was broken for nearly a year. Another general strike attempt did not occur until 1986.

The day the state of siege began, Minister Gálvez resigned. In December labor reforms were enacted.<sup>158</sup> It was the last Junta debate on major changes to The Plan (Álvarez 2011: 112).

### **Part III: Stabilization (1985-1987)**

Despite the costs and risks associated with the harsh state violence that broke a labor-led opposition upsurge, by 1985 the military had started to stabilize its political-economic situation. The financial, and, more slowly, the economic crises were abated by major state intervention in distinction to the ideological and theoretical commitments of the orthodox neoliberals who had been previously dominant in economic policy making. A new “pragmatic neoliberalism” served to mollify important opposition tendencies in the middle classes and some business sectors. The heavy repression divided the opposition, spread fear, deterred threatening labor direct actions, and bought time for the economic cycle to turn after a severe downturn.

The state faced growing armed insurgency until 1986. Yet, it successfully subdued it via a counter-insurgency strategy. As each threat- economic crisis, general strikes, armed insurgency- was surmounted, the “peaceful” opposition movement centered more and more on the political parties, and the political parties moved towards negotiations within state institutions. The violence needed to repress the threats, the risks of a failed reliance on state violence, and the attendant fear of the hard left coming to power through insurrection motivated the US government. The Reagan Administration moved from supporting the military regime to backing transition negotiations. The strategy was that such a transition would leave conservative sectors of the PDC in power. They, in turn, would safeguard key US interests. Labor, increasingly reincorporated into partisanship, presented no threat to a coalition of opposition political parties.

#### **Labor, the US, and the Reactivation of the Protest Movement (1985)**

In January, 1985, the US State Department began drafting a new approach to Chile. A first major objective was to lift the state of siege (Morley and McGillion 2006: 9-10). Despite subtle efforts, the state of siege was renewed for 90 days on its expiry in February, 1985 (*Decreto* 138 February 12, 1985). The US feared what they called a “Cuban” or “Nicaraguan” resolution to the conflict. This meant the “middle disappears” and an anti-imperialist hard left assumes leadership of an anti-dictatorship struggle, enabling them to “capture the transition process” and thus to effect the character of a successor regime (State Department Report “Chile: Political Overview” November 23, 1984). As the US worried, the MDP, PC and FPMR gained strength in this period. State violence was brutal under the state of siege in early 1985. Labor was once again a particular target of regime attention after the General Strike of the previous year. The educators’ guild (AGECH) and the copper workers saw dozens of arrests, relegations, break-ins at offices, and they were denied permission for meetings and assemblies (ILO Report 239 June 1985). The student movement was also targeted. One particularly notorious incident was the February 9<sup>th</sup> mass arrest of 178 students and the death of one. The students violated the state of siege doing traditional

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<sup>158</sup> Some Gálvez proposals were included: an indemnity of 1 month’s pay per year worked for all dismissals; 10-hour days; and a minimum wage for minors (*Ley* 18.372: *Diario Oficial de la República de Chile*, December 12, 1984).



university break volunteer work in rural San Felipe. Government spokesman Francisco Cuadra warned, "They should understand the state of siege is not a game" (*El País* February 10, 1985).

During the state of siege, two attempts were made to call national protests. Both failed due to lack of opposition unity. In November 1984, the AD attempted to call a national protest without the support or coordination of the MDP, which had low turnout. Then, on March 27<sup>th</sup>, 1985, the same happened in reverse. An MDP national protest and strike call failed to generate significant adhesion (Quiroga 1998: 53). In addition to the force of repression, these instances clearly showed the key role of opposition unity in the National Protests (Ibid).

Repression against the opposition, particularly the labor opposition, grew even fiercer in the second quarter of 1985. Sergio Jarpa resigned in February 1985, signaling the final failure of *apertura* type dialogues. The state began to rely ever more heavily on violence (Huneus 2000: 532-534). An institutional mechanism of hardening was the creation, by the Director General of the national police, of a secret squad of anti-terrorist police dedicated to eliminating armed opposition groups. The DICOMCAR<sup>159</sup> targeted all political opposition. It also targeted specific geographic parts of Santiago where the left was strong. It conducted a nearly indiscriminate campaign of state terror. Its objective was to instill fear in the population (Huneus 2000: 534-5). One of its early, most infamous deeds was the case of *los degollados*.<sup>160</sup> Three educators, two AGECH secondary teachers and a sociologist in the Solidarity Vicariate, were disappeared on March 27<sup>th</sup>, 1985. Their bodies were found on a public road in Quilicura on March 30<sup>th</sup>. All three were public opposition organizers and members of the PC (*Hoy* August 11-15, 1985). Another event was the mass arrest of 200 people at a meeting at *Chilectra* union headquarters, where multiple CNT and CNS leaders were detained (ILO Report 239 June 1985).

On May 6<sup>th</sup>, 1985, the state of siege was renewed (*Decreto* 571 May 6, 1985). It was not lifted until June 17<sup>th</sup> (*El Mercurio* June 17, 1985). One clear dynamic during the state of siege was its significant effect on the moderate opposition. Their organizations and activities were nearly all public, precisely the gatherings banned by the emergency measures (Rojas 2011: 38).

Conversely, "it was in this period of the state of siege and in all of 1985 that the political and military structures of the PC most advanced and strengthened" (Rojas 2011: 39). Negotiation and peaceful transition appeared remote and state brutality escalated. Armed opposition played an ever more important role, the outcome the US feared (Valdivia, Álvarez and Pinto 2006: 48). In a January Plenum<sup>161</sup> of its Central Committee, the PC adopted a strategic "National Revolt Plan" to overthrow the military regime via an insurrectionary uprising of the masses.<sup>162</sup> This marked the first time a policy of "popular revolt of the masses" prevailed, and PC military-political strategy included a detailed strategic plan for its achievement. From January 1985, onwards, the PC set up three institutional mechanisms to carry it out. The TMM<sup>163</sup> trained and armed shantytown dwellers

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<sup>159</sup> *Dirección de Comunicaciones de Carabineros* or Carabineros Communications Directorate

<sup>160</sup> The Beheaded. The three were found with their throats cut nearly entirely.

<sup>161</sup> Though the document is known as the *pleno de enero de 1985* the meeting was actually held in December, 1984.

<sup>162</sup> "Plan de la Sublevación Nacional" in "Informe al pleno del Comité Central del Partido Comunista de Chile, enero de 1985" in *Hacia el XV Congreso Nacional. Documentos para el enriquecimiento del debate*. P. 118.

<sup>163</sup> The Military Task of the Masses or *Trabajo Militar de las Masas*.

to resist state incursions. The THE<sup>164</sup> was a propaganda effort aimed at rank-and-file armed forces members. The FPMR<sup>165</sup> was an urban guerilla force (Rojas 2011: 19). So, “from the beginning of 1985 until July of 1986, the guerilla campaign led by the Communist Party and the FPMR reached its highest level and greatest potential to overthrow the dictatorship” (Rojas 2011: 5).

In this context US alarm at the government’s repression-heavy strategy began to escalate. The US began to pressure Pinochet to end the state of siege and negotiate a managed transition with the moderate opposition. Loans for Chile in multilateral lending institutions in which the US had great influence were delayed. As the dictatorship lifted the state of siege in mid-June, loans were released (*Wall Street Journal* July 1, 1985: 16; Morley and McGillion 2006: 12).

As insurrectionary opposition grew, labor opposition was largely demobilized in the first half of 1985. New Labor Minister Alfonso Márquez de la Plata was minister until 1988. He did not meet moderate opposition labor leaders and offered no major reforms.<sup>166</sup> He did meet officialist labor and business group leaders (Álvarez 2011: 113). Repression impeded legal union organizing. The number of strikes under the Labor Plan had decreased each year. It rose in the tumult of 1983-1984, then started falling again (Frías 1993: 40 Table 2.4)<sup>167</sup>. Labor’s political strength had been magnified by the National Protests and its high profile as opposition leader. But, it had experienced noteworthy weakening in its internal strength and base-level organization.

The CNT and other labor groups spent much of 1985 working on this. A First Organizing Meeting was called by the CNT July 11-14, 1985. There, the CNT created regional commands and established a series of departments of work areas. Debates centered on internal democratization of the movement and plans to revive a general strike (Frías 1993: 38; Araya 2014: 23).

Crucially, the CNT reaffirmed its strategic orientation. It neither sought a negotiated pact with the regime nor supported the use of armed force to overthrow it. The event declaration read: “the recuperation of democracy and freedom will not be achieved via useless conciliatory dialogues with the regime nor via terrorist violence, which are not paths that we, the workers, accept” (*Definiciones y políticas para el Comando Nacional de Trabajadores* July 14, 1985).

The regime was advancing plans for its own preferred method of transition, that laid out in the 1980 Constitution, in response to US and internal pressure. Just one day after the state of siege was lifted, the Junta met to debate the TRICEL<sup>168</sup> law, first approved on July 16<sup>th</sup>, 1985 (Barros 2002: 295-296). This first version of the law went with TD 11 in the Constitution. This meant that the new institution would not go into effect until 60 days before the first parliamentary elections, not scheduled until March of 1990, and well after a regime-run plebiscite (Ibid).

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<sup>164</sup> The Task Towards the Army or *Trabajo Hacia el Ejército*.

<sup>165</sup> *Frente Patriótica Manuel Rodríguez* or Manuel Rodríguez Patriotic Front. All members and leaders were PC.

<sup>166</sup> Márquez was president of the peak agricultural business association, the *Sociedad Nacional de Agricultura* (SNA) in 1973 and played an important role as a coup supporter. During the 1970s he became the President of the Bank of Santiago, and in the early 1980s was on the board of directors of the *Compañía de Cervecerías Unidas* (CCU) and the newly privatized pension fund (AFP) *Provida*. He represented the sector of capital that most directly benefited from state interventions, from subsidies to nationalizations and preferential privatizations (Álvarez 2011: 112-113).

<sup>167</sup> Strikes fell from 68 involving 25,603 workers in the first round of legal collective bargaining in 1979-1980 to a low of 20 strikes and 1,939 workers in 1982-1983, before rebounding to 53 strikes with 4,831 workers in 1983-1984, only to fall once again to 29 strikes with 2,874 workers in 1984-1985 (Frías 1993: 40 Table 2.4).

<sup>168</sup> TRICEL (*Tribunal Calificador de Elecciones*) is the institution in charge of supervising and certifying elections.

Another key effect of US pressure and growing polarization between a repressive regime and a radicalizing opposition at the base was the Catholic Church sponsored *Acuerdo Nacional para la Transición de la Plena Democracia*<sup>169</sup>. Led by Santiago Archbishop Fresno, it was the broadest opposition political and constitutional agreement yet reached. It included six center-right parties and the AD yet excluded the MDP left<sup>170</sup> (Boeninger 1997: 309).

Signed August 25<sup>th</sup>, 1985, it dropped the three key opposition demands, a touchstone.<sup>171</sup> It did not demand Pinochet resign and agreed to the basic parameters of the 1980 Constitution, with reforms to be negotiated with the Junta (Ibid).<sup>172</sup> The CNT supported the plan<sup>173</sup> yet was excluded from a formal role because of “the fear generated by social mobilization in opposition sectors” (Araya 2014: 24). Initially, the government refused to comment on the document (*La Tercera de la Hora* August 26, 1985). On September 3<sup>rd</sup> a statement from the DINACOS<sup>174</sup> rather respectfully valorized that the opposition accepted the Constitution, as opposed to 1983-1984, yet rejected the democracy proposed as too similar to that which led to the UP (*La Segunda* September 3, 1985).

In social movements, revitalized by the end of the state of siege, divisions and tepidness among the political leadership drove a process of “re-autonomization” that began in earnest in August. They again took leadership of the protest movement (Quiroga 1998: 53). Thus, the first National Protest in almost a year was called by the AD for September 4<sup>th</sup> and 5<sup>th</sup>, 1985. After two bombs exploded in downtown Santiago on August 26<sup>th</sup>, the AD attempted to change the call to a permitted rally in order to gather signatures in support of the National Accord (*Cauce* August 27-September 2, 1985). The CNT and the numerous social groups that backed the call, most prominently the guilds, students and shantytown organizations, ignored the AD change of plans. The protests and strikes September 4<sup>th</sup> and 5<sup>th</sup> were once again massive and disruptive. They saw much state violence, from signature gathering at peaceful rallies, to militant, barricaded *poblaciones* (*Análisis* September 10-16, 1985: 4-6). Big strikes hit transportation, commercial, industrial and mining sectors, along with large student strikes. Overall, participation was similar to the previous October for labor (Ibid). What had clearly escalated were more “radicalized” forms of opposition. There were clashes with police and the military at secondary school and university *tomas* across the Santiago and violent confrontations in many *poblaciones* (Ibid).

Newer tactics also came to the fore, including the organized sacking of supermarkets and distribution of their goods, and the formation and deployment of shantytown self-defense groups (Ibid). In these more militant actions, the PC and FPMR were major organized players (Valdivia, Álvarez and Pinto 2006: 58). Around the periphery of Santiago clashes extended until the 6<sup>th</sup>, and

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<sup>169</sup> National Accord for the Transition to Full Democracy

<sup>170</sup> The MDP in fact rejected the Accord. See: *Apsi* September 9-22, 1985 N. 161, Pp. 15-16.

<sup>171</sup> A detailed summary of the four sections of the Accord can be found in Ortega (1992: 286-289).

<sup>172</sup> Published in *El Mercurio* on August 27<sup>th</sup>, 1985. Original text is available at the Centro de Estudios Bicentenario at: [http://www.bicentenariochile.cl/index.php?option=com\\_content&view=article&id=123:acuerdo-nacional-para-la-transicion-a-la-plena-democracia-agosto-de-1985&catid=16:pinochet-y-el-gobierno-militar&Itemid=9](http://www.bicentenariochile.cl/index.php?option=com_content&view=article&id=123:acuerdo-nacional-para-la-transicion-a-la-plena-democracia-agosto-de-1985&catid=16:pinochet-y-el-gobierno-militar&Itemid=9) .

<sup>173</sup> CNT support was announced in “*Declaración del Comando Nacional de Trabajadores*” August 27<sup>th</sup>, 1985.

<sup>174</sup> DINACOS was the *Director de Comunicaciones Nacional* or the National Communications Director. This was the very same government agency tasked with regulating and enforcing press censorship.

resumed on the 11<sup>th</sup>, 1985, the 12<sup>th</sup> anniversary of the coup (Ibid). The PC “military performance” was “the highest seen until now” and the public appearance of its militia and the FPMR were met with significant popular support in the *poblaciones*.<sup>175</sup>

Yet, the PC recognized its labor organizational weakness, especially in the industrial and mining sectors, traditional bastions key to a more economically powerful general strike.<sup>176</sup> This situation brought the relationship between centrist and left oppositions, especially the PDC and PC, to its widest gulf since the PDC joined the opposition in 1977. The left, the MDP, and the PC were gaining increasing influence over radicalizing opposition social mobilizations.

Though not part of the military regime’s plans, the centrist opposition option of contesting the regime through the mechanisms of the 1980 Constitution received a big boost on September 24<sup>th</sup>, 1985. The Constitutional Tribunal ruled 4-3 the *Plebiscito de Sucesión Presidencial*, the 1988 plebiscite on Presidential rule outlined in the 1980 constitution, had to be regulated by a *Tribunal Calificador de Elecciones*, contradicting T.D. 11 of the 1980 Constitution on a key point (Barros 2002: 293). This “most consequential ruling by the Constitutional Tribunal... decisively altered the course of subsequent events and affected the content of all remaining political organic laws” (Ibid). It meant the plebiscite took place in a public and regulated electoral system, unlike the plebiscites of 1978 and 1980. This meant electoral roles, *vocales de mesa*<sup>177</sup>, *escrutinios informados*<sup>178</sup> and observers (Tribunal Constitucional, Sentencia Rol No. 33, *Diario Oficial de la República de Chile*, October 3, 1985). TRICEL oversaw the voter registration system and the vote count. The Tribunal worried “exposing the plebiscite itself to a judgment of legitimacy” would be a “grave prejudice for the normal development of the future institutional order” (Ibid).

The Junta wrote another TRICEL law, corresponding to the tribunal orders, amidst internal divisions, US pressure and another large-scale protest on November 4<sup>th</sup> and 5<sup>th</sup>, 1985 (Quiroga 1998: 53; Barros 2002: 299). CNT leaders were arrested, as in September, for convoking a protest (*Hoy* December 1, 1985). On November 21<sup>st</sup>, a rally of 500,000 people that implicitly had the support of the entire opposition filled O’Higgins Park (*Cauce* November 26-December 2, 1985). This event was the impetus for a broad alliance of social organizations. They united behind a strategy of social mobilizations and opposition unity without exclusions. In its wake were near constant smaller protests and actions led by a wide variety of groups, using a wide variety of tactics. Student, women, human rights, *gremios*, unions, artists, civic, neighborhood groups took part. This ferment, alongside rising armed opposition, fed into a “pre-insurreccional situation” (Quiroga 1998: 53). Opposition unity continued to elude political parties (*Hoy* December 1, 1985). Two deeds at the end of 1985 set the stage for a dramatic culmination of growing unrest. Elliot Abrams, Assistant Secretary of State for Inter-American Affairs, announced a new Reagan administration Chile policy in testimony before the US House of Representatives Foreign Affairs Committee. This meant of a rejection of Pinochet, and support for a democratic transition and center-right opposition groups in the National Accord (Morley and McGillion 2015: 173).

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<sup>175</sup> “Jornadas de Septiembre. Comisión Nacional de Organización, 21 de septiembre de 1985” *Hacia el XV Congreso Nacional. Documentos para el enriquecimiento del debate*. P. 155.

<sup>176</sup> “Jornadas de Septiembre. Comisión Nacional de Organización, 21 de septiembre de 1985” *Hacia el XV Congreso Nacional. Documentos para el enriquecimiento del debate*. P. 153.

<sup>177</sup> Roughly nonpartisan polling station monitors, in Chilean elections voting is done by table then gathered.

<sup>178</sup> Poll watchers who can challenge processes or ballots.

A December document distributed by PC leadership called “La Cuenta Política”<sup>179</sup> declared Chile in “a revolutionary situation”. This meant the “National Revolt Plan” would occur in 1986. The document termed it the “decisive year” (Rojas 2011: 51; 53-54).

The PC viewed the military regime as weak because of “resentments” from “three pillars” that sustained it: “imperialism” (US support); “the internal reaction” (the right was now divided and all parties except the UDI were willing to negotiate with the opposition); and “the armed forces” (as divisions within the Junta had been re-exposed by differing reactions to the National Accord). The biggest obstacle holding back the plan was the lack of PC influence in organized labor (Rojas 2011: 54-55). The leadership's optimism was based on a spectacular growth in active cadre enlisted in “The Plan” during 1985 and two still ultra-secret plots: a mass importation of arms from Cuba and a plan by the FPMR to assassinate Pinochet (Rojas 2011: 55). Indeed, a series of editorials in *El Mercurio* on December 6<sup>th</sup> and 7<sup>th</sup>, 1985, highlighted the Communist and “terrorist” threat, noting “One terrorist attack every two hours this last weekend”. On this internal PC documents agree. They list nearly 1,500 “deeds” for 1985 (Rojas 2011: 53-54).

### **“El Año Decisivo”: Insurgency and Counter-Insurgency (1986)**

In early 1986 the regime began its largest, most comprehensive urban counterinsurgency campaign. Its central technique was cordoning off the 23 most militant anti-regime neighborhoods in Santiago and parts of Valparaíso and Concepción. These areas were searched house to house. Men 16-60 were sent to local soccer fields or stadiums for identification, questioning and detention (Rojas 2011: 67-68). This was combined with military occupation of all announced protest areas. For its part, the Communist Party held military training sessions for the National Revolt Plan in early 1986 that were attended by hundreds of local party political and military leaders. At the time the TMM counted perhaps 2,000 militants, the FPMR 1,000, and several hundred more were active and trained in other armed left organizations like the MIR (Rojas 2011: 56-57). The plan called for an indefinite general strike and mass struggle like that seen in the shantytowns.

The labor opposition was meanwhile intimately involved in the largest social movement-based opposition organization yet put together under the dictatorship. On March 25<sup>th</sup> 1986, at the “Metropolitan Council of Professional Colleges”, the President of the Federation of Professional Colleges, Dr. Juan Luis González, called for an “*Asamblea Nacional de la Civilidad*” or National Civil Society Assembly, to be made up of labor, student, professional, *pobladores*, human rights, women’s and other social groups<sup>180</sup>, and the political parties.<sup>181</sup> The call received the support of the AD and the MDP, and the CNT became a crucial player in its existence (Araya 2014: 27). It was a key organizational instance of the labor movement's progressive political incorporation.

On April 15<sup>th</sup> and 16<sup>th</sup>, 1985, the largest student strike to date shut down the education system. It saw more than 80% absenteeism at all levels from primary to university. The response was again massive repression. More than 500 students and nearly all the elected student leadership were arrested. Tanks and UFA troops, newly created Special Forces called Anti-subversive Force Units or “*carapintadas*” for their camouflaged faces, occupied university campuses, and serious clashes occurred with radicalizing students (*Hoy* April 21-25; *Hoy* April 26-May 4, 1986).

<sup>179</sup> This was a traditional instrument of periodic political orientation the leadership wrote for base-level militants.

<sup>180</sup> The coalition was eventually made up of more than 200 social organizations (Petras and Leiva 1998: 112).

<sup>181</sup> The text of the speech was published in *Análisis* April 1-7, 1986 N. 136: 5.

On the other hand, the CNT held two important meetings that suggested its stances were not becoming more radical at this time. From April 18-20 it held its first “Organic Conference” which again dealt with base-level organizing as well as discussions of a general strike, but also took up social concertation as a serious subject. From April 20-22 the CNT held its first National Conference themed “Objectives, scope and organization of concertation” (Araya 2014: 25-26). At this meeting the CNT affirmed that the participation of the movement in social accords could help resolve “conflicts by the institutional path, in the sphere of the firm and in the relationship with the State” and “proposed a change in union orientation, from a unionism of confrontation to one of collaboration” in a future democracy (Ibid).

It called for a Constituent Congress to be held in two years to build a permanent “unified, pluralist and democratic” labor central to replace a dissolved CUT (“Boletín informativo del Comando Nacional de Trabajadores”, May, 1986: 1, in *Fortín Mapocho*, May 12, 1986). The CNT was an enthusiastic proponent of the AC. It hewed closely to a longstanding labor opposition blueprint for struggle against the regime: broad opposition unity, nonviolent social mobilization and strikes, and a combination of global political and sectoral material demands in their diversity. It incorporated its own demands first mooted in the “*Pliegos de Trabajadores*” in 1984 and 1985 to the AC’s list of petitions for change. The CNT also was a lynchpin of AC mobilization strategy.

On April 26<sup>th</sup>, 1985, the AC was founded in a clandestine meeting of 400 people in Santiago. It produced the “*Demanda de Chile*”. This gave the government until May 30<sup>th</sup> to respond to its demands or it threatened to initiate a series of increasing mobilizations culminating in a national general strike (*Hoy* May 5-11, 1986). In an interview the CNT leader, Manuel Bustos, was asked if workers would actively participate in a strike. He responded that:

It is not easy to talk about a strike... when there are already a million Chileans stopped by unemployment. What we want is to take up the mindset that exists in the social movement, which is malaise against the Dictatorship, and create consciousness that a national strike, can be effective to produce changes... we believe that more than 50 percent of the people who have jobs will strike because they have seen that their problems have not been resolved, and because they have lost their fear. (*Análisis* April 29-May 5, 1986: 17).

That day the US Secretary of State sent a memo to the American embassy in Santiago. He stated that the US would withdraw all support for the National Accord if the PC was invited into it. This coordination was already implicit in the AC (Telegram from Secretary of State George Schultz to American Embassy, Santiago “US Goals and Objectives for Chile” April 26, 1986).

The labor organized events May 1<sup>st</sup> saw incredibly violent and militaristic responses that included a full military occupation of Santiago and the denial of permission to stage public events. It also saw the greatest counterinsurgency operations in the shantytowns to date (*Análisis* May 6-12, 1986: 3-10). With a “non-declared state of siege” the police and then military attacked a massive march down the Alameda, the principle road in downtown Santiago. The CNT called for a peaceful, if unpermitted, procession after its requested permission for a rally in O’Higgins Park was denied (Ibid). All of downtown was militarized: tanks, troops and UFA special forces. The UFA also assaulted multiple universities. Cordons and mass search and seizure operations in the *poblaciones* reached new heights. The President of the PDC, Gabriel Valdés, said the military “acted like an occupying Army” (Ibid), unintentionally echoing the original logic of the *Bandos*.

The police and military also met fierce resistance that set off violent clashes all over the city in response. Barricades were set up and protected with bonfires, sticks, stones and Molotov cocktails. Troops fired upon protesters and reports of shots against police and military occurred across the capital. By evening the FPMR had once again cut power to Santiago in an *apagón* that left it dark (Rojas 2011: 63). Clashes in the shantytowns continued throughout the night (Ibid).

At the end of the month the regime had not responded to AC demands. It called a general strike July 2-3, 1986 (*Mensaje* June 1986: 202-203). CNT head Seguel reiterated disappointment in political parties' failure to lead. He indicated, as labor resumed its combative and protagonist role as opposition leader, its key actors still viewed it as transitory. He said, "We hope... the political parties make a valid political proposal, in accord with the situation the country is living and with the proposals the social organizations have made." He went on, "it is up to them to propose to the country a viable alternative to end the Dictatorship. It is their role, not that of the social organizations. Its time they rose to the circumstances" (*Análisis* May 6-12, 1986: 44).

The general strike and National Protest on July 2<sup>nd</sup> and 3<sup>rd</sup>, 1986, was the high point for both labor direct action and guerilla armed opposition to the dictatorship. The strike "totally paralyzed national activities" (Petras and Leiva 1998: 100). The most intense clashes yet were seen in peripheral neighborhoods and went on from the 1<sup>st</sup> until past the 4<sup>th</sup> in parts of Santiago (Rojas 2011: 74). Its massive and radical nature sent an unambiguous signal to the government. Even beyond that, "the strike's success not only reverberated in Washington but also raised concerns among the AD participants in these mass protests about the possibility of an emerging unified opposition under the leadership of the 'anti-system' forces" (Morley and McGillion 2006: 14).

With the four opposition radio stations and newspapers banned by the afternoon of the 2<sup>nd</sup>, information about strike participation was harder than ever to verify. According to Labor Minister Márquez de la Plata the strike call was "an absolute and total failure" (*Apsi Extra* July 7, 1986: 10). CNT leader Rodolfo Seguel announced "90 percent of workers did not go to their job, in the printing sector absenteeism was 80 percent, in textiles 85 and in the footwear industry one hundred percent" (Ibid). Jaime Pérez, president of the FMCD (small retailers of the capital) claimed more than 70 percent of commercial establishments did not open and more than 95 percent closed both afternoons (Ibid). All press accounts noted the near total absence of public and private collective transportation. Sources in the transportation guild estimated over 85% out (Ibid). The *Colegio Médico* claimed 80% of health care workers in the capital and 75% in the regions struck (Ibid). Countrywide more than 70% of students and 80% of teachers struck, according to the *Colegio de Profesores* (Ibid). A miner's march at Chuquicamata leaving the mines at lunchtime was dispersed by police and 30 CTC leaders and activists were arrested (*Apsi Extra* July 7, 1986: 11). Ports across the country, especially in Valparaíso, saw major slowdowns greatly reduce productivity (Ibid).

The most dramatic acts occurred in *poblaciones* where "an atmosphere of war" and "insurrection" permeated from sunset the night of the 1<sup>st</sup> (*Apsi Extra* July 7, 1986: 3). In dozens of neighborhoods around the capital, residents prepared: they dug trenches; prepared bonfires; lifted barricades and made large scale use of "*miguelitos*"<sup>182</sup> (*Apsi Extra* July 7, 1986: 4-6). Many main roads, especially those adjacent to *poblaciones*, were cut off both days (Ibid). Many electric towers were taken down by the FPMR. From La Serena in the north to Concepción in the south the lights went out (*Apsi Extra* July 7, 1986: 6). "Dozens of bombs" went off the night of the 3<sup>rd</sup>, at foreign banks, government entities and power stations (*Apsi Extra* July 7, 1986: 9; Rojas 2011: 16). Even

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<sup>182</sup> The English word for this low-cost anti-personal and anti-vehicle is caltrop. It is an arrangement of metal spikes.

downtown, few vehicles other than military were on the streets and bonfires burned (*Apsi Extra* July 7, 1986: 9). After dark, *velatorios* appeared all over the city, some destroyed by troops<sup>183</sup> (*Apsi Extra* July 7, 1986: 10). Helicopters flew at low altitude. This “produced a very peculiar scenario” (Ibid). The image of Santiago from above the night of the 2<sup>nd</sup>, as bonfires burned at barricades in nearly all the popular and poor neighborhoods surrounding the city, was of “a cordon of fire”.<sup>184</sup>

It is crucial to note that although the clashes in destitute areas were absolutely products of spontaneous popular rage and desperation, as they are usually treated, more than three years into the sequence of protests they included an important and increasingly organized element.<sup>185</sup> The National Revolt Plan envisioned these clashes amidst an indefinite general strike culminating in popular takeovers of the main governmental centers and offices (Rojas 2011: 39). The PCs overall evaluation of the events of July 2<sup>nd</sup> and 3<sup>rd</sup> were of progress towards this goal.<sup>186</sup>

It should be emphasized, however, worker participation in the strike was not as strong in the mines and in industry as on previous occasions. The PC itself identified this as the greatest area of weakness for its plans (Rojas 2011: 74). The labor opposition, too, was acutely aware that a strike was a very tough sell among the rank and file at this time. Osvaldo Verdugo, president of the *colegio de profesores* and acting leader of the AC, when asked in an interview (*Apsi Extra* July 7, 1986: 13), stated that, “enormous sectors of workers did not participate in the paralyzation... for example, the miners”, responded, “we believe that the workers in these last years have played and fundamental role... it was them who initiated the public protests... In that sense, we think that the workers, who have paid the highest cost, are at the moment in a process of reconstruction.”

Not surprisingly, the state’s response- under the tactics of counterinsurgency warfare as informed by the doctrine of national security- was massive and violent. At least 30 *poblaciones* were occupied by the military (*Apsi Extra* July 7, 1986: 4). Troops constantly came near a defended area, shantytown or barricade, or even just a group gathered on the street, shot wildly and left quickly (*Apsi Extra* July 7, 1986: 6). Tank battalions and *carapintadas* were stationed all over the

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<sup>183</sup> An arrangement of candles to mark respect for someone recently deceased, usually seen at a wake in Chile.

<sup>184</sup> Literally, “*cordón de fuego*”. This phrase, which has become a discursive staple to describe these confrontations, is usually traced back to Gabriel Salazar Vergara in *Violencia Política Popular en las Grandes Alamedas* (1990).

<sup>185</sup> Weeks before the general strike the Metropolitan Region *Mando Zonal* (Zone Command) of the PC met to plan military strategy for the confrontations. They made use of small combat cells in the TMM and the more properly paramilitary guerilla apparatus of the FPMR (Rojas 2011: 27). They had a map with symbols all over the capital, especially in the south and west where *poblaciones* were strongly organized and had engaged in militant resistance against the regime the prior three years. Principle arteries like Américo Vespucio, Vicuña Mackenna, Gran Avenida and San Pablo had innumerable symbols that indicated cuts and barricades, the responsibility of *focos poblacionales* that had as a mission to take “liberated territories” and hold barricades as long as possible (Ibid). There were production facilities to make homemade arms, and storehouses for weapons, albeit mostly light arms (Rojas 2011: 13-14). Hundreds of *focos insurreccionales* were spread across the capital, centrally organized and reporting back to an organized command structure (Ibid). The FPMR had as its own separate mission the *apagón* (Rojas 2011: 11).

<sup>186</sup> A PC evaluation said, “The Strike of the 2<sup>nd</sup> and 3<sup>rd</sup> of July showed we have the forces to get rid of Pinochet... it tested the certitude of our Plan to defeat the tyrant, all that remains is to specify and enrich it on the basis of the experience of July 2<sup>nd</sup> and 3<sup>rd</sup>, in the direction to make the September Strike a day of superior quality...to put everything in service of the prolonged paralyzation of the country” (“Informe. Evaluación Paro 2 y 3 de julio de 1986”).



city (Ibid). Overall, eight were reported dead, nearly all youths from the *poblaciones*. More than 100 were shot, and at least 600 were arrested. Again, thousands of *pobladores* were rounded up, searched or confined by cordons to their homes and neighborhoods (*Apsi Extra* July 7, 1986: 9).

Some instances of violence became iconic. The case of 13-year-old Nadia Fuentes Concha became a symbol in the international media and for the opposition. She was shot by an army patrol while buying bread, and neighbors guarded her body from being taken by the police until they were dispersed by tear gas and gunshots (*Apsi Extra* July 7, 1986: 3). Even more infamous was the case of *los quemados* (the burned). Carmen Gloria Quintana and Rodrigo Rojas Denegri were stopped by an army patrol in downtown Santiago, beaten, had gasoline put on them and were set alight. Their bodies were dumped on the road to Quilicura. Rojas later died while Gloria survived with third degree burns on 62% of her body (*Análisis* July 26-28, 1986: 9). What drew special attention, beyond brutality, was Rojas' status as a United States citizen living in Washington, DC, with his exile mother. He returned to Chile as a freelance photographer (*Apsi Extra* July 7, 1986: 6-7). US Ambassador to Chile, Harry Barnes, visited him at the hospital, pressured the government to let his mother into the country to visit him, and ultimately attended his funeral, a massive event.<sup>187</sup>

Even the most mainstream and public leaders of the opposition were subject to violence. The leaders of the AC attempted to gather in the Plaza de Armas downtown to sing the national anthem, but the square was occupied by tanks and the gathering was dispersed by tear gas, water cannons and beatings by police, military and intelligence agents. Fifteen of the top AC leaders were arrested on the spot and 2 more were later detained (*Apsi Extra* July 7, 1986: 4). Dozens of labor leaders and organizers were also arrested in those days. Many of them were beaten (Ibid).

Seeing escalating confrontation with the regime led by left and revolutionary forces had a profound effect on both the US government and the leadership of the moderate opposition forces, the PDC above all. Crucially, as Morley and McGillion (2006: 14) note, "Reagan officials moved quickly to split the AD from its tactical alliance with the MDP and the AC". The weeks after this action saw a decisive rupture between the PC and the PDC, and thus between the MDP and the AD, and most broadly between the radical and moderate opposition forces.

US Deputy Assistant Secretary of State for South America Robert Gelbard travelled to Chile from July 10-18, 1986. He held meetings with National Accord figures. In a press conference July 18<sup>th</sup> he said: "The United States supports a peaceful transition to full democratic rule in Chile by the most prompt and effective means" but "those who accord legitimacy to the communists and other extremists are not contributing to a stable and democratic Chile" (Department of State Bulletin 1986 Jul-Dec: 68). He was clear about a key US strategic concern with the PC:

The Chilean Communist Party, which is the largest in the hemisphere next to that of Cuba or Nicaragua's Sandinistas, also is aware of our stance... They have tried hard to convince democratic elements of Chilean society that the only means of restoring democracy is through violence... Failure to return to democracy will be accompanied by increasing polarization and violence. The strengthening of the far left in Chile resulting from this could have a negative impact on some still fragile democracies elsewhere in the region and jeopardize U.S. interests. (Ibid).

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<sup>187</sup> Ricardo Lagos' memoir (2012:66) has an important account of how these events influenced US policymakers.

The PDC also had reason for concern. Continued reliance on social mobilization threatened their predominant position in the opposition and their presumed chances of gaining power through a negotiated transition backed by the US. Yet, the PDC had been pressed to work with the MDP, and so the PC, for political-strategic reasons. The PC's mobilizational and organizational capacity made them a key de facto political player. Key decisions in the AC, including social mobilization calls, were heavily influenced by political parties. The main opposition parties, the PC and PDC included, had been meeting in the period leading up to the general strike in a "Private Political Committee" where key decisions were made. The PDC insisted the meetings be secret.

Days after the general strike exiled PC leader Volodia Teitelboim discussed the arrangement with the press in Rome. This elicited an angry denial from Gabriel Valdés, which was then the subject of a question to MDP secretary general José Sanfuentes in an interview in *El Mercurio* on July 13<sup>th</sup>, 1986. Sanfuentes publicly confirmed the arrangement in Chile for the first time (*El Mercurio* July 13, 1986). The idea of the two PC leaders was apparently to force the "anti-fascist" alliance into public at a time of the PC's greatest political and military strength since the coup (Rojas 2011: 79). Within days the PDC withdrew from the "Private Political Committee".

*El Mercurio* (July 20, 1986) reported, "some sticks were thrown by Gelbard at Gabriel Valdés in the meeting he held with some presidents of signatory parties to the Accord, for his lack of definition with respect to the subject of the communists." Morley and McGillion (2006: 14) suggest, "The ultimate outcome of these pressures was a conservative challenge to the AD leadership, the crippling of the AC and the elimination of the linking committee responsible for coordinating the July strikes." Under these pressures and facing internal divisions, the AD did as the US advised and shifted away from a strategy of mobilization (Petras and Leiva 1998: 98).

This major political blow to a project of rupture with the military regime envisioned by the MDP soon combined with two devastating military blows. Both PC secret major operations ended in failure. August 6<sup>th</sup> the CNI discovered arms and munitions caches imported from Cuba on the small north desert beach of Carrizal Bajo.<sup>188</sup> It was the largest illegal importation of arms into Chile in history (Pérez 2014). The military effect on the FPMR was strong. So was the shock effect in general. "Chileans were taken aback", writes Lagos (2012: 68), "Imagining all those arms being unleashed on the country was too much- especially for a population already scarred from years under Pinochet's military state. People wanted a way out... but not *that way*."

Weeks later came the second military loss. On September 7<sup>th</sup>, FPMR militants attempted to assassinate Pinochet on the way from a vacation home in Melocotón, in Cajón del Maipo. He survived, but five of his guards were killed in the exchange of fire. The next day, a new state of siege was imposed across all of Chile (*La Tercera* September 8, 1986). It led to the biggest crackdown and mass arrests of the moderate, public opposition (Lagos 2012: 69). It also marked the peak of armed opposition, which quickly splintered and fell apart (Rojas 2011: 81).

Multiple forces conditioned armed opposition defeat: successful state counterinsurgency; abandonment of the strategy of social mobilization and opposition unity by the PDC and renovated socialists; and US pressure. All three groups followed their material and political interests (Ibid). By the end of 1986 the AD and MDP disintegrated (*La Nación* December 30, 2006). "These moves were the culmination of a decisive shift in Chilean politics", argue Morley and McGillion (2006: 19), "for which the USA could take some credit". All opposition parties had decisively broken with the PC and MDP to "negotiate with the dictatorship on the transfer of political power in Chile

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<sup>188</sup> The first shipment in late May, 1986, contained 35 tons of armaments. The second, in late July had a similar load. On August 11<sup>th</sup> the CNI announced the capture of more than 70 tons of arms and munitions, including thousands of M-16s, 360,000 cartridges of 5.56mm ammunition and 1,900 kilos of explosives (*La Nación* August 12, 1986).

– on the generals' terms” (Ibid). US Secretary of State Schultz called it “a significant development with a positive effect” (Shultz Telegram to American Embassy Santiago October 23, 1986). For the PC the years 1987-1990 were the worst period in its history. Between the failure of the policy of the popular rebellion of the masses and the national revolt plan, and the fall of “real socialisms” at the end of the Cold War, what was “in discussion, in public conflicts, in small groups, was the very possibility of being a communist in Chile” (Valdivia, Álvarez and Pinto 2006: 64-65).

### **Incorporation: The Labor Code and Political Parties (1987-1988)**

“The paradox of this period,” writes Rolando Álvarez Vallejos (2011: 113) of the mid-1980s, “was the acceptance in practice of collective bargaining as contemplated in the Labor Plan, on the one hand, and the protagonism of mobilizations opposed to the regime on the other”. Even as labor took the lead in opposition and led three major general strikes that shut down big parts of Chile’s economy, if for a couple of days, ordinary partial strikes of workers seeking immediate material gains were fewer over time. In this way “The Labor Plan” was “successful, helped by repression” (Ibid). Labor had to adapt. There was a new state of siege. The political party opposition turned away from a strategy of social mobilization and unity, long advocated by the labor opposition, towards an institutional-electoral transition negotiated with the military regime.

As we have seen, organized labor attempted to focus more intently on rebuilding its own internal organizational strength, a trend that would continue throughout 1987-1988 (Frias 1993: 93-94). It also gave increasing thought to its role in a future democracy, with an assumption that the political parties would assume leadership of the opposition (Ibid; Araya 2014: 29). Yet, the CNT was not quite ready to give up on social mobilization altogether in 1987, and attempted to incorporate it alongside these other priorities (“Boletín informativo del Comando Nacional de Trabajadores” January, 1987: 1). This strategy did not yield very much success.

One key reason was that the political environment was growing less favorable for social mobilizations (Araya 2014: 29). Another was sharpening divisions in the PDC, expressed in the CNT where the PDC was still predominant (Araya 2014: 30). The first half of 1987 an intense debate occurred in the PDC about maintaining social mobilization as a key strategy or moving decisively towards “politico-electoral mobilization” (Boeninger 1997: 333). This debate came to a head at the National Meeting July 31-August 2, 1987. Aylwin was elected PDC president on a line of moving away from mobilization. He won 55%, beating bank workers’ leader Ricardo Hormazábal, for the PDC movement-left (Ibid). Voices in the CNT questioned the effectiveness of social protest and advocated actions oriented to the 1988 plebiscite (Araya 2014: 29).

The CNT, and labor broadly, retained more emphasis on mobilization and advocated for it. This included progressive sectors of the PDC, the Christian Left, some PS factions and the PC. Fundamentally driving this reticence towards the “*gira electoral*” (electoral turn) was the sense among virtually all labor activists of whatever partisan or ideological stripe that the strategy of negotiations and institutional-electoral politics would come at the expense of labor’s interests in substantive economic change. This apprehension was reinforced by the increasing importance put on transition dialogues and negotiations with business sectors by the party opposition (Ibid).

The way labor attempted to balance these concerns with the emerging political reality in this era can be seen from CNT leader Rodolfo Seguel’s speech on May 1<sup>st</sup>, 1987:

These social mobilizations have permitted the conquest of ever more broad spaces for expression for the political parties and social organizations. Today, as some

people question the social mobilizations, it is good to remember their own possibility to offer negotiation proposals is the fruit of these mobilizations they want to question... but we, the workers, also reject negotiation that seeks an understanding that leaves us subordinated to those who are responsible for the crimes that have horrified our country and the whole world, with those responsible for the brutal repression that has been unleashed on the workers and whole society. Whatever negotiation wants to have success, should base itself on a massive and growing social mobilization and should have the precise, clear and categorical objective to agree a quick return to democracy (“Boletín informativo del Comando Nacional de Trabajadores”, May 1987: 6 in *Fortín Mapocho*, May 9, 1987).

The correlation of forces inside of the CNT and its constituent organizations, the CNS most importantly, was weighted towards the political parties that soon formed the *Concertación de Partidos por el No*. In practice, this meant labor’s next steps were to organize the permanent, unified central union called for in 1986 and supporting the process of voter inscription for the 1988 plebiscite. So, in June 1987, a group of labor leaders linked to renovated socialists, led by Arturo Martínez, secretary general of the CNT, called on the workers to register in the *Registro Electoral*, a necessary step to participate in the plebiscite. Later, the National Executive Council of the CNT officially supported this call, a deed that marked the clear triumph of the Christian Democrat-renovated PS wing of labor (Araya 2014: 30-31). On that occasion the council said, “electoral registration is a right that we have won. The dictatorship does not want citizens, but subjects, so, in reality, it does not want electoral registration of the majority of Chileans, but only its partisans. As such we call on all the workers of the country to register” (“Boletín informativo del Comando Nacional de Trabajadores”, June 1987: 1 in *Fortín Mapocho*, July 2, 1987).

On July 3<sup>rd</sup>, 1987, CNT head Seguel suddenly announced his resignation “for personal reasons”. He left Chile for Australia, an exile destination (*El País* July 4, 1987). This reflected regime persecution, he was legally “neutralized” as labor leader. But it also symbolized growing predominance of the political party over its affiliated labor militants. Seguel was a leading PDC advocate for protest (Ahumada 1989: 523 footnote 80; Araya 2014: 31 footnote 72). Chilean sociologist and long-time labor scholar and activist Guillermo Campero argues:

[T]he decision of the union leadership- and of Rodolfo Seguel among others- that were heading the protests, to pass leadership of social action to political parties, was owed in good part to said leaders being militants of parties, who partook of a mindset that is the nature of Chilean parties (Ahumada 1989: 523 footnote 80).

Chilean Labor Historian Rodrigo Araya Gómez concurs:

Seguel's resignation was a consequence of his neutralization as a union leader by the regime, a deed that also reflects the predominance of the political logic or the subordination of unionism to the political parties, expressed in the process of the disarticulation of social action, initiated the moment that the political parties assumed leadership of the social mobilization (Araya 2014: 31 footnote 72).

Manuel Bustos took over as CNT head. The era's other major labor incorporation soon came.

On July 6<sup>th</sup>, 1987, the government formally institutionalized all of the labor law changes in the Labor Plan into an official *Código del Trabajo* (Labor Code). This legislation (Ley 18.620: *Diario Oficial de la República de Chile*, July 6, 1987) derogated and replaced the major Labor Plan statutes (DL 2.200 on the individual labor contract, DL 2.756 on union organization and DL 2.758 on collective bargaining). It also formally derogated the Labor Code of 1931, the first law to carry that title, the first to comprehensively lay out labor laws, and the law whose legal norms substantially regulated labor law in Chile for over 40 years (Thayer and Novoa 2015 [1987]: 66).<sup>189</sup>

The CNT's leadership change did not come with any immediate change in the strategy or tactics of the labor movement. So, having officially endorsed participation in the 1988 plebiscite, the CNT formed a commission, led by Arturo Martínez, to support the work of the campaign for free elections, an effort led by former central bank president and PDC stalwart Sergio Molina. The CNT proposal adopting this path stated: "The workers, we know that only in a democratic regime can we achieve more respect for our human and union rights." Still, the same proposal linked support for elections with satisfaction of substantive minimums: changes to privatized pensions and labor laws ("Boletín informativo del Comando Nacional de Trabajadores", August 1987: 3, in *Fortín Mapocho*, August 14, 1987). This same editorial announced the CNT would be trying a "new form of expression", a permitted rally on August 19<sup>th</sup>. This expressed divisions in the opposition on the best mechanisms for ending the dictatorship and represented a conscious toning down of social protest desired by certain opposition sectors (Araya 2014: 32).

Yet, the CNT was still not ready to give up on the idea of protest entirely. After the rally, and in the face of more meetings between Molina and business leaders, the CNT called for a 3<sup>rd</sup> national general strike on October 7<sup>th</sup>, 1987 (*El País* October 6, 1987). This call got support from only left parties, and certain major unions (copper, oil, banking and metalworkers) did not agree to it. It did have support from many student and shantytown organizations (Ibid). Bustos, already arrested 8 times by the regime, tortured in a stadium in 1973 and exiled 11 months, was still a partisan of the most progressive and combative wing of the PDC and the labor movement (Ibid).

He told the press even if the general strike failed, the CNT must "continue social pressure against the dictatorship. Mobilization is the only form of struggle that we the workers have when we are not listened to" (Ibid). He also critiqued the strategy of negotiations adopted by the PDC, "It won't convince the dictatorship to modify the Constitution to send letters, declarations, radio messages or the campaign for free elections. With Pinochet it is necessary to pressure him with mobilization" (Ibid). Bustos conceded the labor movement had won nothing of policy substance despite leading the majority of protests since 1983: "the only thing we have obtained is a space for the politicians that did not exist. Thanks to the struggle of the union movement, the political parties can act" (Ibid). The demands for the general strike, sent in a petition to the government, were: a change in labor laws; an across the board wage rise of 22%; and a minimum wage equivalent to US \$90 monthly (Ibid). In an interview, Bustos noted he met with Sergio Molina and expressed his "disquiet" regarding the latter's meetings with business leaders about a transition process (*Fortín Mapocho* August 29, 1987). So, the general strike call also had the implicit strategy of a "show of force" to opposition political leadership, the PDC in particular (Araya 2014: 32). The crosscurrents of this position were evident. Bustos suggested that labor demands would have to be

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<sup>189</sup> *Manual de Derecho del Trabajo*. Thayer Artega, William and Novoa Fuenzalida, Patricio. Tomo I. Editorial Jurídica. 1987. Thayer was a PDC Labor Minister before the coup, who supported the dictatorship and later became an important figure in dialogues to reform the Labor Plan laws as an expert and proponent of the new Labor Code.

moderated in any future democratic transition. About Molina he said, “I believe his strategy is correct to try to create an environment of confidence at the highest political levels in this country... this is the unpleasant reality” (*Fortín Mapocho* August 29, 1987). This last try at a general strike during the military regime showed political incorporation decreasing labor threat.

The general strike on October 7<sup>th</sup>, 1987, had uneven results and lacked the drama of the events of 1984 and 1986. Yet, it was not an “absolute and total failure” as Minister Fernández claimed (*Apsi* October 12-18, 1987: 4). Bustos noted 1,700 firms were shut down (*Análisis* October 12-18, 1987: 10-11). He said there were more spontaneously organized workplace assemblies than before (*Ibid*). Bustos reported 40% of workers struck nationwide (*Fortín Mapocho* October 8, 1987). The absenteeism rate for students was 70% (*Análisis* October 12-18, 1987: 10).

Intense clashes, with bonfires, barricades and gunshots from police were reported in popular areas of Lo Hermida, Pudahuel, La Victoria and Los Copihues and at several universities, particularly the University of Chile (*Apsi* October 12-18, 1987: 4). Repression was again strong: 500 arrested, 20 wounded and 2 killed, a 2-year-old and 17-year-old (*Análisis* October 12-18, 1987 N. 221: 10). A protest at Plaza de Armas was dispersed with teargas, beatings and arrests (*Análisis* October 12-18, 1987: 12). In the days that followed, 39 CNT leaders were arrested, and charged with violating the Internal Security Law (*Apsi* October 12-18, 1987: 4).

On this occasion, divisions in the PDC, especially between labor and political leaders, were glaringly revealed. Gutenberg Martínez, secretary general of the PDC, publicly evaluated the strike negatively, saying it reaffirmed his thesis of “politico-electoral mobilization” (*Análisis* October 12-18, 1987: 5-6). Bustos declared that “those political leaders that are talking about it is time for political mobilization have terrible blindness” (*Apsi* October 12-18, 1987 N.221 P.4). Ricardo Hormazábal, the only member of the PDC national council also in the CNT leadership, articulated a middle ground: “it wasn’t a strike of absolute success, but it was very positive... not everybody struck, but there was great support... the official position of the PDC is to back legitimate social mobilization” (*Apsi* October 12-18, 1987: 8). This same intra-PDC polemic on social versus electoral mobilization continued the following month, this time between Dr. Juan Luis González, erstwhile leader of the AC, and Bustos of the CNT (*La Época* November 20, 1987; *El Mercurio* November 21, 1987; *El Mercurio* November 22, 1987).

Despite tensions between party and labor leadership and a greater value being placed on autonomy, which had grown considerably among labor movement rank-and-file and leadership alike during the dictatorship, out of strategic necessity links between political parties and the CNT actually grew stronger leading up to the plebiscite (Araya 2014: 32-33). By the end of 1987, joining the “No” campaign for the upcoming plebiscite, whose exact date, beyond 1988, was not stipulated in the constitution, appeared to be an absolute strategic necessity (*Ibid*). Bustos still publicly insisted social mobilization was necessary to achieve a free election, and that “without social pressure there is no political way out” (“Boletín informativo del Comando Nacional de Trabajadores” December, 1987, N.23: 3 in *Fortín Mapocho*, December 17, 1987). In practice, labor called only one more strike under the dictatorship, and only post-plebiscite in April 1989.

## Part IV: Transition

### Labor, the *Concertación* and the Plebiscite (1988)

In January 1988, the *Comando Nacional por el No* was set up, with the CNT as part of it. On February 2<sup>nd</sup> a coalition that ultimately grew to 17 parties combined forces to campaign for a

"No" vote, giving birth to the *Concertación de Partidos por el No* (*Fortín Mapocho* February 3, 1988). On May 1<sup>st</sup>, 1988, Manuel Bustos made a public call in his speech for a general strike to continue the component of social mobilization (*Fortín Mapocho* May 2, 1988). Yet, because of attempts at violence against CNT leaders on that day, which CONFASIN blamed on "ultra-left" militants, just days later this call was put on hold indefinitely. Many worried that such an event would be taken advantage of by radical elements intent on causing violence (Araya 2014: 33).

The choice to postpone a strike was far from universally popular in the labor opposition. It demonstrated that even the most progressive and combative among PDC labor had to balance party-political considerations with labor pressure on material-economic issues. PC labor militant, CNT leader and Mining Confederation<sup>190</sup> President Moisés Labraña argued of the postponement:

There are two problems that are factors of crisis. One is the permeability of a sector of the union movement to the pressures of political parties that do not represent the interests of the working class. That is the central problem... I say this because after every mobilization initiative that has been successful, it has stopped, they try to brake and propose a way for the political parties to act... What I want to say is that to obstruct the mobilization, to impede popular protagonism in the changes, is to favor a political way out in which the interests of the Chilean union movement and all of the people are not centered...The danger here is that political parties coordinate to deactivate the mobilization and that those parties' leaders act in that direction in the ["No"] Command (*Fortín Mapocho*, May 15, 1988).

These concerns were reinforced when the CNT decided to send a memorandum to the leadership of the "No" *Comando* with CNT demands, rather than reschedule the strike (Araya 2014: 33).

Instead of confrontational protests or strikes, the focus of labor leadership was defined by the plebiscite, a potential Pinochet defeat and transition to follow. Strengthening the institutional organization of labor for transition and potential elections appeared paramount. In May 1988, the CNT announced a long-awaited Constituent Congress to found a permanent, legal national union central to revive the historic CUT. An Organizing Commission planned the Congress, led by PDC militant Sergio Barriga ("Boletín informativo del Comando Nacional de Trabajadores", May, 1988, N.28: 1 in *Fortín Mapocho*, June 12, 1988). The Constituent Congress strategy was "to prepare the world of labor for the new transitional conjuncture" (Araya 2014: 34).

In the debate about the characteristics of a future, post-dictatorship, labor movement, the relationship of labor and political parties and its potential contradictions was a frequent theme of discussion, both in the Organizing Commission and at the Congress itself (Ibid). The other major debate in the lead up to the Congress was about the class nature ("*carácter clasista*") of the new CUT within the context of the structural changes that had taken place in Chile via neoliberalism.

Both of these themes expressed areas where a notable transformation occurred compared with the 'historic' CUT dissolved by the dictatorship in 1973. In both cases they were articulated as rather self-conscious changes in view of perceived problems with the old model as well as the new economic-structural realities. With respect to labor autonomy, Manuel Bustos expressed the type of self-criticism of past practice and valorization of autonomy gained in the struggle against the dictatorship. Commenting on the old CUT, in which he was a militant, he argued:

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<sup>190</sup> His *Confederación Minera* grouped unions at mainly small and medium sized mines.

We have said it many times: the excess of politicization that the CUT had until 1973 really endangered us all, and it was so much that we had no capacity to react when the coup came... we were so divided inside the CUT that it looked like a mini-parliament, without decision-making capacity. We made great accords but the result was that nobody followed up on them at all. But when we went to our respective parties the result was that we did what the party determined we should do. I was a leader in the CUT, so I know clearly the agreements we took. These were not respected, there was no discipline. Everyone defended what the party recommended (*Apsi*, July 25-31, 1988: 30).

In the debate about the class nature of the new organization, the PC defended a traditional line of the labor movement as organ of class struggle and class conflict. Labraña and PDC militant Luis Sepúlveda, president of the Christian Democrat Workers Front, engaged in a public polemic on this issue before the Congress. Labraña defended a “historic” position and Sepúlveda responded, arguing that this was “contrary to the libertarian, democratic and unitary feelings of the workers and reviving an obsolete classist and instrumental schema of the union organization”. The PDC was in favor of what Sepúlveda called a “humanist” vision of the CUT (*La Época* July 14, 1988).

The Congress, held August 20-21, 1988, produced two main documents: the *Declaración de Principios* (Declaration of Principles) and the *Plataforma de Lucha* (Platform of Struggle). A manifestation of the balance of forces in the Congress, particularly the Organizing Commission, was the new minimalist, consensus definition of the CUT as “a unified, representative, pluralist, autonomous, humanist and democratic union organization” (*El Coordinador*, July-August, 1988: 12). The CUT did, however, maintain as a “fundamental objective” for the revived organization “to steer and orient the struggles of the workers and Chilean people, committed to the defense and conquest of better life and work conditions for the workers and their family, and with them to achieve transcendental changes in the social, political and economic structures of the country” (Resoluciones Congreso Constituyente Central Unitaria de Trabajadores, Santiago, 1988: 27).

The new *Central Unitaria de Trabajadores* had a important differences with the historic *Central Única de Trabajadores*, which was dissolved in 1973. First, as the name change<sup>191</sup> indicates, there was a new emphasis on pluralism, which, in practice, recognized the reality of other union centrals, such as those organized on a partisan-ideological basis like the CDT. It also reflected the weakened status of left parties, particularly the PC’s political marginalization and the renovated PS factions’ dominant position. Second, partisan political autonomy had gained ground in labor under the dictatorship, which needed to be accommodated, at least rhetorically. Third, a relative de-emphasis on class struggle came with a new emphasis on dialogue and social concertation for a stable democratic transition. Fourth, a new valorization of human rights and democracy as ends in themselves, along the lines of the socialist renovation, was expressed. A fifth was the predominance of PDC militants in CUT leadership and key member organizations<sup>192</sup>.

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<sup>191</sup> *Unitaria* means “unitary” or “unified” whereas *Única* is “unique” or “only”.

<sup>192</sup> Of the 45 seats on the National Council of the CUT, the PDC won 17, the PC-headed left list won 12, the PS-Almeyda list received 9, and the renovated PS-Núñez list got 7 (*La Época* August 22, 1988). Thus, a 24-21 balance that favored centrist forces of the PDC-renovated PS over the left was quite different from the pre-coup era. It was, nevertheless, a more favorable balance than in the Congress elected in 1989.



Finally, though there was some membership recovery in the second half of the 1980s, density and membership was still well below 1973, particularly in some historic bastions like industry.

In terms of its immediate and longer-range programmatic demands, there was significant continuity between the new CUT and the CNT that preceded it. Labor's orientation was centered on a recovery of workers' rights lost under the dictatorship and based upon a global rejection of neoliberal policy and the model as a whole. However, what had changed was the political scene confronting labor. The demands of the political party opposition led by the *Concertación* were focused on political and institutional reforms painstakingly negotiated with the regime in, first, the process of the plebiscitary election and, then, in the transition period that followed. As such, there was a clear effort on its part to de-emphasize demands for structural-economic changes, and to even then downplay themes of special importance to labor. Issues of collective bargaining, strikes, and flexibility in hiring and firing evidently receded. As Araya (2014: 35) argues,

In this sense, the protest tradition represented by the CNT was left as part of a memory of struggles that were archived in favor of a transition that claimed a new type of social accord, that legitimated the neoliberal model, despite the desires for change of the union bases, forging in this way a future scenario of disenchantment that marked the first years of democratic governments.

As the political parties gained ascendance in the broader opposition movement in the process of mobilizing for the plebiscite and in the transition period after, the dynamics on this institutional-political-electoral level became ever more important for labor, a reversal of prior dynamics.

### **The Electoral Turn, Internal Regime Dynamics and The Plebiscite (1987-1988)**

By 1986, the economy began growing strongly again, a trend that continued throughout the 1980s. Indeed, from 1987 Büchi undertook political-economic policies geared at expansion, even at the cost of rising inflation, an explicit political tactic for the vote (Boeninger 1997: 467).

By 1987 the parties, especially the PDC, moved to contest the regime in the institutional framework of the 1980 Constitution. PDC head Aylwin advocated the opposition accept the 1980 Constitution from 1984 onwards. A key strategic proposal from PDC leader Boeninger suggested: elaborate a program; name a candidate; and isolate the PC (*El Mercurio* October 22, 1986: 3). A strategy of elaborating proposals aligned with the "Campaign for Free Elections" (*La Segunda* October 21, 1986: 8) led to "Reflections to consider for projections of the National Accord" (*La Segunda* November 27, 1986: 7). A strategy to concentrate efforts on the elections and negotiate reform to make the elections viable was publicly laid out for the first time. The PDC adopted the strategy at a National Meeting December 13-14, 1986 (*El Mercurio* December 15, 1986: C3).

At the same time, pressure inside the regime continued to advance the "political laws" that governed eventual elections and presidential succession. The first was the *Ley Orgánica Constitucional sobre Sistema de Inscripciones Electorales y Servicio Electoral* (Ley 18.556: *Diario Oficial de la República de Chile* October 1, 1986) which set up the first system of voter registration rolls since the coup. These electoral registries opened on February 25<sup>th</sup>, 1987.

By January 1987, the leader of the largest renovated PS group, Núñez, also endorsed the free elections strategy (*Hoy* January 26-February 1, 1987: 9). As the registration system opened, a group of key political personalities centered in the PDC, renovated PS and Radical Party, and center-right figures, announced the Committee for Free Elections (*Hoy* March 23-29, 1987: 10).

In January 1987, right parties that supported the government also began a process of political unification. This project incorporated Jaime Guzmán's UDI, the National Party (PN), the National Union (UN) and Sergio Jarpa's National Workers' Front into a new, pan center-right party called National Renewal or *Renovación Nacional* (RN). The Achilles heel of this formation was, however, the division that existed within it regarding the presidential succession plebiscite. A more conservative faction led by Guzmán supported the plebiscite as is and the continuation in power of President Pinochet, while the slightly larger and more moderate faction grouped around party president Ricardo Rivandeneira backed reforms and an open election (Ortega 1992: 341).

In early March the second of the political laws was passed by the Junta, the *Ley Orgánica Constitucional de los Partidos Políticos* (Ley 18.603: *Diario Oficial de la República de Chile* March 7, 1987). On April 29<sup>th</sup>, 1987, the RN became the first political party to register under the new law (*El Mercurio* April 30, 1987). Early in the process some smaller center-left parties also registered, such as the Humanist Party, the Social Democratic Party and the Radical Party (Ortega 1992: 341-342; Tovar 1999: 17). The PDC was in a campaign for new party leadership, including a new president. In the race the issue of legally inscribing the party became a defining debate. Labor leader Ricardo Hormazábal ran on a platform of not registering the PDC (*El Mercurio* March 9, 1987: C3). At its national meeting July 31-August 2, 1987, Hormazábal was defeated by Patricio Aylwin, whose line of registering the party, campaigning for mass voter registration, and moving to a strategy of "politico-electoral mobilization" won a majority on the National Council and National Executive Committee. So, in early August, the PDC also opted to register under the political party law (*El Mercurio* August 3, 1987: C3; Boeninger 1997: 333).

The left also had a strategic-political debate on opposition within the institutions of the dictatorship. Various attempts at re-founding an instance of left unity like the MDP in late 1986 and early 1987 failed<sup>193</sup> (Ortega 1992: 345-347). Here, the PS-Núñez was clearly the outlier, rejecting any vision of left unity without a "political solution... organized around free elections and a categorical rejection of military forms to solve problems" (*Las Ultimas Noticias*, January 26, 1987).<sup>194</sup> The principle difficulties of left unity at this time centered on methods of political action and the position to adopt regarding the campaign for free elections and voter inscription (*Apsi* June 15-21, 1987: 4-7). In June 1987, most of the left made a definitive break and decided to act within the new political laws being established. On June 19<sup>th</sup> the "Committee of the Left for Free Elections" (CIEL) was established and June 26<sup>th</sup> the United Left (IU) was constituted.<sup>195</sup> The PC and MIR did not agree to electoral registration. Though all left parties were banned by Article 8 from registering as legal parties, the rest of the left called for mass voter inscription and reforms for Free Elections to contest the government electorally. On October 17<sup>th</sup>, 1987, renovated PS socialist leader Ricardo Núñez called for the constitution of a unified party of all the opposition

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<sup>193</sup> Among them were "Conclave of the Left", December 13-14, 1986, the "Socialist Area", December 1986-March 1987 and the "coordinator of the left" in May 1987 and the "left front" from that month on (Ortega 1992: 345-347).

<sup>194</sup> In fact, in an "Open letter to the people of Chile", October 2<sup>nd</sup>, 1986, by Communist Party leader Luis Corvalán, PS-Almeyda leader Clodomiro Almeyda and Christian Left leader Luis Maira, and another sent by the leaders of the other political parties December 1<sup>st</sup>, 1986 ("Call to dialogue for democratic concertation") the left leaders rejected the "militarization of politics" and condemned "terrorism and violence". By mid-1987 the FPMR broke with the PC for this very reason. Yet, the PDC and renovated socialists did not trust this "apparent turn" (Ortega 1992: 344-345).

<sup>195</sup> This left formation was composed of the PC, PS-Almeyda, PS-Histórico, MAPU, IC, part of the MIR, (MIR político), and a part of the Radical Party (Luengo faction) (Ortega 1992: 348; Tovar 1999: 17).

committed to the electoral path, the *Partido por la Democracia* (*Apsi* October 26-November 1, 1987: 4). On December 15<sup>th</sup>, 1987, this *Partido por la Democracia* (PPD) was formed as an instrumental organization in order to register a legal party of the center-left for the vote.<sup>196</sup>

Allowed to re-legalize on its own, the PDC never joined the PPD (Ortega 1992: 350). By the end of 1987 the PDC was considering another concession to the institutionality of the 1980 constitution: participation in the plebiscite without previous constitutional reforms to guarantee free elections (*La Época* November 27, 1987: 8). Aylwin also proposed “the broadest possible political concertation of the democratic sectors” to triumph in such a vote (Ibid). On January 4<sup>th</sup>, 1988, the National Council of the PDC officially called for a “NO” vote in the 1988 plebiscite (*Hoy* January 11-17, 1988: 6-7). It was addressed to all, “from the nationalists to the Almeyda Socialists”, the latter of whom met with the PDC Executive Council on January 5<sup>th</sup> (Ibid). The CIEL called for a “NO” vote on the same day, and the United Left met to consider the question January 19-20. The PC maintained its stance of “not entering the institutionality of the regime” while all IU (United Left) Socialist Party factions supported the call (*Hoy* January 25-31, 1988: 7).

On February 2<sup>nd</sup>, 1988, the *Comando del No Concertación de Partidos Por el NO* formed at the Hotel Tupahue in Santiago. That day 13 parties announced their support. It later grew to 17 parties including PS factions, a group of centrist parties led by the PDC and two center-right parties, one formed from the merger of two AN signatories.<sup>197</sup> It was the broadest opposition coalition of the entire dictatorship period and by many accounts the broadest political coalition in Chile’s history (Ortega 1992: 353; Tovar 1999: 18). The same 17 parties formed a *Concertación de Partidos por la Democracia* in October. The group reiterated demands: free elections, human rights, derogation of the law on political parties and all other restrictions on ideologies or the full exercise of popular sovereignty, and an “immediate and total end of exile”. In the face of refusal, they claimed a “NO” vote would “defeat Pinochet, the regime and its institutional itinerary”.<sup>198</sup>

At the same time as the parties of the center right, center, center left, and most of the left were forming a broader coalition, the parties of the right were experiencing a process of division as a result of the pressures of the looming plebiscitary vote. In April, a newly formed unified right party, RN, split apart as the harder line pro-Pinochet, anti-constitutional change UDI withdrew. The main reason for conflict was the controversy over the candidate for the plebiscite which had been the subject of intense debate since mid-1987.<sup>199</sup> The UDI wanted to re-nominate Pinochet to

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<sup>196</sup> The party’s main base came from “liberal progressive” and “democratic socialist” politics (Party for Democracy “Declaration of Principles” 1993) but welcomed all in the “political” opposition (Ricardo Lagos speech 12/15/87).

<sup>197</sup> The first Council of Party Presidents, which directed the coalition, had representation from all 17 parties. These were the Partido Demócrata Cristiano, Partido Socialista-Almeyda, Partido Socialista Histórico, Partido Socialista-Mandujano, Partido Socialista-Briones, Unión Socialista Popular, Partido Radical de Chile, Partido Radical Socialdemócrata, Partido Socialdemócrata, Partido Democrático Nacional, Partido MAPU, Partido MAPU-OC, Partido Izquierda Cristiana, Partido Humanista, Unión Liberal Republicana, Partido Por la Democracia (PPD), and Partido los Verdes (“Concertación de Partidos por el No”. Memoria Chilena, Biblioteca Nacional de Chile, Biblioteca Nacional Digital, <http://www.memoriachilena.cl/602/w3-article-92967.html>).

<sup>198</sup> “Declaración Concertación de Partidos Por el NO” in *¿La Concertación desconcertada? Reflexiones sobre su historia y su futuro*. Compiled by Eugenio Ortega R. and Carolina Morena B. LOM Ediciones. 2002. Pp. 168-170.

<sup>199</sup> For a thorough summary of the controversy and the split See: *Apsi* March 21-27, 1988: 1; 4-7.

be President for another 8 years and opposed negotiating any changes to the 1980 Constitution, while the moderate factions that remained in the RN wanted to nominate a civilian candidate and were open to a process of negotiated constitutional reforms (Huneeus 2000: 561-568). A polemic on the right grew tensely confrontational (*El Mercurio* March 18, 1988; *El Mercurio* March 23, 1988; *El Mercurio* April 2, 1988; *Hoy* April 18-24, 1988: 6-9). In *La Época* (August 10, 1988:1) Junta member Admiral Merino said he preferred a younger civilian candidate.

Amidst the dual pressure of Junta and right division and growing left unity to contest the plebiscite, the government finally passed the third and most consequential of the political laws, The *Ley Orgánica Constitucional sobre Votaciones Populares y Escrutinios* (Ley 18.700: *Diario Oficial de la República de Chile* May 6, 1988). These were the rules that would actually govern the conduct of the plebiscite and had been the subject of controversy within the Junta and on the right for years. Not only was its appearance under pressure, but the Constitutional Tribunal ruled that it needed to be further modified in key ways (Tribunal Constitucional, Sentencia Rol No. 53 *Diario Oficial de la República de Chile* April 13, 1988). An April 1988, Constitutional Tribunal ruling on the law was thus crucial. The law governed all election stages.<sup>200</sup> In a long sentence, the tribunal ruled some specific precepts of the law unconstitutional, but, importantly, for the first time the tribunal notified the military government that specific articles<sup>201</sup> were incomplete as written and had to be complemented by further legislation (Ibid). This decision compelled the Junta to enact legislation providing equal free television time to both sides during the campaign preceding the plebiscite, as well as nondiscriminatory, paid access to the print media and radio. It also ruled against any snap vote within days of announcement (Ibid).

After further internal deliberations the Junta introduced modifications to the law as the court instructed (Ley 18.733: *Diario Oficial de la República de Chile* August 13, 1988). August 30<sup>th</sup>, 1988, the Junta finally ended speculation and nominated President Pinochet for a second term and so the candidate in the plebiscite. The date of the vote was just over a month later, October 5<sup>th</sup>, 1988 (*El Mercurio* August 31, 1988).<sup>202</sup> Reforms mandated by the TC and backed by Junta members and right factions included two crucial provisions. First were regulations on opposition media access, particularly the *franja electoral*, a nightly half-hour television block where “yes” and “no” camps were afforded equal time to make their case. This was the first uncensored and extended national television time granted to the opposition during the dictatorship.<sup>203</sup> A second key reform was opposition representatives’ access to voting tables and counting (Ibid).

Other essential factors converged in 1988 to make contesting the plebiscite a strategically plausible path. First among these was the active support of the United States Government and its associated groups, most importantly the National Democratic Institute, which provided the “NO” campaign with US \$1.6 million for the crucial voter registration drive as well as voter education, polling, media consultants and, again, decisively, the organization of the opposition parallel vote

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<sup>200</sup> This included: candidate inscription; format of ballots, propaganda and publicity during campaigns; constitution and staffing of voting tables, the vote and count; procedures for electoral complaints and more (Barros 2002: 305)

<sup>201</sup> The law on political campaigning and the dates of elections

<sup>202</sup> As on other occasions, the Commanders in Chief of the Air Force (Fernando Matthei) and the Navy (José Toribio Merino) were most outspoken about desiring a civilian “consensus candidate” and, barring that, the running of the plebiscite in a manner that would garner the greatest amount of “international legitimacy”, particularly in the USA.

<sup>203</sup> Ana María Gibson, “Fanja electoral en TV: Sumando y Restando” *Qué Pasa*, October 13, 1988 Pp.10-11.

count on the day of the plebiscite.<sup>204</sup> Another was divisions within the Junta, inside the state, and among the government's support base on the right regarding the nature and institutionality of any Presidential and regime succession. The Constitution of 1980 and its institutions played a central role in this, particularly the Constitutional Tribunal, as these were the outcome of precisely these balance-of-power conflicts and negotiations that drove the form of regime institutionalization. So, such things as Constitutional Tribunal rulings and matters of legal procedure were hard to ignore or supplant as they were backed by this political balance of forces within the Junta, representing a hard-fought and delicately balanced compromise of military-political powers. This meant a set up for the October 5<sup>th</sup>, 1988, plebiscite vote that was vastly different than the regime's other two recourses to popular votes in 1978 and in 1980. The regulations with much greater space for the opposition to contest and organize the vote, and the inclusion of key oversight mechanisms such as poll watchers and hundreds of international monitors greatly assisted the *Concertación* in the efforts to register a fearful and doubtful population. Finally, opposition unity grew focused on a key locus: voting NO. This drove a coalition as broad as the *Concertación* and even finally drove the Communist Party, by June of 1988, to call for inscription in the registry and a "NO" vote.<sup>205</sup>

Despite all of these factors, and the opinion polls showing a clear lead for the "NO vote in September, great uncertainty still surrounded the conduct of the vote, and, even more so, the issue of whether the army and Pinochet would accept an adverse result. Indeed, US Government documents show that for months ahead of the vote they had information that Pinochet intended to foster riots and other instances of violence, annul the election and reassert absolute emergency powers in the event of a loss. In this he had the backing of the Army leadership, clearly fearful of human rights trials, and key high state officials, including Interior Minister Sergio Fernández.<sup>206</sup>

The night of the vote, with counts clearly showing the results going against Pinochet, the Interior Ministry stopped releasing official tallies at 10:00pm. State television played cartoons. The "NO" campaign released results of its own parallel count with a "NO" victory, which Sergio Jarpa recognized on camera with Patricio Aylwin. Air Force Gen. Matthei also conceded on TV, just before a 1:00am Junta meeting in which Pinochet demanded emergency powers to annul the vote in accordance with the plan. For months the USG, via diplomatic, military and intelligence contacts, had been strongly insisting the results of the vote be respected. Ultimately, it was only the firmness of the other members of the Junta that forced Pinochet to accept the vote results.<sup>207</sup>

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<sup>204</sup> An excellent summary of the role played by the US Government and the NDI in support of the "NO" campaign-based upon declassified primary documents- is "National Security Archive Electronic Briefing Book No. 413", February 22, 2013, Edited by Peter Kornbluh. It can be found at <http://nsarchive.gwu.edu/NSAEBB/NSAEBB413/>.

<sup>205</sup> On June 15th, 1988, 5 key PC leaders, including labor leader Sergio Troncoso, called a press conference and made this announcement along with distributing a document from the PC Central Committee calling for a "NO" (*Hoy* June 20-26, 1988: 8). It nevertheless remained a source of controversy among the revolutionary left.

<sup>206</sup> Kornbluh cites a Defense Intelligence Agency document, "Chile: Contingency Plans" October 4, 1988. A scan of the original document is available at: <http://nsarchive.gwu.edu/NSAEBB/NSAEBB413/docs/nodiadocument.pdf>.

<sup>207</sup> This narrative is based on "La noche más tensa del siglo" in *La Tercera*, Reportajes, May 10, 2008 Pp. 20-21 and Kornbluh (cited above), who sources his account to, among others, a CIA document ("Informant Report on Pinochet's auto coup plan for the plebiscite" November 18, 1988.

<http://nsarchive.gwu.edu/NSAEBB/NSAEBB413/docs/NOCIADOCUMENT.pdf>)

and a DIA document ("Chilean Junta Meeting, the Night of the Plebiscite" January 1, 1989t: <http://nsarchive.gwu.edu/NSAEBB/NSAEBB413/docs/nodiajuntameeting.pdf>).

### Negotiations, Pacts and Reforms (1988-1989)

On October 6<sup>th</sup>, 1988, Pinochet appeared on national television in military uniform, after a campaign in civilian clothes. “Neither the tenets nor the constitutional itinerary outlined have been in play, rather only the election of the person who should lead the country toward the full application of the Fundamental Charter during the following presidential period” (*El Mercurio* October 7, 1988), Pinochet insisted. Indeed, according the T.D. 29 of the 1980 Constitution he was set to remain president for another year and five months, until March of 1990.

The military regime knew it was set to lose the presidential and congressional elections in December 1989, and that the center-left coalition of the *Concertación* was likely to take power. Thus, it set about structuring the transition in order to “complete its objectives” through a set of institutional and economic measures designed to, in the phrase of the regime and its supporters, “avoid irresponsible populism” (Huneus 2000: 600; Gárate 2012: 320-322). From October 6<sup>th</sup>, 1988, to March 10<sup>th</sup>, 1990, the regime dictated 226 laws, by far its most prolific period (Gárate 2012: 323). To this end Pinochet undertook a last major cabinet reshuffle, appointing eight new Ministers with an accent on economics and a significant influence of Chicago Boys/*gremialistas* led by Carlos Cáceres, a Chicago Boy, as Interior Minister (*El Mercurio* October 22, 1988). The three main goals of the regime in this period were: to consolidate the economic reforms to assure the neoliberal institutional architecture, including accelerating and finalizing the second wave of privatizations; to project institutional-political structures that would obligate any new coalition to negotiate with the right over any significant changes to the economic or institutional models, the “amarres”<sup>208</sup> and authoritarian enclaves; and to boost presidential and congressional candidacies of the right, so as to assure a sufficient number of seats to be able to block government initiatives in conjunction with the various super majority rules in the constitution (Huneus 2000: 604).

Meanwhile, within days of the plebiscite both the PDC and the RN had presented lists of proposed constitutional reforms. On December 21<sup>st</sup>, 1988, the top leadership of the PDC and RN met, led by party leaders Patricio Aylwin and Sergio Jara, to begin negotiations on consensus constitutional reforms (*El Mercurio* December 22, 1988). The UDI at first opposed constitutional reforms (Tovar 1999: 20). Pinochet also rejected them, saying, “behind certain propositions... of reforms... it is possible to see the same conceptions that drove the collapse of our democracy and have brought moral and material ruin to many nations of the West” (Tovar 1999: 22-23).

When the UDI eventually offered a package of constitutional reforms in January 1989, they maintained a hard line on certain issues such as Article 8 banning Marxist parties and the role of the Cosena (Tovar 1999: 23). Yet, January 26<sup>th</sup>, 1989, the technical commission established by the RN and the *Concertación* met to begin discussions. The military regime made its stance flexible (Tovar 1999: 24). By March 11<sup>th</sup>, 1989, the 9<sup>th</sup> anniversary of the 1980 Constitution going into force, Pinochet declared that he would accept consensual reforms, so long as they did not undo the new institutionality. He announced the Interior Minister “has been instructed... to first gather

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A fascinating recounting of these events comes from Elliot Abrams, then Assistant Secretary of State for Inter-American Affairs in “The Gringos Are with Us” in Commentary April 1, 2013. Voting data are from the Tribunal Calificador de Elecciones de Chile (TRICEL). [www.tricel.cl](http://www.tricel.cl).

<sup>208</sup> Ties, as in tethers or ropes. *Amarrar* is to tie up, as in with ropes.

knowledge of the opinions regarding this material of the diverse democratic political parties and independent sectors of the country, to inform me about the benefits for coexistence of introducing certain modifications to the Political Constitution” (Andrade 1991: 273-275).<sup>209</sup> The concessions offered included some of importance: a modification of the mechanism to reform the constitution; eliminating the ability of the president to dissolve the Chamber of Deputies; and the elimination of expulsion abroad or denial of entry to Chile for citizens under any State of Siege. Minister Cáceres announced that this process would be undertaken quickly and that the results of the negotiation would be submitted to the people in a plebiscite (*El Mercurio* March 12, 1989).

The clear strategic logic for Cáceres’ partial retreat from opposing reforms was a chance to trade “minimum reforms to the Constitution in exchange for the *Concertación* to accept said text... in this way they could preserve the articles that guaranteed the right of property and the other norms that protected the market economy” (Boeninger 1997: 348).<sup>210</sup> If, conversely, they “did not achieve an accord of this type, the predictable triumph of the *Concertación* would lead to a climate... in which the new government, supported by a clear popular majority, would demand a Constituent Assembly that would approve a new ‘really democratic’ Constitution” (Boeninger 1997: 348-349). For Boeninger, a conservative PDC strategist and key actor in the transition<sup>211</sup>, “it was difficult to think this transformational tide could be stopped by a new coup, as there did not exist minimum conditions for another September 11<sup>th</sup>” (Boeninger 1997: 349).

The strategic and political calculus was different and somewhat less clear for the parties that made up the *Concertación*.<sup>212</sup> Amid renewed calls from the left for Pinochet to resign, the establishment of a provisional government, and the convocation of a Constituent Assembly, the *Concertación* had to balance several dynamic processes and concerns per its decision to continue playing within “the rules of the game” (Boeninger 1997: 351). These were: naming a candidate for president; defining membership of the governing coalition; elaborating a program; forging an electoral pact for congressional elections; and developing the “reforms demanded of government as a condition for the acceptance of the Constitution” (Ibid). The first two of these, a presidential candidate and the definition of the coalition, had an unlikely resolution amid much uncertainty. A formerly hardline PS-Almeyda moved to strong support for the *Concertación*, PDC and Aylwin, garnering it the affectionate nickname the “PS-Almaywin” (Boeninger 1997: 353). This played into the PDC decision to opt for the “broad coalition” rather than a centrist “small coalition”, an intensely debated question in the PDC during 1989 (Ibid). Basically, this meant the governing coalition would be open to all the parties of the *Concertación* that broke<sup>213</sup> with the Communist Party (i.e. that were not participating in the United Left) (Boeninger 1997: 353-354).

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<sup>209</sup> “Mensaje del Presidente de la República, Augusto Pinochet Ugarte, 11 de marzo de 1989” in Andrade (1991).

<sup>210</sup> Edgardo Boeninger, as party VP, was himself a member of the PDC negotiating team on constitutional reforms.

<sup>211</sup> See: *El Mercurio* September 14, 2009 P.C3 and *Qué Pasa* September 18, 2009 Pp.28-34. He was celebrated as “‘the brains’ of the transition and one of the principle ideologues of the *Concertación*” in his obituaries.

<sup>212</sup> Immediately after the plebiscite the Executive Committee transformed the coalition into the *Concertación de Partidos por la Democracia* to contest the coming presidential and congressional elections (Boeninger 1997: 351).

<sup>213</sup> The PS-Almeyda did not formally make this break until after the elections, as part of the reunification of the Socialist Party enacted in “The Act of Unity of Chilean Socialism” on December 29<sup>th</sup>, 1989 (Boeninger 1997: 354).

In July 1989, the *Concertación* released its first election platform and programmatic statement for government, the “*Programa de gobierno de la Concertación por la Democracia*”.<sup>214</sup> This document represented historic changes in the political-economic and social stances of Chilean parties of the center and left, but also promised significant reforms to the political-institutional and economic-social model of the dictatorship. As Boeninger (1997: 359) notes, “the economic-social program reflects a profound change for the parties of the *Concertación*, with the explicit acceptance of the market economy and the role of private enterprise.” The document states that, “durable welfare for all sectors of the society can only be assured through a process of dynamic and sustained economic growth” (*Programa de gobierno* 1989: 11). It “guaranteed... the right of private property” and stated, “we recognize private enterprise as a fundamental productive agent, including in that concept groups of productive enterprises, large, medium and small enterprises” (*Programa de gobierno* 1989: 12; 13). “This last,” explains Boeninger (1997: 358), “implied that for the first time the opposition, including the left, accepted the existence of even the Economic Groups.” “In this way, the *Concertación* fully assumed capitalism” (Ibid) and even “implicitly recognized the irreversibility of already completed privatizations” (Boeninger 1997: 359).

By the time this program was elaborated, regular meetings and dialogues between the *Concertación* and business, represented by the CPC, were well established. Alejandro Foxley, the most influential PDC economist, and Boeninger had by that time made many public and private assurances to business regarding the moderate nature of the *Concertación* economic program. They actively sought and participated in dialogue with the business sector, contacts that accelerated in the second half of 1989 (Barrett 1997: 386-8)<sup>215</sup>. The political logic behind this concerted attempt to neutralize business opposition and put forward a pro-capitalist image is attested to by Boeninger’s (1997) view of the *Programa de Gobierno*: “It did not give a single opportunity to the right and the government to accuse it of being socialist or demagogic” (360). Boeninger said in 1988 that it was part of a long-term strategy: “the first phase of this democratic period is the consolidation of democracy; the second phase will surely place emphasis on how to resolve the country’s structural socioeconomic problems” (*Cosas*, September 18, 1988).<sup>216</sup> Last, it is also critical to note “the position of moderates within the opposition was strengthened by... the pressure that came to be exerted in the wake of the plebiscite by the United States... to make limited changes in the military regime’s economic model” (Barrett 1997: 393).

Given the focus on democratization and institutional change, reforms to the constitution were of key import for the *Concertación*, especially since major changes in the economic model had been taken off the table. This left the cleavage between the supporters and opponents of the dictatorship and the process of institutional transition as the crucial basis of opposition unity for the December 1989 elections (Boeninger 1997: 361). After the Technical Commission of the *Concertación*-RN tabled reform proposals in April, the UDI and Pinochet denounced them as

<sup>214</sup> This 39-page document was published as a special addition to *La Época*, called *Documentos: La Época* (1989).

<sup>215</sup> The most salient example of this was just one month before the plebiscite. In September 1988, Foxley and 11 other economists released a document titled “Democratic Socioeconomic Consensus is Possible”. It recognized the “economic accomplishments” of the government and attempted to, once again, dissipate a climate of confrontation with business in the interests of a smooth transition. The complete text of “*El consenso socioeconómico democrática es posible*” was published in *El Mercurio* on September 6<sup>th</sup>, 1988. Another was Foxley’s speech at ENADE, the most important big business convention in Chile, in November 1988 (Barrett 1997: 395).

<sup>216</sup> A discussion of changes in the *Programa de gobierno* forced on renovated Socialists by pressure from Foxley, and PDC concern for the sensitivity of the business community, is in *Análisis* July 10-16 and August 21-27, 1989.



“excessive concessions” (Tovar 1999: 28). Tension culminated with Cáceres’ temporary resignation April 26<sup>th</sup>, 1989 (*El Mercurio* April 27, 1989) and a list of proposals from the government that Aylwin announced did not meet minimum *Concertación* requirements. He reminded the Junta that without negotiated reforms the next president and congress would reform the constitution (*Hoy* May 8-14, 1989). Hernan Büchi, who left the cabinet to run for president in April, argued negotiations should resume (*El Mercurio* May 13, 1989). The UDI and Guzmán even agreed to reforms with an eye to elections (*El Mercurio* May 20, 1989). Aylwin, Jarpa and Cáceres held a flurry of meetings at the end of May, which resulted in a new proposal from the government with further concessions. On June 1<sup>st</sup>, 1989, Aylwin informed Cáceres of the *Concertación*’s acceptance (“with reservations”) of the proposal, which Pinochet announced publicly the very same day, saying “with this the point is clarified” (*El Mercurio* June 2, 1989).

A plebiscite was set for July 30<sup>th</sup>, 1989, to ratify a package of constitutional reforms. The *Concertación*, the RN, UDI, Cáceres and the left parties inside the CPPD all called for a yes vote while only the PC and MIR advocated annulling or spoiling the ballots (Tovar 1999: 33). Amidst a very high turnout 85.7% voted yes, 8.2% voted no and 6.1% cast blank or null ballots (*Tribunal Calificador de Elecciones de Chile*). The proposals were converted into law on August 18<sup>th</sup>, 1989 as Ley 18.825 (*Diario Oficial de la República de Chile*, August 18, 1989).

According to leading PDC strategist and academic Genaro Arriagada, the logic of the government for multiple rounds of concessions remained the threat of a greater reform or entire dismantling of the 1980 Constitution by an incoming elected coalition of the center-left. This also reflected a hyper-presidential system which, while written with Pinochet as head of state in mind, left room to reform the text to moderate its presidentialism. This could have empowered congress and the courts in a consensus with the *Concertación* and the RN (Arriagada 1998: 267).

In agreeing to these reforms at this point, strategic perspectives inside the *Concertación* were complex. The PDC emerged from the plebiscite in a power position within the coalition<sup>217</sup>, reinforced by the late June declaration of Aylwin as a consensus presidential candidate. The party also stood to become the dominant player in Congress. So, the first strategic interest of the PDC and the *Concertación* was to “generate conditions that permitted it to recognize the legitimacy of the Constitution and assume government within an institutional framework consensual enough to assure the governability of the country and the rule of law” (Boeninger 1997: 362). In a crucial sense, then, the PDC and *Concertación* wanted to avoid a Constituent Assembly as much as the Junta and the right (Ibid). In a few months it would be a PDC led government destabilized by “social pressure and the resulting climate of confrontation and instability”, not the Junta (Ibid).

A second strategic priority that had to be balanced with stability and governability was to “modify norms that could gravely affect the performance of the government” (Ibid). That is, it was in the political interests of the PDC and *Concertación* to modify the Constitution so that they had more power and freedom of maneuver with the Presidency and largest Congressional block they expected to have. This meant above all adjusting super majority rules and the Senate. The eventual compromise indeed reflected the balance of these two priorities quite closely. It made enough reforms to protect the constitution from an early Constituent Assembly and gave the PDC and *Concertación* more power while not threatening politico-institutional fundamentals.

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<sup>217</sup> See Barrett (1997: 393-397) for the *Concertación* state of play from plebiscite to the December 1989 elections.

The group of 54 constitutional reforms<sup>218</sup> passed into law in August 1989, contained an array of major and minor changes, as well as many authoritarian enclaves left untouched. Central were reductions (but not eliminations) of super-majority rules. Constitutional reforms were no longer subject to approval by two consecutive Congresses, and the proportion was changed to 3/5<sup>ths</sup> from 2/3<sup>rds</sup> (although 3 specific chapters of the constitution on the institutional bases of the state, the National Security Council, the Constitutional Tribunal and the Armed Forces remained or were raised to 2/3<sup>rds</sup>). The quorum to pass, reform or derogate organic constitutional laws was lowered from 3/5<sup>ths</sup> to 4/7<sup>ths</sup>. Designated and lifetime Senators were retained, but the number of elected Senators was increased from 26 to 38, increasing the proportion of elected Senators.<sup>219</sup>

Another group of important reforms reduced the powers of the presidency. The president was no longer able to dissolve the lower chamber of congress. Another reform cut the first term of the presidency from 8 to 4 years. A third set limited the powers of the presidency under states of exception and eliminated the power of exile and the restrictions on association and organization.

Other major reforms included the elimination of Article 8 banning Marxist Parties and an Article 23 provision barring dual membership in labor unions and political parties (although the prohibition on dual leadership remained). These enhanced freedoms of association gave more space for left political forces to be reintegrated into the institutional system. The powers of the National Security Council (Cosena) were reduced as well. Its function of “representing its views” was altered to “making its views known” and instead of being able to intervene with any branch of the state this was defined as applying to the President, the Congress, and the Constitutional Tribunal. The Comptroller General of the Republic was added to Cosena as a voting member, evening the civilian-military balance on the council at 4-4. Finally, a clause was added to Article 5 of the constitution, limiting the sovereignty of the state by requiring it to respect and promote those rights guaranteed by the Constitution and those rights guaranteed by international treaties to which Chile is a ratified party, like the International Covenant on Civil and Political Rights.

Still, several crucial authoritarian enclaves remained within the reformed constitution. A primary continuity was the autonomy of the armed forces from civilian authority and oversight, which was in some ways strengthened in 1989. First, it stipulated that appointments, promotions

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<sup>218</sup> Drawn from: Andrade, Carlos *Reforma de la Constitución Política de la República de Chile de 1980*. Santiago, Editorial Jurídica de Chile, 1991; and Ensalaco, Mark “In with the New, Out with the Old? The Democratising Impact of Constitutional Reform in Chile” in *Journal of Latin American Studies* V.26 N.2. May 1994, Pp. 409-429.

<sup>219</sup> Given that the size and composition of the Chamber of Deputies did not change, this meant qualified quorum laws would require 23 out of 47 Senators and 61 out of 120 Deputies to pass, reform or derogate; organic constitutional laws would require 27 Senators and 68 Deputies; constitutional reforms would require 28 Senators and 72 Deputies, and specified constitutional reforms would require 31 Senators and 80 Deputies.

After the first congressional elections in December 1989 the *Concertación* had 69 Deputies (plus 2 more from the left list PAIS) and 22 Senators, giving the right a 25-22 Senate majority with the 9 Designated Senators. Another concession in this regard was that any vacancies in Designated Senators could not be filled until 1998.

Examples of qualified quorum laws are the National Council of Radio and Television and death penalty laws, and laws which limit the activities of state enterprises. Organic constitutional laws include the Central Bank law, the law of the Armed Forces and laws that regulate the party and electoral systems. Constitutional reforms include the laws covering the functions and powers of Congress, the Comptroller General of the Republic, the Judiciary and local and regional government. Specified constitutional chapters (precisely, chapters 1, 3, 7, 10, 11 and 14) include procedures for reforming the constitution, civil-military relations, the Constitutional Tribunal and the National Security Council.

and retirements within the armed forces could only be regulated by an organic constitutional law (which the military regime promulgated before turning over power). Second, it raised the constitutional chapter on the armed forces to a 2/3<sup>rd</sup>s requirement to amend. Finally, it retained the restrictions on the president's ability to appoint and remove Commanders of the branches. A final authoritarian enclave was the composition and operation of the Constitutional Tribunal. It makes binding decisions on existing laws, at any point in the legislative process, or presidential decrees, with no appeal. Five of its seven members were appointed by nonelected institutions. The Supreme Court chose 3 and Cosena chose (2). All seven TC judges were in office before the transition.

Along with the continuing role of the armed forces and super-majorities needed to enact various types of laws, the most important of political-institutional *amarres* were electoral rules and the composition of Congress. One part was the non-elected Senate positions *Designados* were designated or appointed Senators and *Senadores vitalicios* were lifetime Senate positions for ex-presidents who served six consecutive years. The other key part of the composition of the Congress were electoral rules and formulas, not set down until after the results of the plebiscite were known. The binomial majoritarian system<sup>220</sup>, unique in the world, served as a main institutional mechanism to frustrate changes to many key legacy institutions from the military government. In fact, “the military government devised the congressional binomial election system as the linchpin of the authoritarian institutional framework protecting the 1980 Constitution and its corresponding constitutional organic laws from efforts to reform them by the Concertación” (Pastor 2004: 39).

The idea originated with conservative jurist Arturo Marín Vicuña.<sup>221</sup> Jaime Guzmán and Sergio Fernández were key advocates. The system was designed after results of the electoral plebiscite were known and analyzed. It was geographically skewed. Rural regions, where the “Yes” vote was higher, were significantly over-represented. Geographic boundaries of districts were designed by the military regime.<sup>222</sup> Vote percentages in the mid-30s to mid-40s made the right the greatest beneficiary of the seat allocation system.<sup>223</sup> A key strategic electoral-institutional

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<sup>220</sup> Formally, the binomial majoritarian system is a multiple-winner method of proportional representation with open lists and electoral pacts allowed. Specifically, this meant that for both the Chamber of Deputies and the Senate, two representatives were elected from party and pact lists and distributed according to the D'Hondt method. The electoral rules stipulated that for a list to garner both seats it needed to total twice the number of votes of the second-place list or pact. So, in practice, a coalition with 33.4% of the vote can get half (1 out of 2) the seats in a district. The electoral blocks can present up to two candidates per district, so if there are more than two lists (in many Chilean congressional elections third and more party lists get around 10% of the vote) the voting thresholds to win a seat can be lower, but must always be double to win 2 seats. Strategic dynamics in this system are for large coalitions, centripetal electoral competition, an over-representation of the second largest vote block and underrepresentation of all smaller vote blocks.

<sup>221</sup> This narrative is based on Pastor (2004) “Origins of the Chilean Binomial Election System” as well as José Miguel Wilson “La historia y los verdaderos padres del binominal” *La Tercera Reportajes* November 30, 2013 and Paulina Encina “Quiénes fueron y cómo trabajaron los ideólogos de la «fórmula binominal»” *La Segunda* July 4, 2014.

<sup>222</sup> The 20 least-populated districts elect 40 deputies; the 7 most-populated districts with a similar population get 14.

<sup>223</sup> The RN-UDI lists received vote totals exactly in this range in every congressional election 1989-2013, from a low of 34.18% in the 1989 Chamber of Deputies vote to 44.27% in the 2001 Chamber of Deputies vote. In the Senate vote in 2009 (whose terms started in 2010) the right got 45.19% of the vote. Their share of seats was always greater than their share of votes. The system also excluded the third largest electoral block and deprived the PC and left electoral allies of any congressional representation for the entire Concertación period, despite usually getting 5-10% of the vote.

design change was to allow electoral pacts/coalitions rather than just party lists as originally written. Added after their 1988 split, it allowed the RN and UDI to present a common list. A 1988 letter from RN leaders Jarpa and Allamand to Admiral Merino laid out this strategic logic.<sup>224</sup>

On December 14<sup>th</sup>, 1989, Chile held elections for the first time in 17 years, including for President, the 120-member Chamber of Deputies, and all 38 elected Senate seats. With more than 7,000,000 Chileans voting, the Concertación won across the board. PDC leader Patricio Aylwin was elected President with 55.17% of the vote. Hernán Büchi, candidate of the pro-regime right, got 29.40%. An independent populist conservative, Francisco Errázuriz, took 15.34%.<sup>225</sup>

The Concertación also won a strong vote share for Congress. The ultimate distribution of seats, however, was determined by the binomial majoritarian system and the complex electoral pacts this institutional set up incentivized.<sup>226</sup> The coalition took 69 of 120 Deputies<sup>227</sup>. The left list PAÍS got 5.31% of the vote and two seats. An independent, a progressive liberal, also often supported Concertación initiatives. The “Democracy and Progress” list, made up of the RN, UDI and independents, got 34.18% of the vote and 48 Deputies, 40% of the total<sup>228</sup>. A simplified balance-of-forces tally was 72 seats for the center-left and 48 for the center-right, a 60-40 split.

In the Senate an even higher vote percentage for the Concertación, 54.63%, yielded 22 Senate seats.<sup>229</sup> The conservative list received 34.85% of the vote and 16 seats<sup>230</sup>, 42.11% of the total. To this were added 9 designated Senators, who remained from 1990 until 1998. Three of these were named by President Pinochet, according to constitutional rules: a former Minister of State, UDI ‘independent’ Sergio Fernández; a University Rector, former PDC Labor Minister and RN partisan William Thayer and a former Comptroller General of the Republic, Olga Felú. Felú,

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<sup>224</sup> The change of the *Ley Orgánica Constitucional sobre Votaciones Populares y Escrutinios* that made the binomial electoral system law, by mandating two-member districts for the Chamber of Deputies and Senate and establishing the “doubling” rule, was initially enacted by the Junta in late May, 1989 (*Ley 18.799: Diario Oficial de la República de Chile*, May 26, 1989). A last change re-defined the Senate districts in light of changes in the 1989 constitutional reforms (*Ley 18.828: Diario Oficial de la República de Chile*, August 30, 1989).

<sup>225</sup> All voting results are from the Tribunal Calificador de Elecciones de Chile (TRICEL) and are available on the web page of the Servicio Electoral de Chile (SERVEL) at: <http://www.servel.cl/ss/site/resultadoselectorales.html>.

<sup>226</sup> As a 17-party coalition in an electoral system with two-member districts, intricate political-electoral engineering was key. In addition, the Concertación wanted to incorporate the PS-Almeyda, still in the United Left, but the PDC would not have an alliance with the PC (Boeninger 1997: 354-355). The United Left ran under the banner of PAÍS (Broad Left Socialist Party) while the Concertación ran de facto two lists, CPPD-PR and PPD-renovated Socialist. Both ran a slew of independent candidates who were actually partisans, for legal-electoral reasons. The negotiated accords took the form of “pacts of omission”. This meant the PDC desisted from presenting candidates in some regions and districts to allow seats for other parties, such as the PR, PS-Almeyda and PPD, but not PC candidates (Ibid). Pacts within pacts meant five party lists appeared: the PDC, Partido Radical, Partido Humanista, Los Verdes and a list of independents. The “pacts of omission” balanced party seats and lists by not competing everywhere.

<sup>227</sup> These 69 were made up of: 39 for the PDC (1 elected as an independent); 19 for the PPD (3 elected as independents); 5 for the Radical Party; 2 for the PS-Almeyda (both elected as independents); 2 for the Christian Left (both elected as independents); 1 for the Humanist Party; and 1 for the Social Democratic Party (elected as an independent).

<sup>228</sup> The breakdown was 33 for the RN, and 15 for the UDI, with four from each party elected as independents.

<sup>229</sup> This was 14 for the PDC, one elected as an independent, 4 for the PPD, 2 for the Radical Party, 1 Social Democrat, elected as an independent, and 1 for the PS-Almeyda, elected as an independent.

<sup>230</sup> Of these 13 were RN, 8 elected as independents and 3 were UDI, one elected as an independent.

the four Senators named by the Army, Navy, Air Force and National Police and the two named by the Supreme Court all maintained partisan independence but were conservatives and essentially always voted with the RN and UDI Senators. Thus, with 34.85% of the vote, the right block in the Senate controlled 25 out of 47 seats (53.2%) for a 25-22 balance of forces.

Symbolically and historically significant was a particularly perverse result in the Senate race for Western Santiago. PDC president Andrés Zaldívar and PPD founder Ricardo Lagos ran under the Concertación list in a district that contained many of the most popular, working-class districts in the Metropolitan Region. Both had very high public profiles as leaders of the opposition and adversaries of the dictatorship. Lagos had achieved historic fame on April 25<sup>th</sup>, 1988, in an event known “*el dedo*”.<sup>231</sup> Against them ran the RN’s Miguel Otero and, at the last minute, Jaime Guzmán, founder of the UDI and leading institutional strategist of the military regime.

On the Concertación list Zaldívar edged out Lagos- 408,227 (31.27%) to 399,721 (30.62%), together achieving 61.89% of the vote in one of the most dense and populated electoral districts in the country. Far in third place came Guzmán with 224,396 votes, just 17.19%. Combined with his RN list partner at 199,856, 15.31%, the *Democracia y Progreso* duo had 424,252 votes, or 32.5%. With the 5.61% obtained by two independent candidacies this meant the Concertación list had not doubled the Democracy and Progress list. Guzmán was elected Senator for West Santiago with 175,325 fewer votes than Lagos, nearly 13.5% less. Of all Senators actually elected that day, only two received more votes than Lagos. The elected RN Senator in far South Aysén, Hugo Ortiz de Filippi, won with just 9,324 votes.

The Junta wanted to do away with the pre-1973 proportional representation system, reduce the number of parties and promote “centripetal” electoral competition. But it feared a conservative wipeout in single member districts. It designed a binomial electoral system and redrew the electoral map. The result in West Santiago in December 1989, exemplified the success of that strategy.

### **Labor in Transition (1988-1989)**

The CUT and labor movement arrived at the conjuncture of the plebiscite in a weakened position in the opposition compared to just a few years before. A move from social mobilization to electoral-institutional strategy moved action from a labor protagonist arena to one in which it had a secondary role and exacerbated divisions within the CNT/CUT, especially between the PDC and PC. A relegation of key CUT leaders after the August 1988 Constituent Congress, including Bustos and Martínez, exacerbated these tensions (*Fortín Mapocho* August 30, 1988).

After the plebiscite, the CUT tried to continue balancing social mobilization and support for the party-led political transition (Barrett 1997: 374). The CUT faced continued repression even as state violence declined overall and a Concertación more interested in negotiating arrangements with business than labor. Still, the CUT led one last attempt at mass mobilization under the Junta. On April 18<sup>th</sup>, 1989, labor called the fourth and last general strike during the dictatorship. The call was in part a show of force to the military regime and its conservative backers and in part to the Concertación political parties. It was also a reinforcement for programmatic positions the CUT

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<sup>231</sup> “The finger”, which is the title of the first chapter of Lagos’ 2012 English language memoir, *Southern Tiger*, refers to an incident in which he pointed at the camera during a televised debate soon after the opposition gained media access. Lagos directly addressed Pinochet, denounced “torture, assassinations, violation of human rights” and said he was “speaking for 15 years of silence” (Lagos 2012: XIII-IX).

had just laid out. That month the CUT also released its most expansive, detailed statement of objectives and policy prescriptions to date, the “Proposal for a Transition to Democracy”.<sup>232</sup>

The strike demands were to release Bustos and Martínez, halt privatizations being enacted in a massive a second wave, and an across the board wage readjustment (*El País* April 19, 1989). The strike saw partial success though it was not formally supported by the major copper, oil or bank workers’ unions, the three most powerful at the time, or by the parties of the *Concertación* (Ibid). Diego Olivares, acting CUT president, claimed about 50% of workers stuck at least part of the day (*Fortín Mapocho* April 19, 1989), a figure with support from a police reported 50% shut down in collective transportation. Also, most shops at least closed early (Ibid). Barricades, confrontations with police and heavy repression were seen in many peripheral neighborhoods, and in the evening dozens of bombings cut electricity for most of Chile in a last *apagón* (*El País* April 20, 1989). In the state crackdown, two were killed in the days leading to the strike and another the day of the strike. Fifty were wounded and 138 arrested (Ibid). One notable aspect of this strike was that middle-class support, particularly as seen in the *cacerolazo*, was nearly non-existent (Ibid).

Given the complexity of the political situation in the *Concertación*, there was no formal response to labor’s demands until after the promulgation of its program and the nomination of Aylwin for the presidency in late June and July 1989 (Barrett 1997: 374). After that began a process of dialogue between the CUT and *Concertación* and parallel dialogues with the CPC. This period in mid-1989 marks a key turn for labor orientation. Labor decisively shifted emphasis from mobilization and pressure to concertation and dialogue. This meant the political parties that soon took executive and legislative power and capitalists represented in peak business organizations.

The *Concertación* used a dual-track strategy with CUT policy proposals. Promises were made on substance. Yet, they were linked to an institutional-process insistence that policy specifics be worked out in negotiations with business groups, and as with little state involvement as possible. The promises are seen the *Concertación*’s 1989 *Programa de Gobierno*. This states that: “The current institutionality of labor... has put the workers in a grave unprotected situation. It has impeded the constitution of a strong and representative unionism, just as it has the development of an equitable collective bargaining...” (*Programa de Gobierno* 1989: 25). As a solution they “propose[d]... to introduce profound changes in the institutionality of labor, such that this cares for the fundamental rights of the workers and permits the strengthening of union organizations so that these become an effective tool for the defense of the interests of the wage workers”. It promised, “constitutional and labor law changes... accompanied by social and economic policies that favor an equitable distribution of the fruits of development” (Ibid: 26). It would “correct the strong disequilibria that have affected workers in the current regime” via “profound changes in labor legislation regarding individual contracts, union organization and collective bargaining” (Ibid).

The *Programa* makes specific commitments in each of these areas of labor law. So, on “union organization” (Ibid: 27-28), the law should “give institutional expression to the ethical and juridical notion that the union or guild is an organ called to fortify the role of the worker in the firm and in the society or nation.” Changes to labor law to reach said goal would include: job protection for union leaders and organizers; obligatory union dues for all those workers who benefit from union organization at whatever level, including their education and training resources; making only unions able to collectively bargain (eliminating bargaining groups); establishing regulations to avoid union fragmentation; and legally recognizing the right of federations and confederations to collectively bargain (Ibid: 28-29). With respect to norms on collective bargaining

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<sup>232</sup> CUT (1989) “*Propuesta para la Transición a la Democracia*”

the document establishes that “a better equilibrium between the parties is required” (Ibid). Thus it proposed: that collective bargaining occur at firm, multi-firm or sectoral levels; that collective bargaining contracts apply to all workers and companies party to them, including workers who join the union after the contract is negotiated; bar firms with workers on strike from hiring replacement workers; derogate the norms that allow individual workers to end striking after 30 days and end a legal strike after 60 days; suppress the ban on bargaining beyond the firm level. It had binding state-labor-firm tripartite bargaining to fix minimum salary and working conditions in the sectors “where workers... do not have the possibility of efficacious collective bargaining” (Ibid). Finally, regarding the individual labor contract and rights, the document promises: to regulate and protect contract, short-term and temporary workers and to require all dismissals to have a reason, either the “needs of the firm” in an economic or technical sense, which would always require the payment of an indemnity, or directly related to the conduct of the work (Ibid).

Concertación strategy saw “labor relations as a particularly delicate theme”. To “temper” the “radicalness of... announcements” (Boeninger 1997: 358) its program promised, “the workers and their organizations, like entrepreneurs and theirs, are the fundamental titular actors of labor relations” and “proposals this chapter contains are propositions open to debate and exchange to achieve the greatest consensus possible of all involved parties” (*Programa de gobierno* 1989: 25). To achieve this the document proposed “reforms to labor legislation will be analyzed... by a tripartite commission that permits the active participation of labor and business organizations in the design of new labor institutionality” (Ibid: 26). It was, according to Boeninger (1997: 359), “a clear signal to the entrepreneurs that the new government did not propose to impose a new set of regulations without giving due considerations to the criteria of the private sector.”

This idea of direct, negotiated consensus between business and labor groups to make the promised “profound changes” to the Labor Code was part of a much broader and deeper theory and strategy of political economy embraced and advocated by PDC economist Alejandro Foxley. Foxley had been advocating<sup>233</sup> for “concertation” to affect change in a new democracy without destabilizing the state and economy. Yet, during the 1980s, his view evolved from one inspired by northern European models of state-capital-labor discussions to direct capital-labor social concertation to decongest the state<sup>234</sup> (Foxley 1989; Rivera and Albuquerque 1990: 101).

A speech at a November 1988 ENADE conference defined the nature of key changes for economic-political stability after a transition. Consensus was based on three pillars: recognition and preservation of an export-based, internationally open market economy; a private sector free from fear of expropriation; maintenance of macroeconomic stability and the reigning in of some radical social inequalities. He proposed three solutions: recognition of the fundamental private development role; business-labor negotiated reforms to rebalance capital-labor relations and reconcile stability with labor market flexibility; and forging capital-labor agreements with the least possible state intervention, to “decongest” the state apparatus and serve as basis for the new social

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<sup>233</sup> He was a member of the influential think tank CIEPLAN, from which many Concertación officials came. For his early advocacy of social concertation as tripartite arrangement see: Foxley, Alejandro (1982), “*Algunas condiciones para una democratización estable: el caso de Chile*,” Colección Estudios CIEPLAN, No.9 (December).

<sup>234</sup> For his vision of social concertation as means to “decongest” the State See: Foxley, Alejandro (1989), “*Bases para el desarrollo de la Economía Chile: una visión alterativa*,” in ENADE 88: La libre empresa y el futuro de Chile (Santiago: ICARE); and his interview in *Análisis* December 25-31, 1989.

concertation strategy of governability (Foxley 1988; Barrett 1997: 395-396). This is why the Concertación was such a strong supporter of CUT-CPC direct dialogue (Barrett 1997: 377).

Some very preliminary labor-business contacts between the then-CNT and the CPC date back to 1984 (Silva 1991: 382; Barrett 1997: 374). Bustos and the CNT officially invited the CPC to begin a dialogue in May 1988 (Bustos and Foxley 1999; *La Tercera de la Hora* May 31, 1988). Yet, serious contacts only began after the opposition victory in the 1988 plebiscite, when the CUT sent an open letter to the business sector ("*Carta a los empresarios*", October 18, 1988). Bustos and Martínez visited and were received by CPC leader Manuel Feliú at CPC headquarters September 20<sup>th</sup>, 1988, as public opinion surveys began to make a "NO" look increasingly plausible (Barrett 1997: 423). When the CPC counter-proposed to include the CDT in the dialogue, the CUT recanted (*Fortín Mapocho* November 5, 1988). Two CPC-CUT-CDT meetings were eventually held December 12<sup>th</sup> and 19<sup>th</sup>, 1988 (Barrett 1997: 376). As the CPC continued to meet with the CDT and the Copper Workers (CTC), the CUT held off during the time it organized the April 1989 general strike. "Proposal for Transition to Democracy" was a document awaiting Concertación official positioning on labor issues as Bustos' and Martínez' were serving terms in internal exile (Ibid). It was only after negotiations with the Concertación began in July 1989 that the CUT again stated its willingness to engage in dialogue with the CPC on the basis of its "Proposal" (Ibid). After months of back and forth on timing, format and content, the day before the December 1989 elections the CPC agreed to begin negotiations (*El Mercurio* December 14, 1989).

By this time the CUT had also released a specified refinement of its proposals called the "80 measures" (*Apsi* December 11-17, 1989), on which it wished to base dialogue with both the CPC and the Concertación. Yet, in accord with Foxley and Boeninger's theory of "decongesting" the state in the name of governability and stability, the Concertación announced publicly that the start of a CUT-CPC dialogue significantly diminished the importance of its own response to the CUT's proposed reform measures (Foxley interview in *Análisis* December 25-31, 1989). So, on December 21<sup>st</sup>, 1989, the CUT and CPC announced an initial agreement on a negotiations process.

### ***Leyes de amarre, Final Appointments and Faits Accomplis (1988-1989)***

In the last months of 1989, the regime continued to pass laws and leave one fait accompli after another for the civilian government set to take control early in 1990. Between August 29<sup>th</sup> and September 5<sup>th</sup> the Junta enacted "*Leyes de amarre*", which comprised a new administrative legal regime (Ley 18.827: *Diario Oficial de la República de Chile*, August 29, 1989; Ley 18.830 *Diario Oficial de la República de Chile*, September 5, 1989; Ley 18.831: *Diario Oficial de la República de Chile*, September 5, 1989). In one of the greatest ironies of the dictatorship, these laws protected the body of state administrative workers appointed by the dictatorship and led to inflexibility and *inmovilismo* ('immobilism') in 72 public administrative entities. This was a set of labor protections that state workers had never enjoyed in the 16 years of the military regime to that point. It also came from a government whose hallmark of labor policy was "flexibility". It did serve to prevent a feared purge of military appointed state workers, a policy they had good reason to fear, insofar as the military government had engaged in just such a purge early on.

Another such law was the *Ley Orgánica Constitucional del Banco Central*, which gave autonomy to the Central Bank vis-à-vis the elected President and Congress (Ley 18.840: *Diario Oficial de la República de Chile*, October 10, 1989). Autonomy "aim[ed], beyond preserving its technical character, to give it the necessary level to guard certain fundamental economic values"



(Ibid). Nominees to the five-member Bank Council were given 10-year terms and could not be removed by the President or overseen by Congress.

PDC leader Andrés Zaldívar stated the law “will be modified the day after a democratic government is installed” (*La Segunda* January 20, 1989: 20). After its first approval by the Junta, in August 1989, with its intent to name the Bank President and Council, the Concertación objected strongly. Foxley and renovated PS economic expert Carlos Ominami insisted, “the Concertación impugns the form and content of this law and considers that the military government does not have the moral authority to take fundamental decisions that will affect future economic policy” (*El Mercurio* August 22, 1989). They critiqued the institution’s “non-representative character with the purpose of constitutionally limiting the ability to design and conduct economic policy for future democratic governments” (Ibid). Foxley stated: “we will propose substantial modifications to the law that gives autonomy to the Central Bank” (*El Mercurio* August 18, 1989). Rather than change the law, Cáceres and Foxley negotiated a Council to run the Bank. The Concertación, represented by its pro-neoliberal faction, won some say in appointments (Bianchi 2009: 15-16). “For the opposition,” Andrés Bianchi, President of the Central Bank from 1989-1991, argues, “the eventual successful culmination of the negotiation implied de facto acceptance of the validity of a law whose fundamental principles and basic dispositions they did not share” (Ibid). It also meant that “in case of victory in the elections... having to coordinate their economic policy with a Council given considerable power, in which they had some participation, but they did not control” (Ibid).

On December 4<sup>th</sup>, just 10 days before the elections, an agreement on the Central Bank Council was announced. The government and opposition would each name two members, and they would mutually agree on a fifth, politically independent, member of the Council (Ibid). Bianchi argues, “Despite difficulties and thanks to the tenacity and vision of Minister Cáceres and the realism of Alejandro Foxley, who, as the most likely candidate for Finance Minister, understood the relative advantages for a future government of a compromise solution” an agreement was reached (Ibid). It avoided dismantling a law the Concertación later fully backed. Bianchi (2009: 17-22) offers a compelling account of Concertación elites coming to embrace Central Bank autonomy in practice. The key basis was “shared anti-inflationary conviction” (Bianchi 2009: 18).

Even after presidential and congressional elections, in contradiction to agreements made with the Concertación, the military regime continued to pass laws, make appointments, and create de facto situations for the new government. One key example was the *Ley Orgánica Constitucional de la Fuerzas Armadas*. This law was the subject of negotiations with Concertación representatives in December 1989. Yet, its precepts went distinctly against guidelines to which the government agreed (*Ley 18.948: Diario Oficial de la República de Chile*, February 27, 1990).

This Armed Forces Organic Constitutional Law stipulated the practices of appointments, promotions and retirements in the armed forces. It laid out a procedure whereby the services would present lists of candidates to the President for those positions that were being vacated and/or needed to be filled. In practice, it significantly limited the ability of the President to regulate discipline and punish indiscipline within the armed forces. In addition, the law assured the material autonomy of the armed forces from the civilian state by guaranteeing its funding via a fixed floor at the 1989 level, plus mandated annual readjustments at the level of inflation (*Ley 18.948 Article 96*). This was in addition to the guaranteed financial support from the Copper Law, which entitled the armed forces to 10% of CODELCO’s income, also not overseen or controlled by civilian authorities. This meant that in 1989 the armed forces got 1.79% of GDP as its funding floor, 2.96% of GDP including the copper income (Huneus 2000: 607).

Another series of last-minute actions involved crucial appointments. Most important was the Supreme Court, where the regime increased the number of justices from 13 to 16 and offered a special retirement bonus to all of them, an offer taken by more than one third (Huneus 2000: 609-610; Ley 18.805 *Diario Oficial de la República de Chile*, June 17, 1989). This allowed the appointment of 9 new, younger, justices during the last months of the military regime, meaning at the time of the transition 14 out of the 16 justices had been appointed during the dictatorship.

Another key retirement was Junta member Navy Admiral José Merino. He resigned days before the handover (*El Mercurio* March 9, 1990). Pinochet was allowed to name his replacement and, under T.D. 8, Merino's successor, Admiral Jorge Martínez Busch, enjoyed an 8-year term with protection from dismissal by the president (Barros 2002: 260 footnote 3).<sup>235</sup> Busch was a Pinochet loyalist. When he retired, he became the Navy's designated Senator from 1998-2006.

Finally, on the very last day of the dictatorship, the government enacted the *Ley Orgánica Constitucional de Enseñanza*, known simply as the LOCE (Ley 18.962: *Diario Oficial de la República de Chile*, March 10, 1990). This was the law regulating the educational system in Chile. It became a great source of controversy in the first mass protest movement of the Concertación era, the 2006 student movement, and later the 2011 student movement. It structured an education system with a great degree of privatization, deregulation, economic segregation and a strong role for profit. It also birthed Chile's internationally well-known system of education vouchers.

### **Conclusion: Institutional Politics and Channeling the Upsurge from Below**

Jaime Guzmán argued strongly, and successfully, in the second half of the 1970s that the surest way to protect and project into the future the political-economic transformations imposed by the military was to consolidate a political-institutional system before demands for democracy from below burst forth. In this way his strategy proved successful. Both the legal labor institutions of the 1979 Labor Plan and the broader political-institutional framework of the 1980 Constitution were put into place at a moment of relative political and economic strength for the military state, Between a sharp recession in the mid-70s and even more catastrophic depression in 1982-1983.

Opposition to the military regime was largely disorganized and de-institutionalized when the 1982 crisis hit, mainly due to state violence and repression. Thus, "there was room for mass mobilization and spontaneous citizen participation in Chile because authoritarian repression had weakened organizational leaders' control over their constituents" (Weyland 2014: 199). The drive for confrontational challenges to a violent military state, particularly in marginalized urban areas, was mainly bottom up (Puryear 1994: 76-79; Schneider 1995: 159; Weyland 2014: 199). Labor was the only opposition movement with any significant organization. Still, connections between leadership and base, and legal labor organization overall, were much weaker than before military rule, even if both had partly recovered relative to the first years of the dictatorship. And, of course, labor opposition had been partially legally and institutionally incorporated in the 1979 Labor Plan.

When opposition exploded in the strategically crucial copper mines in early 1983, strikes and other actions started largely at the base and were thereafter joined by (a newly elected) labor leadership. Even when CTC and CNT leadership began to speak out and try to coordinate these labor actions, they did so with an autonomy from the political parties vastly greater than in the pre-coup years. This was also largely due to state violence and repression. Weyland (2014: 199) notes,

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<sup>235</sup> The resignation was also in part because Merino had grown increasingly critical of the conduct of Pinochet and his government and he subsequently withdrew from politics and public life. The other prominent Junta critic, Air Force General Fernando Matthei, did not make use of his potential extended term, resigning in July of 1991 (Ibid).

“Historically, party leaders had enjoyed firm command over members and affiliated associations such as trade unions. But under the dictatorship, these cadres lost touch with many members who therefore had to decide on their own whether to join protests or not.” Thus, tumultuous protests in 1983-1984 that grew out of the crisis were difficult to control and the military regime resorted to a high degree of violent repression to suppress them. There was simply no sufficiently organized, controlling opposition to negotiate with or which the prevailing institutionality could co-opt.

With potential power to interrupt capital flows in critical mining and transport sectors, or even paralyze the country and economy in a general strike, labor threat was again a central concern of the Junta. The paradoxical problem, driven by the dictatorship’s own reliance on repression was “mass actors- temporarily released from representative leader’s control due to the suppression of parties - were eager to act on their socioeconomic and political grievances” (Weyland 2014: 199).

At risk for regime collapse and institutional rupture early in the protests- an assessment shared by the opposition political parties and the US CIA – the state resorted to escalating violence. Suffering an economic nadir and lacking an organized political opposition it could negotiate with to end the challenge and preserve key institutions, the Junta saw regional states like Argentina and Brazil transitioning. The state killed hundreds of protesters, opponents and random civilians, wounded thousands and detained tens of thousands, particularly in *poblaciones*. It was raw state brutality and military control of everyday life under a state of siege put in place just after the first general strike. That state of siege finally, if only temporarily, suppressed the upsurge from below.

Yet, as the labor and mass popular uprising challenged the government, it created growing space for the re-emergence a more institutionalized and political party-based opposition. Driven by the deep historical habit of labor and popular organizational subordination to partisan politics, labor quickly attempted to cede primary opposition protagonism to the political parties. It just as quickly came to regret the results. This institutionalized political opposition, dominated by the PDC and secondarily by various renovated socialist factions, had distinct interests and concerns from labor. So, it advocated more cautious opposition and dialogue with the government (Aylwin 1998: 228; Arrate and Rojas 2003: 355). The PDC was positioned to take power in a negotiated transition, and thus had the least incentive of any force in the opposition for a radical break with prevailing institutions and political-economic structures. A growing alliance with renovated PS sectors meant they, too, shared an interest in a stable and minimally disruptive transfer of state power. Fundamental political-strategic interests explain why, “by channeling contentious bottom-up energies, political parties thus tried to take center stage and reestablish the predominance over Chilean civil society they had traditionally had”. These also explain why political parties attempted to “avoid risky unrestrained mobilizations such as a general strike” (Weyland 2014: 200).

A centrist political party opposition grouped in the AD still had to balance its interests in a negotiated transfer of power with the dynamic of a more confrontational politics to its left. The latter was driven by the interests of many Chileans in much more thoroughgoing political change. It was expressed in increasingly radicalized opposition in peripheral areas of Santiago. Politically, it took the form of a “rupturist” left in the MDP. They advocated an overthrow of the military state and radical transformation of the entire institutional and political-economic structure it imposed.

Political disunity between the AD and MDP was the greatest obstacle to AD plans for a dialogue-based transition negotiated with the state and de facto economic powers. The PDC and AD implicitly needed the threat generated by a rupturist left to pressure the regime enough that it had an interest in conceding power in a negotiated settlement. They also needed a mobilizational, confrontational aspect to maintain credibility with many Chileans who desired an overthrow of the regime and its neoliberal political-economic model. Finally, they needed enough connection

to the left to be able to tamp down confrontational protest, the only real leverage they had with the Junta and the US. The AD and PDC needed to offer a way to prevent radical institutional rupture.

Partisan divisions were partly transcended in the labor movement. PC and PDC leaders and base militants cooperated, if with tensions. When the state made insufficient concessions to a PDC dominated party opposition, labor's strategy of center-left unity and pressure gained ground with the parties. The high point of this dynamic was the formation and operation of the AC. It had PC-PDC cooperation, if secret, and a strategy of maximizing rupturist pressure, if tacit. As the PDC-led block was empowered by regime negotiations, US support and left weakness, party divisions translated to labor. In 1983-84 the parties were still too weak and an accommodationist accord with the regime was still too much of a political liability for the AD to offer it to the state. To maintain credibility the AD had to hold to the three demands: exit for Pinochet; formation of a provisional government and a constituent assembly. This was the path of an institutional rupture. Without a negotiated exit that preserved key interests, the Junta had to resort to force and fear.

This dynamic had a paradoxical outcome. Peaceful protest and dialogue seemed unable to yield significant change and the state relied once again on heavy violence. So, social and political forces oriented to total opposition and escalation got increasing support and prominence. In the shantytowns and on the rupturist left support for violence, even insurrection, grew. As the US and many moderate opposition leaders argued with increasing alarm, the dictatorship's reliance on violence was producing a polarization and radicalization that drove the spectacular growth of the armed revolutionary opposition in the wake of the imposition of the state of siege. This process and the government's escalatory response to it both reached a high point with the general strike of July 2-3, 1986, symbolized by the military/UFA occupation of Santiago and *los quemados*.

Mutually reinforcing escalatory dynamics panicked many players in Chile's politics by putting at play fundamental interests. The US government, deeply fearful of a "Nicaraguan", or revolutionary-rupturist, outcome moved more decisively to support the centrist opposition and to secure a negotiated transition of power. With US pressure, the PDC moved to decisively break any opposition unity between its block and the PC-led left. The increasing prominence of the PC and the potential for a revolutionary rupture also threatened all of the PDC's most basic interests in gaining power within a minimally disrupted and thus weakened political-economic apparatus.

Later, sectors of the armed forces and regime grew increasingly interested in a US-backed dialogue for a negotiated transition that protected fundamental military and state interests. At the highest level of the Junta this was represented by Navy Admiral Merino and Air Force General Matthei. The moderate political right led by Sergio Jarpa and Andrés Allamand came to similar conclusions about the interests of the "traditional" right they represented. These were the very same political and institutional forces that demanded Pinochet respect the plebiscite results.

After that, even the big business sector most closely associated with the regime began to negotiate with the moderate opposition. The potential of PC-led rupture presented these varied forces with a shared, if implicit, alignment of interests and focused their strategic thinking. The Concertación, the US, parts of the military, factions of the political right and big domestic capital eventually reached a pact that ushered in a transfer of power while guarding the most important shared political-institutional and material interests of all these groups. The ultimate basis of their ability to reach such an agreement was this underlying structural alignment of interests, revealed in crisis. This crisis made explicit what was implicit: the military state, finance capital and a would-be ruling political party, the PDC, shared interests. Given prevailing macro-structural conditions, labor interests in 'profound changes' stood in direct opposition to this constellation of interests.

A series of political-military-institutional factors aligned for such interests to be expressed successfully in a pacted transition. Political isolation and then political-military defeat of a PC-led insurgent threat. The development of political party opposition organization to the point where negotiation and enforcement of any deal was plausible. A Concertación acceptance of most of the 1980 Constitution's, yet with enough change to give them a meaningful, growing share of control. Finally, the US government insisted on assurances in the institutional order that guaranteed its key political interests in the new era, as well as those of large capital and the military. These assurances were provided by the *amarres* and the institutional "authoritarian enclaves".

This meant, above all, continued military supervision of politics and institutional rules that gave the political right a veto over government initiatives, particularly via the Senate. Yet, as these constraints fell by the wayside, gradually, one-by-one throughout the Concertación era, an even deeper and more basic element of the pact and its alignment of interests became evident. That is, the profound structural changes of the dictatorship era to Chile's political-economy had yielded a situation where it was simply not in the interests of the state or the political parties that held or stood to hold state power to alter these basic arrangements in any significant manner.

Privatizations and the powerful Economic Groups' dependence on international financial flows and international markets for economic growth, and flexibilized, informalized and largely low-wage labor market created a set of structural incentives for the elected governments of the Concertación that followed. As Silva (1992: 99) notes, "at the heart of the pact was the fact that the reformist political parties –representing the middle class and some sectors of labor- explicitly committed themselves to pragmatic neoliberalism." Concertación electoral-institutional strategy was ostensibly designed to win political power and then make structural economic changes. By the time they actually gained power, a new set of incentives drove political actions. Thus, Barrett (2000: 7) argues, "the effect was to diminish not only the CPPD's capacity but also its inclination to alter the regime's economic model. Indeed, the CPPD's very preferences and objectives had undergone significant change, as it began to look with increasing favor on the economic model."

Rather than ascribing change to ideational or ideological convergence, the direct strategic interests of a political party and coalition on the verge of assuming state power in this structural context offer a clear explanation. The PDC and Concertación had obvious objective interests in not making fundamental changes to the Labor Plan or the neoliberal political-economic model. Vulgar interests explain action much more than inconsistent ideologies and their vagaries in time.

The case of Chile in the 1980s shows how labor and the state and labor and political parties, whose *raison d'être* is to gain state power, have distinct and conflicting interests. This was true even when those parties were in opposition to the state, even ostensibly seeking the end of a political regime or military rule entirely. When the dynamic of an upsurge from below is channeled into formal-legal political institutions, it comes at a cost to the fundamental interests of labor. As action moved from base to leadership, from labor movement to political parties and from confrontations, strikes and protests that directly threatened the interests of state and capital to the theater of politics and negotiation, the magnitude of change contemplated to the Labor Plan and the neoliberal model more broadly by ruling and would-be ruling factions declined accordingly.

Outcomes of these sequences of labor threat and state reaction under the Junta are crucial to explaining the persistence of the Labor Plan in the Concertación era. Moments of potential rupture led by labor that threatened the regime yielded political party led negotiation for shared power with established interests. The labor movement re-institutionalized under the leadership of political parties soon to take state power, especially the PDC and renovated PS. State-party-labor dynamics at the transition did not bode well for promised "profound changes" to the Labor Plan.



## **Chapter 6 - Patterned Stability: Political Incorporation, Labor Threat and Profound Changes**

### **Introduction: Labor, the State and the Labor Code in the Concertación Era (1990-2010)**

On March 11<sup>th</sup>, 1990, Pinochet gave the tricolor sash traditionally worn by the President to Christian Democratic Party leader Patricio Aylwin in an inauguration ceremony for the first elected and civilian President since the coup (*El Mercurio* March 11, 1990). The transition was not a return to Chile's pre-coup democracy, symbolically or substantively. The ceremony took place at the new National Congress building in Valparaíso, Pinochet's birthplace and childhood home (Ley 18.678: *Diario Oficial de la República de Chile*, December 24, 1987). Pinochet remained Army Commander-In-Chief for another 8 years, then became a Lifetime Senator. Still, the new period arrived with promise for labor, including a specific commitment to "profound changes" in the Labor Plan Labor Code published in the Concertación *Programa de gobierno*.

The Concertación won every election from December 1989, until December 2009. It held the of President from March 1990, until March 2010, a Concertación Era of four Presidential administrations: Patricio Aylwin (1990-1994); Eduardo Frei (1994-2000); Ricardo Lagos (2000-2006); and Michelle Bachelet (2006-2010). Aylwin and Frei were Christian Democrats. Lagos was a Socialist Party leader and co-founded the PPD. Bachelet was also from the Socialist Party.

Several attempts to reform the Labor Code in this Era yielded two big pieces of legislation.<sup>236</sup> Institutional heritages from the period of military rule ultimately prevented promised "profound changes" in the Labor Code. In the first instance, institutional "authoritarian enclaves" left behind blocked proposed legislation. Non-elected Senators provided the margin of defeat in key votes, the electoral system over-represented the right, the super-majority rules for legislation meant a conservative blocking minority existed on key labor law issues and civil-military relations, formal and informal, induced caution in state and party leaders.

These constraints weakened during the Concertación Era. Designated Senators were eliminated, a Constitutional Reform lowered some super-majority rules and reforms enhanced the power of elected civilian governments. Military influence and interference steadily declined.

In the Executive and Congress political power moved left in this period. The Presidency went from conservative PDC to progressive PDC to moderate PS to progressive PS. The weight of the Socialist Party increased in the Chamber of Deputies and in the Senate. In the PS and PDC alike, factions committed to greater change gained more influence over time, driven in part by internal party politics and in part by broader electoral competition. Political power inside the labor movement saw an analogous shift as leadership moved from predominantly PDC to PS. In a context of slowly but steadily growing pressure from the rank and file for a more oppositional praxis, the PC and various other left labor currents gained leadership positions and influence.

Nonetheless, prospects for "profound changes" declined in the Era. The most profound were proposed early. After 2001 no changes were made to the Labor Plan. The PS CUT president Arturo Martínez claimed the PS-led Bachelet administration "was the very worst on the labor topic of the four periods of the Concertación" (*El Mercurio* December 24, 2009).

One institutional heritage of the prior period proved remarkably stable over two decades. The relationships between the political parties and institutional labor movements remained as they

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<sup>236</sup> The two bills that intended to reform the Labor Plan were signed by Aylwin in 1994 and Lagos in 2001. A number of other pieces of labor law related legislation were passed during the 1990-2010 period and will also be addressed.

were after 1987's "electoral turn". An institutionally and politically incorporated labor movement posed little threat to parties, state or capital. This was the ultimate basis of Labor Code stability.

Still, labor pressure from below grew steadily, if slowly and unevenly. Strikes became more numerous, militant and costly, including illegal strikes. By the Bachelet presidency base-driven labor threat, which had been rising for nearly two decades, became much more evident.

## **Part I: Labor Reform in the Concertación Era (1990-2010)**

### **The Aylwin Administration (1990-1994)**

From the start President Aylwin centered social peace and reconciliation as touchstones of his mandate. He pursued a strategy of "consensual solutions".<sup>237</sup> For labor this meant a "social pact" which, as a supportive editorial put it, "would be difficult" because "for the union sectors, an accord is a tacit abandonment of the strategy of class struggle" (*La Época* March 21, 1990: 6). Aylwin and Labor Minister René Cortázar pushed hard immediately after the December 1989 elections for labor and capital, represented by the CUT and CPC, to reach negotiated accords.

As the talks, formally only between the CUT and the CPC, continued it became evident that each of the parties sought something different from this "model agreement". For the CPC the clear goal was to have labor accept the existing legal-institutional framework inherited from the dictatorship. As business leader Daniel Platovzky put it in an interview, "all we ever cared about was the market economy and firm level bargaining. Sure, we would talk about labor training and other matters, but that was just bullshit" (quoted in Barrett 1997: 422).<sup>238</sup> For the government, the key concern was "peace" in labor relations, crucial for its central preoccupations with "economic stability" and "governability" (Boeninger 1997: 483-496). The CUT had a dual focus: economic changes and its recognition as official interlocutor with the state and large capital (Uggla 2000: 160). While a left current led by Communists opposed the negotiations, organizational leadership led by Christian Democrats and renovated Socialists had as a top priority "to create an auspicious framework for the democratic government" as it assumed office (*La Época* February 23, 1990).

On January 31<sup>st</sup>, 1990, they agreed to a structure and framework for negotiations. It was this framework which led to the first formal agreement between the CUT and the CPC (Barrett 1997: 377-378). As part of the CPC's strategy, they had decided to wait until the composition of the Senate was known to engage in negotiations (Barrett 1997: 423-424). When the results were as they anticipated, a blocking majority for the right in the Senate based on the designated Senators, the CPC was able to extract what was clearly a very favorable agreement from the CUT. CNC head Daniel Platovzky exclaimed, "this is worth gold, a fantastic document" (Barrett 1997: 424).

This "Reference Framework" was signed between the December election and the transfer of power on March 11<sup>th</sup>, 1990. It formed the basis of the first, and in some ways most important, social concertation agreement between the Concertación, as government, the CPC and the CUT, the "*Acuerdo Marco*", signed in April 1990 (Barrett 1997: 377-378). Some key points in the earlier, January "Reference Framework" included (as quoted in Barrett 1997: 377-378):

<sup>237</sup> See: "Discurso de s.e. el Presidente de la República, Patricio Aylwin Azócar (12 de marzo de 1990)" in *¿La Concertación desconcertada? Reflexiones sobre su historia y su futuro*. Compiled by Eugenio Ortega R. and Carolina Morena B. LOM Ediciones. 2002. Pp. 226-231.

<sup>238</sup> See also the statements by CPC spokesman Augusto Bruna in this vein in *La Época* March 21, 1990.



- that increases in wages and employment depend on sustained economic growth, which in turn requires the conquering of international markets, increased domestic and foreign savings and investment, and an economic system that respects the individual and the right to property and work;
- that private enterprise is the principal agent of economic development, which together with an efficient, open, and competitive market, is indispensable to the creation of employment and the just and equitable distribution of wealth;
- that on the basis of the above, the two organizations agree to form technical commissions to formulate proposals with respect to labor contracts, collective bargaining, unionization, and other socioeconomic matters.

Clearly, these understandings outlined capital-labor relations more in the interests of large capital than labor or the CUT itself. They were also distant from historically combative CUT and labor movement stances. These commitments were, however, in line with those articulated at the time by Concertación leadership, with a main focus on political-economic stability and governability.

This focus was not mainly ideological. It was above all pragmatic, rooted in the strategic-political and material interests of a coalition of political parties and incoming government. The Concertación was reliant on big capital for its key interests in economic and political “stability” to keep political power. With this came a discourse of “governability” and “economic growth”.

The CUT derived political benefit from this accord. Yet, the unfavorable terms the CUT agreed to were clearly influenced by the fact that top labor leadership came from the PDC and PS factions about to assume state power, the central political forces of the Concertación.

As prefigured in the Reference Framework, and just a month into Aylwin’s term, business and labor representatives signed the *Acuerdo Marco* on April 27<sup>th</sup>, 1990.<sup>239</sup> Titled *Chile, una oportunidad histórica*, it was a declaration of intent not a specific reform program. Signatory actors committed to respect key principles: the market economy, private property and the role of private enterprise as “the principle and legitimate agent of economic growth” (*La Época* April 28, 1990). Parties agreed to give special focus to labor law reforms in negotiations to come and to support raises in minimum wages and pensions. Most importantly for the CUT leadership, it acknowledged the CUT as labor’s primary organization (Uggla 2000: 162). Bustos stated, “We have recovered the dignity and pride to be received as legitimate representatives of the workers” (*La Época* April 29, 1990). The public employees’ union, largest in the CUT’s main competitor central, the CDT, defected to the CUT (*La Época* April 24, 1990; *La Época* April 25, 1990). This was an early, pattern-setting, instance of a recurrent tension between the pragmatic interests of the CUT as an organization and the labor base. The rank-and-file bore the costs of disadvantageous agreements with the CPC and subordination of substantive economic change to Concertación partisanship.

The government considered it a major success. A model of “consensus solutions”, it had reduced fears of social conflict, economic instability and political ungovernability (Araya 2011: 49). The government was at pains to present the talks as bipartite, but Labor Minister Cortázar clearly played a very active mediating role (*La Época* April 21, 1990; *La Época* April 26, 1990).

Business groups were also pleased with the results and what they augured for the future. Manuel Feliú, head of the CPC, even said the agreement heralded the “end” of “class struggle”

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<sup>239</sup> The full text was published in *La Época* April 28, 1990 P.20-21.

(*La Época* April 28, 1990). *El Mercurio* (April 28, 1990), closest to the positions of large capital, called the Model Accord “transcendental” and highlighted the compromises made to arrive at it.

For labor the result was much more mixed and divisive. Communist labor leaders did not want to sign the document. CUT Vice President Sergio Aguirre denounced it as insufficient and the process by which it was generated as “illegitimate” (*La Época* April 28, 1990). The magazine *Hoy* (May 7-13, 1990), close to the PDC, lamented the strong tensions created inside the CUT. While Bustos admitted the CUT had gotten less than it hoped, he insisted the action would move to Congress where the CUT would exercise its close contacts with the political parties (*La Época* April 28, 1990; April 29, 1990). A political logic dominated the decision making of the CUT. The leadership felt a sense of responsibility to the transition and had pledged support to the new government, led by PDC and renovated Socialist factions (*Fortín Mapocho* January 16, 1990).

In a May Day speech that year, to crowds much smaller than during the anti-dictatorship struggle, Bustos demanded that business leaders cooperate on labor law reform. If not, the CUT would negotiate directly with the government, a threat that seemed plausible as President Aylwin was the next speaker at the lectern (*La Época* May 2, 1990). Dissatisfaction among the rank-and-file was apparent, however, as both men were audibly jeered by the audience (*Ibid*). Nonetheless, the experience of the Model Accord was repeated in the following months in smaller versions. Business-labor agreements were signed in the metallurgy and port sectors and on a regional level in Valparaíso, Concepción and the Iquique free trade zone (*La Época* May 12, 1990; *La Época* February 6, 1991). Just a month into the new government, the Accord marked the high point in relations between the CUT, the CPC and the elected Aylwin administration (Barrett 1997: 453).

To begin Labor Code reform, in mid-1990 the government convoked a “social dialogue” of employers and labor (Boeninger 1997: 487-488). For the state, the “fundamental principle” of this call was that “labor institutionality in effect lacked sufficient social legitimacy to constitute a stable and recognized base for genuinely cooperative labor relations” (*Ibid*). Still, according to Boeninger<sup>240</sup> and Cortázar, it was essential that labor policy be seen as an “area of change” rather than an “area of continuity” like macroeconomic policy (Boeninger 1997: 489). Many in the ruling coalition viewed labor law reform as a major area where the macroeconomic growth aspect of policy would meet greater socioeconomic equality by addressing distributional issues (Barrett 1997: 348). When business-labor dialogue went nowhere, due to very distant starting positions, Labor Minister Cortázar tried to accelerate the process. He threatened that the government would send a bill to Congress with or without a CPC-CUT agreement (*La Época* June 16, 1990).

The process of negotiations had revealed already, however, that the administration's proposals would not meet the minimum requirements of even the moderate and cooperative CUT leadership on the crucial matters of union organization, collective bargaining and dismissals (*La Época* June 26, 1990; *El Mercurio* July 1, 1990). The final meetings between the CUT, CPC and government were held in early July. It became clear the Concertación did not intend to push for key promised changes, such as collective bargaining above the firm level (*La Época* July 3, 1990).

Barrett (1997: 454) argues, “Soon after its victory in the December 1989 elections,” the Concertación “began to view the military regime’s Labor Plan more positively and even found that it contained many ‘modern’ elements.”<sup>241</sup> The focus was no longer on “profound changes”, but on reconciling “protection” and “mobility” (Cortázar 1993: 120; Boeninger 1997: 489). In practice, business sector concerns and labor market flexibility were prioritized (Barrett 1997: 454).

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<sup>240</sup> By this point Boeninger was Secretary General of the Presidency, a very politically influential position roughly analogous to the US White House Chief of Staff.

<sup>241</sup> Barrett cites an interview with key Aylwin and Frei labor policy advisor Guillermo Campero on July 8<sup>th</sup>, 1993.

The government argued this approach was a competitive necessity, particularly in the export sector, a plausible explanation given Chile's structural position in the world market. Concertación leaders also argued, less plausibly, changing the Labor Code was an ineffective way to strengthen the labor movement because it relied on the state. Labor policy was "based on the understanding that in both public and private companies, labor relations should be defined by workers and management, autonomously of the state" (Cortázar 1993: 120). This was "the subordination of labor reforms to the accumulation strategy inherited from the military regime" (Barrett 1997: 454). Cortázar was a long-time labor advisor, economist and close ally of Finance Minister Foxley, who made Cortázar's appointment a condition of his own (Barrett 1997: 455).

Next, the government began separate CPC and CUT talks (*La Época* July 17, 1990). On July 17<sup>th</sup>, 1990, the government sent labor reform proposals to the Congress. Notably, three of four proposals were introduced in the Senate, where the Concertación was in the minority and had to negotiate with the moderate right RN (*El Mercurio* July 18, 1990). These proposals were significantly watered-down from the Concertación program even before Congress' negotiations.

The RN utilized the negotiations on labor reforms to solidify its position as a key political actor in the transition and new political era. It was in a strategically advantageous position. The government needed the RN to pass changes through Congress, while the divided right needed it to protect the dictatorship's economic and political legacies. In mid-November the Concertación and the RN announced a labor reform agreement in Congress (*La Época* November 20, 1990).

The legislation that came from this pact was ultimately four separate bills enacted from 1990-1993. These laws were also consolidated into a new Labor Code legislated in 1994 (Frank 2004: 77-80).<sup>242</sup> A unified right could block Senate proposals, but the government's own strategy (to limit labor reforms without paying the full political costs for this stark contradiction with its public promises) made knowing use of this political-institutional reality. Barrett (1997: 456) cites an interview with Alvaro Pizarro, a technical advisor to the RN on labor reforms, on May 5<sup>th</sup>, 1993: "the government worked very closely with the RN in defining those limits and making certain the RN provided the government with the necessary counterbalance to demands for more far-reaching change". This corresponds to strategic decisions such as initiating legislation in the Senate.

This was how the two types of legacies from the era of military rule operated in tandem: the institutional legacies of authoritarian enclaves and the political legacies of the "electoral turn". Authoritarian enclaves created a political structure that allowed the RN to play the key political decision-making role. The movement of action to Congress, to the political arena, both prevented "profound changes" and configured a situation in which the political parties and partisan logic dominated over labor and social mobilization. Yet, a politically incorporated labor movement was little threat to the political parties, the state or capital. This lack left broader dynamics undisturbed.

The major Labor Code changes from the Aylwin term reforms were as follows.<sup>243</sup> For job dismissals, employers had to state a cause, although the category of "necessities of the firm" was broad enough as written to remain essentially at the will of the employer. Unless dismissed for not performing job duties satisfactorily, workers were entitled to an indemnity of 1 month's pay per

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<sup>242</sup> The four Aylwin reform laws were: Ley 19.010 (*Diario Oficial de la República de Chile*, November 29, 1990) on the termination of labor contracts; Ley 19.049 (*Diario Oficial de la República de Chile*, February 19, 1991) on union centrals and officially re-legalized the CUT; Ley 19.069 on labor organizations and collective bargaining (*Diario Oficial de la República de Chile*, July 30, 1991) and Ley 19.250 (*Diario Oficial de la República de Chile*, September 30, 1993) on individual labor contracts, worker protection and labor court jurisdiction. The new version of the *Código del Trabajo* (Labor Code) was published on July 9, 1994 (*Diario Oficial de la República de Chile*).

<sup>243</sup> The summary here relies on the texts of the laws as well as Boeninger (1997), Haagh (2002) and Frank (2004).

year employed, with the maximum lifted from 5 to 11 months. The worker had the right to appeal dismissals to the Labor Courts. The penalty for unjustified dismissal was a 20% increase in the indemnity, only payable after a typically years-long legal process in which costs greatly exceeded potential financial benefit. The government, CPC and RN all rejected a CUT demand that unjustified dismissals result in job reinstatement.

The most substantial strengthening of labor rights was in the area of union organization. Centrals, federations and confederations were re-legalized. A 5% share of total national union membership was needed to form a confederation. Stronger protections for local, federation and confederation labor leaders included a reinstatement of the *fuero sindical*. Job security and leave entitlements for such leaders were also increased. The law mandated that nonunionized workers who benefited from collective labor contracts pay 75% of regular union dues. Finally, the ban on unionization among seasonal agricultural laborers ended.

Many provisions disadvantageous to labor were maintained. The open shop remained. Union fragmentation actually increased by lowering the number of workers needed to form a union in medium sized firms. Workers in the public administration were still denied the right to unionize. Regarding collective bargaining, the absolute 60-day limit on the duration of strikes was eliminated. However, employers were still permitted to hire replacement workers on the first day of the strike.<sup>244</sup> Individual strikers could still take an employer's last offer and resume work at will. Strikes remained illegal in all cases except the end of a legal collective bargaining process. Limitations on the subject matter of collective bargaining were also maintained. Only wages, benefits and working conditions could be discussed, "organization, direction and administration of the firm" remained the exclusive right of management and was banned from bargaining. The ban on bargaining above firm level was officially lifted but required the consent of every firm.

Individual labor rights improved. The work week was cut to 48 hours. The minimum wage was reestablished for domestic, youth and elder workers over 65. Minimum safe working conditions were also established for temporary workers in agriculture, forestry and fishing. The government and the CPC agreed to participate in annual tripartite minimum wage negotiations.

Overall, the Aylwin administration produced modest improvements on individual labor rights issues. However, regarding collective rights, the legal-institutional bases of labor power and labor market flexibility, the new Labor Code was very similar to the Labor Plan. On the three key labor issues the essentials were cosmetically, but not fundamentally, altered. On job security employers could still essentially hire and fire at will. This was an outcome intended by the reforms' Concertación authors as well as the political right and business sector. Legal strikes remained weak and impractical. Collective bargaining remained, in practice, at the firm level. Although, the reforms "implemented by the Aylwin administration" were "the most important that were undertaken during the Concertación governments" (Sehnbruch 2014: 266), the changes had little to no practical effect in these three key areas (Uggla 2000; Haagh 2002; Frank 2004).

Within days of the original agreement with the RN in November, 1990, the CUT made it clear that the reforms were far from what they had expected, far from what had been promised, and even less than the government's already watered-down reforms sent to Congress (*La Época* November 20, 1990). Yet, the CUT and institutional labor movement in no way returned to the confrontational tactics and orientations of prior periods. Bustos and CUT leadership came under increasing internal criticism for their closeness to the ruling political coalition and parties.

There were two main reasons the CUT, and labor more broadly, retained a supportive relationship with the Concertación, even after the end of the initial optimism surrounding the

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<sup>244</sup> Article 157 allowed this if an employers' last offer was identical to the old contract plus inflation adjusted wages.

transition. First, tight political and partisan connections bound government, coalition and union institutional structures and leaderships. Top CUT leaders were very invested in the success of the transition and first Concertación government. Even as the labor movement became more distant from the Aylwin administration and Concertación over time due to policy disappointments, ties based on party and opposition to the dictatorship remained strong.

With Aylwin there was a second crucial factor why labor, even beyond its top leadership, maintained some political support for the administration. Uniquely among the four Presidencies, the labor base saw appreciable material gains as labor institutions strengthened. For example, unemployment fell from 6.3% in 1989 to 4.6% in 1993 while real wages grew by an average of 3.7% during 1990-1993. The real minimum wage did even better, growing by an average of 5.625% during 1990-1993.<sup>245</sup> Trade union density, meanwhile, increased from 16% in 1989 to over 20% in 1991 and 1992, reaching a peak that, as of 2018, has not been equaled.<sup>246</sup>

Nonetheless, in the second half of Aylwin's term more oppositional labor struggles began to emerge. A 1992 physician's strike forced the resignation of the Health Minister (*La Nación* October 20, 1992). A strike by midwives in public maternity wards unnerved the government sufficiently that a series of legal measures against the workers was threatened, including mass dismissals (*La Época* October 9, 1993). The teachers' union went on strike at the same time as health care workers and achieved demanded wage and benefit gains (Ibid). A large public sector strike was only suspended by the intervention of CUT leaders, although with an agreement far short of the original demands (*La Época* October 20, 1993; *La Época* October 21, 1993).

### Frei Administration (1994-2000)

Positive trends for labor reversed in the Frei years. From 1994-2000 no formal tripartite accords, like the Model Accord, were signed and no Labor Code reforms were legislated, despite campaign promises.<sup>247</sup> The Concertación had strengthened its relationship with and won the trust of the business sector. In 1993 the uniform tariff rate was reduced 15% to 11%, privatizations were renewed, and a commitment was made to carry out future public sector projects via the private sector (*El Diario* June 16, 1993). Labor Minister Cortázar staunchly defended Piñera's privatized pension system in international fora from labor movement and ILO critiques (Haagh 2002: 82).

An emphasis on broader labor reforms in the 1993 Frei election campaign<sup>248</sup> and an early legislative push occurred under labor pressure. More costly and threatening labor conflicts had emerged in 1992 and 1993. In that context, pressure on CUT leadership from PC labor sectors began to threaten PDC and PS dominance of that institution, driving Frei to push the issue higher on the Concertación's political agenda (Frank 2004: 88). This pressure grew as a "union crisis" developed. Declining unionization, strike and collective bargaining rates, along with the failure to reform the key Labor Plan laws, characterized the Frei years.

What Labor Code revisions and labor rights expansions there were occurred early in the Frei term. Public employees' organizations were legally recognized (Ley 19.296: *Diario Oficial de la República de Chile*, March 14, 1994). State administration workers also won a collective

<sup>245</sup> These statistics come from *El Instituto Nacional de Estadísticas* (INE), The National Statistics Institute of Chile.

<sup>246</sup> Trade union density statistics come from the OECD. [https://stats.oecd.org/Index.aspx?DataSetCode=UN\\_DEN#](https://stats.oecd.org/Index.aspx?DataSetCode=UN_DEN#).

<sup>247</sup> See, for example, *La Época* and *El Mercurio*, August 15, 1993.

<sup>248</sup> See Frei's election manifesto, "Un gobierno para los nuevos tiempos: bases programáticas del segundo gobierno de la Concertación" (1993) Pp. 43; 45; 59-66. Specifically, the Concertación committed to "broaden the right to collective bargaining" and "develop an active policy to contribute to the strengthening of the unions, considering that this constitutes a fundamental condition for a real equilibrium in labor relations" (60).

bargaining-type process (Ley 19.475: *Diario Oficial de la República de Chile*, October 4, 1996). Such labor gains came precisely in the sectors that saw the most threatening recent labor conflicts.

The CUT and labor movement began staging larger protests during Frei's term. Marches were held in Santiago in July 1994, (*El Mercurio* July 12, 1994) and November of the following year (*El Mercurio* November 10, 1995). The July 11<sup>th</sup> "day of national dignity" protest saw up to 10,000 people march to the seat of government. There, Bustos warned he was "tired" of meetings and dialogues that did not achieve results. Labor Minister Jorge Arrate described the march as "impertinent" (*El Mercurio* July 12, 1994). The November 1995 protest was even larger. With 15,000 people attending, it was the largest CUT protest since the transition and came following a business sector event, ENADE 1995, in which business leaders had firmly rejected reviving any package of labor reforms (*El Mercurio* November 10, 1995; IPS November 10, 1995).

Frei's approach to labor law reform was significantly different than the first Concertación government. Tripartite and bipartite dialogue had been largely abandoned. A "political-partisan" approach was adopted to the politics of labor reform while a more technocratic orientation was taken to actual labor policy (Aravena and Núñez 2011: 121). That is, being aware of and using right opposition in the Senate, the Frei administration proposed some significant reforms to the key areas of collective bargaining and strikes. Yet, it did so with the certain knowledge the right would block them in the Senate, and this could be used to solidify weakening labor support<sup>249</sup> as well as assuage public opinion, which was overwhelmingly<sup>250</sup> in favor of labor law reforms.

The government sent a package of labor reforms to Congress in January 1995, containing modifications of central aspects of the Labor Code (*La Nación* January 20, 1995). These reforms included a broadening of materials that could be discussed in collective bargaining, albeit still only with the consent of employers. The proposed reforms also included the right of "transitory" unions (construction, migratory mine, port, seasonal agricultural and other labor) to engage in collective bargaining. The reforms proposed to mandate collective bargaining at larger than firm level, provided certain conditions were met; employers share more information during collective bargaining; and employers explicitly respond to and justify their positions with respect to demands made by labor. Perhaps most crucially, these reforms proposed to make it illegal for employers to replace striking workers (*La Tercera* March 25, 1995; Lopez 1995).<sup>251</sup>

However, with the combined votes of the elected conservative and designated Senators, the vote to proceed to legislate, the first step in the legislative process, was defeated (*El Mercurio* January 29, 1995). This same combination of votes in the Senate prevented the legislation from coming up in several more attempts during 1995. After it became clear that legislative support to consider the bill was not forthcoming, the government began to negotiate a package of reforms with Labor Minister Arrate and RN designated Senator and labor law expert William Thayer. A slow process followed and a very watered down version of reforms, the so-called Arrate-Thayer agreement, was sent to the Senate September 30<sup>th</sup>, 1997 (*El Mercurio* October 1, 1997). In fact, the Chamber of Deputies had passed a reform bill a couple of months earlier, also rejected by the Senate, though it was far weaker than the government's original proposals (*La Tercera* August 25, 1997). After an initial positive reception in the Senate Finance Committee for Arrate-Thayer, the

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<sup>249</sup> Ugglá (2000: 251) cites an April 2, 1997, interview with (then former) Labor Minister Cortázar to this effect.

<sup>250</sup> The *Centro de Estudios de la Realidad Contemporánea* (CERC) released a series of polls throughout the 1990s showing support for strong labor reforms at or above 60%, a number that actually increased over time.

<sup>251</sup> For a more detailed account of the proposed Frei labor law reforms see: Diego Lopez "El proyecto de reforma laboral: Avances y desafíos," *Economía y Trabajo: Informe Anual, 1994-1995*. PET, Santiago. 1995. Pp. 95-114.

full Senate again voted down legislating on labor reform, despite major government concessions. It was thus remanded to Senate committee, where it languished (*La Nación* October 20, 1997).

Labor law reform was voted on in Congress once more during the Frei administration, in the context of the 1999 elections. During the initial stages of the campaign, and in the context of the Asian financial crisis, which negatively affected employment and growth, the candidate of the right, Joaquín Lavín, attempted to put forward a “social agenda” to soften his image in a surprisingly competitive election. He said in November “some changes in labor law were required” amidst concerns opposition to the reforms in Congress hurt his election chances (*La Tercera* November 5, 1999). In a strategic attempt to counter this campaign line, President Frei gave the reform package, in its originally proposed, strongest version, “legislative urgency” on November 15<sup>th</sup>. This mandated a vote in Congress within 15 days (*El Mercurio* November 16, 1999).<sup>252</sup>

Debate and the vote in Congress actually exposed Concertación divisions on the issue, particularly within the Christian Democratic Party. Amidst a strong media campaign against the reforms by the CPC and SOFOFA, senior PDC Senators who were central in negotiating with the business sector on labor reform in the Aylwin years- particularly Senators Foxley and Boeninger- publicly criticized the legislation. They demanded, along with the right, further amendments (*El Mercurio* November 27, 1999). CPC head Walter Riesco warned that the “democracy of accords” had come to an end (*La Tercera* November 25, 1999). Business demanded the bill’s consideration be postponed to the next government and made clear that its preferred Concertación interlocutors remained Foxley, Boeninger and Cortázar (*La Tercera* December 1, 1999). The intense election atmosphere and public rifts in the Concertación provided political cover for Lavín and the right opposition in Congress. The Senate<sup>253</sup> rejected the bill outright on December 1<sup>st</sup> (*La Tercera* December 2, 1999). Labor law reform was voted down for the third time during the Frei years.

One important result of these repeated legislative disappointments- along with declines in key measures<sup>254</sup> like unionization rates, rates of collectively bargained contracts and legal strikes- was increasing opposition in the labor movement to the ruling coalition aligned CUT leadership. The Frei years “union crisis” (Aravena and Núñez 2011: 121) saw increasing disillusionment with the leadership. In November 1995, the Autonomous Workers Central (CAT - *Central Autónoma de Trabajadores*), with its roots in a social Christian unionism, broke away from the CUT with over 100,000 members. Their rallying cry was labor autonomy from the political parties.<sup>255</sup> At the CUT’s Second Ordinary Congress in Santiago, April 26-27, 1996, dissent erupted into a chaotic meeting as Socialist sectors blamed the failures of social concertation on a Christian Democratic leadership perceived as too close to the government (Frank 2002: 28-29).

<sup>252</sup> This package was passed by the Chamber of Deputies on November 18, 1999 (*La Nación* November 22, 1999).

<sup>253</sup> The vote was 23-23, among whom 3 nonelected Senators voted with the Concertación and 6 with the right (Ibid).

<sup>254</sup> Although harder to measure, a key complaint of labor activists during these years was the abuse by employers of the essentially unrestrained power of dismissal used to punish labor organization. A survey of 5,500 local unionists by the *Dirección de Trabajo* (Labor Directorate) in 1996 reported that 32% of the labor force had been fired within three months of collective bargaining, that unionization rates correlated with firings, and that those firms with 70% or greater unionization saw 40% of the labor force dismissed within one month of collective bargaining, whether or not the process ended in a strike (few did). Dirección del Trabajo. *Temas Laborales*, Año 1, No. 4 (Sept 1996) P. 48.

<sup>255</sup> See the CAT official history at <http://www.catchile.cl/historia> [accessed April 22, 2015]. The CAT was officially legalized as a union central in 2003. In May 2004 a smaller breakaway federation, made up of conservative PDC unionists, the Unión Nacional de Trabajadores (UNT) also split with the CUT with partisan politics the main reason. See: Frías (2010) *Papel de los sindicatos y la negociación colectiva y su impacto en la eficiencia y la equidad del mercado de trabajo*. CEPAL Serie Macroeconomía del desarrollo N. 103. United Nations Publications. Pp. 31-32.

Using an opaque and contested weighted voting system, and amid charges of rigging and corruption, Martínez and the PS made a deal with the PC to gain the CUT presidency (Socialist Roberto Alarcon was CUT leader from 1996-1998). The PC was given increased representation, 5 out of 15 seats, on the Executive Committee (*Washington Post* May 17, 1996). The PC won a leadership election for the teachers' union, which became a bastion of labor power for the party. This left shift in CUT leadership continued in the December 1998 election. Once again in very disputed circumstances, PC Miners' leader Eitel Moraga became President (Frank 2002: 28-29). Concertación unionists refused to accept the results, demanded an annulment and did not take up for their positions on the executive council, including the vice presidency, for months (Ibid). Yet, in the end, a deal was once again made with Martínez and his PS wing of the movement.<sup>256</sup> This increasingly conflictive relationship between the government and the CUT in the last year of the Frei presidency can be seen in an interview with Moraga just before May 1<sup>st</sup>, 1999. Asked how he would characterize the position of the government with respect to the CUT he responded:

Unacceptable. They refuse to recognize that the CUT is the maximum organism of the workers... Important Ministers that have to do with our problems, like Finance and Economy, close the doors to us. The Labor Minister has only received us once in an official meeting. Moreover, there are parties of government that interfere, promoting divisive situations in the CUT. The workers want unity (*Punto Final* April 30, 1999).

Frank (2002: 31) argued, "The precipitous dive the CUT has taken in terms of its relevance as important player in the new democracy is truly astounding... By 1999, apart from news about electoral scandals, CUT had vanished from the national political scene." Political incorporation, a wager on close political connections in government over oppositional and mobilizational labor threat, took its toll on the CUT as an organization. They won little reform but had little recourse.

### **The Lagos Administration (2000-2006)**

Labor reform became a key issue in the January 2000 run-off election between Ricardo Lagos and Joaquín Lavín. Lagos won that runoff 51.31%-48.69%. It was the closest result of the Concertación election victories (*Servicio Electoral de Chile*).

During the campaign Lagos announced labor reform would be a top priority and he meant to bring the subject to a successful end (Frank 2004: 90). Shortly after the election, even before being sworn in as President in March, he formed a 'Social Dialogue Council' (*Mesa de Dialogo*) that included representatives from the CUT, the CPC and the Small and Medium Sized Business Confederation, Conapyme (*El Mercurio* January 25, 2000). Incoming Labor Minister Ricardo Solari suggested that rather than include a more complex reform as had the Frei administration, the new government would focus on the key issues of collective bargaining, especially regarding transitory and inter-enterprise unions, and a prohibition on the replacement of striking workers (*El Mercurio* March 26, 2000). Nevertheless, the legislative strategy of the Lagos administration remained pursuing a consensual accord rather than forcing a vote in Congress or pressuring the business sector representatives in a public or political sense (Frank 2004: 90).

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<sup>256</sup>Further discussion of the political-organizational evolution of the CUT in the Concertación Era is in a later section. Martínez ran on a combined list with the PC and became CUT Secretary General. By April the positions were filled.



Despite this, Lagos and Solari had sufficient optimism on reform prospects to declare just a week after the inauguration that they expected labor reform to be ratified by Congress within two months (*La Tercera* March 17, 2000). Solari declared certain aspects of the reform, however, “nonnegotiable” such as the ban on replacing striking workers (*La Nación* March 23, 2000). This was not a credible commitment. Since early in the year Lagos had been meeting with influential business leaders in a dialogue hosted by the *Centro de Estudios Públicos* (CEP), a think-tank close to SOFOFA, the most influential and conservative sector of the CPC (Haagh 2002: 92).

From the beginning of the Lagos administration, the same Concertación Senators who had been involved in Aylwin’s labor reform, like Foxley, maintained positions they had adopted during the December 1999 labor reform showdown. They opposed mandatory bargaining above the firm level and a ban on hiring strike replacement workers (*La Tercera* March 19, 2000). By July 2000, Solari indicated that the government did not intend to “push” for a prompt resolution of the issue and that the use of replacement workers “was far from being the principle issue of the labor reform” (*La Tercera* July 6, 2000). The Social Dialogue Council made little progress and labor frustration began to grow again. The CUT felt business was dictating government policy and that the Social Dialogue Council was basically a distraction. Eitel Moraga called the situation after 6 months of Lagos’ government “appalling” (*Santiago Times* August 1, 2000).

The CUTs stance at the time is best described by the headline “CUT oscillates between dialogue and mobilization”, an indecision which expressed internal CUT divisions (*El Mercurio* July 24, 2000). In late August SOFOFA head Felipe Lamarca strongly critiqued the government while stating that business needed clarity regarding government intentions on labor reform (*La Tercera* August 31, 2000). Within two weeks the government met with the CPC and its central member organizations to hear their concerns (*La Tercera* September 8, 2000). Soon thereafter Solari announced the administration would drop “the more complex issues of the labor reform” including a ban on hiring replacement workers during strikes (*El Mercurio* September 11, 2000).

The CUT held a Third Extraordinary Congress August 24-26, 2000, and new leadership was elected. Reforms made this election somewhat less controversial, but issues of transparency and union democracy remained points of tension.<sup>257</sup> Martínez was elected president and agreed to a power-sharing arrangement with the PC. He then led the CUT for the next 12 years.

Martínez had been “alienated” - a form of party discipline- from the PS and so from the Concertación because of his earlier pact with the PC, so Martínez and the Concertación had run on different lists in the union elections. The Concertación list<sup>258</sup> won the most votes and national councilors at 22, while the Martínez list won 12 and the Communist Party list received 11, a big drop from 17. (*El Mercurio* August 30, 2000). Still, a political pact was necessary to reach a majority. For a month no one was able put together 23 votes to select the 15-member Executive Council and the new President (Ibid). Martínez’ list ran on a platform of strong partisan independence. It was called “Autonomy, Recuperation and Union Democracy” (*El Mercurio* August 8, 2000; *El Mercurio* August 26, 2000). Much to the chagrin of the Concertación, the Martínez and PC lists once again made a separate deal. Martínez assumed the presidency and José Ortiz of the PC became secretary general of the organization (*El Mercurio* August 30, 2000).

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<sup>257</sup> See, for example, the declarations by ex-PC unionist and food service workers’ president Ahumada (*El Mercurio* August 8, 2000) regarding the voting system. Ahumada headed one of the four lists competing in the election. Only 7,623 leaders voted for the 45 member National Council, in the controversial indirect and weighted voting system known as the “voto ponderado” (*El Mercurio* August 23, 2000; *El Mercurio* August 25, 2000).

<sup>258</sup> It was a pact of four sub-lists representing the four main Concertación parties (PS, PPD, PDC and PRSD).

The labor alliance promised “independence of the CUT from the Government” and “a universal vote to select the next directorate in 2004” (Ibid). In the end Martínez’ list got 4 seats on the Executive Council, as did the Communist Party list, while the Concertación received 7 seats (*El Mercurio* September 2, 2000). Nonetheless, a major controversy erupted on the post of Treasurer, which controlled the finances of the group, as both the PC-Martínez and Concertación lists insisted on holding this key position (*El Mercurio* September 2, 2000). In the end it went to PC militant Guillermo Salinas<sup>259</sup> (*El Mercurio* September 13, 2000).

Yet, no sooner was the new leadership in place than a process of rapprochement between the CUT leadership and the government began. In early September 2000 Martínez proposed dividing the labor reforms to allow the more controversial elements, including collective bargaining and strikes, to be discussed in the *Mesa de Diálogo* and legislated on later. He said: “that part can wait” (*El Mercurio* September 9, 2000). Still, in the same interview Martínez pledged that “I will never again be used like I was in 1991 by (René) Cortázar, who dialogued much with us and ended up doing what he wanted, disrespecting union leaders” (Ibid). Martínez’ message on assuming office was: “this is not a revolutionary CUT, but not passive either. We convert it into a reliable interlocutor: we will not retreat from the table of dialogue whatever happens, which does not mean leaving aside our mobilizations” (Ibid). It was in this context that Labor Minister Solari announced that the labor reform the executive would send to the Congress would not include a ban on replacement workers or collective bargaining reform (*El Mercurio* September 11, 2000).

On September 14<sup>th</sup>, 2000, the government publicly announced its legislative project on a package of labor reforms. That same day the first meeting of the Social Dialogue Council after the CUT elections were held. While Martínez and the CUT expressed disappointment and even anger on the substance of the proposal, even apart from the already excluded topics, the business sector had “tranquility” (*El Mercurio* September 13, 2000; *El Mercurio* September 14, 2000). In fact, far from banning the hiring of replacement workers, the first of the administration’s seven propositions explicitly permitted “contracting of a replacement during the period of absence of a worker on an indefinite contract by a company. This never transforms into an indefinite contract nor does it give job protection to the replacement, lasting for the absence of the job holder or for a shorter period agreed by the parties” (*El Mercurio* September 13, 2000). Indeed, according to both Martínez and economic advisors to the CPC, the proposals tended to increase labor market flexibilization. The CUT formally rejected the package (*El Mercurio* September 14, 2000).

The change from a “very pro-union project” to one “very liberalizing of the labor market” was caused by rising unemployment and internal Concertación divisions (*El Mercurio* September 17, 2000). Concertación divisions were evident because, with ex-President Frei as new Lifetime Senator, the Concertación had an additional Senate vote. Haagh (2002: 93) suggests that “sufficient time had passed since the dictatorship that the *Concertación* no longer needed the right to act as scapegoat for the alliance’s inability to pass substantial labor reforms.” In an interview after the proposals’ announcement Labor Minister Solari stated: “We do not want to promote the strike... we are not partisans of inter-firm bargaining” (*El Mercurio* September 17, 2000).

The formal transmission of the reforms to Congress was delayed at CUT request. They continued to meet with government and CPC representatives (*El Mercurio* September 27, 2000). A private dinner was held between Lagos and Martínez after which neither took questions from the press. The Office of The President let out that it was to “establish a new style of relations” with labor (*El Mercurio* October 3, 2000). Lacking change on collective bargaining, replacement workers and “needs of the firm” firings the CUT rejected the bill again (*El Mercurio* October 17,

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<sup>259</sup> This position became critical in several financial controversies in the CUT discussed in a later section.

2000). It announced a November 2000 protest on labor reform, public sector wage readjustments and new privatization proposals (*El Mercurio* October 25, 2000). At the protest, the CUT's first under Lagos, Martínez was the only speaker to a crowd of up to 15,000 people.<sup>260</sup> He asked: "Mr. Lagos, are you with the bosses or with the workers?" (*El Mercurio* November 10, 2000). Martínez continued, "We do not like what is happening, that the right and Concertación coincide on labor reform and the economic focus, without there being an alternative" (Ibid).

On November 17<sup>th</sup>, 2000, the Lagos' executive sent a labor reform package to Congress (*El Mercurio* November 17, 2000). As expected, it excluded collective bargaining reform, an end to replacing striking workers or limits on employer's power to dismiss workers for "the needs of the enterprise" (Ibid). The CUT rejected it. Martínez refused to testify in Congress and called it "distant from the commitments made by the Concertación" (*El Mercurio* November 19, 2000). He said, "the Concertación has never had the will to carry out a real labor reform. Within it exist two opinions about the topic, of which the technocrats of the neoliberal sector have triumphed," a CUT statement read (*El Mercurio* November 20, 2000). Martínez said workers had "lost faith" in getting a reform in their interests "by the means of dialogue" and the CUT sent a denunciation to the ILO (Ibid). The project was once again sent to the Senate, rather than the lower house (Ibid).

Yet, before the Senate Labor Committee began its study of the bill on December 13<sup>th</sup>, the Concertación's internal divisions - specifically demands from some Socialist Party legislators- had forced the government to broaden the bill to include the controversial subject of collective bargaining (*El Mercurio* December 13, 2000; *El Mercurio* December 14, 2000). This came along with a new strategy, publicly enunciated by Interior Minister José Miguel Insulza. There would be labor reform "once and for all", in one bill rather than two (*El Mercurio* December 13, 2000).

Martínez called it a "positive decision" (Ibid). Insulza stated that if an accord with opposition parties and the business sector was not forthcoming, the ruling coalition would use its majority in Congress to legislate (*El Mercurio* December 14, 2000). Opposition UDI Senators Novoa and Prat warned that including those subjects would slow recovery from the recession. The Concertación had a majority, "therefore they cannot make the opposition responsible" for the outcome (Ibid). It was immediately clear how difficult getting a majority in Congress would be. PDC Designated Senator Edgardo Boeninger said it was necessary to exhaust every effort for an accord that "transcends the Concertación" and not to rely on a Senate "half plus one" (Ibid).<sup>261</sup>

In early January 2001 Labor Minister Solari and CUT head Martínez testified before the Senate committee drafting the legislation. The CUT presented a document with demands: a modification of employers' broad power to dismiss employees for "needs of the firm", inter-firm bargaining and a ban on strike replacements (*El Mercurio* January 3, 2001). Labor Minister Solari made it clear that "in no circumstance" would the administration add "the establishment of inter-enterprise or sectoral collective bargaining" to the project (Ibid). The hearing also demonstrated that multiple Concertación Senators did not support it, explicitly backing firm-level bargaining. It was also clear many Concertación Senators did not support a ban on strike replacements (Ibid).

In late March the Senate Labor Committee finished a bill. Solari announced it was ready for the full Senate (*El Mercurio* March 23, 2001). The bill that finally emerged received the "partial acceptance of the entrepreneurs and a total rejection by the union world" (Ibid). The CUT announced protests and that former union militant members of Congress<sup>262</sup> would try to block the bill. The remainder of the Concertación, plus opposition votes, easily overcame those few in

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<sup>260</sup> This was the estimate of the CUT and foreign press (AFP), the police and *El Mercurio* estimated 8,000.

<sup>261</sup> On March 11<sup>th</sup>, 2000 ex-President Frei became "Senator-for-Life", giving the Concertación a 1 vote majority.

<sup>262</sup> This included former anti-dictatorship labor leaders Deputy Rodolfo Seguel and Senator José Ruiz di Giorgio.

dissent (Ibid). Martínez expressed his opinion that “in the end, pressure from employers and the Right convinced the government to soften the crucial aspects of the reform, these reforms do not help us (*La Tercera* March 23, 2001). Bargaining beyond firm level remained voluntary. The replacement of strikers was allowed to continue, although employers would have to pay a small fine.<sup>263</sup> Claudio Huepe, Minister Secretary-General of Government,<sup>264</sup> said “practical rather than ideological concerns... dominated the government’s thinking on the issue of labor reform” (*The Santiago Times* March 24, 2001). Divisions in the Concertación, particularly in the PDC, which at 16 Senate seats had the most of any party, were again decisive. The stronger version of the bill lacked support from key legislators in the governing coalition. RN Senator Ignacio Pérez Walker claimed the Senate had 23 votes against the bill from December 1999, plus 7 Senators from the PDC and one unnamed Senator from the left (*El Mercurio* March 23, 2001). On April 11<sup>th</sup>, the Senate voted to begin legislating on the weakened bill (*El Mercurio* April 13, 2001).

Against this reversal the CUT attempted a stronger push-back this time. Rejection of the labor reform package and a return to more confrontational mobilization characterized the union’s activities leading up to May 1<sup>st</sup>, 2001, protests. Martínez “hardened his line” (*El Mercurio* April 29, 2001). At the event, Martínez said the reforms being debated in the Senate “are not the labor reforms of the CUT” and said a real change in labor law was “urgent”. Further, he proposed a national general strike in August, with a series of monthly protests leading up to it, in order to pressure the government and Congress. He called this “a last resort” (*El Mercurio* May 2, 2001). By all accounts, including in the conservative press, the 2001 May 1<sup>st</sup> event was the largest of the Concertación Era.<sup>265</sup> The CUT claimed 70,000 participated nationwide. Labor Minister Solari called the suggestion of a general strike “inopportune” and said, “I have no reason to think we are in the presence of a general strike” (*El Mercurio* May 3, 2001). The new, more combative, posture, with Martínez threatening worker mobilization, protests or “even more serious acts” (*El Mercurio* May 4, 2001), exposed serious internal CUT divisions.

Christian Democratic CUT leaders Jorge Millán and Diego Olivares accused Martínez and the executive committee of discriminating in favor of Communist militants and perspectives, noting that the Concertación list had garnered 48% of the vote the previous August (*El Mercurio* May 7, 2001). May 1<sup>st</sup> events with a heavy presence of PC-linked groups was the ostensible instigator of the public conflict, but the turn towards confrontation<sup>266</sup> with the government and ruling coalition was a clear subtext. CUT Vice President Luis Mesina attributed the rift to “the persistence of a very dangerous style... related to the lack of autonomy of certain leaders with respect to their political parties”. He said the big obstacle for the CUT was to “convert itself into an autonomous organization of the workers, independent of the state” (Ibid).

Nevertheless, that very month the CUT agreed to a new formal dialogue with the CPC. Martínez said “the intention is so that it is seen that the CUT is not an organization preoccupied with confrontation” (*El Mercurio* May 24, 2001). It was also an attempt at internal CUT unity. The announcement at a press conference was made by one PS, one PRSD one PC and one PDC

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<sup>263</sup> About US \$100 at the time (Frank 2004: 91).

<sup>264</sup> The *Ministerio Secretaría General de Gobierno* (SeGeGob) is the cabinet-level administrative office charged with acting as the government's organ of communication. The principal function of the Minister Secretary General of Government and their staff is to serve as the spokesperson of the government, like the US Press Secretary.

<sup>265</sup> As usual, there were discrepancies. The CUT claimed 32,000 in Santiago while police said 17,000 people (Ibid).

<sup>266</sup> This atmosphere of labor confrontation at the time was heightened by the killing of a striking metallurgical worker at the main gate of the Fabisa factory (*El Mercurio* May 13, 2001), a disappointing minimum wage readjustment the administration sent to Congress, which Martínez called “ridiculous” (*El Mercurio* May 9, 2001) and the debut at the end of April of a new, “anti-neoliberal”, broad front protest alliance including the CUT (*El Mercurio* May 13, 2001).

militant (Ibid). Soon followed a conciliatory visit to CUT headquarters by newly elected PS head Camilo Escalona (*El Mercurio* May 29, 2001). Martínez expressed hope it would lead to closer links between the party and the union (Ibid). At the same time, President Lagos did not address labor reforms in an important May 21<sup>st</sup> address. The press suggested the government wanted to “close the chapter of labor reforms” (*La Tercera* May 25, 2001).

On June 1<sup>st</sup>, 2001 Martínez and CPC president Ariztía announced “a new era” in relations. The CUT announced a “new doctrine” or strategic line for the organization. They signed an accord to have regular meetings on wages, labor reforms, anti-union practices and unemployment (*El Mercurio* June 2, 2001). The last week in June, Labor Minister Solari (*El Mercurio* June 26, 2001) and President Lagos (*El Mercurio* June 29, 2001) met with CUT leadership. They urged consensus on the labor reforms and reiterated the government’s desire to “close this chapter on discussion about our Labor Code”, as Solari put it (*El Mercurio* June 25, 2001). The press noted that amid Concertación rifts and strong polemics, government ministers made strenuous efforts to line up their own parliamentarians behind the government’s preferred legislation. Some had been supporting the CUT’s demands (*El Mercurio* June 26, 2001). Solari announced that the package the Senate would soon vote on would not change significantly and would not include “hard” issues that were still labor’s top priorities: expanded collective bargaining, strike replacements and Labor Code Article 161 allowing for dismissals by “the needs of the firm” (Ibid). The President offered the CUT a commission for excluded themes to begin the next week (*El Mercurio* June 30, 2001).

On July 4<sup>th</sup>, 2001, the Senate approved a package of labor reforms and sent it to the Chamber of Deputies (*El Mercurio* July 4, 2001). Already far short of what labor wanted, several last-minute amendments made the legislation even less favorable. These included: the way the terms business and employer were defined; an increased number of continuous work days permitted, from 12 to 20, and removal of a provision allowing an employee whose firing was found to be an “anti-union practice” to be reinstated in their job<sup>267</sup> (*La Nación* July 5, 2001). This last excision caused an outpouring of booing and jeering from the assembled union activists in the chamber galleries, which caused the Senate President, Andrés Zaldívar of the PDC, to have them forcibly ejected (*El Mercurio* July 4, 2001). An amendment that would have extended benefits of a collective bargaining contract to workers who joined the union after its negotiation was also voted down with PDC and right votes (Ibid). While Labor Minister Solari qualified the outcome as “positive”, Martínez’ reaction, after being forcibly ejected by police from the Senate gallery, was illustrative. He exclaimed to the press:

Foxley, Boeninger and the Zaldívars voted together with the right against the workers. I don’t know why they don’t just definitively join the right ... so that the country will know what they are, because definitively in the Senate there is no possibility of a labor reform beneficial for the workers and it is necessary to publicize all the names of these shameless ones in the Parliament (*El Mercurio* July 4, 2001).

As with the Aylwin laws, Boeninger was key to the legislative outcome. He attended nearly all Senate Labor Committee sessions. He also built and managed the majority Senate coalition that stripped out key pro-labor aspects of the bill (*El Mercurio* July 7, 2001).

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<sup>267</sup> This provision was supported by the government and had been approved by the Senate Labor Committee but was struck by an amendment offered by PDC designated Senator Edgardo Boeninger (*El Mercurio* July 4, 2001). Some of the defeats also saw a number of Senators from the “left” parties voting against labor (*El Mercurio* July 5, 2001).

On July 17<sup>th</sup>, the Chamber of Deputies Labor Committee voted to begin legislation on the bill (*El Mercurio* July 18, 2001). On July 22<sup>nd</sup>, the CUT announced a national protest, to be held August 16<sup>th</sup>, against unemployment and low wages and for “labor reform that favors the workers and not the bosses,” according to Martínez (*El Mercurio* July 22, 2001). The breakaway *Central Autónoma de Trabajadores* (CAT) meanwhile demanded that the whole legislative initiative be withdrawn as it did “nothing to strengthen the workers or union movement” according to its head Osvaldo Herbach (*El Mercurio* August 6, 2001). The dissident unionist further stated that protest against the reform in August was a “*tongo*”<sup>268</sup> to justify eventual passage of the bill. The bill was, in his view, a product of “constant conversations” between the CUT, CPC and the government to generate agreements on the matter (Ibid). Inside the CUT, tensions escalated as the Concertación leaders in the union publicly announced a new policy to “differentiate themselves” from the PC and Martínez leadership (*El Mercurio* August 9, 2001). The CUT *Concertacionistas* specifically mentioned “profound disagreements” on labor reforms. They wanted dialogue and Congressional lobbying and opposed the Martínez-PC “hard-line” (Ibid). Martínez rejected the critique. He said they were “more concerned about the problems of the government than the workers” and “could not serve two masters” (*El Mercurio* August 12, 2001). All labor sectors in the end backed a call to protest and rejected the Senate version of labor reform legislation. So, ultimately, did the PPD political commission, a party Lagos was instrumental founding (*El Mercurio* August 14, 2001).

On August 16<sup>th</sup>, 2001, there was a broad array of protests. That day there was a meeting of South American Presidents in Santiago. The CUT march and “cultural act” managed to draw only a few thousand people,<sup>269</sup> noticeably smaller than the May Day protest. During his speech, Martínez called the Labor Code “*una ley maldita*”<sup>270</sup> that had been “used to persecute employees, being a continuation of the dictatorship, expressed in the tyranny of the enterprise” (*El Mercurio* August 16, 2001). The protest ended with clashes with police, burning barricades along the Alameda,<sup>271</sup> teargas, water cannons and 12 arrested (*El Mercurio* August 17, 2001). An August 28<sup>th</sup> “march of the unemployed” that walked down the Alameda without authorization of the authorities to the CUT headquarters and gathered a similar number of protesters<sup>272</sup> was also broken up by police using water cannons, tear gas and 12 arrests (*El Mercurio* August 29, 2001). In addition to disappointing protest turnouts, the threatened general strike never occurred. Labor threat in this instance was too meager to dislodge the labor law’s path.

In early September the Lagos administration decided to push final passage of the package despite continuing controversy (*El Mercurio* September 2, 2001). The administration argued that a “mediocre law” was preferable to “no law”. Moreover, Boeninger and the PDC pro-business<sup>273</sup> faction insisted that “the worst is the uncertainty” (Ibid). They said the government should take labor reform off its agenda as soon as possible, calling the issue “a sword of Damocles” (Ibid). A vote the night of September 4<sup>th</sup> amended the lower chamber bill and sent it back to the Senate (*El Mercurio* September 5, 2001). More aligned with the Senate version, the administration pushed for Senate approval without having to go to the Congressional Mixed Committee<sup>274</sup> (Ibid). The

<sup>268</sup> Something fixed or rigged, in this case meaning the protest was just for show.

<sup>269</sup> In this case the *carabineros* said 4,500, a number, the CUT did not dispute with its own count.

<sup>270</sup> A rather strong expletive meaning “a damned law”.

<sup>271</sup> The main thoroughfare of downtown Santiago, that passes by the CUT headquarters and the seat of government.

<sup>272</sup> The police said 3,000 and again the CUT did not offer an alternative number.

<sup>273</sup> The press referred to this group as the “liberal” faction of the PDC and the Concertación.

<sup>274</sup> The legislative procedure where differences between Senate and Chamber of Deputies bills are worked out for final passage, similar to the House-Senate Conference Committees in the US Congress.

most important addition to the bill in the lower chamber was approval to hire an additional 300 auditors and 143 other Labor Directorate employees to increase enforcement capacity (Ibid).

The right, outnumbered in the lower chamber 70-50 by the Concertación, constantly reiterated their minority status there and in the Senate. Speaker after speaker for the opposition highlighted how *el oficialismo* (the Government and Concertación) had moderated provisions- like expanded collective bargaining and a strike replacement ban- that only required a simple majority to legislate. This behavior was in stark contrast to Concertación political, electoral and legislative discourse, evincing a cynical will to use labor and labor reform politically<sup>275</sup> (Ibid).

The Senate vote was scheduled for September 11<sup>th</sup>. Labor icon Rodolfo Seguel and Martínez called on Concertación Senators to vote in favor of the bill as amended by the Chamber of Deputies. Martínez cited a CERC public opinion poll in which 74% of Chileans called labor reform “necessary” (*El Mercurio* September 8, 2001; *El Mercurio* September 9, 2001).

Even at this last stage it was clear Senator Boeninger and the liberal PDC faction had the final potential veto in the process. This was a shift from previous instances when the RN held the key votes. The press described a last weekend of intense administration lobbying. Boeninger was studying the law that emerged from the Chamber of Deputies “letter by letter”, according to *El Mercurio* (September 9, 2001). The powerful Senator had a private audience with Labor Minister Solari the day before the vote. The group<sup>276</sup> insisted on four key concessions that they received in the end: non-rehiring of those dismissed under “anti-union practices”; not altering the definition of ‘enterprise’ (to labor the definition was used by employers to avoid duties under labor law); no restrictions on special work schedules; and no extension of the benefits of a *convenio colectivo* to workers who joined the union after its negotiation (*El Mercurio* September 9, 2001). On the three key labor issues, the law remained substantially unaltered: negotiation at greater than firm level would be voluntary; strike replacements could be hired with the small fine; and article 161 on job dismissals for “the needs of the enterprise” remained unchanged (Ibid).

On September 11<sup>th</sup>, 2001, the Senate passed the package of administration-backed labor reforms, avoiding a Mixed Commission (*La Nación* September 11, 2001). Even after its passage the conservative parties and business sector lobbied for a delay in implementation (*El Mercurio* September 28, 2001). This lobbying effort came with a series of rumors that a massive wave of dismissals would greet publication of the law, aspersions to which the administration reacted indignantly (*El Mercurio* October 5, 2001). The legislation was signed by President Lagos on September 27<sup>th</sup>, 2001 (*Ley 19.759: Diario Oficial de la República de Chile*, October 5, 2001).

The reforms pleased neither the CPC nor the CUT, both of whom boycotted the signing ceremony at La Moneda (*El Mercurio* September 28, 2001). The Executive Committee of the CUT sent a letter to Lagos explaining its reasoning for abstaining from the event, a decision lamented by the administration, which qualified the promulgation of the reforms as one of the great successes of the Lagos government (*El Mercurio* September 27, 2001). At a meeting with the PDC directorate, Martínez made clear: “these are not the labor reforms of the CUT. This is the labor reform of the Government of the Concertación.” Minister Solari assured the press and business that no further major modifications of the Labor Code would be undertaken during the administration (*El Mercurio* September 28, 2001). The law went into effect December 1<sup>st</sup>, 2001.

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<sup>275</sup> While a potentially accurate critique, the Congressional right, which constantly rejected any reforms to the Piñera Labor Code, could also be accused of cynicism in professing concern for the Concertación’s handling of the issue.

<sup>276</sup> The Senators of the key PDC liberal faction were: Boeninger, Alejandro Foxley, Gabriel Valdés, Andrés Zaldívar, Adolfo Zaldívar, Hosain Sabag, Juan Hamilton and Rafael Moreno. This was half of the then 16 PDC Senators.

The reaction within the labor movement was very negative, although some Concertación labor leaders tried to emphasize gains in the bill. CAT President Osvaldo Herbach expressed his “total rejection” of the reforms. He denounced “a campaign to make public opinion believe the labor reforms are positive, when in practice they are to the detriment of the workers and the one principally responsible for this is CUT president Arturo Martínez” (*El Mercurio* September 12, 2001). On October 26<sup>th</sup>, CUT Vice President Luis Mesina resigned from the CUT in protest (*El Mercurio* November 1, 2001). He cited antidemocratic practices, authoritarian and personalist leadership by Martínez and lack of CUT autonomy from political parties. Politically independent and left, the leader of the Bank Workers’ National Confederation accused Martínez of a “gross dependence” on the government and particularly critiqued his conduct on labor reforms, noting his celebration in the gallery of the Congress when the legislation was passed (*Ibid*). This same period saw a conflictive port workers’ strike in which stevedores accused the government of abandoning prior commitments against privatizations (*El Mercurio* September 27, 2001).

The legislation did bring some benefits for labor. The most important was a reduction in the work week from 48 to 45 hours starting in 2005. There was a significant increase in fines to business for a variety of anti-union and labor infractions (starting from a very low base). Agricultural workers gained new bonuses for meals and transportation. Part-time workers benefitted from gaining benefits previously only given to full time employees (such as employer contributions towards health and retirement funds). The law extended the period of protection from dismissal (*fuero sindical*) from 10 to 30 days for those workers forming a union for the first time or taking part in collective bargaining. Businesses were also required to give the union and government certain information about the enterprise in a collective bargaining process. As noted, employers hiring striker replacements had to pay a 4 UF<sup>277</sup> fine per replacement worker hired which would be divided among all striking workers at the end of a strike. Finally, labor enforcement gained increased resources as a result of the new personnel and funding for the Labor Directorate (*Ley 19.759: Diario Oficial de la República de Chile*, October 5, 2001).

Nevertheless, the changes were far short of what Lagos had promised as a candidate or the “profound changes” the Concertación promised in the 1989 election Program. On the three issues essential to the basic structure of the Labor Plan- negotiations by enterprise, weak strikes and easy firing of workers- the status quo institutions remained firmly in place. Moreover, these 2001 reforms would be the last time the government would legislate on these issues in the Labor Code for the duration of the Concertación Era. Not only did the government keep Labor Minister Solari’s promise of not legislating in the area again, no further changes to these three key areas of labor law were made during the presidential administration of Socialist Michelle Bachelet.

### **The Bachelet Administration (2006-2010)**

Bachelet became President on March 11<sup>th</sup>, 2006. A 2005 Constitutional reform got rid of Designated Senators and in the December 2005 elections the Concertación won a majority in both chambers of Congress. The total was 65-55 in the Chamber of Deputies and 20-17 with one right-independent in the Senate (*Servicio Electoral de Chile*).

Despite this favorable institutional balance of political forces, and the fact that labor reforms had once again been a major election campaign issue, the Bachelet administration did not initiate or sign any changes to the key Labor Plan Labor Code laws during its term in government

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<sup>277</sup> The *Unidad de Fomento* (UF) is a unit of account indexed to inflation that dates to 1968. At the time of the passage of the labor reform (September 2001) 4 UF was about US \$100.



(Sehnbruch 2014: 268). However, it promulgated a Subcontracting Law under labor pressure that was illustrative of how labor pressure from below and attempts at state containment of it interacted as labor began to be more threatening in the last Concertación term.

In a context of rising labor conflict and social protest during 2006 and 2007, and a CUT organized national strike in July 2007, President Bachelet instituted an expert commission to examine issues of employment and equity (*El Mercurio* July 20, 2007). This *Consejo Asesor Presidencial Trabajo y Equidad* (Presidential Advisory Council on Labor and Equity) issued a final report in March 2008 (*El Mercurio* March 28, 2008). Being a multi-party commission that also included representatives from the business sector, it was a de facto return to the consensus before legislating strategy.<sup>278</sup> When conservative political factions and business representatives were unwilling to support policy suggestions in certain areas they were stopped. The commission did not reach agreement on key the labor issues of strike replacements, expansion of collective bargaining and worker dismissal and severance (*Informe Final* 2008).<sup>279</sup> This result was by that point in Concertación governance predictable from that manner of proceeding. Labor refused to appoint representatives to the commissions (*El Mercurio* June 27, 2007; Sehnbruch 2014: 269).

In the first years of the Bachelet government, the incidence of labor protest and conflict increased notably. This was part of a broader increase in social movement activity. Particularly prominent was the big “*pinguinos*” student movement from May 2006 onwards. Important labor conflicts in 2006 and 2007 included: subcontracted forestry workers at the *Grupo Arauco* paper and pulp manufacturer; state-owned copper company CODELCO workers; a strike at *Minera Escondida* and the August 2007 CUT general strike (Vergara 2009: 83-94; Sehnbruch 2014: 268-269). Public sector strikes and labor conflicts also grew (Águila and Armstrong 2011 [2006]: 3). Bachelet’s government saw the most labor conflicts of the Concertación Era (Sehnbruch 2009).

These labor conflicts tended to be concentrated in sectors not regulated by the main parts of the Labor Code. Workers could not avail themselves of the procedures and rights it contained such as collective bargaining and legal strikes. Public sector workers held increasing numbers of strikes during the Bachelet term. They made up the largest portion of all workdays lost to strikes during Bachelet’s government, the vast majority being illegal strikes. Both days lost and illegal strikes reached multi-decade peaks by 2009, the last year of Bachelet’s tenure (Ibid).

Other important labor indicators improved moderately in the Bachelet term. Unionization rates, legal strikes, and number of collective bargaining contracts all rose off lows reached in the late 1990s and early 2000s. They never reached the levels of the early 1990s, however.<sup>280</sup>

## Other Important Concertación Era Labor Law Changes

### The Subcontracting Law

Subcontracted workers had little job security and few benefits. This status was minimally regulated in the Labor Code. Employers made extensive and increasing use of this legal category

<sup>278</sup> The commission was composed of 48 experts and presided over by a close government ally, PDC economist Patricio Meller. Its work was divided into four sub-commissions: labor market and policies; equity; labor market institutions; and small business. Its conclusions are available at [www.trabajoyequidad.cl](http://www.trabajoyequidad.cl) [accessed April 26, 2015].

<sup>279</sup> Consejo Asesor Presidencial Trabajo y Equidad. 2008. *Informe Final: Hacia un Chile más Justo: Trabajo, Salario, Competitividad y Equidad Social* “2B. Institucionalidad laboral y negociación colectiva” Pp. 105-152

<sup>280</sup> These statistics and their patterns over the Concertación Era are reviewed in more detail in a subsequent section.

to avoid benefits and obligations due to workers with “indefinite contracts”. Under the law, the final employer did not have full legal obligations to workers (Aravena and Núñez 2011: 126).

During the last months of 2005, in a presidential election campaign, Lagos’ government repeated a “political-partisan” tactic of the Frei administration. It proposed a labor law that would have regulated subcontracting and expanded the rights of subcontracted workers in order to call the opposition’s bluff on the issue (*El Mercurio* November 25, 2005; Sehnbruch 2014: 268). The use of subcontracting had grown precipitously. According to an Encla (*Encuesta Laboral*)<sup>281</sup> labor survey carried out by the Labor Directorate, 50.5% of firms were using subcontracted employees for at least some functions in 2004. Their usage was concentrated in large companies, 58.7% of which used subcontracted labor in 2008. Subcontracting was more central to operations. By 2006, 32.6% of subcontracted functions were in the “principle economic activity” of the firm using such services. Of all ‘subcontracting’ employment relationships, the one with the least rights for workers was that of “outsourcing” (“*suministro de trabajadores*”), which reached a high of 7.3% of new labor contracts in 2008 (Echeverría 2010: 2). During the election campaign the proposed legislation was voted down by the Senate, though from March, 2002, until March, 2006, the Concertación no longer had a majority in that body (*El Mercurio* November 25, 2005).

New Concertación majorities in both chambers of Congress were sworn in along with President Bachelet in March 2006. In one their first legislative acts, each of them approved a subcontracting bill (*El Mercurio* March 30, 2006). The process of negotiations, particularly in reconciling Senate and Chamber of Deputies versions, was long and arduous, and once again exposed rifts inside the Concertación (Cook and Bazler 2013: 13).

The original instantiation of the bill would have extended all labor protections to informal and subcontracted employees through imposing a “subsidiary obligation” on principal enterprises for worker health and safety and payment of various legal obligations (unemployment, pension, health, etc.). It would have set limits on use of temporary workers<sup>282</sup> (Ibid). The law that actually passed Congress and was signed by Bachelet on October 5<sup>th</sup>, 2006 (Ley 20.123: *Diario Oficial de la República de Chile*, October 16, 2006), was significantly changed from this first version.<sup>283</sup>

Aravena and Núñez (2011: 126) suggest “the cure was worse than the disease” because it took common, if illegal, practices and explicitly legalized them, and authorized an unlimited use of subcontracted and temporary employees. The law made the principal employer responsible for the conditions and legality of all workers. Still, it did not mandate or regulate equality of pay, conditions or contracts of different employees working for a single firm with different statuses (Ibid). Employees doing the same job at the same location for the same company could have two different contracts, pay and benefits packages, and legal dispositions. One consequence was that two such workers could not legally be in the same “enterprise union”, collectively bargain for the same contract, or strike together (Ibid). The law barred “permanent” outsourcing but allowed “temporary workers” as a separate legal category with distinct and lesser collective rights (Ibid).

The law was scaled back not only because of conservative opposition and legislative obstacles. Even with a Congressional majority<sup>284</sup> the administration elected to pursue a broader

<sup>281</sup> Data from Encla, Dirección de Trabajo. <http://www.dt.gob.cl/documentacion/1612/w3-propertyvalue-22780.html>. Accessed April 25, 2015.

<sup>282</sup> In practice, many employers hired workers on recurrent temporary contracts to avoid the labor law obligations.

<sup>283</sup> The “*Ley de Subcontratación*” (“regulates labor under subcontracting regime, the functioning transitory services companies and the transitory service contract”) went into effect in January, 2007 (*El Mercurio* January 10, 2007).

<sup>284</sup> The Concertación again lost its majority in Congress in November 2007. Three centrist Senators led by Adolfo Zaldívar, called the ‘discolos’, withdrew from the PDC and the coalition (*El Mercurio* November 12, 2007).

accord with the right (Aravena and Núñez 2011: 128). A successful Constitutional Tribunal<sup>285</sup> challenge on the definition of an “enterprise” also weakened the bill’s practical impact (Ibid).

The law’s effect was further weakened by a Supreme Court decision at the end of a long CODELCO subcontracted workers’ struggle from 2005-2008. Under the auspices of the new law the Labor Directorate ordered the company to internalize 5,000 outsourced workers. CODELCO refused, citing labor costs (*La Tercera* May 30, 2007). The workers (illegally) struck from June to October 2007, while the company appealed the regulators’ decision to the courts (*El Mercurio* November 3, 2007). The Supreme Court ruled in favor of the company, nullifying the order of the Labor Directorate (Aravena and Núñez 2011: 128-129). Not only did the process show the lack of backing the state gave to a strong reading of the bill’s provisions, it also left the Labor Directorate undermined and timid in bringing similar judgments against other companies (Ibid).

### **Labor Justice Reform**

Perhaps the most efficacious pro-labor change in institutions of the state in the Concertación Era was the additional resources and powers provided to the specialized labor courts. These changes were known as the labor justice reform (*la reforma a la justicia laboral*). This reform, whose implementation began in 2008, consisted of: a significant increase in the number of labor court judges; an increase in their areas of jurisdiction; and a reform of judicial procedures involved, to the end of accelerating the process of judicial review and enforcement (Aravena and Núñez 2011: 124-125; Cook and Bazler 2013: 12). According to Labor Ministry data, pursuit of this legal recourse took more than four years on average before reforms were in place (*Ministerio del Trabajo* 2010). This, in turn, meant few workers utilized these procedures, whose legal costs typically far exceeded potential payouts (Ibid). Two years after its implementation, by the end of the Bachelet mandate, there were 84 specialized labor court judges, 26 labor tribunals, 33 labor advocacy offices, 136 public labor advocates (*defensores laborales*), and 494 administrative functionaries in the labor court system (Aravena and Núñez 2011: 125).

In terms of procedure, a series of steps and written submissions was eliminated in favor of a streamlined process whose central act was a public oral hearing with a labor court judge. The number of hearings was also reduced (Ibid). The effect was a major reduction in case costs and a substantial shortening of time in legal processes (Ibid). According to the Labor Ministry, by early 2010 these changes reduced average case time to 4-6 months (*Ministerio del Trabajo* 2010). Labor Minister Claudia Serrano said, “in light of available data, there does not exist a major and relevant increase of the cases in which the worker wins the petition, but the great difference is the time horizon for a resolution to labor litigation” (Ibid). Given the Labor Code, the law the labor courts were tasked with enforcing remained basically unfavorable labor (Cook and Bazler 2013: 12).

### **A Balance: Labor and The Labor Code in the Concertación Era**

Labor Code reform from 1990-2010 enhanced individual labor rights and enforcement (Aravena and Núñez 2011; Cook and Bazler 2013). This meant increased protection for labor leaders, more enforcement resources, lower quorums to form unions, unemployment insurance plans and a work week reduction from 48 to 45 hours. Benefits to labor were material if modest.

Crucial areas of labor law did not change significantly in 20 years of elected center-left rule. Collective bargaining remained at enterprise level, save for the voluntary agreement of all

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<sup>285</sup> This institution, as noted previously, can rule on the constitutionality of legislation while it is in progress.

employers involved. Bargaining topics were strictly delimited.<sup>286</sup> Legal strikes remained tied to this limited collective bargaining process. Striking workers could always be replaced.

In some ways, strikes were actually weaker than in the original 1979 Labor Plan laws. By 2010, replacement workers could be hired from the first day of a strike, if the employer made an offer equal to the previous contract plus an inflation adjustment and paid a 4 UF per replacement worker fine. Individual strikers could return to work after the 15<sup>th</sup> day of a strike, rather than the 30<sup>th</sup> day, and if 50% of workers dropped out, a strike was legally ended.<sup>287</sup>

Job dismissal remained essentially at the will of the employer. Article 161's justification of "needs of the enterprise" was virtually impossible to contest legally. In each of these areas of predominant continuity, the Concertación 1989 *Programa de gobierno* had made a commitment to "profound change". These reform pledges were reiterated in elections throughout the period.

### **The Material Interests of Labor in the Concertación Era (1990-2010)**

Labor Plan continuities are also evident in broader outcomes for labor in Chile over two decades of Concertación political dominance. Union affiliation, density, composition, collective bargaining and legal strikes indicate a formal legal-institutional labor movement not appreciably stronger than at the 1990 transition. This was despite close labor political allies being power.

Different measures of union affiliation and density show a similar pattern in 1990-2010. They grew in the first years after the transition, declined for a decade or more, then recovered some in the last 5 years of the period. They never reached the peaks of the early 1990, much less the higher numbers of the Allende era). OECD data shows trade union density increasing from 16.0% in 1989 to 20.6% in 1991, then declining to 13.1% in 2001 and finally climbing to 15.8% in 2009 (OECD).<sup>288</sup> The compendium of statistical series by the Labor Directorate shows a unionization rate up from 13.4% in 1990 to 15.1% in 1991 down to 10.7% in 1999 then recovering to 12.5% in 2009 (*Dirección de Trabajo* 2013).<sup>289</sup> This was 606,812 unionized workers in 1990; 701,355 in 1991; 579,996 in 1999; and 837,055 in 2009 (Ibid). The numbers were smaller in the private sector and for those types of unions (enterprise unions) that could engage in collective bargaining, but the trajectories of those numbers in the Concertación Era followed a similar pattern (Ibid).

Another key factor in the debilitation of the labor movement has been the issue of union fragmentation or atomization. This refers to the small and declining number of workers per union and the proliferating number of unions totally out of line with the unionization rate. For example, the number of "active unions" increased from 7,707 to 9,776 from 1991-2009 (Ibid). This yields an average of less than 86 workers per active union in the country. This level is largely the result of the perverse incentives of the law. The average union size is lower still using other calculation methods (Aravena and Núñez 2011: 123; Cook and Bazler 2013: 13-14; Leiva 2013: 5).

A similar pattern is evident in the trajectory of legal collective bargaining processes. A Concertación Era peak in the early 1990s was followed by a sustained decline until the early 2000s

<sup>286</sup> In particular, Article 82 banned bargaining on any matters that "may restrict or limit the employer's exclusive right to organize, lead and administer the firm" (*Nuevo Código del Trabajo* 2010: 92).

<sup>287</sup> Articles 59 and 159 on strikes (*Nuevo Código del Trabajo* 2010: Pp. 62; 105).

<sup>288</sup> Data available at [https://stats.oecd.org/Index.aspx?DataSetCode=UN\\_DEN#](https://stats.oecd.org/Index.aspx?DataSetCode=UN_DEN#) [Accessed April 29, 2015].

<sup>289</sup> Dirección de Trabajo. 2013. *Compendio de Series Estadísticas 1990-2013*. Cuadro 1a "Cantidad de sindicatos activos, población afiliada a sindicatos activos, fuerza de trabajo y tasas de sindicalización, a nivel nacional, años 1990 a 1999" and Table 1b "Cantidad de sindicatos activos, población afiliada a sindicatos activos, fuerza de trabajo y tasas de sindicalización, a nivel nacional, años 2000 a 2013". Pp. 18-19. The data is available at: [http://www.dt.gob.cl/documentacion/1612/articulos-62614\\_recurso\\_1.pdf](http://www.dt.gob.cl/documentacion/1612/articulos-62614_recurso_1.pdf) [Accessed April 29, 2015].

and then a partial recovery later in the decade. Overall, it was a process in which relatively few workers took part and available generally only to workers in enterprise unions hired on indefinite contracts. In 1990, 184,556 workers took part in collective bargaining, rising to a peak of 210,089 in 1995, falling to a low of 137,985 in 2003, then recovering to 253,318 in 2008 and 227,282 in 2009 (*Dirección de Trabajo* 2013: 112 Table 2). This means 7.6% of wage workers in the private sector partook in the legal collective bargaining process in 1990. This rose to a peak of 10.1% in 1991, fell to 4.5% in 2003 then up to 6.4% by 2008 (*Dirección de Trabajo* 2013: 129 Figure 12). The numbers were lower if only “collective contracts” are counted and not the lesser “collective agreements” (*convenios colectivos*<sup>290</sup>), which make up around 1/3<sup>rd</sup> of the total in a given year (*Dirección de Trabajo* 2013: 130 Figure 13).

Finally, the level of legal strikes attached to the collective bargaining process also shows a similar pattern. The number of legal strikes rose from 176 in 1990 to a high of 247 in 1992, before falling to a low of 86 in 2001 and then recovering to 171 in 2009 (*Dirección de Trabajo* 2013: 197 Table 1). Workers involved in those legal strikes rose from 25,010 in 1990 to a high of 45,910 in 1991, declining to a low of 10,443 in 2003, then rising to 21,915 in 2009 (*Ibid*). Only in 1991 did this level reach at least 1% of the labor force, at 1.4%. By 2003 it was less than 0.3% of the labor force. Strikes averaged 15 days in length in 1990, the highest figure of the era. They fell to a low of 8.7 days in 2003 and recovered to 11.5 days by 2009 (*Ibid*). The costs in terms of labor days lost to these legal strikes began at 245,192 worker-days in 1990, peaked at 730,925 in 1991, fell to a low of 73,467 in 2003 and recovered to 242,508 in 2009 (*Ibid*). These numbers were a small and declining percentage of all strikes. An increasing number were illegal. These facts indicate just how limited was use of the legal strike inherited from the Labor Plan.

Severance payments for job dismissals had been a key political and polemical labor law issue for decades. Yet only the relatively few workers on indefinite contracts dismissed with the justifications that would entitle them to these payments were eligible for them. This number corresponds to only about 20% of the workers on any kind of contract who are dismissed in any given year, and thus were entitled to this payment.<sup>291</sup> Workers on legal contract are themselves less than 60% of the labor force, a legacy of increased informality from the era of military rule.

The enforcement capacity of the state is a key factor in Labor Code outcomes. Two main state institutions were charged with enforcement of the Labor Code. The *Dirección del Trabajo* audits, inspects and levies fines on employers for violations. It has three main methods for investigating compliance: a complaint procedure; systematic investigations of specific sectors each year; and spot checks on individual companies (Sehnbruch 2006: 135). Labor Courts were the other main enforcement institution. They took cases initiated by employers or employees.

Both institutions gained significant resources and capacity during the Concertación Era. Enforcement, compliance, and professionalism improved. However, resources and capacity remained well short of needs to fully comply with their mandates. Labor surveys, *Dirección de Trabajo* studies, and union complaints regularly covered in the press, indicate regulatory

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<sup>290</sup>Article 351 of the Labor Code: A “*Convenio colectivo* is signed by one or more employers with one or more union organizations or with workers united for that end, or with one and the others, with the end of establishing common conditions of work and remuneration for a determined time period, without subjection to the norms of procedure of regulated collective bargaining nor the rights, prerogatives and obligations of this procedure.” Among other things this means workers bargaining in this type of contract to do not have protection from dismissal (*fuero sindical*) and do not have a right to strike. See: *Dirección de Trabajo*. 2013. *Compendio de Series Estadísticas 1990-2013*. P. 188.

<sup>291</sup> *Dirección de Trabajo*. 2011. “Informe sobre condiciones de empleo”. It reports results from and analyzes the *Primera Encuesta Nacional de Empleo, Trabajo y Salud* (Enets) carried out in 2009-2010.

infringements continued to be widespread.<sup>292</sup> One major structural reason for enforcement difficulty was the widespread and increasing labor market informalization and precarity. Many legal rights were tied to specific types of formal employment contracts under which only a shrinking minority of labor worked.<sup>293</sup>

Flexibilization, informalization and precarity were key labor market structural factors (Sehnbruch 2006: 73-111; Sehnbruch 2014: 270-278). Each of these aspects of the labor market expanded in the Concertación Era. Labor market flexibility was at least in part by design. Encla and CASEN surveys show a steadily declining proportion of “indefinite contracts” in the labor force. They made up less than 40% of the (employed) labor force by 2010.<sup>294</sup> About 20% of the labor force worked without formal legal contract, a precarious status with few rights. Those were the “workers with the lowest wages; they do not pay social security contributions; they generally receive no vocational training whatsoever; they have the shortest tenures and rotate frequently between low-quality jobs; they cannot unionize; they can obviously be hired and fired at will; and they are not entitled to severance pay or unemployment insurance” (Sehnbruch 2014: 273).

In other broad measures, however, the labor market did show moderate improvements in the Concertación Era. In a period of consistently strong economic growth, despite two recessions in 1999-2001 and 2008-2009, and historically low and stable inflation for Chile, wages tended to grow consistently over the whole period, although not on par with GDP growth or productivity. The most increase came in the minimum wage, which tripled in nominal terms from 1990-2010. Even in real terms this represented almost a doubling of the monthly legal minimum. There are two caveats to this number. First, labor surveys indicate about 7% of the (employed) labor force in any given year make less than legal minimum wage. Second, even at the end of this period of sustained increases, the monthly minimum wage at the end of Bachelet’s term was only 165,000 Chilean pesos, just over US \$300 at the time, or less than US \$2 per hour. Nearly half the employed labor force made less than twice the minimum wage (according to the Encla 2011 survey this was 45.7%). The average wage made some, but less, progress, growing about 150% in nominal terms from 1990-2010, yet scarcely at all since an early peak in 1998. In real terms, the average wage grew about 50% over 20 years. Another indicator that showed improvement was unemployment. It went from catastrophic levels under the dictatorship to a low of 5.3% in 1997. After spiking to 10% in 2000, it gradually declined, falling to below 7% by 2011.<sup>295</sup>

## **Part II: The Evolution of the Labor Movement in Chile (1990-2010)**

The union can collaborate in the development of the company. If one looks at old unions, unionism synonymous with strikes and occupations, they are in a different era. But Chile changed, the world changed, we changed. We are in another [era].

—Arturo Martínez, CUT President. Interview with Raquel Correa in *El Mercurio* April 29, 2001.

<sup>292</sup> Sehnbruch (2006: 135-138) details institutional factors that continue to hamper effective regulation.

<sup>293</sup> See: Dirección de Trabajo “*Temas laborales*” (various issues) for in-depth discussions of this exact issue.

<sup>294</sup> Encla (2004, 2006, 2008, 2011); CASEN (1990, 1992, 1994, 1996, 1998, 2000, 2003, 2006, 2009, 2010) or the *Encuesta de Caracterización Socioeconómica Nacional* is a biannual survey by the Planning Ministry (Mideplan).

<sup>295</sup> All data in this section is from the Instituto Nacional de Estadísticas, Chile (INE). [www.ine.cl](http://www.ine.cl) [Accessed April 30, 2015], Encla (2004, 2006, 2008, 2011) and CASEN (1990, 1992, 1994, 1996, 1998, 2000, 2003, 2006, 2009, 2010).

This dissertation has forwarded the interpretation that the state action of labor institutionalization, as reflected in the Labor Plan Labor Code, was a political-strategic *reaction* to labor threat. The lack of Labor Code change in the Concertación Era ultimately reflects and registers a lack of sufficient labor threat. Lower labor threat than in prior periods was historically conditioned by two systems of institutional incorporation: legal incorporation in the Labor Plan and partisan incorporation post- “electoral turn”. This combination is “political incorporation”. The Concertación Era was a case of political incorporation very effectively channeling and containing labor threat for an extended period. Yet this subdued labor threat did not last forever.

Having reviewed the political-legislative history of labor reform in the Concertación Era, this second historical review of the period focuses on the labor movement to explicate mechanics of labor threat. Analytically, two labor movement dynamics are traced. The first is at the institutional level. The trajectory of the CUT, the largest and most powerful institutional labor organization, is analyzed, particularly its relationship to the political parties and the state. The second is largely extra-institutional. It follows labor threat in the form of the “labor movement from below”. This movement and threat developed and grew during the Concertación Era. As it did it challenged labor organizations, the political parties, state institutions and governments.

The top level of the institutional labor movement, represented by CUT leadership, was politically subordinated to the Concertación parties, and so to the state, in this era. For the state and the Concertación, labor cooptation, political subordination and pacification were key political strategies for achieving two main goals: economic stability and political governability.

Deferral to party and state interests, as in a political-partisan logic, could only be deferral to these substantive goals. How this operated in practice demonstrated the material and political interests that drove the CUT as an organization, and top leadership specifically, to follow this strategy. The ability of leadership to follow this path despite its clear lack of benefits for the labor base resulted from factors internal to the institution of the CUT. Its political and financial relationship to Concertación parties and to the state and a top-down, largely undemocratic organizational structure meant the labor group operated with a lack of autonomy from parties and the state. This lack of autonomy and a conciliatory orientation conditioned a lack of labor threat. Ultimately, however, that threat began to come from the base and exceed institutional channels.

Labor threat “from below” grew gradually but consistently in the Concertación Era. It was mainly autonomous from the state, legal labor institutions, political parties and the CUT. Base-driven labor actions increasingly confronted status quo institutions. In many instances, conflicts manifested in bottom-up, extra-institutional, even extra-legal ways. By the Bachelet term extra-institutional mass mobilizations emerged as a significant aspect of the labor movement.

In the early days of the Concertación a spike in the number of strikes outside the Labor Code legal framework occurred, particularly in the public sector. Later, extra-legal direct action tactics (unpermitted protests, workplace occupations, road and highway blockades) became more common. The labor movement in the Concertación Era was characterized by this dual dynamic. A patterned stability borne of political incorporation and low labor threat at the institutional level coexisted with a growing, base-driven, oppositional and autonomous labor threat from below.

### **Labor, the State and the Political Parties: The CUT and Labor Threat (1990-2010)**

Several elements defined CUT political subordination in the Concertación Era. CUT ties to political parties and the state bound them politically, institutionally and financially. The CUT’s organizational structure set up a centralized leadership insulated financially and politically from

labor base pressure. These two crucial elements drove the CUT's strategic and tactical orientations. Furthermore, these ties and orientations drove the CUT's low labor threat.

CUT-party ties were defining in the Concertación Era. Concertación parties, especially the Christian Democratic and Socialist parties, were crucial to CUT funding, whether it came from abroad or from the state. PDC and PS were also the partisan affiliations of CUT leadership throughout the era. Yet, the Communist Party, despite being excluded from the Concertación and the Congress, was increasingly central over time. Labor-party dynamics shaped the orientation of the most well-resourced and politically influential labor institution to politics and the state. The CUT explicitly aligned with the Concertación, backed by a political-partisan pragmatist logic. Even parts of CUT leadership that opposed Concertación labor policies from the left, Martínez' Socialists in the years he was alienated from the PS and the PC, were disciplined by partisan politics. Even left opposition parties and factions served to contain and channel labor threat.

Finances were a problem for the CUT. It was dependent on two sources for much of its income. Early on, foundations tied to European Christian Democratic and Social Democratic parties were the most important. Later, when the PDC and PS were in power, state financing was central. Two key examples were indemnities paid to the CUT under Lagos for property seized during the dictatorship and money from state funded worker training and education programs.

The second element of CUT political subordination was its organizational structure. In a centralized and non-transparent mode of organization, big decision-making power was vested in top leadership. Power concentrated in the top leadership of the faction in control of the Executive Committee, opaque and controversial election mechanisms, partisan scheming at the top, and a lack of transparency in financial and other matters all contributed to this dynamic and outcome.

Lack of autonomy from political parties and the state and an organizational form wherein leadership was insulated from base pressure conditioned the CUT's strategic and tactical path. It emphasized dialogue with the state and business. It prioritized political connections, partisanship, and the political interests of parties. It deemphasized oppositional, confrontational labor conflict, labor threat and the immediate material interests of the labor base. Still, as base pressure grew, in time, the CUT became less partisan and officialist and more oppositional and threatening.

### **The CUT and the Aylwin Administration (1990-1994)**

As we have seen, the CUT emerged from the dictatorship period with its top leadership institutions, the 45-member National Directive Council and, most importantly, the 15-member Executive Committee, firmly in the control of partisan Concertaciónistas. CUT president Manuel Bustos was a long-time PDC militant. He later became a Deputy in Congress for the party. The PDC also had the largest share of seats on the National Council and Executive Committee at the 1990 transition. Four former labor leaders became Concertación Congress members from 1990, two in the Chamber of Deputies and two in Senate. These included Bustos' close PDC confidants Deputy Rodolfo Seguel and Senator José Ruiz di Giorgio.

Early on a close relationship existed between CUT and Concertación leaderships. Haagh (2002: 72) notes that at the transition, "The day-to-day affairs of national labor leaders continued to be closely associated with the political party world." This was the time of the *Acuerdo Marco*, in which the CUT recognized the primary economic role of private enterprise. In these first years the CUT followed the lead of the Concertación. It practiced a politics of consensus, concertation and conciliation in the interests of a stable transition (Uggla 2000: 281). Boeninger (1997: 490) acknowledges, "The unionists, in particular, reconciled themselves to moderate their positions on



diverse points as a gesture of political will. This should be especially recognized as it showed on their part a vision ‘for the country’ and a commitment to the democratic transition.” Links among CUT and Concertación leaders were personal. Examples include regular soccer matches between CUT and Labor Ministry leaders and staff (*La Época* August 20, 1992), Bustos’ weekly Monday breakfasts with Labor Minister Cortázar and Martínez’ regular dinners with Secretary General of the Government Enrique Correa (Uggla 2000: 177).

However, Sehnbruch (2006: 60) suggests, “Although the leaders of unions, government, and employers’ associations knew each other well and enjoyed a good working relationship, the general atmosphere between workers and employers was tense.” Sehnbruch (Ibid.) also argues, “The leaders of the principal union confederation had to convince their members that they had to tone down their demands for higher wages and legislative reform in the short-term to protect the new and still fragile democracy” (Ibid). Eugenio Tironi, a well-known Concertación center-left intellectual, recalled fondly: “The Concertación had that great capacity, that it could send a bald, fat guy dressed in a suit from the discount rack and not Brooks Brothers, and this guy would go on a bus and talk to the old guys and say, ‘buddy, stop the mobilization’”<sup>296</sup>(*El Mercurio* August 3, 2011). The principal negotiators on behalf of the government on labor law reforms in the early years were Finance Minister Alejandro Foxley and Labor Minister René Cortázar. Both of them had close relationships to CUT leadership as they were long time expert labor advisors prior to 1990. The first post-transition leader of the CPC, Manuel Feliú, also had an important personal relationship with Bustos and Martínez. He had intervened on their behalf during the dictatorship (Cavallo et al. 1997: 123). This situation meant that “the CUT relied on the policy intentions of the Concertación, a unilateral faith that proved to be problematic” (Haagh 2002: 73).

It was soon clear this would not yield the labor benefits to which the Concertación had committed. In May 1991, Martínez accused the government of fearing a stronger CUT and labor movement (*El Mercurio* May 16, 1991). Still, the first post-transition CUT elections backed this basic strategic and political orientation. In September 1991, a dissident grouping, Movement for Union Autonomy (MAS), formed to contest the CUT elections (*La Época* September 23, 1991).

MAS was made up of dissident Socialists and PC labor militants. They leveled strong critiques at Bustos’ leadership for conceding too much to the Concertación (*La Época* October 6, 1991). MAS’ main demand and line was for a total separation of the movement from the political parties (*La Época* November 27, 1991). This was the first hint of a split between Concertación unionists, specifically PDC militants, and a breakaway PS faction that allied with the Communist Party to gain control of the CUT (*La Época* October 25, 1991; *El Mercurio* October 28, 1991).

Aylwin opened the CUT Congress with a rejection of the frequent criticism his labor policies represented continuity with military rule (*La Época* October 29, 1991). Four lists were competing in the CUT election: Christian Democrat (with the Radical Party), an “official” PS list, a Communist Party list and the MAS (*La Época* October 28, 1991). The first three of these were “written up by the respective party committees of trade union leaders” (Haagh 2002: 72). There was major controversy around voting, delegates and counting unions’ memberships.

Left criticism of PDC teachers’ union vote inflation (*La Nación* October 24, 1991; *La Época* October 25, 1991) and other issues led left organizing committee representatives to drop out (Ibid). In the end, however, the Christian Democrat-led list garnered 43% of the vote, the PS list 35% and the Communist Party list 20% (*El Mercurio* October 31, 1991). This meant that the PDC had increased its share of the vote since 1988 while the Communists had lost about 1/5<sup>th</sup> of

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<sup>296</sup>“La Concertación tenía esa gran capacidad, que podía mandar a un guatón pelado vestido de una liquidación y no de Brooks Brothers, y este gordito partía en bus y hablaba con los viejos y le decía “compadre, pare la movilización”

their share. Meanwhile, the 3% the MAS list received demonstrated the weakness of autonomous labor as a line within the CUT as an institution (*El Mercurio* November 1, 1991). This vote translated into 20 seats for the PDC on the National Council, 15 for the PS, 9 for the PC, and 1 independent from the MOC (*Movimiento Obrero Campesino*, Rural Workers' Movement). The Executive Committee was composed of 15 members: 5 PDC, 5 PS, 3 PC, 1 Radical Party and 1 MOC. The PDC and PS reestablished a power sharing pact. Bustos became President and Martínez Secretary General. The threat of left dissident or autonomous challenges to Concertación-allied leadership of the CUT was roundly defeated for the moment.

In the absence of more concrete gains from this political alliance, pressure on the CUT leadership from the left, and the Communist Party in particular, continued. As noted, many key labor movement indicators saw their highest levels of the Concertación Era in these first years after the transition. In 1991 there was a spike in labor conflicts with important strikes in the copper, coal, steel and health care sectors. Of particular note was a July, 1991, strike at CODELCO's Chuquicamata copper mine, in which the government lost US \$3.5 million per day. In August El Teniente mine also struck (*La Época* June 27, 1991; June 28, 1991; July 1, 1991; August 14, 1991 and August 20, 1991). The following January, 1992, the CTC began a campaign that was ultimately unsuccessful against privatization in the mining industry (*La Época* January 4, 1992). The CUT expressed general support for miners' actions but also tried to moderate and mediate these labor conflicts (*La Época* July 6, 1991; *La Época* August 17, 1991; *La Época* January 10, 1992). PC labor leader José Ortiz complained that the CUT was acting like a *colchón* (mattress/buffer) between labor demands and the government (*El Mercurio* March 11, 1997).

Bustos and CUT leadership were subject to growing criticism for their stance vis-a-vis government. The CUT was officially relegalized as a union central April 11<sup>th</sup>, 1992 (*El Mercurio* April 12, 1992). This resulted in a need to formally re-elect the leadership in accord with the new legal statute. This controlled, symbolic election still became a venue for growing dissent. The PC list won the first 5 ballots. Bustos came in 10<sup>th</sup> and Martínez 42<sup>nd</sup> out of 45 (*La Época* April 18, 1992). The only change was one additional Socialist Party seat on the Executive Committee, regaining parity with PDC and Radical Party groups at 6 each (Ibid). Although dissent was manifest, changes at the top of the organization and in its strategic orientation were minimal.

The document the CUT issued lamented the existing neoliberal system yet stated that no other economic model was possible. The labor movement's role was to struggle for better social provisions within that system (*Tercera Conferencia Nacional Ordinaria Conclusiones*: 3). The strategic posture that came out of the conference continued to emphasize organization building in the CUT and movement. Since 1987 this strategy had taken the place of an oppositional stance. The document prefigured Martínez' later "dialogue and mobilization" policy. It rejected a "false dichotomy between negotiation and mobilization" (*Tercera Conferencia Nacional Ordinaria Conclusiones*: 12). The aspect of negotiations was concrete while, as we have seen, the threat of mobilization, especially mobilizations that directly threatened the material and political interests of the state and capital, remained overwhelmingly rhetorical. Still, the beginnings of the threat of mobilizations from 1992, as in Bustos' May Day speech (*La Época* May 2, 1992), indicate that the CUT leadership recognized the growing disenchantment among members and the labor base.

From this point, a long decline in key indicators gave birth to what began to be called the "union crisis" (*La Época* May 2, 1994). As government and big capital became less interested in tripartite dialogue and the returns on the strategy of conciliation were revealed as meager and the CUT's influence as very limited, frustration within the movement grew (Uggla 2000: 173). In the CUT and the movement, organized sectors like the PC and the MAS proposed a rupture with the

government and a “combative” stance (*La Época* June 30, 1992). The PC had no representatives in Congress and thus had a strategy of building political influence with the parties in government through securing positions of influence in social movements, especially the labor movement but later the student movement also. PC union commission member Marcelino Figueroa put it, “we want the social sectors and the workers to be the real parliamentarians that we don’t have.”<sup>297</sup>

So, under pressure, the CUT took some steps to distance itself from the government and to put more pressure on it, although these remained mostly ineffectual, symbolic and rhetorical. Two prime examples were the “freezing” of relations with the government and withdrawal from the tripartite commissions in August 1992 (*El Mercurio* August 18, 1992), and the “rejection” of neoliberalism in the CUT fourth national conference the next year (*El Mercurio* July 18, 1993).

One sign of dissent that began to appear, and was a continuing phenomenon for years after, was confrontational negative reactions that met CUT leaders at most public appearances. By late 1992 it was common for Bustos to be loudly booed at public speeches. At a rally of some 5,000 in November that year he was subject to attempted attacks by left-radical labor activists, a scene that became recurrent along with loud cries of “treason” (*El Mercurio* November 6, 1992). A central aspect of criticism, whether from radicals at events or within the organization<sup>298</sup> was the close relationship between the government and union leadership.

Overall, the Aylwin presidency, even the beginning of Frei’s term, can be characterized by what labor-leader-turned-congressman Rodolfo Seguel called a “pacted disagreement” in a play on words of the dominant theme of pacts in those years (quoted in Ugglá 2000: 177). There always existed a “certain degree of understanding between the labor central and the government during these years, and that this was maintained even as the CUT made public expressions of its discontent” (Ibid). Even during the “freeze” in relations between the CUT and government Labor Minister Cortázar was spotted at the CUT headquarters (*La Época* August 20, 1992).

### **The CUT and the Frei Administration (1994-2000)**

When the Frei presidency began, basic support from the CUT continued. Labor leaders helped draft his platform and garnered promises on higher wages, union protections, more state intervention in labor relations and Labor Code reforms (*La Época* August 15, 1993; *El Mercurio* March 25, 1994). Although the CUT maintained this basic orientation and strategy, the lack of concrete gains contributed to a distancing between the labor movement and the government. This was most pronounced at the base and less so at each level higher in the organization.

The disconnect drove the Frei administration’s primary labor movement worry: potential increased Communist Party influence. Statements by Interior Minister Enrique Krause (*La Época* December 19, 1993) and Bustos (*La Época* February 25, 1994) spoke to this. The promises and political maneuvers on labor law reform were largely driven by this dynamic. Still, progress was limited and the labor gains of the first two Aylwin years had gone into reverse. In fact, this lack of progress drove exactly what the Concertación and Christian Democratic labor leaders feared, namely, increased left and Communist influence in the CUT and labor movement more broadly.

Symbolically, this dynamic began early in the Frei administration. The President did not attend the CUT May 1<sup>st</sup> event, as Aylwin had. Communist labor militants held a separate rally, leading the press to proclaim the onset of the “*crisis sindical*” that became a dominant theme for years (*La Época* May 2, 1994). Days later Frei’s administration set another precedent distinct from

<sup>297</sup> Ugglá cites a March 17th, 1998, interview with the PC militant (Ugglá 2000: 174 footnote 99).

<sup>298</sup> See quotes from union leader Guillermo Medina for an example (*La Época* August 17, 1992).

Aylwin. They refused to negotiate a minimum wage increase with the CUT, raising it by decree by much less than CUT demands (*La Época* May 11, 1994; *La Época* May 12, 1994). The CUT attempted a big demonstration to pressure the government in July 1994 (*El Mercurio* July 12, 1994). It broke formal relations with the government over labor reform and other issues in December (*El Mercurio* December 5, 1994). This spurred the first labor reform attempt in the Frei term, in 1995 (*El Mercurio* January 6, 1995; *La Época* March 26, 1995; *La Época* April 5, 1995; *La Época* April 16, 1995; *El Mercurio* May 5, 1995). When this legislative effort did not pan out, the CUT once again broke relations with the Labor Ministry of Jorge Arrate (*La Época* October 24, 1995; *La Época* October 25, 1995; *La Época* October 26, 1995). As noted, the CUT organized another protest in November that year (*El Mercurio* November 10, 1995). At 15,000 people, it was the largest the CUT had mustered post-transition (*La Época* November 10, 1995).

This period can be seen as the de facto start of the “dialogue and mobilization” strategy Arturo Martínez championed as a replacement to “social concertation” (*La Época* November 4, 1995; *La Época* November 7, 1995). In practice, it was “an erratic course between attempts at mobilization and instances of negotiation” (Uggla 2000: 318). Mobilization was a means to spur, and so could not threaten, negotiations. It was certainly not oriented to threaten the fundamental interests of the political parties, the state, or capital.

The pressure on PDC CUT leadership perceived closest to the Concertación culminated in the CUT elections of 1996. The push for a new strategic orientation was key. In April 1996, the four-year mandate of the CUT leadership ran out and new elections were held at the Second National Congress in Santiago. Representing 426,000 members were 600 delegates (*La Época* April 12, 1996). At this Congress Socialist Party unionists faced a split. Manuel Bustos left to become a Deputy in Congress. Arturo Martínez led a list that gained the Presidency with the support of the Communist Party, rather than back the Christian Democratic and Concertación candidate, Maria Rozas (*La Época* April 21, 1996). This led to Martínez’ suspension from the Socialist Party for two years (*La Época* May 3, 1996). Martínez did not assume the presidency but Roberto Alarcón, a member of his dissident PS list, did, but for a two, not full four-year term.

On the National Council Martínez’ Socialists won 14 out of 45 seats, the PC list won 13, and lists backing the PDC and Concertación received 18.<sup>299</sup> This triggered a major political crisis in the Concertación (*La Época* April 28, 1996). The parties formed a “crisis committee” without unionists on it to discuss coalition tensions arising from the CUT elections (*La Época* April 27, 1996). The committee decided for the Socialist Party to expel Martínez and his compatriots. In part this was an explicit effort to assuage the PDC (*El Mercurio* May 15, 1996).

The Martínez-PC deal stipulated new, more direct elections in December 1998. Another major controversy erupted around voting and election procedures. In fact, just hours before the election the Christian Democrats and Concertación Socialists withdrew their lists citing “vices and irregularities”. The night of the election the Concertaciónistas demanded an annulment of the results (*La Nación* December 4, 1998). Concertación union leaders took the case to the Electoral Tribunal, which judged it was not competent to rule on the matter (*La Nación* December 5, 1998; *La Nación* December 20, 1998). The electoral results stood. PC militant and Miners’ leader Etiel Moraga became President with support from Martínez’ list (*El Mercurio* December 4, 1998).<sup>300</sup>

Concertación unionists did not take up their positions, including Vice President, until the following April, nor take part in union events, including Executive Committee meetings (*El*

<sup>299</sup> The Christian Democrats won 11 seats; running with them on a combined list the Radical Party won 4; the MOC won 1; and, running independently, the “Concertación” Socialists won 2 seats (*La Época* April 21, 1996).

<sup>300</sup> By then, the CUT had shrunk to 370,000 members eligible to vote, via delegates (*El Mercurio* December 4, 1998).

*Mercurio* April 15, 1999). Though a series of reforms in 1997 opened voting to more base-level union leaders, less than half of the 7,200 eligible to vote actually had. The PC significantly increased its number of seats, to 17 out of 45 on the National Council. Martínez' Socialists added 13 more to that force. The PDC had 12 and its Radical Party partners won three (*El Mercurio* December 8, 1998). Moraga deemed the result a "truthful expression of the Chilean workers' desire that there be profound changes in the CUT" (*La Nación* December 9, 1998). This latter part of the Frei term probably represents the moment of greatest distance between the CUT and government in the Concertación Era. Long-running tensions between Christian Democratic and Communist Parties expressed themselves in stark form, appearing as labor-state conflicts.

Although the PC had clearly gained a great deal of influence within the labor movement and the CUT since the transition, this still did not constitute a Communist "takeover" of the CUT or the broader labor movement. Indeed, they had only been "allowed" to reach power with the backing of an important segment of the Socialist Party labor apparatus, even as this caused rifts with the national party leadership of the PS. Though Communist labor militants would continue to advocate for more "classist" and "combative" strategies and tactics, the political strategy of its national political party leadership limited its extent in practice. From the transition, the PC's main goal was to re-enter Congress and national politics through parliamentary electoralism, left unity and constitutional reform.<sup>301</sup> This was a very similar party strategy to the pre-coup era PC.

In the 1989 elections, the PC ran on an electoral list (PAIS) that included several groupings that were later incorporated into the Concertación, such as the PS-Almeyda and the MAPU. PAIS formed an electoral coalition with the PRSD (Radical Social Democratic Party). By 1990 all these groups had joined the Concertación. But the PC was electorally isolated and without Congressional representation due to the binomial electoral system. At the political level its strategy was always to re-form a left pact inspired by the UP, or even a broad center-left alliance including the PDC, to overturn the binomial majoritarian system. The PC understood its work in social movements as a key tool to pressure for and demonstrate the utility of this pact to the governing political forces. The strategy limited the extent of confrontation with Concertación governments that the party's social movement cadres would undertake. The PC-PS CUT pact was the earliest, and for years the greatest, achievement along these lines. So, the party was loath to destabilize it. This political strategy finally bore fruit for the PC under President Bachelet.

### **The CUT and The Lagos Administration (2000-2006)**

CUT elections in August of 2000 established institutional-political patterns that defined the organization for the rest of the Concertación Era. The PC and Martínez Socialists won a narrow victory over a re-constituted and formally unified Concertación coalition of party lists. Martínez gained the Presidency he held until 2012, and the PC gained crucial positions of influence they maintained for the rest of the Concertación Era, especially Treasurer. A strategy of "dialogue and mobilization" Martínez ceaselessly advocated and put into practice was the CUT orientation that decade. An increase in labor movement mobilizations and protests, even by the CUT, occurred 2000-2010, but party ties and contradictions hampered strategic effectiveness.

After the Lagos labor reforms, in late 2001, a new phase in CUT-Concertación relations began taking shape. Profound changes in the Labor Code seemed more distant than ever. Broader

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<sup>301</sup> The Party called its constitutional reform program the "Democratic Revolution", the strategy of electoralism the "electoral struggle" and the proposal for a pact with center-left groups the "unity of the progressive forces". See: *El Siglo* (the PC newspaper) and the documents of the various Communist Party Congresses for a detailed elaboration.

issues of “continuism” with military regime neoliberal economics began exacerbating tensions in the ruling coalition, particularly the Socialist Party (*El Mercurio* April 2, 2002). The CUT was more forward in demands with the government and more willing to protest (*El Mercurio* August 20, 2002). Yet, this period saw the beginning of enhanced financial links between the state and the CUT. The second decade of Concertación rule also saw a steady and significant increase in social movement activity across society, including the labor movement and student movements.

In 2001 the “Revolution of the Penguins” student movement arose. Strikes, occupations, marches of tens of thousands and violent scenes reminiscent of anti-Pinochet protests were seen (*El Mercurio* April 15, 2001). From the start, a strong orientation towards direct democracy, social movement autonomy and direct-action contributed to the major impact it had on state and society (Ibid). It also significantly spurred on tendencies towards social movement mobilization among dissident sectors of the Concertación known as *auto-flagelantes* (“self-flagellators”) and gave a boost to those calling for a similar re-orientation within the labor movement and the CUT.

Increased CUT mobilization efforts were sufficiently worrisome to the government that, when the CUT convoked a march for August of 2002, Lagos pleaded for a “tranquil” protest to “call attention to their demands” (*El Mercurio* August 20, 2002). Lagos said workers should “be austere in their demands” and “careful in their petitions” during a “delicate moment for the economy” (*El Mercurio* September 6, 2002). In comments to the press after meeting with Lagos, “his interlocutor, Arturo Martínez, appeared to have been convinced by the exposition of the government” (Ibid). Now reinstated by the PS, the CUT President expressed confidence in Lagos and satisfaction with forthcoming projects to increase labor enforcement resources (Ibid).

Even Martínez’ attempt to balance “mobilization and dialogue” exposed major rifts in the CUT. In early 2003 the Concertación CUT faction went public with a critique of Martínez’ leadership and what they considered undue PC influence in CUT leadership (*El Mercurio* March 16, 2003). The Concertación labor leaders, dubbed “21<sup>st</sup> Century Unionism”, said in a press release that “we want a successful unionism that achieves agreements, but there exist radical positions that refuse to dialogue” (Ibid). They highlighted benefits that they argued the labor movement had achieved via dialogue with the government and employers. They complained that “some have tried to distort this, accusing us of being sold out to imperialism, the government and the bosses,” according to CUT Vice President and PDC militant Diego Olivares (Ibid).

The controversy of the moment centered around CUT Secretary General and PC militant José Ortiz. He was among the strongest advocates of a rupture with the government and a harder-line posture of confrontation, known as the “classist and combative current”. Olivares published a litany of complaints against the PC labor leader: refusing to join international labor federations; “schemes of agitation”; and using the CUT as a “transmission belt” for the interests of the PC (*El Mercurio* March 23, 2003). He highlighted PC Secretary General Gladys Marín’s statement that “we need a new *Central Unitaria de Trabajadores*, that retakes much more its independent, class-based role” as a euphemism for confrontation with employers, transnational corporations and the US (Ibid). He called this a central example of the “excessively ideological” posture of the PC. From both sides came the charge that independent conservative ANEF leader Hernol Flores put as follows: “the dependence in the CUT is to all of the political parties” (Ibid).

Tensions escalated May 1<sup>st</sup>, 2003, when Martínez called for a general strike to be held August 13<sup>th</sup>. Concertaciónista labor leaders claimed they were not consulted (*El Mercurio* May 2, 2003). There were three separate May 1<sup>st</sup> events held that year: a CAT event; an event of independent workers’ collectives; and the CUT event (*El Mercurio* April 29, 2003). The CUT event drew a crowd of more than 20,000. It ended with radical groups clashing dramatically with

the police and 39 people arrested (*El Mercurio* May 2, 2003). This coincided with a one-day strike by the government employees' union ANEF, which paralyzed the treasury.

The general strike call received significant labor backing, particularly from public sector unions (*El Mercurio* August 10, 2003). It unnerved the government enough that Interior Minister Insulza threatened that "all the armaments of the law" would be used and that "those that don't work will have to face the consequences" (*El Mercurio* August 11, 2003). President Lagos asked workers personally not to join the strike (*El Mercurio* August 12, 2003). Martínez denounced Insulza and Labor Minister Solari's "interventions in the organization". He stated his "absolute and clear conviction of the necessity of the total autonomy of the union movement" (*El Mercurio* August 11, 2003). Lagos' perspective, jarring when counterposed to his positions as opposition leader, was: "you don't build a country with a strike" (*El Mercurio* August 12, 2003).

The August 13<sup>th</sup>, 2003, general strike was the first since the 1990 transition. It was seen as a "test of strength" between the government and the CUT (*El Mercurio* August 13, 2003). The divisions in the Concertación were exposed when Gonzalo Martener, leader of the Socialist Party and its "progressive pole", and several PS Deputies backed the strike (Ibid). There was a large turnout, significant adhesion in the public sector and many instances of militant confrontation. Barricades blocked highways. Workers stopping traffic and miners stopping transport vehicles were arrested. Clashes with police took place in many areas of Santiago. The militancy evoked the 1980s, as did Interior Minister Insulza's claim the strike was "manipulated politically" by "*el comunismo*" (*El Mercurio* August 13, 2003; *El Mercurio* August 14, 2003). A key development was that students responded to a labor strike call in significant numbers, 77% in Santiago (Ibid).

At an "extraordinary refounding Congress" held just after the general strike, August 21-23 in the capital, the CUT reaffirmed a mobilizational path, threatened more general strikes and passed a censure motion against the "21<sup>st</sup> Century Unionism" grouping (*El Mercurio* August 25, 2003). The group, in turn, challenged the proceedings at the Labor Directorate (Ibid). They accused CUT leadership of "returning to the '70s" and "using Stalinist methods" to pass the resolutions of the Congress (*El Mercurio* August 27, 2003). Finances again became a scandal (*El Mercurio* August 31, 2003). Concertaciónistas accused the Martínez-PC leadership of corruption and mismanagement. An agreement was made for a public audit within 90 days (Ibid).

Yet, within a month Martínez was once again in tripartite dialogue with CPC leader Juan Claro and Labor Minister Solari (*El Mercurio* September 23, 2003), this time at Foundation 21 Chile, an NGO directed by prominent Socialist Party Senator and economist Carlos Ominami. In a matter of weeks, the three sealed an agreement on one of the most controversial issues that had been a top protest item of the general strike: a bill allowing for greater labor flexibility in shifts, scheduling and overtime, known as "labor adaptability" (*El Mercurio* October 11, 2003). The main concession for labor in this case was increased resources for the Labor Directorate (Ibid). The inconsistency of the CUT "dialogue and mobilization" strategy was apparent just two days later. After left and base labor pressure, Martínez said next to José Ortiz there had been no labor adaptability agreement. He claimed the text ("Initiatives for employment and productivity") was merely an informational document and not a signed accord (*El Mercurio* October 12, 2003).

In early 2004 tensions between CUT leadership and the Concertaciónista "21<sup>st</sup> Century Unionism" faction came to a head. An open schism emerged at an Extraordinary Congress that Martínez called January 7-8 (*El Mercurio* January 10, 2004). The Concertaciónista labor leaders held a separate meeting and were removed from their leadership posts on the Executive Committee at the CUT Congress (Ibid). The dissidents left the CUT and founded a competing union central, the UNT (*Unión Nacional de Trabajadores*) (*El Mercurio* February 2, 2004). The organizations

the UNT leaders represented amounted to perhaps 70,000-100,000 workers, or 15-20% of the CUT's membership base, although according to the CUT, the numbers<sup>302</sup> were lower. The leader of the new organization was PDC militant Diego Olivares (Ibid).

In August the CUT held leadership elections for the next four years. Again, two Socialist Party-led lists were in competition: a Martínez list with the support of the Communist Party list, and another led by Roberto Alarcón, with backing from a PDC-PRSD list. In this election 8,500 union leaders had the right to vote in the "weighted" voting scheme. In that system, their votes counted from 1 to 500 votes, depending on the size of the union they represented. By the time of the vote the CUT claimed a membership of about 520,000 workers in 2,500 unions (*El Mercurio* August 17, 2004). Martínez' list won the election and garnered 17 out of 45 seats on the National Council. Next was the PC list headed by José Ortiz, with 16 seats. The PDC-PRSD list won 7, an extra-parliamentary left list led by PC dissidents won 4. The Alarcón Socialists got 1 seat. (*El Mercurio* August 28, 2004). In the latter half of the year, Martínez moved notably closer to the left wing of the Socialist Party, the *autoflagelantes* (*El Mercurio* October 18, 2004). The main critique this group made of the Lagos government was not addressing income inequality, owing to a continuation of the fundamental bases of the neoliberal economic model (Ibid).

Early in the Concertación primary campaign for December 2005 elections for President both main candidates- Michelle Bachelet of the PS-PPD bloc and Soledad Alvear of the PDC- met with CUT leadership and Martínez (*El Mercurio* January 25, 2005; *El Mercurio* January 31, 2005). It was then that the CUT and left sector of the PS first publicly proposed an electoral pact between the Concertación and the extraparliamentary left led by the PC for the Congressional elections. It was called *Juntos Podemos* or Together We Can (*El Mercurio* March 19, 2005). Martínez announced plans for extensive mobilizations and a "change in strategy" with greater emphasis on protest (*El Mercurio* April 11, 2005). Another general strike in 2005 and plans for what Martínez predicted would be the biggest May 1<sup>st</sup> event since the transition were also forwarded (he claimed that 60,000 people would attend). Of the "principle demands" he listed, first was a "constitutional reform to achieve a change in the binomial system." (Ibid). A left PS-PC-CUT alliance addressed the primary obstacle to the PC strategy of re-entering Congress.

On May 1<sup>st</sup>, 2005, participation far exceeded expectations, with up to 500,000 attending events nationwide<sup>303</sup> (*La Tercera* May 3, 2005). Major clashes with police occurred across the capital (*La Nación* May 3, 2005). Martínez criticized the Lagos government: "the past three governments of the Concertación have been for the bosses and not for the workers" (*El Mercurio* May 2, 2005). Lagos spent the day at the Capel Agricultural Cooperative, in Rapel. He promised to initiate labor reform before the end of his term, addressing the need to increase the number of labor courts, improve labor trials, establish unemployment insurance and improve the creation of worker's unions (*La Tercera* May 3, 2005). At least 33 people were arrested (Ibid).

The confrontational posture of the CUT did seem to yield some results from the government. Just three days after the CUT threatened a 48-hour general strike over a labor flexibilization bill, Lagos desisted in sending it to Congress (*El Mercurio* May 3, 2005). He also accelerated reform of the labor courts just after the large May 1<sup>st</sup> demonstrations (*El Mercurio* May 2, 2005). New Labor Minister, and former CUT advisor, Yerko Ljubetic soon met with the

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<sup>302</sup> By a late June trip to Spain to affiliate the UNT with the ICFTU, Olivares would claim 54,000 members, of whom 34,000 were originally in the CUT (*El Mercurio* June 27, 2004).

<sup>303</sup> Perhaps 60,000-70,000 people were at the official CUT event in Santiago (*El Mercurio* May 2, 2005).



CUT and reached agreement on the “*reforma justicia laboral*”, the long promised reform of the labor courts system (*El Mercurio* May 11, 2005).<sup>304</sup>

Yet, once again, a turn to mobilization was put on the back-burner for several months as Martínez restarted a dialogue on labor flexibilization with new CPC head Hernán Somerville (*La Tercera* May 27, 2005). Somerville attended the launch of the CUT’s Labor Observatory, a think tank, the first time a CPC leader attended a CUT meeting (*El Mercurio* August 25, 2005). Labor Minister Ljubetic called revived dialogue a “positive step” (*La Tercera* May 27, 2005).

The CUT organized a few small protests the rest of 2005, but the planned general strike never occurred. As elections for President and Congress approached at the end of the year, focus turned to not destabilizing Concertación chances. An interviewer said that, “in the view of public opinion, the union movement is turned off”, to which Martínez responded, “we are in a process of reconstruction of the union movement” (*El Mercurio* December 19, 2005).<sup>305</sup> In the second round of voting, the CUT and several other important unions jointly and openly called for a vote for the Concertación candidate for President, Bachelet (*El Mercurio* December 22, 2005).<sup>306</sup>

At that time, the subcontracted CODELCO copper workers’ struggle was just beginning to escalate but had not yet received CUT support (*El Mercurio* December 28, 2005). Copper workers were on the streets and right candidate Sebastián Piñera (RN) claimed he would fulfill the workers’ demands. Just before the election, President Lagos called Piñera “demagogic” and said he was engaged in a “political ploy” (*El Mercurio* January 14, 2006). In the end Lagos refused workers’ demands. Labor unrest in the mines marked the early Bachelet years.

At the end of the Lagos term another key change occurred. A major package of 54 constitutional reforms was enacted. Most crucially, it removed the powers of the military through the National Security Council and eliminated non-elected Senators positions as of March 11<sup>th</sup>, 2006 (*Ibid*). This meant the Concertación again had a majority in both chambers of Congress.

### **The CUT and the Bachelet Administration (2006-2010)**

Just a week after the election, Martínez met with President Bachelet. His primary request was the reactivation of the Social Dialogue Council “as soon as possible, so we have an instance where we can talk with business and the Government” (*El Mercurio* January 23, 2006). The first official business of the new Labor Minister, Osvaldo Andrade, was a visit to CUT headquarters. For the first time since 1970 the Finance Minister, Andrés Velasco, and his team also visited the “house of labor” (*El Mercurio* March 22, 2006). This showed that much closer connections with the government and a move away from confrontation, which had taken shape late in the Lagos term, had accelerated markedly in the early days of the Bachelet term. This occurred even as base level labor protest and, increasingly, confrontational direct action continued to increase.

For the first May 1<sup>st</sup> of the Bachelet administration, even as a number of labor conflicts percolated across the country, Martínez and the CUT forwarded as their main issue elimination of the binomial majoritarian system (*El Mercurio* April 9, 2006).<sup>307</sup> On that day, with a crowd notably smaller than the year prior<sup>308</sup>, Martínez made his two key demands passage of reforms the CUT

<sup>304</sup> The bill was passed less than two weeks later and came into effect at the beginning of Bachelet’s term in 2006.

<sup>305</sup> The title of the article was “Arturo Martínez certifies the disappearance of the working class” (*Ibid*).

<sup>306</sup> They included government workers (ANEF), health care workers (Confusam), copper workers (CTC) and oil workers (FENATRAPECH).

<sup>307</sup> The other was the Subcontracting Law, which was signed in October 2006. Its outcome was reviewed above.

<sup>308</sup> The act in Santiago was estimated at about 15,000 by the press (*El Mercurio* May 7, 2006). There were even bigger clashes with police by organized radical groups than the previous year and 72 were arrested (*Ibid*).

backed on subcontracting law and pensions (*El Mercurio* May 2, 2006). Absent were any mention of prior years' main issues around strikes, collective bargaining and easy dismissals. The two demands corresponded exactly with the two main legislative priorities laid out by President Bachelet (*El Mercurio* May 1, 2006). Thereafter the CUT maintained a full schedule of meeting with members of Congress and lobbying for these two reforms (*El Mercurio* May 3, 2006; *El Mercurio* May 23, 2006). In another first, Martínez and CUT leaders met IMF representatives (*El Mercurio* May 25, 2006). Even the leadership of the hard-right UDI party, and its president Hernan Larraín, made a first ever visit to CUT headquarters (*El Mercurio* July 20, 2006).

In August of 2006 two events tested the new CUT orientation and its new prominence in mainstream politics. First was a miners' strike at *Minera Escondida*, in the far North of Chile. On August 8<sup>th</sup>, 2006, some 2,000 workers from the copper mine went on strike for the first time in the history of that mine (*La Tercera* August 9, 2006). Alongside demands for a 13% wage increase to reflect the near quadrupling of the price of copper since their last contract in 2003, "Escondida's workers questioned Chilean labor laws and called for President Michelle Bachelet to carry out a serious reform of the Labor Code" (Vergara 2009: 83). The strike lasted 25 days and exposed labor law shortcomings and the ambivalent attitude of the Concertación government vis-a-vis labor issues at a very profitable, privatized mine (Ibid). Local union leader Nevenko Díaz stated, "If in Chile, the strongest labor union... from the largest private company in Chile cannot negotiate collectively, there is no worker in Chile who can do it" (*La Tercera* August 16, 2006). Copper workers petitioned the administration regarding hiring of replacement workers on the first day of the strike (Ibid). As Chile's most important privatized mine, Escondida produced 23.5% of total copper output, nearly all exported, or 8% of world output (Vergara 2008: 84-85). It was as crucial to the fortunes of the Chilean state<sup>309</sup> as to majority owner BHP Billiton (Ibid).

When the strike began the mine had about 2,900 permanent workers (70% blue collar) and 2,000 subcontracted workers (*El Mercurio* August 13, 2006). During the strike the mine lost an average of US \$15 million per day. Production dropped by 2/3<sup>rds</sup> in the first days of the strike (Vergara 2008: 92). In its second week, miners began to focus on the Labor Code and its limitations, with 300 travelling to the National Congress (*La Tercera* August 15, 2006). Hiring replacement workers relieved financial pressure on the company and significantly decreased the workers' leverage. Many replacement workers were normally subcontracted employees (Ibid). The government offered Labor Minister Osvaldo Andrade to mediate. By then the conflict had escalated. Workers used direct action to block access to the mine, forcing the company to shut down all operations (*El Mercurio* August 18, 2006). On the 15<sup>th</sup> day of the strike, in accord with the Labor Code, individual workers could leave the strike and the company began hiring some as replacement workers (*El Mercurio* August 26, 2006). Clear statements of support for the miners were lacking from the government, but also from the CUT, embroiled as it was in scandal.

The strike was settled August 31<sup>st</sup> with moderate gains for workers: a 5% wage increase; increased health care coverage; and a one-time bonus pay-out (*La Tercera* September 1, 2006). Mining capitalists and the media were heavily critical of the deal, considering it much too big a giveaway to labor (Ibid). Despite that, the month of the strike, BHP Billiton announced record annual profits<sup>310</sup> (*The Guardian* August 23, 2006). Workers without strong practical support from any national political parties, the government or the CUT, nonetheless made gains.

Meanwhile, the CUT was caught up in a scandal about its lack of financial transparency (*El Mercurio* August 23, 2006-August 31, 2006). The *Colegio de Profesores* (the teacher's guild)

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<sup>309</sup> In Lagos' last year, a royalty on private mines of 5% was instituted (Ley 20.026: *Diario Oficial*, June 16, 2005).

<sup>310</sup> Of US \$10.5 billion, a 63% annual increase, and a US \$3 billion share buyback (*The Guardian* August 23, 2006).

froze its dues payments to the organization because it said previous agreements on clarifying these financial issues had not been met. Jorge Pavez, leader of the group and an ex-PC dissident, said they, among the most crucial unions in the CUT, would only unfreeze funds when account balances they had been requesting for over a year were handed over. Most controversial was the disposition of nearly 1.5 billion Chilean Pesos (US \$2.6 million) given to the CUT in 2003 as an indemnity for confiscations by the dictatorship. On these funds Pavez insisted, “It is patrimony of all of us in the CUT... We have the right, as workers, to know the destiny of those resources... the accounts should be written and public” (*El Mercurio* August 25, 2006). Press investigations showed that construction of regional headquarters, on which much of the money was spent, yielded many non-completed or even never started projects (*El Mercurio* August 26, 2006). As documents emerged, it appeared most funds were lost to “bad investments”, including abandoned construction projects and high fees paid to a few CUT lawyers and legal advisors (*Ibid*).

Another symbolic occasion of partisan divisions in labor was the ICFTU-WCL<sup>311</sup> fusion in Vienna, on November 1<sup>st</sup>, 2006. The CAT and UNT sent their presidents, Pedro Robles and Diego Olivares, to join the new International Trade Union Confederation. The CUT sent only its head of International Relations, José Manuel Díaz, because there was no consensus to join the new group due to the opposition of the Communist Party (*El Mercurio* November 2, 2006). The latter, along with nearly all Communist-aligned labor organizations in Latin America, remained affiliated to the World Federation of Trade Unions. Although Martínez and the majority of the leadership were in favor of joining, it was an example of how party politics was able to drive CUT positions (*Ibid*). In fact, polemical disagreements over the issue of international affiliations were one of the main reasons cited by the UNT for the schism between it and the CUT in 2004.

Near the end of 2006, the subject of Labor Code reform came up seriously for the first time in the Bachelet term. A public controversy arose when Finance and Labor Ministries each wrote separate, competing projects for the President’s proposed “labor and employment reforms” (*El Mercurio* December 2, 2006). Finance Minister Andrés Velasco announced reforms at the ENADE business conference on November 28<sup>th</sup>. Based on a Danish model called “flexicurity”, the proposal combined elements of labor market flexibilization, anathema to the CUT and the left wing of the Socialist Party, with an enhanced scheme of unemployment insurance (*Ibid*).

Labor Minister Osvaldo Andrade had a project centered on expanding and strengthening the collective bargaining process, in line with historic labor movement demands (*Ibid*). Andrade had the support of Martínez, some Socialist Party legislators and a faction of the PPD, including its leader Sergio Bitar. Velasco had the backing of President Bachelet (*Ibid*). The two teams clashed on labor laws: the subcontracting law; pension reform; wage readjustments; and labor reform (*Ibid*). A “truce” was called to the public feud. Bachelet offered full support to Velasco. An inter-ministry technical committee was set up for labor reform. Andrade bitterly evoked the 1979 Labor Plan at an ILO event: “this is not 1979, wherein a group of technocrats can impose a set of transformations to the labor market unilaterally” (*El Mercurio* December 8, 2006).

In early 2007, the CUT once again reinitiated a dialogue with new CPC leader Alfredo Ovalle, former head of the National Mining Society, Sonami (*El Mercurio* January 4, 2007). At the first meeting the two groups agreed to form technical teams or “*mesas de trabajo*” (*Ibid*). The two also joined forces to oppose a new lobbying regulation bill (*El Mercurio* January 23, 2007).

On January 14<sup>th</sup>, the Subcontracting Law took effect (*El Mercurio* January 14, 2007). Some initial reports called for by the law were in direct contradiction to years of state discourse regarding the need to protect workers from private sector employers. They showed that state entities had

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<sup>311</sup> International Confederation of Free Trade Unions and World Confederation of Labor, respectively.

made extensive use of various types of subcontracted labor. After the reports, the State Bank (*Banco Estado*) and the National Petroleum Company (Enap) refinery in Biobío were fined for violations under the law in its first week in effect (*El Mercurio* January 27, 2007).

That month Labor Minister Andrade announced that labor reforms would be put off at least a quarter to concentrate on a major pension reform (*El Mercurio* January 3, 2007). Martínez publicly backed the government's legislative strategy (*El Mercurio* March 12, 2007). The Labor Minister insisted collective bargaining was next on the agenda (*Ibid*). In a meeting with President Bachelet the leaders of the CPC and CUT agreed that dialogue was making good progress. The Labor Minister and President strongly backed the process (*El Mercurio* March 16, 2007).

Yet, shortly after that Andrade said the government's priority for the whole year was the pension reform. To be "politically viable", he said, labor reform needed confidence and dialogue, adding, "the best example is the dialogue between Alfredo Ovalle and Arturo Martínez" (*El Mercurio* April 4, 2007). When the Labor Minister put a lowering of the severance pay indemnity up for discussion, Martínez termed it a "provocation". Diego Olivares and the UNT, on the other hand, declared themselves open to the idea (*El Mercurio* April 10, 2007).

By this time the CELCO<sup>312</sup> and CODELCO subcontracted workers' conflicts were in the news. Martínez demanded that the government put back on the legislative agenda strengthened collective bargaining. He cited these conflicts as examples of de facto, so not legally recognized, instances of the practice<sup>313</sup> (*El Mercurio* April 18, 2007). The day before May 1<sup>st</sup>, 5,000 forestry workers began an illegal, indefinite strike (OSAL May 2007: 1). Before an audience of around 40,000 people at the main CUT event on May 1<sup>st</sup>, Labor Minister Andrade joined Martínez on stage. The CUT head directed his critical comments at the right opposition in Congress for impeding the government's "labor agenda" (*El Mercurio* May 2, 2007).

The controversies on that day were poignant and pointed to new dynamics in the labor movement. For the first time a large alternative march to the CUT event was held by radical left groups under the name "Coordinator for a Classist May First"<sup>314</sup> (OSAL May 2007: 1). The CUT, PC and *carabineros*, headed by the Sub-secretary of the Interior Felipe Harboe, together formed an "incident control team". It identified, extracted and arrested those identified as potential risks for clashes with police or property destruction, aiding in the 90 arrests made at the event (*Ibid*). The trend of "*encapuchados*"<sup>315</sup> grew as a focus of media attention. These militants stood accused of being responsible for the violence that increasingly characterized social protest in Chile (*Ibid*). The "incident control team" led to numerous confrontations between Communist Party and hooded and masked militants throughout the day (*Ibid*). Both were symbolic of the tensions between institutional and extra-institutional labor lefts that became a defining dynamic in Chile, and for which this period in 2007 marks a major turning point (Leiva 2013).

On May 3<sup>rd</sup>, 2007, 3,000 of the striking forestry workers occupied and closed a major highway in the 8<sup>th</sup> Region. The police tried to break the blockade, clashes ensued, and the police opened fire. They killed 26-year-old worker Rodrigo Cisternas and wounded five other workers (OSAL May 2007: 1). Large scale protests across the Southern regions erupted. They culminated in his funeral, which more than 15,000 people in the rural area attended (*El Mercurio* May 6, 2007). Amid outrage across the country, Martínez finally addressed the conflict forcefully. He

<sup>312</sup> The forestry company, *Bosques Arauco, de Celulosa Arauco y Constitución*, was part of the *Grupo Angelini*.

<sup>313</sup> It is important to note that the national CUT and its leadership had not been directly involved in these struggles.

<sup>314</sup> One of the main organizing groups was the Frente Patriótico Manuel Rodríguez (FPMR), along with a variety of autonomist, libertarian, anarchist, left communist and other tendencies in increasingly visible radical left milieus.

<sup>315</sup> Literally "hooded" or "masked", it referred to militants using hoods and face coverings to engage in direct action.

demanded the resignation of Interior Minister Belisario Velasco (Ibid). As in the copper conflict, militant and extra-legal tactics of labor struggle garnered de facto what two decades of political lobbying and promises had not: sectoral level collective bargaining mediated by the state. It involved thousands of workers and many of their demands were met (Sehnbruch 2014: 268).

By the end of that month the CODELCO subcontractors' struggle escalated further. On May 14<sup>th</sup>, Contracted Workers' Union (SITECO) militants blocked road access from Rancagua to the El Teniente mine. Five workers were arrested (OSAL May 2007: 4). At the end of May the garbage collectors in Santiago declared a 72-hour strike (OSAL May 2007: 7). The copper mine subcontractors again blocked access to El Teniente and demanded the re-hiring of 41 workers dismissed during the conflict (OSAL May 2005: 7). A key demand of subcontracted CODELCO workers was higher-level collective bargaining (*El Mercurio* May 26, 2007).

Additional labor conflicts drove collective bargaining to the top of the agenda, including at bottling company turned conglomerate CCU and food production and distribution giant Agrosuper (*El Mercurio* May 25, 2007). Arguing that the division of such large holding companies into smaller firms was a "subterfuge to elude labor responsibilities with their workers", Martínez claimed that "the workers will not negotiate anymore with the firm, but rather with the owner of the holding company" (Ibid). Expressing the emergent de facto logic of labor relations, the media termed this practice "non-regulated collective bargaining" (Ibid). It spread from forestry workers to other sectors during 2007. The head of the Labor Directorate, Patricia Silva, commented on the phenomenon that "reality has surpassed the law" (Ibid).

Mining subcontractors in private and public sectors combined into a confederation with 80,000 workers. Such dynamics spurred Martínez and the CUT to pursue a new strategy: to change the collective bargaining law by imposing "facts on the ground" ("*hechos consumados*") (*El Mercurio* May 26, 2007). The strategy was to use increased labor threat to change the law, not vice-versa, as in a political-institutional strategy to change the law to increase labor power.

At its first national Congress June 5-8, 2007, the new 28,000 worker National Coordinator of CODELCO Contracted Workers voted for an indefinite national strike June 8<sup>th</sup> (Ibid). Though recently rejected by the administration and Minister Velasco, in the context of the subcontracting law the government began to speak again of strengthening collective bargaining, including among subcontracted workers (Ibid). The press and politicians began to talk about the increased power and influence of Labor Minister Andrade within the government and the PS, and the weakening of Velasco (*El Mercurio* June 9, 2007). An anonymous Socialist Party source observed that the Labor Minister was more left than his predecessor, Ricardo Solari, and so, "his agenda includes broadening collective bargaining, ending the replacement of strikers and promoting inter-enterprise negotiation" (Ibid).

Still, Andrade soon announced that CUT demands on the minimum wage, a rise from 135,000 to 180,000 Chilean pesos per month, were "excessive", though it amounted to less than US \$350 for an average of more than 180 hours of labor (*El Mercurio* June 12, 2007). The CUT froze relations with the government and announced a national general strike for the end of August (*El Mercurio* June 19, 2007). Forestry workers announced they would go on strike in early July. The National Confederation of Forestry Workers rejected a latest Arauco company offer in an open workers' assembly, insisting "we're going to demand once and for all a substantial change in the law so workers can negotiate beyond the firm... with a sectoral union... and the owner of the holding [company]" (*El Mercurio* July 1, 2007). It was left to Andrade to put the best face on the situation. He claimed that the Bachelet government had "the best relationship" with the CUT and

had achieved “the best conditions for the workers” (*El Mercurio* June 22, 2007). But he insisted on the need for “macroeconomic... progress and stability” (Ibid).

By the end of June, the harsh labor conflicts in forestry and mining had greatly heightened tensions in the political and labor worlds. After a violent protest near El Teniente in which 8 buses were burned, the Copper Workers’ Federation<sup>316</sup> and the CUT froze relations with each other (*El Mercurio* June 28, 2007). The Vice President of the UNT criticized the CUT and the subcontract workers’ movement (Ibid). Divisions within the PS and PDC also came to the fore when President Bachelet ordered government ministers to intervene in the conflict (Ibid).

Reaction from the right was severe. UDI Deputy Felipe Salaberry argued that Bachelet’s interference was illegal. “Constitutionally,” he said, “parliamentarians and ministers are barred from mediating in conflicts of a labor character” (Ibid). The CUT-government relationship was also tense. Martínez told the press the August protest call was driven by the “non-fulfillment” of Bachelet’s “campaign promises”. He argued that the government contained “ultra-neoliberals cohabitating with progressive sectors”, but that to maintain their political positions, progressives “end up being functional” to a model of “savage neoliberalism” (*El Mercurio* July 7, 2007).

Meanwhile, labor conflicts had spread to the salmon aquaculture and port sectors. New links between each of these struggles had been made, particularly since key leaders in all of them were Communist Party militants from “classist” labor movement tendencies: Christian Cuevas in mining; Jorge Bustos of the port workers; and Ricardo Casas of the Fishing Industries Workers’ Federation (*El Mercurio* July 8, 2007). The CUT had come to support this new manner of labor militancy but came to it late and was driven by events and pressure from below (Ibid).

Another development given impulse by labor movement (and broader social movement) pressure from below was the call in July for a convergence of progressive Concertación forces with the extraparliamentary left, meaning the PC above all else (*El Mercurio* July 13, 2007). In a document titled “Unite forces to defeat exclusion”, 11 Concertación parliamentarians and 3 other high-profile labor and political figures emphasized that parliamentary exclusion of the left “erodes the legitimacy of the political institutions” (Ibid).<sup>317</sup> It cited historical instances of center-left convergence: the 1938 Popular Front; the 1958 “Block to Heal Democracy”; the 1988 “No” vote; and the PC and left support for Lagos and Bachelet in the second round of elections. The document stated that “the democratic obstacles Chile faces are enormous. To overcome them, it is necessary to defeat the right in the municipalities and Congress and to break its parliamentary veto” (Ibid). They called on their respective political parties to open an immediate dialogue with the PC and other forces grouped in *Juntos Podemos* to form a pact for the next elections (Ibid).

Meanwhile, the copper miners’ conflict and strike extended to 36 days, costing the state enterprise more than US \$100 million (*La Nación* April 9, 2008). The business class and political right began to worry that “the only winner” was the Communist Party<sup>318</sup>. The PC was at the center of the political arena in a way it had not been since the transition (*El Mercurio* July 18, 2007). A labor upsurge, and by association with it the PC, seemed to be driving events in the (Southern) winter of 2007.

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<sup>316</sup> Socialist Party militant Raimundo Espinoza led the FTC while the CTC and contract workers were PC led.

<sup>317</sup> The idea of “*fin a la exclusion*” or “*an end to exclusion*” was a long-time Communist Party slogan for changing the prevailing electoral and political system that prevented the PC from achieving any Congressional representation.

<sup>318</sup> In this, the outcome closely matched PC strategy, laid out in its 23<sup>rd</sup> Congress in 2006, which called the main “social task” its work in the labor movement and set a policy of political alliances to end its electoral exclusion.

In mid-July of 2007 PC leaders, led by party head Guillermo Teillier, hand delivered a letter to President Bachelet demanding the executive's intervention in the conflict (Ibid). That night the President held an emergency meeting with Finance, Labor and Interior Ministers (Ibid). Two Concertación Deputies who led the Labor Committee introduced a parliamentary motion to make collective bargaining, and striking, a constitutional right for all Chilean workers (Ibid).

Concessions exacerbated rifts within the Concertación and government (*El Mercurio* July 28, 2007). Nine Concertación Deputies, the so-called *díscolos*<sup>319</sup> (unruly ones) attacked Finance Minister Velasco and CODELCO President Arellano for using “the same anti-union practices of the dictatorship, threatening and dividing the labor world”. They were “pure neoliberals cut from the same cloth” and were “risking fratricidal confrontations for their government” (Ibid).

Divisions between PS and PC labor leaderships in the mining sector publicly deepened (Ibid). UNT leader Diego Olivares also harshly criticized the PC, the CUT and the violence that had attended several mineworker protests (*El Mercurio* August 2, 2007). Martínez backed the CTC's call for this type of militancy-backed collective bargaining to expand to other sectors of the economy. He said, “the moment has arrived that companies start to better share the wealth that they are getting” (Ibid). He added, “it doesn't matter a bit if its legal or illegal, what interests me is the justice of the demands ...the force of deeds will get us to collective bargaining” (Ibid).

Large capital was concerned. *El Mercurio* reported big business was “worried facing a law surpassed by deeds” (August 4, 2007). CPC head Ovalle insisted that the government “impede, if there is no voluntary will from a company, these practices outside of the law” (Ibid).

The CUT, and the institutional labor movement in general, had been dominant since the transition. In 2007, they found balancing a call for mobilizations- which empowered them vis-à-vis the state, political parties and employers- with controlling the results of resurgent labor protests and conflicts a difficult task. Control of mobilizations and labor threat were both key to empower formal-legal labor institutions. Contract and subcontracted National Oil Company (Enap) workers called for a shutdown of company installations, but institutional union leadership came out forcefully against it. Enap labor leaders Jorge Matute, Jorge Fierro and Norberto Díaz<sup>320</sup> condemned it in a press release: “Based on our moral authority, coordinated with the CUT and its President Arturo Martínez, we express we are not in agreement with the call to paralyze the installations of Enap and its Refineries” and “A responsible unionism, allied to the CUT, cannot use violence or put at risk the energy supply of the country” (*El Mercurio* August 6, 2007). Containing and channeling labor threat was an explicit part of institutional strategy and practice.

An analysis in *El Mercurio* (August 7, 2007) titled “CUT calls to mobilize, and tries to contain, the neo-sindicalists” captured this labor movement dynamic. The CUT “got on the train of mobilizations led by emergent leaders” and called the August 29<sup>th</sup> national protest to “regain ground” once leaders like Cristián Cuevas and Sergio Alegría “began to openly challenge the leadership of the CUT” (Ibid). The “late arrival” of Martínez to these labor mobilizations only came because of a “threat” to his influence (Ibid). Alegría said the new unionists wanted to build their own “classist, autonomous, democratic and progressive” labor project (Ibid). Cuevas said that, “to engage in social rebellion through occupations and barricades against a discriminatory economic system, we cannot ask permission to exercise our rights” (Ibid). As for Martínez, he minimized the role of the new union leaders, saying “I don't know them, I don't know any of them;

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<sup>319</sup> The organizers of the declaration were Sergio Aguiló (PS) and Jaime Mulet (PDC). Its signatories included René Alinco (PPD), Carlos Olivares (PDC), Tucapel Jiménez (PPD), Marco Enríquez-Ominami (PS), Pedro Araya (PDC), Alejandra Sepúlveda (PDC) y Carolina Goic (PDC).

<sup>320</sup> Díaz, a PDC union leader, later became CUT Vice President. Oil workers' union President Matute was also PDC.

they don't represent anybody" (Ibid). Yet, an unnamed miners' labor leader told the paper regarding the CODELCO conflict, "Martínez and Raimundo Espinoza were screaming that these people had to be broken. The logic of conflict is surpassing these traditional leaders" (Ibid).

A similar dynamic played out with Agrosuper, a food processor and distributor owned by Gozalo Vial. It was one of the largest companies in Chile, with 22,000 employees and US \$1.3 billion in sales in the year before the strike (*El Mercurio* August 23, 2007). On August 22<sup>nd</sup> an illegal strike was voted, and 20 people were arrested in clashes between workers and police at the company's Lo Miranda plant (*El Mercurio* August 23, 2007). Ladislado Tobar, the President of the largest official union of Agrosuper employees, a regional CUT affiliate, told the press that "All the information we have indicates that there are groups interested and apart from the labor movement that want there to be a strike in Agrosuper" (*El Mercurio* August 19, 2007). His comments implied the PC. The employers blamed the government for not cracking down harder on illegal labor militancy (Ibid). The Labor Minister, responding to the "Cuevas style" of labor militancy, answered: "I do not like the unionism that pronounces itself via threats". Asked "Why, if it is already expanded de facto, expand collective bargaining?" Andrade answered, "Precisely so that is not de facto" (*El Mercurio* August 26, 2007). Of Cuevas' "social rebellion" quote he said, "It leaves a bad taste in my mouth. Chile doesn't deserve this type of unionism" (Ibid).

Amid this labor movement effervescence Archbishop Alejandro Goic, the President of the Episcopal Conference of Bishops of Chile, made a crucial intervention in labor matters. He argued publicly for an "ethical wage" of at least 250,000 Chilean Pesos per month (*El Mercurio* August 3, 2007). The Catholic Church had also returned to a role in mediating labor conflicts, including forestry and copper worker strikes (Ibid). Goic's call was taken up by some prominent Christian Democratic legislators. This was specifically an effort to regain ground on labor issues, which had recently been the province of the left (*El Mercurio* August 19, 2007). Among the PDC there was great concern about the party's loss of influence in the labor movement.<sup>321</sup> Goic's call became a central theme in labor politics. The CUT quickly made the demand for an "ethical wage" its primary slogan for the upcoming August 29<sup>th</sup> national mobilization, which was no longer being characterized as a general strike (*El Mercurio* August 19, 2007). The protest also added a demand from the student movement, in the wake of the massive student strikes and mobilizations of 2006, for an overturning of the LOCE, the dictatorship's education law (Ibid).

The days leading up to the protest were tense. Martínez promised it would be "the biggest since the time of the dictatorship" and the country risked an "uncontrollable" "social explosion" (*El Mercurio* August 24, 2007). He said, "more than deceived, there is indignation with the President Michelle Bachelet, she sowed hopes, but her Government has meant pure conflict and sending the police against those that protest" (Ibid). Moreover, the CUT refused to get the marches and protests that day permitted. Martínez said, "we have not asked for authorization because there are too many marches, we could ask to occupy the whole Metropolitan Region" (*El Mercurio* August 27, 2007). Regarding the recently unveiled Presidential Advisory Council on Social Equity, which included labor reforms in its remit, Martínez argued that after "16 years with commissions, councils... in the end it's the Finance Minister that makes the decision" (Ibid).

The government, meanwhile, developed a contingency plan for the protest in a Political Commission meeting at President Bachelet's home (*El Mercurio* August 27, 2007). It meant more than 1,000 additional police on the streets of Santiago. Administration spokesman Ricardo Lagos Weber announced, "The Government is taking measures to guarantee that the 29<sup>th</sup> is a day of work,

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<sup>321</sup> One anonymous Socialist Party Senator commented to the newspaper that "The problem for the Christian Democrats is that they lack a union thermometer. In that we are ahead" (*El Mercurio* August 19, 2007).



that people can get to their place of work, their schools, do a normal day,” adding that “they have no reason” to protest (Ibid). CUT Vice President Maria Rozas clarified, however, that “this is not a strike, this is a peaceful protest”, but added that if the government did not listen to the demands of the workers, they would consider a national strike to pressure the state (Ibid). It was clear that even as a national mobilization, the event had the government very worried (Ibid).

The protest divided the Concertación. The Executive rejected the protest. Its constituent political parties each demonstrated internal division, “varying from total rejection to unrestricted support” (*El Mercurio* August 29, 2007). The Socialist Party was the strongest backer, while the leaderships of the PPD, PRSD and PDC had more cautious tones and distanced themselves. The leader of each party mentioned the President’s Advisory Council as a promising alternative to protest. The Congressional delegations showed divisions but a majority, particularly of Deputies, of each party, save the PDC, supported the protest call (Ibid). Even within the PDC, the party where support was least forthcoming, the PDC Youth organization endorsed the protest (Ibid).

Division existed in the labor movement itself. UNT president Diego Olivares expressed worry that if the protest was successful, the government would try to move closer to the CUT “at the expense of the moderate sectors of the union movement” (Ibid). He denounced the CUT as “the only space where the Communist Party can express itself organically” (Ibid). Olivares argued a political relationship between the government and the CUT was a way for Concertación parties, particularly left factions, to maintain and enhance political relationships with the PC. This had recently been proposed in the public letter of left Concertación personalities. According to Olivares, “it appears that the political characteristics of the people in the CUT is a topic that preoccupies [the government] more than labor movement relations” (Ibid).

Even at the top of the CUT division could be discerned. Martínez said “Chile will not be the same” after the protest. Meanwhile PDC CUT Vice President Maria Rozas clarified, “We are in freedom and democracy... the workers are not calling to break the [reigning] institutionality, on the contrary we want to strengthen it, but with the active participation of the workers” (Ibid). For her part President Bachelet said that the country required “dialogue and not pressure” (Ibid).

The day of the protest was dramatic, though by most accounts it did not reach the level of being the largest since the dictatorship (*El Mercurio* August 30, 2007; *La Tercera* August 29, 2007; *La Nación* August 29, 2007). What was notable for the Concertación Era was the militancy and geographic spread of the protests, both in the Santiago Metropolitan Region and the whole country. From the night before Santiago saw barricades, bonfires and “*miguelitos*” that blocked traffic. The main CUT march, which left from the Plaza Italia up the Alameda to the seat of government at La Moneda, was repeatedly and harshly attacked by police and special forces. A particularly infamous incident was the police beating of Socialist Party Senator Alejandro Navarro, among the highest profile of the *discolos*, on this march. National CUT leaders José Ortiz and Gloria Blanco were arrested. So were prominent human rights and labor lawyer Hugo Gutiérrez and PC Secretary General Lautaro Carmona. In all, nearly 600 people were reported arrested, more than 450 in the capital. Some of the fiercest clashes occurred in the vicinity of La Moneda itself. Many blamed the violent police action for escalating the situation there. It was reported tear gas entered La Moneda. Transportation and universities in parts of the capital were shut down. Some *poblaciones* had their electricity cut in *apagones* (*El Mercurio* August 29, 2007; *La Tercera* August 29, 2007; *La Nación* August 29, 2007; *El Mercurio* August 30, 2007).

Martínez put blame for the disorder squarely on the “repressive forces” of the state. The Deputy Minister of the Interior who oversaw security, Felipe Harboe, said the CUT was “irresponsible” for calling the protest. President Bachelet said “no matter how understandable the

demands of the protest, we will not tolerate violence... in democracy there are spaces to express oneself peacefully. That way we take care of what we have.” The President further insisted that “in democracy and in my government, the workers can always express their demands and defend their rights. That yes, there is a limit and I want that everyone understands very well: it requires dialogue and not pressure, agreements and not violence.” It is notable that President Bachelet made those comments to the National Mining Society (Sonami) and did not speak to the police violence. In all, tens of thousands protested in Santiago and up to 100,000 nation-wide (Ibid).

Following this protest CUT internal divisions were once again put on public display (*El Mercurio* September 2, 2007). Headed by José Ortiz, and now joined by the newly prominent Christian Cuevas, a dissident sector of the Communist Party was explicit in campaigning for a change in the leadership and direction of the organization. First and foremost, this meant an end to the “policy of mutual collaboration” between the CUT leadership- the Martínez Socialists and the groups of Communist Party labor militants most closely connected to the PC leadership- and the Concertación parties and government (Ibid). This more radical faction claimed it was internal pressure that led to the August 29<sup>th</sup> mobilization “despite Martínez” (Ibid). The other aspect of their strategy was to change the leadership of Martínez and PC treasurer Guillermo Salinas.

This exposed a sharp division in the PC itself. A more powerful party faction backed the policy of alliances with the Concertación, especially as the possibility of a political-electoral pact was closer to materializing than at any other point in the Concertación Era (Ibid). One important dissident sector was the municipal health care workers (Confusam) led by Esteban Maturana. He argued, “they have a marked tendency to choose [leadership] based not on union platforms but from among representatives of distinct political parties. That, too, encourages the fragmentation of unionism” (Ibid). Another key role was played by the (contracted or independent) construction workers union (Sintrac), led by Sergio Alegría. Precisely because of issues of autonomy and strategy this union had stayed out of the CUT, but Alegría expressed a willingness to join with a Cuevas-led revived organization. He argued, “Cuevas can break those borders, but we already know that he has problems inside the CUT that they don’t allow him” to join with more radical forces. Alegría went on, “We should construct our own class project. And if joining the CUT serves that project, we will discuss it” (Ibid). In the aftermath of the labor upsurge from below of 2007, this “neosindicalism”<sup>322</sup> current of the labor movement drove events.

Within a couple of weeks of the protest, the CUT and the PS announced they were going to elaborate a package of labor reforms to “substantially improve” collective bargaining and strengthen labor unions (*El Mercurio* September 14, 2007). The announcement was made by PS Deputy Fulvio Rossi and Martínez (Ibid). Labor Minister Andrade soon added his voice, with a presentation to the Political Commission of the Executive and the presidents of the four coalition parties (PS, PPD, PRSD, PDC) for a major new labor reform legislation (*El Mercurio* September 23, 2007). The proposal included elimination of strike replacements and bargaining groups, the broadening of topics for collective bargaining, a legal floor for collective bargaining offers, the extension of a legal, regulated collective bargaining process to public sector workers and a new, publicly financed, “union school” (Ibid). The Labor Minister acclaimed the timing, saying that, “there is fertile ground to advance” and that everyone agreed “labor mobilizations put the topic on the public agenda having lived illegal strikes” like Celco, Codelco and Agrosuper. It was also noted that expanded collective bargaining was one of the five commitments President Bachelet had made to the Communist Party to gain their second round election endorsement (Ibid). Even

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<sup>322</sup> “*Neosindicalismo*” can also be translated as “neounionism” and does not necessarily refer to historic syndicalism, although there were historical echoes of Chilean syndicalism in its tactics, strategies and orientations.

the right wing UDI and RN opposition parties felt compelled to introduce “pro labor” bills (Ibid). Many conservative political analysts publicly expressed their belief that the right voting against the Frei labor reform proposals at the end of 1999 had cost Lavín that election to Lagos (Ibid).

Divisions between Finance and Labor Ministries on labor reform issues surfaced quickly once again (*El Mercurio* September 25, 2007). The Ministers agreed that the proposal would be submitted to and studied by the Commission led by Patricio Meller, the Presidential Advisory Council on Social Equity, announced by Bachelet on August 20<sup>th</sup>. However, Finance Minister Velasco insisted it would not be identical to the plan Andrade presented to the government and Concertación leaders (Ibid). Andrade claimed his proposals would, in fact, go before Meller.

The Andrade announcements led to the CUT unfreezing relations with the government and a CUT meeting with the Labor Minister September 24<sup>th</sup>. Martínez re-articulated a strategy of “dialogue and mobilization” (Ibid). In fact, soon thereafter the CPC and the CUT agreed to re-start a dialogue as well, albeit a private one in which neither topics nor advances would be made public (*La Tercera* October 15, 2007). The two groups invited Labor Minister Andrade to join the talks, which constituted the first formal meeting of a “Social Dialogue Council” in four years (*El Mercurio* October 17, 2007). It was announced the business-labor dialogue would include collective bargaining and revive the idea of labor market flexibilization (*El Mercurio* October 19, 2007). José Ortiz said the CUT would accept the latter only if employers agreed to sectoral level collective bargaining (*El Mercurio* October 22, 2007). Martínez suggested the first agreements with the business group would be ready by the end of November. Andrade anticipated legislation from his proposals by the end of the year or early in 2008 (*El Mercurio* October 19, 2007).

Christian Democratic unionism also felt pressured by the labor upsurge in 2007. At the party’s Ideological Congress, a private meeting headed by Sub-secretary of Labor Zarko Luksic, aimed to re-contest CUT leadership in 2008 against the PS-PC pact (*El Mercurio* November 4, 2007). Yet, division between those PDC unionists who had left to form the UNT, led by Diego Olivares, and those that had stayed in the CUT, led by Maria Rozas, was a severe impediment to these plans. A “turn to the left” to contest Communist and Socialist leadership was suggested by the head of the Labor Commission of the Ideological Congress, Deputy Rodolfo Seguel (Ibid).

At the end of the year the *Dirección del Trabajo* report on subcontracting at Codelco was released. It reopened controversy both within the government and between the administration and the CUT (*El Mercurio* December 13, 2007; *El Mercurio* December 14, 2007). The DT, and its head Patricia Silva, backed numerous cases in which firms were obligated to “internalize” subcontracted workers according to DT interpretations of the Subcontracting Law. The Codelco case was the largest. But Labor Minister Andrade and the Political Commission at La Moneda disagreed. They wanted a social dialogue mechanism to resolve it (*El Mercurio* December 15, 2007). Meanwhile, the Supreme Court had sided with the DT in just 30% of such cases (Ibid).

The new year 2008 also began with a labor conflict controversy. This time it was in the farmed salmon industry. It had become a multibillion-dollar business, primarily in South Chile. On January 23<sup>rd</sup> workers occupied the Aguas Claras plant of the aquaculture company Empresas AquaChile (*El Mercurio* January 24, 2008). The DT ruled against a salmon workers’ petition to collectively bargain beyond the enterprise level with the concentrated ownership in the sector (Ibid). Martínez’ words after the ruling reflect the key dynamic: “When there is such a restrictive law that asphyxiates the workers, that makes them bargain by firm, undoubtedly we need to go outside the law, and the only form in which the people are listened to is to go outside the law” (Ibid). The salmon workers’ main advisor was “neosyndicalist” PC labor militant Yury Godoy, director of the Inter-enterprise Union of the Aquaculture Sector and a Christian Cuevas protégé.

Cuevas was granted an audience with Labor Minister Andrade who offered a defense of the labor leader against press efforts to “demonize” him (*El Mercurio* January 25, 2008). Still, the state forcibly evicted the salmon plant occupation after 48 hours (*El Mercurio* January 29, 2008).

Months into the new year, neither the labor reforms proposed by Labor Minister Andrade nor the agreements with some subcontracted copper workers had made any progress. Another strike shut down the route to El Teniente mine, paralyzing it for nine hours. This was the sixth labor protest of the year that involved the blockade of a transportation route (*El Mercurio* March 12, 2008). Archbishop Goic once again intervened, supporting the demands of the subcontracted Codelco workers and calling for labor reforms (*La Nación* April 9, 2008).

As the fruit harvest neared, the fruit export sector also experienced a major labor conflict, centered on the large company Verfrut. Again, the state authorities in the 6<sup>th</sup> Region (O’Higgins) accused “Communist agitators from outside the region” of being behind the workers’ discontent. UDI Senator Andrés Chadwick demanded that the Interior Minister apply the State Security Law as a result of the violence the temporary agricultural workers’ struggle had generated. Chadwick also argued that the “Government is scared of the PC” (*El Mercurio* March 14, 2008). The Interior Ministry assured the regional government that it would send the police in the case of workplace or land occupations or road or highway blockades (Ibid). In this case, Martínez issued a strong denunciation of the tactics of the movement in Las Cabras. He argued that “it’s people from outside the company who are intervening in an illicit manner on company compounds, which we do not agree with, because it is not an action of the fruit workers.” Martínez added, “one can march, protest, peacefully occupy a compound, but from there to use arms, cover one’s face and promote violent deeds, that without a doubt is very distant from unionism” (Ibid).

At the end of the month the teachers’ guild ended its two year feud with the CUT, began to pay its dues once again and re-affiliated with the organization (*El Mercurio* March 30, 2008). This followed Communist Party labor militant Jaime Gajardo becoming president of the guild. As such, the *Colegio de Profesores* once again became one of the two largest and most important member organizations of the CUT (the other being the government employees’ union ANEF). It was widely accepted that this move was strongly motivated by the coming CUT elections (Ibid).

When the CUT leadership election competition officially began in early April 2008, the PS-PC pact headed by Martínez faced the candidacy of “neosyndicalist” CTC leader Cristián Cuevas for the “classist current” of the movement headed by José Ortiz (*El Mercurio* April 5, 2008). The leadership challenge risked “the continuity of the alliance between the Concertación and part of the Communist Party that governs the CUT for more than eight years” (Ibid). Martínez’ main base of support came from traditional CUT strongholds in ANEF and the *Colegio de Profesores*.<sup>323</sup> The “classist current”, meanwhile, found its greatest support among the contract, temporary and salmon workers (Ibid). The former advocated a more moderate position, closer to the government. The latter advocated for a more confrontational posture and tactics, including going beyond the state’s legal institutions and using direct action (Ibid).

The CUT Congress April 5-6, 2008, saw protests outside the *Teatro Caupolicán* from “dissident federations that, every four years... demand[ed] more internal democracy, more representativeness, and space for the independent left” (Ibid). The Congress, which was attended by Labor Minister Andrade and DT Director Silva for the government, defined the CUT’s strategy for the next four years and established a 16-member Electoral College to oversee the August CUT elections (Ibid). Controversy once again erupted in the organization over elections, on manner of voting, selecting leadership and the management of the CUT electoral process.

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<sup>323</sup> Between the two groups, they represented 150,000 of the 485,000 affiliates represented at the Congress (Ibid).

No sooner was the Congress over than the subcontracted copper workers' conflict flared up once again (*El Mercurio* April 18, 2008). The workers went on strike when the state-owned company failed to meet agreements made earlier (Ibid). The government and the Concertación were split. PS leader Camilo Escalona demanded that Codelco negotiate directly with Martínez, though many labor militants criticized him for being too close to the government (*El Mercurio* April 21, 2008). Martínez demanded that the company president, José Pablo Arellano, either resign or be fired (*El Mercurio* April 25, 2008). Empowered by a Supreme Court decision, Arellano insisted that the subcontractors had to negotiate with their direct employees (Ibid). He met with and got the backing of PDC Interior Minister Edmundo Pérez Yoma (*El Mercurio* April 26, 2008). Labor Minister Andrade openly disagreed with the Interior Minister on whether the state-owned company should negotiate with workers and with Finance Minister Velasco on whether the company had fulfilled its earlier promises (Ibid). Presidential spokesman Francisco Vidal delivered a public reprimand to Andrade. Vidal reiterated, "The posture of the Government is to leave that conflict to channel where it is supposed to be" (Ibid). This was all during a closely contested PS leadership election in which Andrade was an influential player backing Escalona (Ibid). Divisions in the labor movement were also exposed again. The FTC affiliated leaders of permanent El Teniente workers sent an open letter that condemned the CTC, Andrade, CUT leaders and Concertación parliamentarians backing the strike (*El Mercurio* April 30, 2008).

On the eve of May 1<sup>st</sup>, 2008, Martínez heralded the "labor effervescence" but added that he hoped "we can coordinate it better" (*El Mercurio* April 30, 2008). He also acknowledged that "some laws have improved some things" including pension reform and labor court reform (Ibid). Previewing his speech for the following day he called for a "new majority", a new political pact including the "democratic and progressive" Concertación parties and the left parties (Ibid).

On May 1<sup>st</sup>, a calmer and somewhat smaller event than the year before, Martínez gave a speech to a crowd of some 20,000 that included Labor Minister Andrade (*El Mercurio* May 1, 2008). Martínez advertised: "The CUT is available to make an alliance with the parties, a social alliance, a political alliance" (Ibid). He called on the government to intervene more firmly in the Codelco strike and for an "urgent change" in labor laws, particularly collective bargaining (Ibid). Labor Minister Andrade, who provoked controversy by publicly embracing Cristián Cuevas at the Workers' Day event, said that he empathized with the workers "who want this to happen faster, but these things also have to do with what happens in the Parliament" (Ibid). Cuevas denied he had any meetings planned with the Labor Minister and insisted any agreement would have to be ratified by the strikers. He said, "whatever agreement will not pass because we as leaders sign it, but rather that it has to be validated by our bases" (*El Mercurio* May 2, 2008).

On May 2<sup>nd</sup>, the government made an offer to the subcontracted Codelco workers. It was in the form of a document signed by Interior Minister Pérez Yoma, Labor Minister Andrade and CUT president Martínez at La Moneda. It was elaborated without input from either Codelco or the subcontracting firms. In it, the two Ministers of State agreed to serve as "guarantors" of the agreement (*El Mercurio* May 3, 2008). The press revealed that the Interior Minister crafted the strategy that Martínez serve as the only interlocutor for the government. The idea was that Martínez could serve as a "bridge" to the subcontracted workers and elevate his profile in the conflict. As part of this strategy Cristián Cuevas was not invited to La Moneda as the "political solution" was shaped (Ibid). Cuevas took the offer to the base to evaluate and vote upon in workers' assemblies (Ibid). Martínez said he was confident that the workers would approve the deal and that "we are going to try to solve the problem definitively, so that it does not re-emerge again" (*El Mercurio* May 3, 2008). On May 5<sup>th</sup>, after 20 more days on strike, workers' assemblies in all five divisions

of Codelco- save for El Teniente where the workers agreed to abide by the majority decision- agreed to the government proposal (*El Mercurio* May 6, 2008). That day the copper price reached an all-time high of over US \$4.26 per pound (Ibid).

Minister Andrade was hailed as a hero in the press and at La Moneda for “deactivating the conflict” as “various union leaders... alleged that the closeness he has with Martínez permits him to maintain a certain level of control over the levels of social agitation” (*El Mercurio* May 4, 2008). Martínez’ chances in the CUT leadership race also improved considerably, with the CUT publicly shown as a “protagonist” for rank-and-file workers (Ibid). Interior Minister Pérez Yoma, in the name of the government, publicly thanked Martínez for his help ending a conflict that cost Codelco over US \$100 million (*El Mercurio* May 6, 2008).

In her annual speech on May 21<sup>st</sup><sup>324</sup>, 2008, President Bachelet made a series of commitments to labor reforms that would strengthen unions. They took up part of the CUT’s and Labor Minister Andrade’s proposals, and were stronger than those proposed by the Meller Commission. These included a salary top-up for the poorest workers, strengthening unemployment insurance, a new state financed “union school” to train labor leaders, and a proposal to “improve collective bargaining with the enterprise” (*El Mercurio* May 22, 2008). It also included a provision whereby workers who benefited from a collective bargaining contract would have to pay dues to the union that negotiated it. The proposed project also favored unions in over bargaining groups in collective bargaining (Ibid).

The President said legislation would soon be sent to Congress. No specific dates were given. However, as Martínez noted, the proposal included neither mandatory bargaining beyond firm level nor an end to hiring replacement workers for strikers (Ibid). In fact, it later emerged Andrade had attempted to convince the President to include the issue of replacement workers in the package and other pro-labor changes to collective bargaining. He was counteracted once again by the Finance Ministry, which cited the Advisory Council on Social Equity deliberations. Those deliberations did not achieve consensus on any of these stronger measures and thus could not recommend them (*El Mercurio* May 25, 2008). The Labor Minister had been meeting regularly with Martínez to propose something stronger than that which came out of the Meller Commission, efforts that dated back to Andrade’s September 2007, proposals to the Executive’s Political Commission and the leaders of the Concertación parties (Ibid). One point Andrade succeeded in including was a direct benefit to Martínez. It eliminated the dictatorship-era ban on union leaders running for Congress, which Martínez was thought to be considering.<sup>325</sup> (Ibid).

A more significant concession came a month later. It was a much better increase in the minimum wage than in previous years, 10.9% nominally or \$159,000 Chilean Pesos (*El Mercurio* June 16, 2008). It was negotiated between the government and CUT leadership at a tripartite meeting with Martínez and the Labor and Finance Ministers (Ibid). The initiative received broad backing across the Concertación. The PDC Deputies group released a statement stating, “we want the CUT in the Congress and not outside protesting” and that they supported the CUT on the issue “until the end” (*El Mercurio* June 17, 2008). Another legislative change mandated that base salaries (before tips, commissions or other payments) met the monthly minimum wage within six months of the bill entering force (*El Mercurio* July 3, 2008).

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<sup>324</sup> Chilean Presidents give an annual speech to both chambers of Congress on this day that lays out their agenda for the coming year, similar to the US “State of the Union”. The date commemorates the 1879 naval Battle of Iquique.

<sup>325</sup> He did run, but was not elected, in 2009, a campaign that generated controversy after accusations surfaced of his potentially illegally using CUT funds for the election (*El Mostrador* June 29, 2011).

Next, the month before the CUT election, student and labor movements joined forces to protest against the General Education Law (LGE) that regulated the teaching profession and was the subject of a *Colegio de Profesores* strike (*El Mercurio* July 8, 2008). A large march and protest to coincide with the strike, co-sponsored by the teachers, student groups, and the CUT, did not receive official permission from the authorities. The event ended with major clashes and over 150 arrests (*El Mercurio* July 9, 2008). The CUT responded to what they termed state repression by announcing a two-day general strike (*El Mercurio* July 10, 2008). Yet again, this threat never materialized, and attention in the labor world quickly turned to the CUT elections.

Despite a campaign that generated a great deal of media attention, the challenge to the PC and Martínez leadership of the CUT did not amount to a serious electoral threat. A press analysis before the election noted, “the complex indirect democracy that governs the CUT guarantees that the style of leadership of the Central will be maintained” and that, “independent of who wins the presidency, the lists headed by Arturo Martínez and Jaime Gajardo will have to negotiate for the composition of the new directive and to maintain a policy of collaboration with the Government” (*El Mercurio* August 26, 2008). Indeed, the paper noted that:

During the last two years the affinity between the Government and the multi-union grew not just because of the recognized ideological closeness that exists between the Minister of Labor, Osvaldo Andrade, and Arturo Martínez, but also because of the millions in resources that have passed from the State administration to the union leaders. These transfers permit the CUT to finance their unionization campaigns and for the State to maintain a certain grade of control over the levels of agitation reached by the movement (Ibid).

Indeed, political links between the CUT leadership and the Concertación government had grown in the years prior. Whereas Martínez first won leadership as the head of a list of dissident PS members, by 2008 he had become an important political player in the Party (Ibid). He was on the list “More Equality for Chile”, which competed in internal PS elections in 2008 (Ibid) and became PS Vice President in January 2009 (*El Mercurio* January 17, 2009).

In fact, under the Lagos government the state had transferred \$370 million Chilean Pesos to the CUT: \$298 million from the “social fund” run by the Sub-secretary of the Interior and a further \$72 million from the “union fund” directed by the Sub-secretary of Labor (*El Mercurio* August 26, 2008). It being illegal to transfer the funds to the CUT directly, they were given to the Corporation for the Promotion of Union Development and Education (CEDUC), a foundation created and run by CUT leadership. In the first 2½ years of the Bachelet administration, another \$137 million Chilean Pesos were given, this time to the Labor Education Institute Foundation (FIEL) (*El Mercurio* November 11, 2007; *El Mercurio* August 26, 2008). These funds, equivalent to over US \$1 million, were in addition to the indemnities for confiscated property turned over during the Lagos administration discussed earlier. To this accounting should be added the property of the CUT headquarters in the heart of downtown Santiago, which was also turned over by the Lagos administration as an indemnity. The *Palacio Espínola Pereira*, 19<sup>th</sup> Century mansion of a nitrate baron family, was an incredibly valuable piece of real estate and a historic landmark. These two qualities collided in scandal when the CUT attempted to gain permission to demolish the historic structure and contract to build a high-rise in its place. This would have generated major rental income for the organization, but the effort was ultimately derailed by historical preservation activists (*El Mercurio* August 29, 2010). All told, these resources comprised the large majority of

all CUT funding in the eight years of PS Presidents and from when Martínez first gained leadership of the CUT in 2000.

By the time candidate lists had to be finalized and submitted, on August 8<sup>th</sup>, 2008, the threat to the PS-PC pact's continued dominance had been eliminated. In total, seven lists were presented for the election, ranging from one affiliated to the center-right *Renovación Nacional* (RN) to the leftist MIR (*El Mercurio* August 17, 2008). The PC list was the only one with a chance to beat Martínez' list, but it incorporated both sectors of the Party together: the supporters of a Concertación collaboration along with the "classist current" identified with neosyndicalists like Cuevas. Indeed, Teachers' Guild head Jaime Gajardo had been selected as the candidate for CUT president by the PC. Cuevas supported his bid and ran for vice president in the end.

The results of the August 28<sup>th</sup> election were even stronger for the incumbent leadership team than expected. Martínez' list got more than 45% of the votes and 21 of the 45 seats on the National Council. The PC list got nearly 35% and 16 seats. The Christian Democratic list led by Maria Rozas got 10% and 5 seats. The PRSD got 2.5% of the vote and 1 seat. A dissident list of ex-PC militants, including ex-CUT president Etiel Moraga and *Colegio de Profesores* Treasurer Dario Vazquez got 5.5% and won 2 seats.<sup>326</sup> Martínez thus returned as president and Gajardo was chosen as Secretary General for 2008-2012.

An investigation years later by the newspaper *El Mostrador*, known as a thorn in the side of the officialist-allied CUT leadership, which was based on internal CUT documents, revealed several of the problems that long cast a negative light on the organization and its procedural and electoral processes. First, and even after multiple previous rounds of reform of its electoral process, the 2008 vote was not a democratic vote of the individual base-level union members. It was still a weighted voting system called "*voto ponderado*". The formula essentially divided the number of affiliates and leaders by the number of leaders eligible to vote in the election.<sup>327</sup> So, 6,779 leaders were eligible to vote in the 2008 CUT election, representing 485,189 affiliates, according to official CUT documents (*El Mostrador* August 28, 2008). In the voting by list system used in the elections, a base level leader empowered to vote can mark two preferences.

A voting system controversy began at the CUT Congress in April. On April 4<sup>th</sup>, 2008, a vote to replace the system with direct, universal suffrage of the worker affiliates of the CUT was held. A nearly unanimous show of hands in the hall appeared to support the measure, whereupon the chair proposed a secret, written vote. Hours later it was announced that 70% had favored the status quo indirect weighted voting system (*El Mercurio* August 17, 2008). Second, the Electoral College was not named at the CUT Congress as called for in the organization's statutes. Instead, it was decided that the Executive Council, over which Martínez presided as president, would establish the committee at a later date (*El Mostrador* June 29, 2011).

As soon as the vote finished on August 28<sup>th</sup> Miguel Soto, president of the Metalworkers' Confederation (CONTRAMET) and an ally of the "classist current", filed a formal protest with the organization for "irregularities" in the electoral process (*El Mostrador* August 28, 2008). In the days after the official results of the election were sent to the Labor Directorate on September 22<sup>nd</sup> (*Colegio Electoral Nacional* – CUT), the results were appealed to the Electoral Tribunal. In this legal proceeding several irregularities were alleged that were long-time controversies. First,

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<sup>326</sup> All numbers are from the official election results sent by the CUT Electoral College to the Labor Directorate on September 22, 2008, as required by law. A scan of the original document from the DT archives is available at: <http://www.scribd.com/doc/58929796/Cut> [Accessed May 13, 2015].

<sup>327</sup> The example in the article is of Fetrepol, the inter-enterprise union of workers at La Polar, a chain of retail department stores. It had 450 affiliates and 3 leaders, meaning each leader cast a weighted vote worth 151 votes.



certain voting tables had clearly errant results reported, and the official results reported to the DT did not match the Excel file sent by the Electoral College to the head of each list just after the voting (*El Mostrador* June 29, 2011). The most emblematic examples were in the small areas of Chiloé and Angol, where the number of votes emitted in the official results sent to the DT was greater than the total number of possible eligible votes (Ibid).

To this was added broader concerns about the electoral process. Two big controversies were about the “ghost” and “inflated” unions (“*sindicatos fantasma*” and “*sindicatos inflados*”). According to the voting rules, leaders’ weighted votes were adduced by the number of current dues-paying members they represented who were up to date with their payments by a fixed date, July 9<sup>th</sup>, 2008 in the case of the August 2008 elections (*El Mostrador* August 28, 2008). One common suspicion was around base unions whose numbers jumped dramatically just before this date, or new unions that were created and registered near the deadline.<sup>328</sup> Jorge Pavez, an ex-head of the Teachers’ Guild and candidate on the ex-PC list, said, “It’s a situation that is repeated in all of the elections: ghost unions appear that put up on the last day the dues at the last minute and later they disappear. These are very murky things” (Ibid). One rule that allowed this was that member organizations were empowered to pay their members’ dues for voting out of their organizational resources. So, unions with better access to financial resources could make more members’ votes count than those without access to funds whose control was highly concentrated in top CUT leadership (Ibid). This was enabled by a lack of financial oversight and transparency, a subject which repeatedly ignited controversy within the CUT and was known as the “fat wallet” (Ibid). As one ex-Secretary General of the organization put it (*El Mostrador* August 28, 2008), “With one million pesos, you can get various thousands of votes.” Most of these resources came directly or indirectly from ties with the state, the government of the moment, or the parties.

The Electoral Tribunal did not issue a ruling until 2011. For various reasons, most importantly that procedures were in line with the statutes of the organization, the court ruled against the appeal and ratified the original electoral results that the CUT had sent to the DT (*Tribunal Electoral Sentencia Rol N°1796/2008*: May 13, 2011).<sup>329</sup> And, the PS remained a firm backer of Martínez, despite internal grumblings (*El Mostrador* June 29, 2011).

Another crucial political development was consummated in the second half of 2008: the first electoral pact between the Concertación and the parties of the extraparliamentary left, most prominently the PC. At the end of July, the Concertación announced that it had agreed to a “pact of omission” with the left parties of the PC-led *Juntos Podemos* for October municipal and regional elections (*La Nación* July 29, 2008). This meant the ruling coalition would not present candidates in areas where the PC had a good chance of beating the right or where they already had candidates up for reelection, and the left would do the same for the Concertación in certain districts (Ibid). In addition, for the first time in the Concertación Era, the coalition ran as two lists rather than one, a product of building internal tensions. The PRSD and the PPD ran on a separate “*Concertación Progresista*” list from the PDC-PS “*Concertación Democrática*”, in an attempt to boost the vote share of the former (*La Nación* July 31, 2008).

By the end of 2008 the global financial crisis had begun to hit Chile in earnest, and many in the business sector and government viewed that as a new and urgent reason to resist worker and CUT demands (*El Mercurio* October 14, 2008). Labor Minister Andrade stated that this would not affect the labor agenda of the government, including promised legislation to bolster collective

<sup>328</sup> An example was the *Federación Nacional de Trabajadores Clotario Blest*, which represented regional state workers in the 5<sup>th</sup> Region. Its numbers jumped from 1,489 to 7,046 in 2008 (*El Mostrador* August 28, 2008).

<sup>329</sup> See : <http://www.scribd.com/doc/58930116/SENTENCIA-CUT-Tribunal-Electoral> [accessed May 14, 2015].

bargaining as well as other bills (*El Mercurio* October 26, 2008). Relations were still good enough that a tripartite agreement between the CUT and the CPC, with the Government and the regional ILO office, was signed. It regarded “decent work”, a long-time ILO program and campaign (*El Mercurio* November 6, 2008). It was not long until tensions borne of the economic crisis impacted labor relations. The CUT and the state negotiated salary readjustments for public sector workers. The government offered 1% real wage growth, citing the economic situation (*El Mercurio* November 14, 2008). This led to a one day strike, which according to the CUT got up to 90% participation (*El Mercurio* November 12, 2008). The state gave ground, with a revised offer of 10% nominal- 3.5% real- wage increases (*El Mercurio* November 21, 2008).

On December 10<sup>th</sup> Labor Minister Andrade resigned his position, and was replaced by Claudia Serrano, who was also a PS member (*La Tercera* December 15, 2008). He went on to become a Deputy for District 29, representing a swath of working class and poor areas in Santiago, and was later elected President of the PS (*La Nación* August 7, 2010). This change also represented a shift in priorities for the administration on labor matters in the face of the global financial crisis. Emphasis moved from enhancing labor rights to a sharp focus on employment. Serrano’s first comments to the press and the President’s concurrent statement both explicitly referred to this priority (*El Mercurio* December 17, 2008). On being sworn in, the new Labor Minister said, “I am pragmatic, and I am of the left... the President has given me a mission. Together with labor rights, we should preoccupy ourselves with employment topics.” The head of the National Agriculture Society<sup>330</sup> said she would bring “fresh air” to labor themes (Ibid). Because of her background with the CIEPLAN think tank, there were signs the Labor Ministry would be more in line with Velasco’s Finance Ministry (Ibid). The tension of the “two souls” of the government, personalized as Velasco versus Andrade, was resolved in favor of the former (*El Mercurio* December 18, 2008). “It is true,” said Martínez, “the double soul has begun to dilute” (Ibid). In the Finance Ministry Serrano's appointment was openly celebrated (Ibid).

Soon thereafter, the CUT and Martínez announced that the workers’ organization would field candidates for Congress in the 2009 elections (*El Mercurio* December 20, 2008). The idea was to form a political pact for a group of labor candidates<sup>331</sup> with Concertación and Communist Party backing (Ibid). Socialist Party Senator Juan Pablo Letelier openly supported the plan for a single Concertación-PC list. He declared, “I am for an effort to break the exclusion... we cannot compete with the Alliance [RN-UDI pact] with our hands tied” (Ibid). Martínez became the PS vice president In January 2009 (*El Mercurio* January 17, 2009).

At the end of Chilean summer vacation in early March, labor reform arose for the last time in the Concertación Era. The CUT demanded that Bachelet send the reform to Congress before the annual May 21<sup>st</sup> speech (*El Mercurio* March 2, 2009). Martínez said in a radio interview, “the President told me in December of last year that she would fulfill her commitment and that this project would enter [Congress] in the first months of this year” (Ibid). The new Labor Minister added, “we are going to enter it [the legislation] surely in the first semester, very preferably in May” (Ibid). The PS strongly backed a new push on collective bargaining (Ibid).

When the President returned from summer vacation, labor reform was the first item on the agenda, amid an internal administration dispute on the issue (*La Tercera* March 2, 2009). While all four presidents of the four Concertación parties backed the measure and wanted it sent to

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<sup>330</sup> The SNA is the peak business group of the highly concentrated and export oriented agriculture industry.

<sup>331</sup> Mentioned as possibilities were several labor leaders who declared themselves open to the possibility, including Martínez, health care workers’ leader Esteban Maturana of the PS, María Rozas and oil workers’ head Jorge Matute, for the PDC and Jaime Gajardo and Cristián Cuevas for the PC. In the end Martínez and Cuevas ran and both lost.

Congress quickly, Finance Minister Velasco, General Secretariat of Government Vidal (PPD) and Interior Minister Pérez Yoma opposed legislating on the issue. They cited the economic crisis and employment (Ibid). Vidal had openly contradicted the Labor Minister and said only Bachelet would decide when to legislate. In a November 2008 meeting, at a farm owned by the Interior Minister, the government had already decided to put off the same labor reforms. This strategy was pushed by Ministers Pérez Yoma and Velasco, citing the economic crisis (Ibid).

At the March 2009 cabinet meeting President Bachelet rejected the lobbying efforts of the parties, led by her own PS, on labor reform and collective bargaining, and supported the Pérez Yoma-Vidal-Velasco faction. She decided the government would delay legislating on the issue (*La Tercera* March 3, 2009). Bachelet made clear that the priority was measures to counter the employment effects of the crisis, and first of all a plan to subsidize lower wage jobs (Ibid). She said, “other changes in labor material I will decide once we have approved [that]” (Ibid).

Meanwhile, the CUT announced a national protest against a wave of firings by employers which the labor central viewed as taking advantage of the economic crisis (*El Mercurio* April 8, 2009). The march and protest on April 16<sup>th</sup>, 2009, drew a large crowd<sup>332</sup> and saw many incidents with the police. Water cannons and tear gas were used on political and union leaders: ex-Labor Minister Jorge Arrate; PC head Guillermo Teillier; ex-Labor Minister Andrade; even Martínez. A total of 21 labor leaders were also arrested early on, out of 152 arrested overall (*El Mercurio* April 17, 2009). Martínez and the CUT threatened further protests and strikes if labor demands were not heeded by the government and business sector. These were contained in a *Pliego* from the workers, which included labor reforms on collective bargaining (Ibid). Cristián Cuevas said the march had “opened a space for new social action” (Ibid). Soon thereafter, the Labor Minister announced that before the end of the year the President would send a collective bargaining bill to Congress and said, “the crisis should not be a pretext” not to do so (*El Mercurio* April 23, 2009).

Labor reform came up once again in the context of a Presidential campaign. Ex-President and Concertación candidate Eduardo Frei proposed a debate on reforms to strengthen unions and collective bargaining (*El Mercurio* May 2, 2009). In comments after attending the Worker’s Day mass,<sup>333</sup> Frei said, “There are six million workers who do not collectively bargain, and that we need to change”. He added, “this is today’s central topic, and that is what we will discuss in the presidential campaign, because the right has always rejected legislating on this material. This is a scandal, and Chile needs to change it” (Ibid). In response, Martínez asked the Concertación to finalize an electoral pact with *Juntos Podemos* and the PC which he said would give the coalition the votes in Congress to pass reforms (Ibid). On May 1<sup>st</sup>, 2009, the CUT and Martínez had explicitly demanded these reforms and “a new Labor Code” at a mass march and rally (Ibid).

Bachelet soon announced a reactivated tripartite dialogue between the CUT and CPC on labor measures. Still, the initiative, for the moment, excluded the issue of collective bargaining (*El Mercurio* May 6, 2009). Martínez insisted that signing an accord with the CPC and La Moneda did not mean the CUT was giving up on collective bargaining (Ibid). In her final May 21<sup>st</sup> speech, Bachelet did not bring up the collective bargaining legislation, as she had in 2008, an omission that was sharply criticized by Martínez (*El Mercurio* May 22, 2009). In July, the new state-financed “*escuela sindical*” (union school) started (*El Mercurio* July 5, 2009). In the following months no progress on labor reform was forthcoming. Martínez met with Finance Minister Velasco in September, who assured him the employment situation would soon be more stable. Martínez said they did not discuss labor reform (*El Mercurio* September 16, 2009).

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<sup>332</sup> The CUT estimated 135,000 present. The Sub-secretary of the interior said 25,000 (*El Mercurio* April 17, 2009).

<sup>333</sup> The Mass of Saint Joseph the Worker (*San José Obrero*) at the Santiago Cathedral is a May 1<sup>st</sup> tradition.

On September 21<sup>st</sup>, 2009, the government decided that it would not send labor reform legislation, including on collective bargaining, to Congress in the less than 6 months that remained of the Bachelet administration (*El Mercurio* September 22, 2009). The decision was taken at the regular Monday lunch meeting of the Political Commission of the government and the heads of the four Concertación parties. The four party heads backed the decision. PS leader Camilo Escalona argued, “Frankly we are saying to the country that we cannot commit to something that we cannot do in 3 months” before the elections (*Ibid*). In Congress there were many Concertación dissenters. The labor movement and CUT expressed anger and dismay (*Ibid*). Ex-minister Andrade insisted, “It is a bad idea. For two reasons: first, when you have to correct injustices and abuses, any time is opportune, and second, when you make a promise, you keep it” (*Ibid*). Martínez added, “It looks bad to me, because promises should be kept” (*Ibid*).

General Secretariat of the Presidency José Antonio Viera-Gallo advocated a focus on the elections. He told National Television, “those who want the labor laws of Chile to change should vote for Frei” (*Ibid*). The opposition center-right presidential candidate Sebastián Piñera, brother of Labor Plan author José Piñera, “celebrated” the government's announcement on labor reform (*El Mercurio* September 23, 2009). Frei promised he would send the labor reform to Congress “in March”, that is, as soon as he would be inaugurated (*Ibid*). The Labor Minister, in a meeting, and Viera-Gallo, in a phone call, explained to Martínez that “today the priority is employment” (*Ibid*). Soon, Archbishop Goic reiterated his call for support of labor reforms “here and now”. Ex-President Frei backed this call as part of his campaign (*El Mercurio* September 27, 2009).

In the Chamber of Deputies, many Concertación Deputies rebelled, including the heads of all four party groups of Deputies. With Martínez present, Deputies introduced legislation on the key labor reform topics (*El Mercurio* October 12, 2009). Proposals included higher than firm level and broader collective bargaining and strengthening the powers of the Labor Directorate so its decisions could not be so easily overturned by courts (*Ibid*). This legislation was rather explicitly in service to the political campaign, however, with no realistic vision that it could be passed. PS Deputy Marcelo Díaz said, “nothing is more reasonable than to have these topics debated during the campaigns so that the candidates for La Moneda and the parliament must pronounce on them” (*Ibid*). Themes from the “political-partisan” strategy reemerged once again.

In the parliamentary elections on December 13<sup>th</sup>, 2009, the Concertación and the PC-led left in *Juntos Podemos* ran on a combined list, re-unifying the center and left for the first time in the Concertación Era. Nonetheless, the electoral result was the worst for the coalition. Together, the “*Concertación y Juntos Podemos por más Democracia*” list got 44% of the vote and 57/120 seats in the Chamber of Deputies and 43% of the votes for Senate, resulting in 19/38 Senators<sup>334</sup> (*Servicio Electoral de Chile*). On that day a divided center-left allowed the RN candidate Piñera to finish first in the first round of voting, with 44%. Frei got 29.6%, while left “*discolo*” and ex-Socialist Party Senator Marco Enríquez-Ominami received 20% and ex-Labor Minister Jorge Arrate, running for the *Juntos Podemos* group, garnered 6.2% (*Ibid*).

On January 5<sup>th</sup>, 2010, the CUT officially endorsed Frei for the second round of the vote, with the CUT National Council “calling on all Chilean workers to vote on January 17<sup>th</sup>, 2010, for Eduardo Frei” (*La Nación* January 6, 2010). Martínez added, “let’s not make a mistake, an error could cost us dearly” (*Ibid*). Nonetheless, on January 17<sup>th</sup> the opposition center-right “*Coalición por el Cambio*” candidate Sebastián Piñera won the run-off with 51.61% of the vote (*Ibid*).

### **Conclusion: Political Incorporation, Labor Threat and “Profound Changes”**

<sup>334</sup> Only half of the 38 Senate seats were up for election in 2009 and the new left group MAS won 1 additional seat.

This was the first victory for the right since the end of the military regime. It put an end to 20 years of Concertación electoral victories and Presidents. The promises of reforms to Labor Plan laws by Bachelet, like her three predecessors, were left unfulfilled. No legislation changing collective bargaining, strike replacements or Article 161 of the Labor Code allowing dismissals “for the needs of the firm” was passed. In a Christmas Eve interview Martínez, who had lost his own Congressional election, stated, “This government was the very worst on the labor topic of the four periods of the Concertación” (*El Mercurio* December 24, 2009). Yet, this was the Concertación administration with which Martínez, and the CUT as an organization, had the closest ties and to which they had the greatest access. This paradoxical outcome summarizes succinctly the path of the Labor Plan Labor Code in the Concertación Era. Political incorporation successfully blunted labor threat by institutionally channeling labor conflict. Greater labor threat was needed for “profound changes” in the Labor Code. As the institutional labor movement became the most politically and financially linked to the ruling political parties and the state, change to the key Labor Plan laws slowed to nothing. Yet this same period demonstrated, even with institutional cooptation, labor threat can arise “from below”. It can pressure and exceed the institutional channels of formal-legal labor organizations, political parties and enforced state law.

The period after the Concertación Era put this combination of factors in greater relief. As the center-left parties that had governed for 20 years lost state power, the constraints of political incorporation were weakened, but not eliminated. Labor threat increased in these conditions, under the conservative government of Sebastián Piñera and even as Bachelet and an expanded coalition including the PC regained power. Increased labor threat led to more significant change in key Labor Plan laws than in the Concertación Era. Yet, the state and the parties of Bachelet’s “New Majority” government maneuvered to contain and channel labor threat in the new legal framework. Moreover, the inherited institutions of the dictatorship, the 1980 Constitution and the Constitutional Tribunal above all in this case, continued to limit change to the Labor Plan. The heritage of political incorporation eroded significantly, but combination of inherited state and party incorporation continued to lock in the Labor Plan framework to an important degree.

**Chapter 7 - The End of the Labor Plan?**  
**Labor, the State and the Labor Code after the Concertación (2010-2018)**

**Introduction: the 2016 reform of the Labor Code**

On August 29<sup>th</sup>, 2016, President Bachelet promulgated *Ley 20.940*, to “Modernize the system of labor relations”, which came into effect April 1, 2017 (*Diario Oficial de la República de Chile*, September 8, 2016). In total, the bill came to 14 articles plus transitory dispositions and nearly 20,000 words. Its final approval came 20 months after first being sent to Congress and only after two cases before the Constitutional Tribunal, both of which struck down aspects of the proposed law (Ibid). This legislation represented the most significant changes to the Labor Code since the enactment of the Labor Plan in 1979. Bachelet admitted to “aspiring [for] more” (*El Mercurio* August 29, 2016). The final bill did not contain several key provisions originally proposed by the executive. Bachelet noted, “we estimate that there persist disequilibriums in labor relations that should be corrected” (Ibid). Yet, she characterized it as “a significant advance for labor relations” (Ibid). This legislation did reformulate key pillars of the Labor Plan. These included: the system of regulated collective bargaining and legal strikes; some mandatory collective bargaining above the firm level; and the replacement of striking workers (Ibid). For these reasons it is worth considering the social and political processes that led to this legislation and its prospects for overturning the nearly 40 year old formal-legal labor regime, and the broader constellation of socio-political outcomes associated with the Labor Plan system.

In this chapter, this legislative outcome and its prospects for contributing to larger political-economic change will be assessed in light of the processes that led to it. The primary process was an upsurge in labor ferment from 2006 which accelerated in the years leading up to passage of the new labor law. A second process was the formal legislative process that produced the final text. The former took place in the context of the first Bachelet term (2006-2010), the return to power of the right under Piñera (2010-2014), and the second Bachelet Administration (2014-2018), which came to power with been allied with an expanded center-left coalition. The formal legislative process occurred entirely during Bachelet’s second term, from 2014-2017.

For labor, the most important political-economic dynamic in this period was a “de facto flexibilization of the labor market” (Sehnbruch 2016: 88). Employer practices like “multi-RUT”, subcontracting and apprenticeships, combined with the structurally small percentage of Chilean workers with long-term fixed contracts, limited coverage of many labor law and social program provisions to a small fraction of the labor force. These included collective bargaining, strike and employment security laws as well as health care, pension and unemployment insurance programs (Ibid). Macro economically, the period of high and stable growth that characterized much of the 20 years of *Concertación* leadership came to an end after the 2008-2009 global financial crisis and the subsequent copper price collapse. The years after saw lower and less steady growth. So, a low and declining efficacy of such formal-legal processes as collective bargaining, legal strikes and labor legislation to protect and advance the basic material interests of Chilean workers was the backdrop for a steady increase in labor movement activity and militancy in this period.

The other key context was a huge, broader social movement upsurge, particularly among students, that began in 2011. The rapid growth and tremendous size of social movement activity during the Piñera era was an important factor in the sweeping to power of the New Majority, an expanded center-left coalition including the Communist Party that won the Presidency and gained

large Congressional majorities at the end of 2013. This political balance of forces formed the context for an extended and complex legislative process that ended with the new law in 2017.

In this chapter I will argue that these two processes in sequence show that legislation responded to and was designed to absorb this labor upsurge, to “channel labor conflict” as key proponents framed it. The state reacted in a co-optative manner to preserve the fundamentals of prevailing, structurally linked labor relations and capital accumulation regimes. The state attempted to mitigate new risks to these regimes that a labor movement upsurge represented. It did so in the interests of capital accumulation, the vital lifeline of all capitals and of the state itself. The state acted to re-produce the system of labor exploitation in Chile in its own interests as state. Indeed, many in the left labor movement based opposition to the legislative project offered just such an interpretation. That the state acted through the legislation to contain and co-opt labor movement pressure on capital and the state itself, and that it acted, in particular, in the interests of the ruling coalition political parties, is a common understanding among Chilean labor militants, and especially among left labor activists. This, despite the fact it was proposed by a progressive government including the Communist Party. This contradiction was ultimately borne of the fundamentally opposing interests of the state and labor. Of course, the state did not act only to co-opt in this period, but also responded to social and labor movements with state violence, albeit of an amount and intensity much reduced from the 1970s. This lesser use of violence, and lesser efficacy of fear, greatly aided the growth of militancy in the labor movement and social movements generally and added pressure for a co-optative result.

It will take years to determine empirically whether the legislation contributed to reducing Chile’s very high income and wealth inequality, or increased legal union density and structural power, or contributed to fashioning a more egalitarian labor market, all claims made by prominent proponents of the legislation. Yet, there are many indications in the political processes that led to its passage that the 2016 Labor Reform was another instance of *transformismo*. That is, the Labor Code had to change so the exploitative labor relations regime might stay the same (see, María Ester Feres Nazarala *Le Monde Diplomatique* May 9, 2015). A rewritten Labor Code was an artefact of these strategic cross-pressures and maneuvers at a particular historical moment, in 2016 as in 1978.

### **Context: An Upsurge in Social Movements in Chile (2006-2016)**

Inaugurated by the “March of the Penguins” student movement, from the start of Bachelet’s first term as President in 2006<sup>335</sup> social movements in Chile began to experience long term, consistent increases in mobilizations. For the labor movement, the dramatic conflicts of 2007-2008 were exemplary early instances of this trend, but strike data indicates that the labor upsurge continued to develop and escalate for at least a decade from 2006 (OHL 2018)<sup>336</sup>.

With the arrival of the conservative government, led by Labor Plan author José Piñera’s brother Sebastián of the *Renovación Nacional* party, social movement activity, especially among students, exploded. The movements accelerated precisely as the co-optative roles of parties and the state in the *Concertación* Era weakened after their election losses in late 2009. A decreased capacity and inclination by institutional political allies to restrain and/or demobilize social movement activity by labor and other movements’ was actually a condition of movement

<sup>335</sup> For the libertarian Marxist role in labor and social movements more broadly in these early moments of social movement resurgence during the first Bachelet term, see Miguel Paz and Javier Rebolledo *La Nación* May 7, 2006.

<sup>336</sup> Strike data is from the *Observatorio de Huelgas Laborales* “Informe 2018” (OHL 2019).

success.<sup>337</sup> For this and other reasons social movement dynamics in this era put issues of autonomy and participatory democracy front and center (Grez Toso *The Clinic* September 1, 2011). Of course, these were the very issues that responded to key ways that institutions, including the state, political parties and closely linked formal labor organizations like the CUT, tamped down social movement activity, particularly that which threatened established institutional actors' interests.

The Chilean social historian Sergio Grez Toso argues "2011 will remain inscribed in the history of Chile as a new awakening of the social movements" (*The Clinic* September 1, 2011). Even before massive student-led mobilizations "social movements surged with insolent speed, massiveness and persistence" (Ibid). Chile saw regional protests in Magallanes, Calama and Arica, environmental mobilizations against the *Hidro Aysén* dam and energy project, LGBTQ movements, copper workers and state employee strikes and mobilizations, and the Mapuche indigenous peoples' movement flare at this time. In addition to "re-politicizing" society, these movements forced the "political class... against its natural inclinations and interests, to take them into account, to rebut or simulate agreement with them to better contain their demands" (Ibid).

Representing "a collapse of the governability pact agreed between the dictatorship and its moderate opposition in the second half of the 1980s" the explosion of protests brought with it "a crisis of legitimacy of the neoliberal economic model and the system of... restricted democracy administered by said forces since 1990" (Ibid). These movements, the student movement above all, questioned not only conjunctural political arrangements but the very forms of institutional, representative politics "divorced from the social bases, highly centralized and hierarchical" that had dominated the post-dictatorship era (Ibid). In their place social movements, particularly the students, developed forms of organization that were more democratic and horizontal (Ibid).

The student movement began in late April of 2011, accelerated over the Chilean Winter, peaked on August 4<sup>th</sup>, drew millions to the streets and shut down hundreds of schools in strikes and occupations (*BBC Mundo August 10, 2011*; *El Mostrador August 4, 2016*). The main demands were free, quality public education and an end to profit in the education sector. The movement rejected a neoliberal, part-privatized educational structure inherited from the dictatorship (Ibid).

The first protests were called by the Confederation of Chilean Students (*Confederación de Estudiantes de Chile, Confech*), an alliance of student groups from 25 "traditional" universities, including the University of Chile and the Pontifical Catholic University. Elected student leaders of these two institutions became the most visible spokespeople of the movement. These student leaders- Camila Vallejo, a PC militant from the Universidad de Chile, and Giorgio Jackson, an independent supporting the New Majority coalition from the Pontifical Catholic University- were later elected to Congress as Deputies. The multiplying occupations of secondary schools that began in June of 2011 were fronted by the two main secondary school student groups *ACES* and *CONES*<sup>338</sup> (Hernández *BBC Mundo July 14, 2011*). The mobilizations were by all accounts the largest of the post-dictatorship era. Among these resurgent and new movements, the emphases on autonomy and horizontal democracy were notable. This was especially true of the student movement, but also appeared, if less influentially, in the labor movement (Salazar *The Clinic*

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<sup>337</sup> This was despite the fact that policy, political-economic and institutional structures and broader social inequalities remained largely unchanged from the Concertación Era governments (1990-2010) to Piñera's term (2010-2014), a dynamic that led some to dub Piñera's a "Fifth Concertación Term" (Sehnbruch and Siavelis 2014: 43, 67).

<sup>338</sup> The *Asamblea Coordinadora de Estudiantes Secundarios* (Coordinating Assembly of Secondary Students) and the *Coordinadora Nacional de Estudiantes Secundarios* (National Coordinator of Secondary Students), respectively.



August 8, 2011). Over time perspectives and political currents with autonomist and/or anarchist Marxist influences left of the New Majority gained influence in many movements<sup>339</sup>.

Initially, labor movement connections with the student and other movements were limited and cautious. Luis Mesina, Secretary General of the Bank Workers' Confederation and prominent independent left labor leader offered a critique of this predominant initial tepidness. He blamed it on the political party allied leadership of the CUT, whose half-hearted and mostly verbal support for the students was not matched by concrete action due to electoral-political considerations and dynamics<sup>340</sup> (*El Ciudadano* December 30, 2011). This was not true of the whole labor movement, however. Early in the Piñera era mobilizations labor groups and factions more autonomous from the New Majority parties, often influenced by base-centric organizational and direct action tactical orientations, acted in solidarity with student and other movements. Prominently the port workers' union (*Punto Final* April 3, 2015), but also labor groups from the copper, forestry and teachers' unions<sup>341</sup> made alliances with and supported student mobilizations. Broadly, *multisectorialidad* became a central strategic and theoretical focus of many in opposition movements in Chile. This referred to a strategy of forging links among different social movements, particularly between students' and workers' movements (*El Dinamo* September 1, 2014).

As the student movement remained strong, CUT links with and support for the movement grew, albeit under pressure from its bases, earlier moving unions, and left factions within the organization. A CUT-called national strike on August 24-25, 2011, received significant student participation. The strike supported the education movements' demands and played an important role in the dramatic events of that August (*El Mercurio* August 25, 2011).

By 2012 the CUT joined student called protests and CUT leader Arturo Martínez was often at the front of the march with labor and student leaders (*El Mercurio* June 28, 2012). Another key event in the Piñera years was the July 11<sup>th</sup>, 2013 CUT national strike, which was supported by many student groups. It was the largest strike of its kind since the military left power (*El Mercurio* July 11, 2013). It occurred as a wave of labor struggles continued to build in Piñera era Chile, with conflicts featuring government workers, copper miners, forestry workers and port workers in 2013.

### **The Institutional Response to Social Movement Upsurge: A Move to the Left (2011-2016)**

Of the major existing political parties, the PC had the strongest presence within and influence upon the student movement in its first years and during its ascendance in 2011. This was particularly exemplified by University of Chile student leader and later PC Congress Deputy

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<sup>339</sup> Crucial examples include the election of Gabriel Boric, a militant in the Autonomist Left Marxist grouping, as President of the University of Chile Student Federation (FECh, *Federación de Estudiantes de la Universidad de Chile*) in 2012, and later his election as an independent Deputy to Congress (*El Mostrador*, February 27, 2015; *La Tercera* October 8, 2016) and the election of Libertarian Student Front (FEL, *Frente de Estudiantes Libertarios*) leader Melissa Sepúlveda as President of the FECh in 2014 (Sandoval *The Clinic* October 25, 2013; *CNN Chile* November 13, 2013; *El Desconcierto* June 10, 2016.). By the 2013 elections, the traditional parties represented in the New Majority, including the Communist Party, were swept out of all key student movement leadership positions (*La Segunda* April 11, 2013; *La Tercera* March 22, 2014). In the labor movement, the most important example is probably the independent port workers' union disaffiliation with the CUT and illegal strikes in 2013 and 2014.

<sup>340</sup> Mesina- later an important spokesperson and leader in the 2014 minimum wage struggle and 2016 anti-AFP privatized pension system movement- deepened his criticism of the CUT over time, arguing that it "lacks any legitimacy" and that its leaders "only have legitimacy through the state" (*El Desconcierto* March 7, 2014).

<sup>341</sup> The *Colegio de Profesores* teachers' union was also involved from the beginning, sending a delegation to the first modest protest called by *Confech* on April 28, 2011 (*El Mercurio* April 28, 2011). Later, the teachers' union and copper workers' union co-sponsored and joined large student mobilizations (*El Mercurio* June 27 & 28, 2012).

Camila Vallejo (Navia *La Tercera* June 20, 2011). This pattern was replicated, if unevenly, in many other social movements (Ibid). Competition between Concertación Parties and the PC to back social movement demands pushed opposition parties' positions left on issues including *Hidro Aysén*, post-natal leave, indigenous rights, and education reform (Ibid). The Communist Party also continued to gain influence in the labor movement, winning the CUT Presidency from Socialist Party militant Arturo Martínez with Barbara Figueroa in an election in August 2012. Figueroa was a PC leader in the teachers' union and the daughter of a long time labor leader (*El Mercurio* August 23, 2012). Under the pressure of these dynamics, political party positions moved left on labor law issues, and a significant reform of the Labor Plan became part of the New Majority platform.

These social movement dynamics became even more important to political-legislative policy outcomes when the Communist Party joined the main four Concertación parties to form the New Majority coalition, which won control of Presidential and Congressional power in 2014 (*Servicio Electoral de Chile*). Yet, even as support for the center-right government collapsed to historic lows since 1990, opposition parties did not gain support, as popular backing for both major institutional alternatives decreased (*El Mostrador* October 4, 2012; *The Santiago Times* October 17, 2012). The most significant responses of the existing political institutions to this across the board decrease in popular support and institutional legitimacy was the incorporation by the parties that would make up the New Majority of demands for an end to the binomial majoritarian electoral system and for a new Constitution to replace the 1980 document.<sup>342</sup> This dynamic of enhanced social movement activity pressuring political actors to change positions, and party and state efforts to contain those demands, continued throughout 2016. There was a huge campaign of mobilizations against the privatized AFP pension system. That system was the 1980 neoliberal pension redesign conceived by Labor Plan author José Piñera (*La Tercera* November 5, 2016).

### **Movement from Below: A Long Labor Upsurge (2006-2016)**

As with other social movements, labor mobilizations began a consistent climb from the start of the first Bachelet administration (2006-2010), accelerated dramatically in the Piñera era (2010-2014) and continued at a high level thereafter. Labor conflict even surpassing the Piñera level in the first two years of the New Majority Bachelet administration (2014-2018). One way to see a labor upsurge is to look at the strike activity registered in the decade after Bachelet first came to office. The *Observatorio de Huelgas Laborales* (OHL - Labor Strike Observatory) records data on all strikes in Chile dating back to 1980 and publishes an annual report from the Center for the Study of Social Conflict and Cohesion (*Centro de Estudios de Conflicto y Cohesión Social COES*).

The release of data covering 2015, on June 16<sup>th</sup>, 2016, became a political event in its own right. It was in the context of this sustained labor conflict upsurge. It was released at an event that included CUT President Barbara Figueroa and Labor Minister Ximena Rincón (COES 2016).

The report indicated strike activity again increased in 2015. It continued a rise in workers involved in strikes since the beginning of 2007 (COES 2016: 1), an average of more than 1,000,000 workers per year involved in strikes (Ibid). This long-term rise was characterized by a larger share and increasing number of public sector workers striking than private sector workers, and by the predominance of extra-legal strikes over legal strikes in the private sector (COES 2016: 1-2). It noted, "Chile is currently living through a cycle of greater strike conflict," (COES 2016: 1-2).

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<sup>342</sup> The most comprehensive statement of the New Majority program published before the 2013 elections was the *Programa de Gobierno* released by Bachelet on October 27<sup>th</sup>, 2013. <http://michellebachelet.cl/programa/>

In 2015, as Labor Reform legislation was slowly making its way through Congress, Chile saw 382 strikes, up from an average of 302 in the 2010-2014 Piñera years (COES 2016: 1). Of those, 205 were extra-legal and 175 were legal strikes, marking the first time since 2002 that extra-legal strikes were more numerous (Ibid). The predominance of strikes outside of the state regulated process set forth in the Labor Code was still more dramatic considering the numbers of workers involved. Of the 122,285 private sector workers involved in strikes in 2015, 100,917 were in extra-legal strikes, four times the 25,368 workers involved in regulated strikes (COES 2016: 1-2). The most frequently used tactics were pickets and blockades of transportation routes<sup>343</sup> and the most common demands were over wages<sup>344</sup> in this sector (Ibid). Private sector strikes also saw a markedly higher rate of intervention by the *Carabineros*. In 7.5% of private sector strike cases police appeared at strike sites, in 5.4% of cases there were clashes, in 5% of cases there were arrests; and in 2.7% of cases people were wounded during the strike (COES 2016: 2).

In the public sector the number of strikes also saw a sustained increase starting in 2011 (COES 2016: 2). In 2015 more than a million workers were involved in public sector strikes, 88.2% of all mobilized workers (Ibid). Strikes in this sector were also more “territorially extensive”, with 37.7% of them taking on multi-regional or national scale (Ibid). These strikes were not regulated by the Labor Code at all, but rather by the Code on Public Administration. So, they had a different legal profile and character. For example, in two thirds of cases the primary demands of the strike related to work process or production issues (Ibid). In more than a quarter of public sector strike cases (26.4%) the workers utilized the tactic of “*turnos éticos*”. These “ethical shifts” were a strike practice in which basic activities of jobs with social responsibilities, such as in the health care and education sectors, are undertaken by reduced teams (*El Nacional* March 3, 2013). Labor strike tactics like these became a legislative issue in the discussion of labor law reform in 2016.

During the legislative process of the 2016 Labor Code reform one major theme and controversy was around the concepts of emergency or minimal work crews and their compositions during strikes. These practical boundaries- just how much work stoppage a strike could entail, and so how much it would impede the functioning of powerful institutions; when and how the enforcement apparatus of the state will physically intervene in strikes- significantly determine the tactical power of strikes in terms of their material ramifications for capital and the state. These distinct modalities of on-the-ground practice as workers confront employers, and often the state, constituted the de facto contextual situation as the institutional political process of labor reform legislation saw the state alter the formal-legal dispositions regarding legal, regulated strikes.

### **Intensification of Labor Struggles Preceding the Labor Reform (2013-2016)**

A few key labor struggles in the years preceding the 2016 Labor Code reform exemplify how these labor-state dynamics unfolded. Critical export sector labor conflicts in copper mining, forestry and at the ports exceeded: the institutional channels of the Labor Code; the mediation of the CUT and New Majority political parties; formal-legal prohibitions on sector-wide collective bargaining; public/private and final employer/subcontractor distinctions in employers targeted and negotiated with; and the legal limits of the private property regime. These costly de facto realities spurred many different strategies and calls for containment from the state and parties. In the public sector, a completely different legal context and distinct political dynamics reigned, but labor conflict escalated notably in this sector, as well. Public sector strikes are not even formally

<sup>343</sup> Picketing (*el piquete*) was reported in 19% of private sector strikes and blockades (*corte de ruta*) in 24% (Ibid).

<sup>344</sup> In 69% of private sector strikes wages figured as the principal demand and issue (COES 2016: 2).

authorized by the Labor Code. Within the Public Administration statute, which covers public sector workers, there are no provisions for a legal, regulated strike process. Finally, the CUT took a relatively conflictive position with the Piñera government, particularly in its latter half, organizing several large national mobilizations and strikes. Under base pressure, this oppositional practice partially continued into the Bachelet era. From 2013 onward, the labor upsurge intensified, increasing the pressure on institutional actors to channel labor conflict in ways that did not essentially threaten the material interests of capital and state institutions.

At the end of March 2013, a labor conflict over paid lunch breaks for port workers at the northern port of Angamos<sup>345</sup> blossomed into a national movement. The port workers struggle was a touchstone for the labor movement nationally. It was also a crucial case for understanding the dynamic of labor conflict in post-Concertación Era Chile, and the role of established institutions in that dynamic. The union at the center of those events – *la Unión Portuaria* – had a recent history of organizational struggles.<sup>346</sup> There, left labor activists critical of the CUT and political parties, many influenced by anarchist and/or autonomist ideas, won a leadership contest<sup>347</sup>, disaffiliated from the national Central and instituted organizational reforms to democratize the union, empower the bases and increase autonomy from parties and the state (Francino October 21, 2016).<sup>348</sup> Their new strategic orientation included: a more class struggle approach to negotiations with the state and private employers; an attempt to overcome the divisions between different classes of port workers; a “multi-sectoral” alliance with other social movements; and an oppositional stance towards the state and the traditional parties<sup>349</sup> (Ibid).

Although the contractually obligated payment of roughly US\$1.50 for working through lunch breaks (*colación*) seemed quite modest, the back pay for years of violations was eventually negotiated for over \$1,000 per worker per year worked, along with other concessions<sup>350</sup>. Later, a

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<sup>345</sup> Union Number 2, in the port town of Mejillones, where Angamos is located, was the local that organized protests in this copper export node. Intense state repression was eventually successful in destroying the union. The port was administered by Ultraport, owned by the Von Happen Company, a descendent of dictatorship privatizations.

<sup>346</sup> The movement took off from the emergence of a dissident union in the Southern Bío-Bío port in 2010, later going national (*Unión Portuario de Chile*) at June and October meetings in 2011 (*Punto Final* N. 825 April 3-16, 2015).

<sup>347</sup> When the *Unión Portuario del Bío-Bío* signaled this break by refusing to support a CUT call for a general strike in August 2011, its communique argued the CUT “had refused to defend or support the real demands of the workers of the country, instead only having served as an institution that all the post-dictatorship governments have utilized for their own ends” (*Punto Final* N. 825 April 3-April 16, 2015). In this sector a significant number of dissident leftist labor militants took explicit inspiration from historical Chilean anarcho-syndicalism (Francino October 21, 2016).

<sup>348</sup> Nelson Francino, President of the Port Workers’ Federation of Iquique and a national spokesperson for the *Unión Portuario* spoke at the UC Berkeley Labor Center on October 21, 2016. He was a first-hand participant in many of these events. <http://laborcenter.berkeley.edu/chile-the-labor-movement-and-the-progress-toward-democratization/>

<sup>349</sup> This oppositional stance was clear in the central role FENTRAPI and other port workers played in the left labor opposition to Bachelet and the New Majority’s proposed labor law reform which became law in September 2016. In contrast, the CUT did not take such a clear-cut and assertive stance against the project in its entirety.

<sup>350</sup> The strikes, whose costs totaled billions of US dollars (*Punto Final* N. 825 April 3-16, 2015), spurred contract agreements mediated and guaranteed by the state and two pieces of legislation: the so-called *ley corta* (*Ley 20.773 Diario Oficial de la Republica de Chile* September 17, 2014) and a more substantial *ley larga* aiming to “modernize and improve labor conditions at the ports”. The agreement with the state was signed March 14, 2014, days after the Bachelet administration assumed office (<http://www.agendalaboral.gob.cl/los-avances/ley-corta-portuaria/>). More

failure to deliver on this commitment led to strikes re-igniting in December (*Resumen* August 24, 2011; *Radio La Voz De Los Trabajadores* August 30, 2011; *El Mostrador* April 9, 2013; *The Santiago Times* April 4, 2013; *The Santiago Times* January 17, 2014; *Punto Final* N. 825 April 3-April 16, 2015; Francino October 21, 2016). The strikes were some of the costliest in post-dictatorship Chile, with the stoppages totaling more than US\$180 million per day in January of 2014. These worker actions were also met with a far greater degree of military and police force than the average strike, leaving dozens of workers and solidarity protesters wounded and dozens more arrested (*Punto Final* N. 825 April 3-April 16, 2015). At times the government refused to negotiate with the union, either because employers in some cases were private firms or because of the federated/decentralized organizational structure of the union, only to back down and do so later in both cases (*The Santiago Times* January 17, 2014; Francino October 21, 2016).

Key sources of strength for the union came from: its efforts to unite different classes of port workers (especially temporary, contract workers); its reciprocated support from other social sectors and movements; and organizational changes to both collective hiring practices controlled by the union<sup>351</sup> and to decision making processes and bureaucratic structures that are intended to empower the rank-and-file via decentralization and democratization (*Punto Final* N. 825 April 3-April 16, 2015; Francino October 21, 2016). As Francino noted, a turning point in the struggle came after the labor organization decided to decentralize tactical decision-making and de facto unleash the more radical elements supporting the strike. Although never approved, the direct action tactics of more militant sectors, for example property damage or the closure of work sites through intimidation, certainly increased pressure on the state and capital and exceeded any of the normal institutional channels designed to contain labor conflict (Francino October 21, 2016).

Another crucial factor was inter-sectoral labor solidarity. A key moment came when the National Truck Drivers Confederation demanded the government to intervene to appease the port workers and threatened to join with a national strike of its own (*The Santiago Times* January 17, 2014). The strong links with Copper Workers, particularly with proximate strikes in 2013, also strengthened the port workers' hand (*El Mostrador* April 9, 2013). Finally, the strategic location of port work in a small, open, export-oriented economy where 80% of GDP is linked to external commerce- a fact frequently reiterated during the strike by Finance Minister Pablo Longueria- meant that the immediate pressure on core material interests of state and capital was great (Ibid).

In May 2013, after the port workers' strike, the CTC (Copper Workers' Confederation) led by Cristian Cuevas<sup>352</sup> announced a national strike of all copper workers. They had refused an offer

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than two years later, however, the *ley larga* had still not been approved (*Economía y Negocios* September 12, 2016). The Bachelet Administration never successfully legislated on this bill.

<sup>351</sup> The *nombrada* and *redondilla* were labor union controlled hiring hall practices in which unions gave employers lists of employees for jobs and shifts. This has been a source of clientelistic practices at times, and one of the crucial organizational changes was to make the process transparent and the officials and helpers who oversaw it rotating.

<sup>352</sup> Cuevas, a long time Communist Party militant and high profile CUT and labor leader since the 2007 strikes, had a complex relationship with the institutions of state, the political parties and the CUT. For many years, he exemplified the PC strategic posture of "one foot in the government and one in the streets" but also maintained alliances with autonomous elements in labor and social movements. At times he clashed with each of these institutions, positioning himself as a partisan of the movements, and causing tension with the Concertación, New Majority, CUT and the PC.

One example of these tensions was his resignation as Labor Attaché to the Chilean Embassy in Spain (*Agregado Laboral de la Embajada de Chile en España*) after the death of subcontracted miner Nelson Quichillao López in what he termed "repression" (*Periodico Solidaridad* July 27, 2015). While he "appreciated the confidence the Government

from the state copper company CODELCO and third party contracting companies to replace a 2007 *Acuerdo Marco* or Model Accord agreed to after a 37 day strike (*La Tercera* May 10, 2013). In this conflict, too, broader social and labor alliances proved crucial<sup>353</sup>, as did unity across several<sup>354</sup> job categories and employers, even if this particular conflict most directly pitted copper workers against a state-owned employer (*La Tercera* May 10, 2013; *The Santiago Times* May 13, 2013). Most importantly, along with the ports, copper workers retain the greatest power to pressure the state and capital by imperiling its immediate material interests (*Periodico Solidaridad* January 2, 2015). Chile's structural location in the world market continues to place<sup>355</sup> copper as the most important source of national export earnings and macro-economic growth. In the end, the strike and occupations that went along with it were able to forestall a concessionary contract reducing benefits from the Model Accord (*Diario UChile* May 18, 2013). However, a notable occurrence in this labor conflict was a national strike among miners that went across the public/private employer and subcontracted/contract worker divides and saw a total stoppage of mines in April and further strikes in May, both of which featured clashes at strike sites that left wounded and arrested protesters (*La Tercera* April 9, 2013; *La Jornada* May 15, 2013). Indeed, copper workers and the CTC were also central actors in left labor opposition to the New Majority proposed labor reform that became law in September 2016. In this struggle a central objection of the CTC and labor was "the criminalization of the strike" due to the reforms' various regulations on strikes (*Carta Abierta Sobre Reforma Laboral* February 28, 2015; SINTEC March 2, 2015)<sup>356</sup>.

In the forestry sector, an analogous set of dynamics was evident in the years prior to the reform of the Labor Code. In this sector, also an export earnings standout for successive Chilean governments and a source of massive private fortunes, the central demand in 2013 was around wages, and in particular a minimum wage of US\$ 560 per month fixed in a 2009 accord. This is crucial in a sector, in which 70% of workers are subcontracted (*BioBioChile.cl* January 20, 2013).

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has given me since 2014 and the Communist Party of Chile, I argue that my decision to continue exercising this function would be inconsistent with my thought owing to the fact that my principle duty is to protect the rights of the laboring women and men... I put myself at the disposition of the labor movement" (Ibid). The use of state violence was key in causing his break from the New Majority and government (*El Mostrador* July 28, 2015). Afterwards, he claimed that "the left of the New Majority lost the battle" (*El Mostrador* February 26, 2016).

Eventually, Cuevas left the Communist Party, serving as a founding leader for a new political party called "New Democracy" that sought a coalition alliance with left political forces outside of the New Majority such as Gabriel Boric's Autonomist Movement, Giorgio Jackson's Democratic Revolution and the Libertarian Left, called the Broad Front (*El Mostrador* August 22, 2016; *El Desconcierto* September 5, 2016; *El Mercurio* September 5, 2016). Later, he was also very critical of PC CUT leader Barbara Figueroa for being too driven by party politics and too distant from broader social movements, mounting essentially an autonomy critique (*El Desconcierto* September 10, 2016).

<sup>353</sup> In the strike call, Cuevas and the CTC called "on all workers to come together with their families, children and the social and political world with whom we have marched during this time" (*The Santiago Times* May 13, 2013).

<sup>354</sup> In a historic convergence, a national strike on April 9, 2013, was supported by all three major unions in the sector: the CTC, representing subcontracted copper workers; the FTC, representing state CODELCO labor; and the FMCh, representing private sector mining workers. That day, 100% of state and 90% of private sector workers adhered to the strike. Mining Minister Hernán de Solminihac estimated losses at US\$ 43 million (*El Ciudadano* April 9, 2013).

<sup>355</sup> Workers demanded a re-nationalization of copper, with proceeds for public education, health care and pensions.

<sup>356</sup> These open letters and declarations would gather further labor support as time went on, but four main unions in the "strategic" sectors were the original impetus of this force, and the CTC was the first signatory on this first one.

A strike by 8,000 plant and 20,000 subcontracted workers of *Forestal Arauco*<sup>357</sup> in March 2013 was the largest but strikes and conflict flared across the southern region where this sector predominates from the start of 2013 through September. They ultimately yielded wage increases of about US\$ 100 per month on average, a significant percentage gain, as well as many new agreements providing for extra rest and shorter shift rotations.<sup>358</sup> Tactics in these conflicts included not just strikes, but also plant occupations and road blockades, marches and protests with student and other social movement support. Plant occupations, in particular, generated police violence and clashes (ICM<sup>359</sup> August 6, 2013). One key moment came in late March, when the port workers in Biobío Region illegally stuck in solidarity with other workers (*La Nación* April 2, 2013). Shutting down the ports of Lirquén, San Vicente International Terminal and Coronel, through which over 85% of forestry products are exported, exerted huge pressure on capital in the sector (Ibid). It, in turn, pressured the state to intervene. Wood industry organization Corma<sup>360</sup> president Fernando Raga called the strike “illegal,” said it had “no relation to the forestry sector,” and demanded the state “apply the law” as well as “find an urgent solution” (Ibid).

During that time, the CUT also staged its largest strike and protest, probably it’s most direct oppositional action to a government, of the post dictatorship era: a 48-hour national general strike on July 11<sup>th</sup> and 12<sup>th</sup>, 2013 (*El Mercurio* July 11, 2013). This convocation got hundreds of thousands to answer the call to march and protest in the streets of Santiago and other cities, and nearly total adhesion by public sector workers, the bulk of CUT membership<sup>361</sup>. Those days saw massive support from students, the erecting of barricades, clashes with the police, and repeatedly played images of burned busses and property damage by *encapuchados* (“hooded ones”) (Ibid).

That strike underlined the key trend of increasing labor conflict in the public sector in the years leading up to the 2016 labor reform. Starting in 2008, a much larger number of public sector workers went on strike, spiking the total number of workers on strike in Chile to an average of over one million per year 2008-2015<sup>362</sup> (COES 2016: 6). In 2015 there were 1,039,085 public sector workers and 122,285 private sector workers involved in strikes (COES 2016: 6). ANEF is the public administration employees’ union, which organizes over 70,000 government workers. It has played an auspicious role in the history of Chile’s labor movement and was a main actor in this wave of mobilizations. In 2013, for example, a wave of strikes leading up to the November 17<sup>th</sup>, 2013, elections put public sector labor issues squarely on the national political agenda.<sup>363</sup>

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<sup>357</sup> *Forestal Arauco* is the largest firm and employer in the forestry sector. It is a property of the Angelini economic group, one of the largest in Chile, owned by one of the country’s wealthiest families. This company was privatized, like many others in the sector, on very favorable terms by the dictatorship in 1974 (*Decreto Ley 701, Diario Oficial de la República de Chile*, October 28, 1974; *La Tercera* August 10, 2013).

<sup>358</sup> For example, 200 workers at the *Forestal Valdivia* wood pulp plant, part of the Arauco Group holding company, had their job shift rotations of 11 days on, 4 days off relaxed to 10 days on 5 days off (ICM August 6, 2013).

<sup>359</sup> The ICM (*Internacional de Trabajadores de la Construcción y la Madera*) was the Building and Wood Workers’ International. The Forestry Workers’ Confederation, the CTF (*Confederación de Trabajadores Forestales*), the union organizing the largest number of subcontracted workers, and several other unions in the sector were affiliated.

<sup>360</sup> Corma is the *Corporación Chilena de la Madera*, an industry group representing sectoral business interests.

<sup>361</sup> CUT leader Bárbara Figueroa estimated 95% adhesion in the public sector (*El Mercurio* July 11, 2013).

<sup>362</sup> This statistic, called *Trabajadores Comprometidos* (TC), is an aggregation of the number of workers involved in each strike over the course of the year, not individual people uniquely involved in strikes (COES 2016: 4).

<sup>363</sup> See: *The Santiago Times* October 22, 2013; *La Tercera* November 25, 2013; *El Mercurio* November 6, 2016.

In 2015, as labor law reform made its way through the legislative process, public sector labor conflict was a consistent source of political pressure and tensions. The most significant such action was a 57-day *Colegio de Profesores* teachers' strike in June and July (COES 2016: 18). At 100,000 workers involved for 57 days, this strike cost 4,100,000 Man Days of Work Lost (DHTP, *Días Hombre Trabajo Perdidos*), the most that year. The strike's mobilizations also saw large, militant weekly protests in conjunction with students, especially June 10<sup>th</sup> and 17<sup>th</sup>, with up to 250,000 in the streets. Student occupations also proliferated in this time period. More schools were affected by this movement than even the student mobilizations of 2011. All these spurred tensions in the PC, the New Majority and the CUT.<sup>364</sup> In 2015 there were also significant labor stoppages by municipal preschool teachers, health workers, and civil registry employees. ANEF called a 1 day strike, on October 28<sup>th</sup>, 2015, of 120,000 workers and a 2 day strike, November 25<sup>th</sup> and 26<sup>th</sup>, of 375,000 state workers (COES 2016: 18).

In this period, labor mass actions came to affect the political context to a greater degree than any time since the 1980s. This, in turn, drove varied responses from the state and political parties which, however diverse, sought to channel labor conflict into institutional-political paths.

### **Political Context: The Piñera and Second Bachelet Administrations (2010-2016)**

The immediate political context for the crucial social movement upsurge from 2011 onwards was the first elected conservative government in Chile since 1958. On January 17<sup>th</sup>, 2010, Sebastián Piñera, running for the traditional right opposition of the RN-UDI coalition, *Coalición por el Cambio* (Coalition for Change), narrowly defeated ex-President Eduardo Frei for President. The final result was 51.6% to 48.4% in the run-off. This marked the Concertación's first defeat since the military regime allowed competitive elections in 1989. In addition to fatigue with the four consecutive Concertación governments spanning 20 years, a disappointment with unfulfilled left and progressive aspirations was evident in an election with diminished turnout<sup>365</sup> and over 26% of the vote for alternative candidates to the left of the governing coalition (Ibid). Ex-Concertación and Socialist Party Senator Marco Enríquez-Ominami (son of MIR founder Miguel Enríquez) took 20.1% of the first round vote, and Communist Party backed ex-Labor Minister Jorge Arrate for the *Junto Podemos Más* ticket received 6.2%, a record for the extra-Concertación left (Ibid). In the Congress, the right won 58 out of 120 seats in the Chamber of Deputies (37 for the right wing UDI, 18 for Piñera's more moderate RN, and 3 conservative independents), its best result of the post-dictatorship period, and 17 out of 38 Senate seats, with one independent (Ibid).

Several factors limited Piñera's power to enact major changes after this election. First, the liberal conservative RN sector he represented (Piñera claimed to have voted against Pinochet in the 1988 plebiscite and to support universal liberal political rights) was in the minority in the coalition. The UDI won more Congressional seats and greater political power on the right. The center-left Concertación parties still held Congressional majorities. Despite the vote for rightist parties, public opinion did not support a conservative program of austerity and neoliberalization. And, as the Coalition for Change came to power, social movements increased in scope and impact.

This effervescence reflected the weakening of a cautious political logic that weighed Concertación electoral prospects against the possible disruptions of social movement protest. With the political parties that social and labor movement activists were most likely to be linked to now

<sup>364</sup> See: COES 2016: 3, 18; *El Mercurio* June 13, 2015; *La Segunda* June 15, 2015; Latin America Herald Tribune June 17, 2015; *La Tercera* June 18, 2015.

<sup>365</sup> The 6,958,972 valid votes [excluding blank/null ballots] was 56.68% of the voting age population (*Tricel* 2010).



out of power, oppositional action, including costly direct action, became more central. In fact, the government's program left little room for social movements to win meaningful policy reforms, and correspondingly incentivized the state to re-emphasize the repressive aspects of control in reacting to social movement mobilizations. This turn towards a more violent response to protest had the effect of radicalizing social movement opposition to the government. So, the Piñera term was characterized by escalating confrontation between the state and social movements, especially the student movement from 2011, but also a spike in the labor movement starting in 2013. At the same time, the administration was characterized by predominant policy and macro-economic continuity with the Concertación governments. This continuity was such a pronounced feature that political scientist and former Concertaciónista Patricio Navia dubbed the Piñera era the "Fifth Concertación Term"<sup>366</sup>, despite intra-right divisions (Sehnbruch and Siavelis 2014: 43, 67). Like the Concertación, the mainstream electoral right moderated its proposed policies significantly once in power (Navia *La Tercera* June 20, 2011). This new government's support, as measured by public opinion polls, soon evaporated in the face of social movement opposition, without producing a corresponding increase in support for the Concertación/New Majority parties (Ibid).

Yet, a co-optative dynamic was still evident during this period, despite the clearly limited ability of conservative ruling parties and associated institutions to calm social movement actions during their term in power. Specifically, the role of the Communist Party began to increase in prominence as left social and labor movement opposition to the government grew in 2010-2014. From early in the Piñera period, the PC had a leading position in the social movements as well as moved into significantly more influential positions in the state, center-left political coalition, and the CUT. Key events in a PC ascension from movement into opposition institutional power included teachers' union leader Bárbara Figueroa's victory for CUT President in August 2012 (*El Mercurio* August 25, 2012) and student leader Camilla Vallejo's election to Congress in 2013 (*Clarín* November 18, 2013). The PC became part of the center-left electoral coalition for the first time in the post-dictatorship era with the New Majority on April 30, 2013 (*La Tercera* April 30, 2013). The party had to contend with the dynamics of resurgent social movements as well as the demands of a greater role in institutional power than it had experienced since the Allende era.

One poignant example of these dynamics among social movements, labor institutions, political parties and the state was the recurrent and symbolically charged struggle over the minimum wage. In 2012 the CUT declared an increase to CHP\$250,000/month (US \$500 at the time) "non-negotiable" (*El Mercurio* May 28, 2012). Yet, in 2014, negotiating with a New Majority government that included the same political parties as in the CUT leadership- the PC, PS and PDC- it agreed to \$225,000/month, a move that caused great dissent and controversy within the labor movement (*El Desconcierto* March 7, 2014). It was this dramatic shift in political context starting in 2014 that brought the modified co-optative dynamics to the fore. Left political forces and social movements, more empowered than at any time since the transition, now faced the strategic situation of a progressive coalition government.

On December 15<sup>th</sup>, 2013, the political balance of forces in Chile shifted dramatically. Michelle Bachelet won a commanding majority of 62.2% in the Presidential run-off, up from 46.7% one month earlier in a crowded first round field (*Tricel* 2013). The day of the first round, November 17<sup>th</sup>, the New Majority, a coalition made up of the four historic Concertación parties

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<sup>366</sup> Navia, a high-profile political analyst, publicly supported Enríquez-Ominami in the first round in 2013. Yet, in the run-off, he communicated support to Piñera in a private email leaked to the press, initiating a scandal referred to as "Naviagate". It became a front-page election issue for days (Navia, University of Chicago February 25, 2011).

(Socialist Party, Christian Democrats, Radical Party and Party For Democracy), the Communist Party and smaller leftist groups<sup>367</sup> (MAS, Senator Alejandro Navarro's Broad Social Movement party and IC, the Christian Left) won broad Congressional majorities (*El Mercurio* November 18, 2013). After the election the New Majority could count 21 out of 38 Senators as well as 67 out of 120 Deputies (*Servel* 2013) to go with Presidential authority beginning in March 2014.

The official programmatic document that represented the attempt to bring together a political vision behind these diverse parties of left and center-left, as well as address shortcomings of the Concertación state and model of development and democracy since 1990, was Bachelet's *Programa de Gobierno*. It was announced on October 27<sup>th</sup>, 2013 (*Radio Cooperativa* October 27, 2013). Centered on the concept of the *brecha social* or social inequality gap, it was the most extensive left and progressive document yet from a post-dictatorship center-left coalition. This program proclaimed "strengthening the role of the State" as the primary mechanism to reduce the gap. Tax reform, education reform, and a new constitution were its major planks (*Programa de Gobierno* 2013: 1). Later, labor reform was adduced as a symbolic and policy "fourth plank" due to its crucial role in shaping the labor market and income inequality and its political salience (*Le Monde Diplomatique* May 2015). "Deep changes with governability" was Bachelet policy head Alberto Arenas' characterization. On election night, Bachelet committed to "respond to social movements" calling it "the moment, finally, to make the changes" (OSAL May 2014: 132-133).

With respect to labor law reform specifically, the *Programa de Gobierno* proposed some major changes to the existing legal code (*Programa de Gobierno* 2013: 92-95). Claiming, "we should realize major changes to our labor institutionality", the program called "labor rights and worker dignity... integral parts of the social and political identity of the New Majority" (Ibid). It also explicitly linked "unequal income distribution" with the "labor market" structure (Ibid). The new labor law would "level the playing field between employers and workers" and, to this end, it would "strengthen unionization, collective bargaining, and a just distribution of earnings" (Ibid). In fact, the three substantive goals that it laid out were "levelling the playing field"; "augmenting labor participation... employment quality... salaries... and productivity"; and "strengthening the labor institutions" of the state, the DT specifically, to "effectively enforce the labor law" (Ibid). One point of emphasis was that the goals required strengthening unions, another main point of orientation in the program was harmonization with ILO Convention 87 on Union Freedom and the Protection of the Right of Unionization, ratified by Chile's Congress in 2000<sup>368</sup> (Ibid). Though the specifics of these general ideas would not be hashed out until the political-legislative process began in earnest at the end of 2014, the discourse of Bachelet and New Majority figures before that centered on proposals to strengthen unions and collective bargaining through ideas such as: a "closed shop" type of required union membership for collective bargaining known as *titularidad sindical*; mandatory collective bargaining at higher than firm level; and new strike regulations in the Labor Code, including a prohibition on hiring replacement workers for strikes. Most of their proposals did not survive the legislative process intact. A somewhat strengthened legal-formal collective bargaining process, particularly at medium and large firms, and new strike provisions were the most important that became law. Throughout, strike rules proved a central controversy.

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<sup>367</sup> Alejandro Navarro (MAS-Región) and Sergio Aguiló (Citizens' Left) withdrew from the coalition in 2016 in order to contest the 2017 elections as independent center-left groupings (*CNN Chile* August 14, 2016).

<sup>368</sup> The fact that Chile had been "notified" about specific provisions in the labor law, particularly the replacement of striking workers, as a violation of this Convention by the ILO in 2008 and 2012 and by the United Nations in 2004 (Ibid) was a central trope of New Majority discourse around labor reform in 2015 and 2016.

### Political-Legislative History: Reforming the Labor Plan (2014-2016)

In the Chilean institutional structure, the executive branch has a prominent role in the legislative process. This meant that the Executive, President Bachelet's office, initiated the bill that became law through its right of executive initiative. As choosing which chamber will first review legislation is a Presidential prerogative, Bachelet sent the official message of legislative initiative to the Chamber of Deputies December 29<sup>th</sup>, 2014. (*Mensaje N. 1055-362 Calendario Legislativo Cámara de Diputados de Chile* December 29, 2014). This was the basic legislative text that was debated, reviewed and modified in Congress. First it went through committees and the floor of the Chamber of Deputies, then Senate committees and the floor, where the Executive sent the key final amendments, then back to the Chamber of Deputies, then the inter-chamber Mixed Commission, then final approval of its report in both chambers. The text of the bill was then cut back by the Constitutional Tribunal, further pruned by a partial Executive veto, and cut once again by a second Constitutional Tribunal decision before being promulgated 20 months later.

The Executive branch led by President Bachelet, had the single most influence on the text of the final legislation, reflecting both its institutional intervention points as well as its origination of the specific text that became law. Specific key interventions were the original *Mensaje* that initiated the legislation and the crucial amendments the Executive branch sent to the Senate in March 2016. From there, the Senate negotiated and effectively removed some of the provisions of the bill, and the Constitutional Tribunal struck down other key sections, while the Executive removed a final set of provisions through its veto of parts of the legislation in June 2016. The key institutional bodies that had the greatest positive influence on the text of the final legislation were in Bachelet's Executive. Still, this text was later modified by the legislative and judicial branches, especially in a negative sense, removing parts of the legislation the Executive originally included.

Specifically, the "Monday"<sup>369</sup> Political Committee, made up of the heads of the political parties that constituted the New Majority coalition, took generally consensus political decisions, ostensibly on the basis of the NM program, albeit with actual influence weighted by the electoral and political results and prospects of the various parties that composed it. In terms of policy making, the appointed cabinet positions of the Executive, particularly the Economy and Labor ministers, were in charge of the technical decisions. Their offices drafted the language of the legislation. They also took a lead role in legislative tactics and negotiations with Congress. After a May 2015 Cabinet reshuffle, ex-IMF official Rodrigo Valdés of the Party For Democracy was named Economy Minister and Christian Democrat Ximena Rincón was named Labor Minister.<sup>370</sup> Both of these bodies were under Presidential authority. Bachelet was by far the decisive figure.

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<sup>369</sup> So known because of its weekly Monday meetings (*El Mercurio* March 8, 2016; *El Mercurio* June 17, 2016).

<sup>370</sup> This cabinet change saw the PPD take 6 positions, the PDC 5 + 1 independent backer (Justice Minister Javiera Blanco) 3 for the PS, 2 for the PC and PRSD, 1 for the IC and MAS and 2 true independents (*El Mercurio* May 11, 2015). It came amidst a low public approval rating for the government and Bachelet, at 29%, her lowest to that date in either of her Presidential administrations. The decline in Bachelet's poll numbers occurred in the context of slow economic growth. It was just 1.9% in 2014, amidst a trough in the copper price (*BBC News* May 11, 2015).

Of particular note was the departure of Economy Minister Alberto Arenas. This was the first time since the transition that portfolio, seen as crucial to international capital markets, did not complete essentially the full Presidential term. The Socialist Party militant was an ex-Communist Youth (*JJCC*) and MDP organizer as a student in opposition to the dictatorship in the 1980s. As Minister he earned considerable enmity within business circles due to his leading role in

Yet, significant limiting influence in paring back this legislative reform project was exercised by the Constitutional Tribunal, operating under provisions of the 1980 Constitution. The Congress, in particular the Senate and, due to the political balance of forces of the moment, a group of relatively conservative Christian Democratic Senators, also had outsized influence on the legislative outcome. This influence was on both some aspects of the positive text, particularly on issues of strikes and collective bargaining, and on removing aspects of the Executive's legislative project. Super majorities mandated by the Constitution, uniform conservative opposition, and divisions within the New Majority coalition combined to make these PDC Senate votes crucial.

The initial legislative project sent by the Bachelet executive to the Chamber of Deputies reflected the administration's concerns, goals, and assessments of the political situation. In that chamber, the New Majority counted 67 out of 120 votes, enough to surmount the constitutional requirement to change Constitutional Organic Laws, a 3/5<sup>th</sup> vote, without support from the Congressional right opposition parties. So, the key votes in this chamber were decided based on the divisions internal to the governing coalition. The legislation that passed this chamber was closer to the Executive proposals than that approved by the Senate. This legislative journey: two legislative committees, two supreme court advisory rulings and multiple executive interventions took up the first half of 2015 (*El Mercurio* June 17, 2015).<sup>371</sup>

Even at this early legislative stage, division and controversy centered on provisions that would regulate the legal right to strike. The President and government had committed many times to eliminate the legal hiring of replacements. Divisions over the issue were expressed within the New Majority and the labor movement (*La Tercera* June 12, 2015). Essentially, the concern from the left and many sectors of the labor movement was that the new law was simply finding some way to allow a new version of replacing striking workers in order to limit the economic damage, and therefore pressure, which could be brought to bear during a legal, regulated strike. This was exemplified by the provision that created a new legal category called "necessary adjustments", which gave employers more latitude to change contract work responsibilities of non-union employees in the event of a strike. The government termed it an "initial compromise", but it represented a partial climb down on the issue. The left derided the provision as *reemplazo interno* or "internal replacements" (*La Tercera* December 6, 2015). Moreover, the section explicitly stated that its purpose was to "ensure the functioning of the firm" (*Ibid*). The purpose of this clause can be understood by looking at the state's goals with Labor Code reform.

From the beginning of the process, the Presidential administration, particularly Finance Minister Valdés, articulated a balancing proposition with respect to the goals of the labor reform that was somewhat distinct from the publicly enunciated official political-legislative goals. In early March, 2016, for example, as key compromises were being made to assure Senate passage, Valdés indicated the main issue was that "this means of pressure must be proportional to the harm done to the enterprise". Structurally, he continued, "this reform has a very particular difficulty, that objectives of efficiency collide with objectives of equity in certain aspects, so that topic is very debatable, and it costs to construct an accord" (*El Mercurio* March 1, 2016). In other words, in addition to "leveling the playing field" between labor and capital to ameliorate rampant socio-

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the tax increase (the *reforma tributaria*) Bachelet passed as the first "plank" in the program and which was intended to finance education reform (*La Tercera* May 11, 2015).

<sup>371</sup> The formal-institutional history of this legislation is detailed and documented in the Legislative Calendar of the Chamber of Deputies of Chile, while the final text of the law can be found in the *Diario Oficial de la República de Chile*. They are available at [https://www.camara.cl/pley/pley\\_detalle.aspx?prmID=10248](https://www.camara.cl/pley/pley_detalle.aspx?prmID=10248) and <http://bcn.cl/1xfwb>.

economic inequality, the Executive's goals in drafting a new labor law were, in Bachelet's terms, to "channel" and, in fact, to "minimize... labor conflict" (*El Desconcierto* January 26, 2015). Straightforwardly, labor conflict was characterized as an impediment to macro-economic growth. In one interview just as the Senate began work on the bill, Valdés "insisted that to guarantee growth a balanced labor reform is needed" (*El Mercurio* August 5, 2015). "We want an effective right to strike," Valdés claimed, "but," he added, "that right to strike" would have to be "proportional with the effects it has, for example, on other actors, including businesses" (Ibid). Later, as the final Senate compromises were being negotiated, he returned to this image in the context of the issue of "internal replacements". Valdés argued that "the ultimate issue is what happens with the workers that are not on strike... we have to guard that they can work, and that involves having certain provisions in the law that make it so that the enterprise can function" (*El Mercurio* March 1, 2016).

Part of the goal of labor law for the New Majority government was enhancing state capacity to intervene in labor conflict such that strike pressure did not overly impact the operations or profitability of businesses. Part of the goal was simply that strikes be prevented from shutting down enterprises, a major source of leverage. This motivation on the part of the executive also helps explain other provisions, which had to do precisely with boosting the capacity of the state to mediate and ameliorate labor conflict. These included new resources and a more robust legal process for Labor Directorate mediation in labor disputes prior to a strike, the so-called "extension of the good offices" of the DT (*El Mercurio* June 17, 2015). The left labor opposition to the legislation objected to this provision. They saw it as a way to defer or avoid legal strikes, since employers could seek mediation without union agreement.

This caution went beyond the New Majority executive to the coalitions' representatives in Congress. One notable instance of this was a Chamber of Deputies vote to change the Organic Constitutional Law which defines those firms in which strikes are not permitted. Changing such a law would require a supermajority of 67 votes, the exact number of New Majority Deputies, yet the effort fell one vote short, garnering only 66 (*El Mercurio* June 17, 2015). This legal rule gave the state a potentially vast amount of power to prevent strikes and circumscribed the legal right to strike for large sections of the labor force.<sup>372</sup> Reforming this law in a pro-labor way would have meant reducing the state's legal capacity to weaken or prevent some strikes (Ibid).

In fact, this language and orientation very much resonated with those of various business lobbies. The head of the CPC, Alberto Salas, noted his organization had proposed "that this right [to strike] is balanced" which should not cause damage beyond temporary production delays (*El Mercurio* August 21, 2015). The Santiago Chamber of Commerce noted its greatest reservation was a ban on replacement workers (*El Mercurio* August 18, 2015). The Chilean-North American Chamber of Commerce, grouping 600 US employers with 420,000 workers in Chile, warned of negative effects on foreign investment, growth and employment of strikes (Ibid). It was in this context that the key legislative decisions would be made. It was also in the context of and a major and growing wave of labor opposition to large sections of the legislation or its entirety.

### **The Labor Movement and the Process of Labor Reform Legislation (2015-2016)**

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<sup>372</sup> This part of the Code read: "Those workers who offer services in corporations or firms, of whatever nature, end or function, that attend to jobs of public utility or whose paralysis would cause grave danger to the health, the economy of the country, shortages among the population or national security cannot declare a strike."

From its inception, there was a left section<sup>373</sup> of the labor movement that rejected the New Majority legislative project. This group of tendencies, which had grown more influential at base and then leadership levels of the movement in the years before 2015, shared a more autonomous and oppositional stance towards the New Majority government and its political parties, including the Communist Party. They also shared a critique of the CUT and other institutional leaderships within the labor movement more politically aligned with the government and its political parties. It was within this framework that this part of the labor movement opposed a reform “driven by the business sector together with the Government, in which the CUT has played the role of a conciliator with the bloc in power” (*Periódico Solidaridad* January 2, 2015).

Later, especially after the most beneficial aspect of the reform for the CUT (*titularidad sindical*) was removed, the Central began to take a more oppositional and pressure oriented stance towards the government over the project. Nevertheless, the CUT strongly supporting passage of the final bill. The oppositions and tensions between the labor movement and a progressive government proffering what it claimed would be major pro-labor revisions to a loathed Labor Code illustrate how these processes of making labor law illuminate fundamental dynamics and disjunctures between labor and the state.

The initial labor opposition to the legislation came from unions in four main “strategic” sectors of the economy- mining, forestry, port/transportation and construction- a left coalition sometimes known as “4 x 4” because of the four important unions from those four sectors that fronted the group. The CTC represented copper workers; the *Unión Portuaria* represented port workers, SINTEC represented construction workers and FETRAFOR represented forestry workers (*Carta Abierta Sobre Reforma Laboral* February 28, 2015; SINTEC March 2, 2015).<sup>374</sup>

The biggest objection of this labor movement coalition was a so-called “criminalization of the strike” because of the reforms’ various new regulations regarding legal strikes (Ibid). The Center for Social Political Research on Labor<sup>375</sup> argued soon after Bachelet submitted the bill to Congress that proposed legislative articles, like requirements for “minimum services” provided by “emergency teams,” amounted to “formalizing juridically a form of replacement as a legal norm and which would be the responsibility of the unions themselves” (*Periódico Solidaridad* January 2, 2015). This, in turn, would “take away force and pressure from collective bargaining, weakening union struggles” (Ibid). CIPSTRA also raised analogous objections to provisions that would allow for the Labor Directorate to “extend its good offices” and mediate a labor dispute before a strike began. This provision of the legislation would allow either party to call upon the DT in this manner and, thus, legally delay a strike authorizing vote of the rank-and-file. CIPSTRA argued that “this leaves it clear that the perspective of the labor directorate regarding strikes is that they are a negative phenomenon which they look to impede” (Ibid). A final major objection was the failure to include mandatory collective bargaining at the sectoral level (“*la negociación ramal*”). This

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<sup>373</sup> Broadly, these tendencies often referred to themselves as advocates of “a new unionism” (*un nuevo sindicalismo*). New unionism was defined by a greater class struggle orientation and emphasis on labor movement democratization.

<sup>374</sup> In reality, the four sectors of mining, forestry, transport and construction each had a number of unions in the group as represented by the initial “open letter” and later campaigns against the legislation. These included smaller mining and forestry sector unions, media sector unions, particularly in television, and specialty transport unions (Ibid).

<sup>375</sup>The *Centro de Investigación Político Social del Trabajo*, or CIPSTRA, a labor rights research center.

type of bargaining would include the 2/3rds of the Chilean labor force excluded<sup>376</sup> from the prevailing legal process (*Carta Abierta Sobre Reforma Laboral* February 28, 2015). On these bases the coalition called on the left and labor movements to reject the legislation (Ibid).

Labor opposition soon escalated beyond declarations. The Port Workers' Union called a national strike at the docks for the second shift of March 17<sup>th</sup>, 2015 in order "to reject the Labor Reform of the Government". It was the day the Labor Committee in the Chamber of Deputies voted to take up the bill sent by the executive (*Revista Nuestro Mar* March 16, 2015). One factor which encouraged labor and other opposition to the government was its declining popularity.

As the labor reform legislation was moving through the Chamber of Deputies, Bachelet's administration polled at its lowest level of approval in either of her two terms up to that point, with only 31% voicing approval in an Adimark Survey in early May of 2015 (*La Tercera* May 6, 2015). With economic and wage growth slow and political polarization high, Bachelet undertook the cabinet re-shuffle that brought Velazquez to power at the Finance Ministry and Rincón to the Labor Ministry (*El Mercurio* May 11, 2015). In this the new Finance Minister was to re-assure a business sector upset with the administration and FM leadership prior to that point, while Rincón had a solidly pro-labor record as a Congressperson and support from CUT leadership<sup>377</sup> (Ibid).

In fact, labor, party and government relations were complicated at this time by a student and labor movement resurgence in the education sector. These movements arose at the same time and had important links to each other. On May 14<sup>th</sup>, 2015 a student occupation at the University of Chile launched a new round of student movement mobilizations rejecting Bachelet and the New Majority's education reforms as insufficient and delayed (*Reuters* June 22, 2015). On June 1<sup>st</sup> the *Colegio de Profesores*, the largest teacher's union, declared an indefinite strike as part of wage and contract disputes and a provision of the education reform bill that would have re-organized the salary scale and added more required hours. The teachers also declared support for the student movements' goals and mobilization (*Telesurtv.net* May 31, 2015).

Throughout these social movement mobilizations, the practice of "*multisectorialidad*" or solidarity among different social struggles would be in prominent evidence. Student occupations proliferated quickly, and high school students came to play a major role in events (*Reuters* June 22, 2015). Notable was that student strikes and occupations organized general assemblies of all the different "faculties" (departments) at universities and many high schools. After a month on strike, the law faculty assembly at the University of Chile won an end to the subcontracting of cleaners (Ibid). The teachers also declared solidarity with striking construction workers, with 100,000 marching past their picket line on June 17<sup>th</sup> (Ibid; *Periódico Solidaridad* June 18, 2015).

During May and June 2015 there were 6 large national mobilizations called by the student movement. June 10<sup>th</sup> saw 250,000 people in the streets and on June 17<sup>th</sup> some unions, notably the port worker and construction unions, mobilized for a national strike and day of action (*Reuters* June 22, 2015). These large protest days were characterized by intense clashes with police, road blockades and burning barricades. One student was severely injured at a protest in Valparaíso. A

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<sup>376</sup> Restrictions mean only 8 percent of workers participate in collective bargaining, according to data from Fundación Sol, a think-tank that specializes on advising labor groups (Durán 2015; Durán and Kremerman 2015).

<sup>377</sup> CUT President and PC leader Barbara Figueroa told the press regarding Rincón: "If you look at how she voted in Congress, she is a minister who is very close to the objectives of the workers" (*Bloomberg News* May 14, 2015).

noteworthy “red and black”<sup>378</sup> presence, especially in multi-sectoral actions, gave mobilizations a more bottom-up and confrontational tenor (*Periódico Solidaridad* June 18, 2015).

That bottom-up and militant orientation was seen amongst both the student and teachers’ in those months. The *carabineros* often met student marches and occupations with violence. Yet, “despite police raids and dozens of arrests, students have not been deterred”, and 16 secondary schools remained occupied through the end of June (*Reuters* June 22, 2015). The mobilizations of the student movement were also organized in a democratic and decentralized fashion, with the influence of left libertarian and autonomist organizing principles. The teachers’ strike also had a very high rate of rank-and-file participation and influence on the direction of events. More than 90% of teachers participated in the strike and 2,500 public high schools were affected for nearly a month (Ibid). In that time there were three meetings of the national assembly of the teachers’ union, with contentious debates regarding tactics, whether to initiate and continue an indefinite strike, whether to negotiate or reject the package of reforms in its entirety and orientations to the New Majority government (Ibid). In these meetings a dynamic was evident wherein parts of the union leadership, including from the Communist Party, preferred negotiations over strikes and mobilizations. Early on, PC union leaders had argued against an indefinite strike but were forced to reorient by a significant rank-and-file backlash against them (Ibid; *Red Flag* June 22, 2015).

An article in the daily newspaper *La Tercera* headlined “The Communist Party begins to pay the costs for the teachers’ strike” published on July 4<sup>th</sup>, 2015, 34 days into an indefinite strike. It gave crucial insights into the cross-pressures that affected the party due to its structural position and the broader state-labor dynamics at play in the New Majority era. In the article the PC admitted its position had weakened within the teachers’ union, among the labor movement more broadly, and among social movements as a whole because of its more conciliatory posture in the struggle. This was even as the party had lost influence among the New Majority executive and its parties in Congress by its failure to act as an interlocutor with labor and social movements and successfully demobilize or contain those movements as they confronted a government that included the PC.

Early on, the leadership committee of the *Colegio de Profesores* split. Jamie Gajardo of the PC and Juan Soto of the PS backed a negotiated accord with the government. Mario Aguilar, who was not a militant in any of the New Majority parties, opposed that position with the backing of a lot of lower ranking union officials and a large majority of the base (*La Tercera* July 4, 2015). The leaders’ position led to many denunciations from the base that “the principle leaders of the PC had only followed party orders and not listened to the teachers” (Ibid). Gajardo was even mocked and physically menaced at a teachers march (Ibid). The government was disappointed in Gajardo’s rejection by the rank-and-file as it left them “without an interlocutor among the teachers capable of aligning the bases of the union behind positions previously negotiated with the Executive” by union leaders (*La Tercera* July 4, 2015). A similar dynamic played out with respect to PC Deputy Camila Vallejo, president of the chamber’s Education Commission, and former head of the Federation of Chilean Students (FECh). Deputy Vallejo was the main backer of a tripartite dialogue table with the Ministry of Education, an attempt at a negotiated end to the strike that was rejected by the teachers at base level (Ibid). This failure led to a diminishment of prestige and influence among other New Majority coalition members (Ibid). It left many in the New Majority assessing “the presence of the PC in the government has not served to moderate the demands of distinct unions and the leaders of that group [the PC] have seen serious difficulties when the time

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<sup>378</sup> The term “*rojinegro*” - a reference to the historical anarcho-syndicalist flag, itself having seen a revival of usage in Chilean social movements- is often used in Chile to describe left movements and activists from a broad group of revolutionary currents, sometimes more specifically called libertarian, anarchist, autonomist, left communist, etc.



arrives to close ranks with the authorities” (Ibid). Ultimately, the Executive bet on the natural exhaustion of the social movement and the fact that many municipalities had stopped paying the salaries of striking teachers, a strategy which turned out to be effective as strike adhesion fell.

Even amidst this social movement upsurge, the controversial labor bill continued moving through the Chamber of Deputies. On June 3<sup>rd</sup>, 2015, the provision of “minimum services” in case of a strike was approved in the Labor Committee (*Resumen.cl* June 3, 2015). On June 12<sup>th</sup> the New Majority Executive expressed support for the key provision and the legal norm allowing firms to reorganize personnel was inserted into the final bill (*La Tercera* June 12, 2015). Finally, on June 17<sup>th</sup>, 2015, the Chamber of Deputies passed the bill 67-42, meeting a 3/5<sup>ths</sup> constitutional threshold with the support of all 6 Communist Party Deputies (*El Mercurio* June 17, 2015). That day, more than 40 unions in the labor opposition declared that “The approved reform maintains the Labor Plan and deepens it” (*El Mostrador* June 17, 2015).

Having backed the Chamber of Deputies bill and lacking a presence in the Senate, where the party held no seats, the PC congressional delegation announced that it would participate in marches and protests if the reform was modified in the Senate (*El Mercurio* July 16, 2015). The CUT backed that up with the threat of a national strike if the reform was weakened (Ibid).

On August 19<sup>th</sup>, the full Senate voted to open debate on the reform. Labor Minister Rincón called it “a historic day for Chile and its workers” and hailed President Bachelet’s long efforts to “center a debate that has been delayed for decades” (*El Mercurio* August 19, 2015). It was in this chamber where previous labor reform efforts under the Concertación had foundered and where the most consequential legislative politicking occurred to shape the form of the bill. It was also when business groups weighed in with statements and more intense lobbying pressure and prominent think tanks like CIEPLAN and influential figures like ex-Finance Minister Foxley offered their public assessments<sup>379</sup> (*El Mercurio* August 13, 2015; *El Mercurio* August 18, 2015; *El Mercurio* August 21, 2015). At this stage the political parties and New Majority had to take decisive stands on all the key issues in the bill, exposing divisions within the coalition and breaking the unity that characterized the Chamber of Deputies vote. Leading liberal Christian Democratic Senator and ex-Economy Minister Andrés Velasco lamented that the debate had “become ideological and polarized too easily” (*El Mercurio* August 20, 2015). Most contentious among those polarizations were the issues around strikes and replacement workers (*El Mercurio* August 23, 2015; *El Mercurio* August 25, 2015; *El Mercurio* September 11, 2015; *El Mercurio* November 3, 2015).

The composition of the Senate conditioned a political dynamic whereby the left had less influence than in the Executive or the Chamber of Deputies, in part due to the absence of the PC from the chamber. Obversely, the Christian Democrats had relatively more power, and a small group of more conservative senior Christian Democratic Senators and historic party leaders were the crucial votes necessary to guarantee passage of the bill through the Senate in the context of unified conservative opposition. Thus, after a closed-door meeting of New Majority Senators and cabinet ministers in early September, PS Senator Juan Pablo Letelier, an important interlocutor<sup>380</sup>

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<sup>379</sup> Both of these examples were identified with the more economically liberal wing of the Christian Democratic Party

<sup>380</sup> Senator Letelier maintained credibility with political and social movement lefts for several reasons. As the son of a famous political opponent assassinated by the dictatorship his family is among those that suffered personally. His Northern Senate region is characterized by the economic importance of mining and transport and the unions in those sectors had been important allies and constituents. His voting record in Congress was strongly pro-labor.

Institutionally, he was an important figure in Bachelet’s Socialist Party and its progressive wing. He played a key role

for the leftist wing of the New Majority, announced definitively “internal replacements” were “totally discarded” from the legislation and that the replacement of striking workers would be totally prohibited by the reform (*El Mercurio* September 11, 2015). He called “*huelga efectiva*” and “*titularidad sindical*” the “heart of the legislation” and insisted no compromise would be made on them.<sup>381</sup> Yet, the very next day the Executive sent the Senate a package of amendments that included the “necessary adjustments” language that would be included in the final bill and that would remain a source of suspicion and opposition for the left of the New Majority and the labor left opposition. This section barred the replacement of striking workers but allowed firms to reorganize job duties to keep the enterprise running (*El Mercurio* September 12, 2015).

Economy Minister Valdés expressed the administration’s surprise at the strong rejection this modification elicited among many labor leaders (*El Mercurio* September 13, 2015). He reiterated that “we want an effective strike but at the same time proportional” (Ibid). These amendments won the support not just of Senator Letelier of the PS, but of Carolina Goic, leader of the DC’s progressive wing, and Ricardo Lagos Weber, an influential PPD Senator (*El Mercurio* September 14, 2015). However, pressure from labor opposition among other considerations led the executive to send the Senate a modified package of amendments in December. Labor Minister Rincón insisted that “the amendments do not attenuate the end of replacements in a strike” (*El Mercurio* December 10, 2015). Labor opposition countered that the new amendments distinction between “workers” and “positions”, only the former of which would be barred from replacement, and the maintenance of a provision that allows “necessary adjustments” for an enterprise to keep functioning during a strike meant that it amounted to a “hidden replacements” provision (Ibid). This and other debates on the legislation left it stalled in the Senate for the rest of 2015.

### A New Labor Code becomes Law (2016)

The influence of the centrist group of Christian Democratic Senators was clearly seen in the key negotiations leading to the final language of the Senate bill, crucial decisions which were made in January and March 2016. Such was the advantage of their political position at these key moments that CUT president Barbara Figueroa complained that “we are hostages to a group of Senators” (*El Mercurio* January 13, 2016). The CUT and New Majority left would try to counter this influence, in part brandishing the threat of social movement mobilization, while maintaining support for what they argued were key progressive aspects of the bill and the legislation overall.

A growing left labor opposition continued to mobilize to defeat the reform in its entirety. Carmen Miranda was a key labor opposition leader. She was the head of an organization called “Workers for a Better Labor Reform”, which grouped over 100 private sector unions. She was also the leader of the Entel workers’ union, a top private telecom firm. She argued that “the labor reform threatens the workers” and “rejected the totality of the project” (*La Clínica* January 10, 2016). Indicative of the dynamics within the labor movement, while this group had already met with Labor Minister Rincón and spoken before the Senate Labor Committee, they had not been received by CUT leader Barbara Figueroa (Ibid). One major issue with the CUT Miranda addressed was its lack of presence in the private sector. It is there that the new collective bargaining process and attendant strike rules contained in the legislation would actually be applied, since the public sector

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in the legislative process as the head of the “Mixed Commission”, the Congressional committee where discrepancies between bills passed by the two chambers are negotiated, reconciled, and returned to each chamber for a final vote.

<sup>381</sup> These mean “effective strike” and “union titularity”, respectively. The former refers to new strike regulations in the bill, including prohibition of replacement workers, the latter to closed-shop monopoly for collective bargaining.

and teachers' unions that were the largest part of the CUT membership were governed by the administrative and teachers' statutes, respectively (Ibid). Explaining their break with the CUT over labor reform Miranda insisted, "Definitively the real leaders of the CUT decided to support the government and not the workers." As a PDC militant herself, Miranda spoke with bitter disappointment about "just a sector of Senators" like "Walker, the Pizarros, the Zaldívar" who "don't represent the values... the bases... of the DC" (Ibid).

The legislative year of a Chilean Congress ends in January, with a traditional Summer break until the new congressional session begins in March. So, there was a rush to complete work on the legislation in January, which led to the key negotiations and decisions that would shape the final text of the bill that emerged from Congress in March. Indeed, in pushing back the legislative timeline once more despite administration promises, from January to March, Labor Minister Rincón inadvertently reposed President Aylwin's famed statement, telling the press that "to the impossible, no one is obligated" (*El Mercurio* January 15, 2016). One indication of the state of legislative politics as Congress adjourned was when PDC president and Senator Jorge Pizarro announced that "some parliamentarians asked the Executive to re-insert the amendment for 'necessary adjustments' in cases when 'there is a strike and a requirement to execute a fundamental function for the functioning of the enterprise'" (*El Mercurio* January 19, 2016).

The legislative delay and the apparent willingness of the executive to negotiate the key provisions with this sector of Christian Democratic leadership received heavy criticism from the CUT and the New Majority left, especially from the Communist Party (*El Mercurio* January 25, 2016). The CUT announced a national strike to be held March 22<sup>nd</sup>. In the call they rejected delays in the bill and demanded the strengthening of unions and the right to strike, speaking directly to the *titularidad sindical* and strike replacements issues (*El Mercurio* January 24, 2016). Finishing the tenth CUT National Congress Bárbara Figueroa said "conservative sectors" were trying to modify the legislative project and the CUT would pressure the government and Congress (Ibid). The leader of the PC Congressional delegation, Deputy Guillermo Teillier, denounced that after such a long process "some senators are still insisting on questions like strike replacement, be it internal as they say... it seems to me that we cannot accept" (*El Mercurio* January 25, 2016).

When the Senate reconvened in March the government sent key amendments, including text that read: "the employer in the exercise of his legal faculties, can modify shifts and work schedules, and effectuate necessary adjustments with the object of assuring that workers not involved in the strike can execute the functions agreed to in their work contracts" (*El Mercurio* March 2, 2016). In so doing employers would not be engaging in conduct that constitutes a "disloyal practice" or an "infraction of the prohibition" of strike replacements (Ibid).

Despite this, Labor Minister Rincón insisted, "the necessary adjustments were not re-put in" the bill (Ibid). In explaining this apparent contradiction, the Minister argued that the administration was "ratifying the principle that the workers that are on strike can make it effective, and the workers that are not on strike can keep working at their jobs, the adjustments the employer reckons [are necessary] are made" (Ibid). Economy Minister Valdés added: "the theme in the end is what happens with the workers who are not on strike... we have to guard that they can work, and that means having some provisions in the law that make it so the enterprise can function" (*El Mercurio* March 1, 2016). Valdés also reiterated the administration's concern with "proportionality". This meant that "the pressure [of a strike] should be proportional to the harm it causes to the enterprise" (Ibid). With that, the government closed the door on further changes to the legislation and gave it "legislative urgency". This meant that the Senate would have to vote on the legislation within 15 days (*El Mercurio* March 3, 2016).

The CUT and the New Majority left (in this case the whole PC, about half of the PS and a few key members of the PPD and PDC) strongly opposed these amendments and changes. In a justification of the government's position on the question of strikes and replacements, the Labor Minister once more offered that "you have to respect the right of the workers that go on strike, but also we should respect the right of those that are not on strike that they can work" (Ibid). Socialist Party Senator and former Labor Minister Osvaldo Andrade, a prominent opponent of these amendments, declared, "here internal replacement during a strike is established" and urged other Socialist Party Senators to vote against the amendments (Ibid). Senator Letelier once again attempted to reassure labor and left constituencies that "the strike would be effective, without internal or external replacements" (*El Mercurio* March 1, 2016). On March 7<sup>th</sup> the Senate Labor Committee passed amendments including the controversial "right to strike"<sup>382</sup> provisions, sending them to a vote of the full Senate (*El Mercurio* March 7, 2016). And, on March 10<sup>th</sup>, 2016, the Senate voted to pass the bill (*El Mercurio* March 10, 2016).

The other major issue that exposed New Majority divisions at this stage of the legislative process was that of mandatory collective bargaining above the enterprise level. This issue vexed the Socialist Party delegation in particular. Party vice president Escalona confessed a "conflict of loyalties" for the party with respect to such provisions in the bill: "support the government or the union leadership" (Ibid). One of the bill's key measures to increase the scope and effectiveness of collective bargaining was to introduce mandatory bargaining at scales greater than the firm level, to which they had been legally limited. In this same package of early March 2016, amendments sent by the executive, that requirement was re-formulated to exclude small and micro enterprises, again exposing important divisions within the PDC and the PS (Ibid). The press covered divisions within the executive on the legislation, especially between the Economy and Labor Ministries, although Labor Minister Rincón denied the reports (*El Mercurio* March 21, 2016).

On March 22<sup>nd</sup>, 2016, the CUT held its national strike. More than 100,000 people marched down the Alameda in Santiago and tens of thousands more participated in marches throughout Chile (*Soy Chile* March 22, 2016). Several big unions, like the teachers and energy workers, had large numbers not working. In the northern city of Antofagasta and the southern mining area of Lota, highways were blockaded. In Valparaíso, three Communist Party Deputies joined the march (Ibid). Officially, the march demanded "Labor Reform now!", as the lead banner in Santiago put it. CUT leaders had been clear about rejecting the changes the Senate had made. The final opportunity to reject them would be a contrary vote in the Chamber of Deputies in the days following the national strike. That would have sent those provisions not agreed by the two Chambers to a Mixed Commission of Deputies and Senators.

The main point of the official demand was simply that the process had dragged on too long and a bill needed to be passed. Exemplifying the ambiguity was a banner in Valparaíso which read "*Reforma Laboral sin letra chica*" or "Labor Reform with no fine print", a reference to suspicions around details and modifications many argued would weaken workers' rights (*Soy Valparaíso* March 22, 2016). CUT vice president and PDC militant Nolberto Díaz summarized its position: "it is lamentable to us the spectacle that a part of the Senate has made, apparently, fractured by the business owners, it has not permitted the most minimal rights to advance. We hope that the Chamber of Deputies will reject the 'necessary adjustments'" (*Soy Chile* March 22, 2016).

On March 23<sup>rd</sup>, however, after a contentious debate the Chamber of Deputies voted 68 to 36, with 6 abstentions, to pass the Senate version of the article "necessary adjustments in case of strikes" (*El Mercurio* March 23, 2016). Another article unpopular with the New Majority left and

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<sup>382</sup> "*Derecho a huelga*" was the title of the section of the bill that contained the relevant strike provisions.

the CUT, on “subcontracting”, passed with 71 votes in favor, thus also bypassing the Mixed Commission (Ibid). The Senate version of the article on “inter-enterprise union bargaining” was rejected, therefore going to the inter-chamber group (Ibid). The vote on strike regulations was particularly divisive, with the government conducting intense last minute negotiations to make sure that the “necessary adjustments” article did not have to go through the Mixed Commission (Ibid). The outcome of these negotiations was that the Socialists Party congressional delegation did not vote along party lines (“*votar de manera diferenciada*”). This meant that the article was passed with the votes of the opposition, and with only part of the PS and PPD blocs, as well as the total opposition of the Communist Deputies (Ibid). This was in line with the expectations of the group of Christian Democratic Senators that had allowed the bill to go forward (Ibid).

On April 5<sup>th</sup>, 2016, the Mixed Commission passed a reconciled bill, sending it back to the chambers for final approval (*El Mercurio* April 5, 2016). The most important compromise was that regarding mandatory collective bargaining at the inter-enterprise level. The final text made such bargaining obligatory for medium sized and large firms, and voluntary for small and micro firms<sup>383</sup> (Ibid). Senator Juan Pablo Letelier, the president of the Mixed Commission, explained, “Today we replaced something that was lost in the Senate, which is the right of interenterprise unions, in medium as well as in large enterprises, a process that will permit in the future negotiations by [occupational] category or economic area” (*El Mercurio* April 5, 2016). Senator Carolina Goic, PDC progressive wing leader, celebrated: “the most important of all is that we did it with all of the votes of the New Majority and also all of the Christian Democrats” (Ibid). The next day the Chamber of Deputies approved the bill 60-40 with 6 abstentions. The Senate passed it 23-15. Both votes went along the lines of the two major coalitions (*El Mercurio* April 6, 2016).

*Vamos Chile*, the conservative opposition coalition, immediately appealed the law to the Constitutional Tribunal. Their objection alleged four unconstitutional elements in the legislation: union monopoly in collective bargaining; the extension of collective bargaining benefits to non-union members; interenterprise bargaining; and unions’ right to information (*El Mercurio* April 7, 2016). On April 27<sup>th</sup> the Constitutional Tribunal partially upheld the conservative’s objections, striking down several aspects of the law. By 6 votes to 4, the Tribunal declared the whole of the “*titularidad sindical*” chapter of the law unconstitutional and also partially struck down the rules prohibiting the extension of collective bargaining benefits to non-members of the union. The TC split 5-5 and thus did not strike down mandatory collective bargaining or the right to information articles (*La Clínica* April 27, 2016). The offending provisions were ruled to have violated the constitutional protection for “free association” by mandating “monopolized” official union roles (*El Mercurio* April 27, 2016). Bachelet had to decide what to do with what remained of the bill.

May 1<sup>st</sup> once again saw competing labor marches in 2016. At the conclusion of the CUT march in Santiago, Bárbara Figueroa announced a national strike on May 31<sup>st</sup> (*Radio Cooperativa* May 1, 2016)<sup>384</sup>. The CUT’s official call demanded “reestablishment of *titularidad sindical* through a constitutional reform” (*Diario Uchile* May 30, 2016)<sup>385</sup>. The national strike, said Figueroa, would “declare from now on what the attitude of the labor movement will be every time the more conservative sectors – minoritarian sectors but that have power – impede or try to impede

<sup>383</sup> In the *Estatuto de las PYMES* (Small and Medium Enterprises Statute), a “*microempresa*” has 1-9 employees; a “*Pequeña empresa*” has 10-49; a “*Mediana empresa*” has 50-199 and a “*Gran empresa*” has 200+ (“Estatuto de las PYMES”. Biblioteca del Congreso Nacional. <http://www.bcn.cl/leyfacil/recurso/estatuto-de-las-pymes>).

<sup>384</sup> <http://www.cooperativa.cl/noticias/pais/trabajo/1-de-mayo/marcha-de-la-cut-concluyo-con-anuncio-de-un-nuevo-paro-nacional/2016-05-01/141041.html>

<sup>385</sup> <http://radio.uchile.cl/2016/05/30/trabajadores-paralizan-por-la-recuperacion-de-la-titularidad-sindical/>

the advance of the rights and demands of the immense majority” (*Radio Cooperativa* May 1, 2016). Teachers’ union president and PC militant Jaime Gajardo summed up the attitude of this sector of the labor movement, arguing, “there is will in the progressive sectors, in the parties of the New Majority and also in the CUT and the labor movement” for a way to reinstate the provision of *titularidad sindical* in specific and to advance on labor rights more generally (Ibid).

An “alternative march” called by dissident left labor sectors grouped under the title of Initiative Committee for Union Unity (CIUS - *Comité de Iniciativa por la Unidad Sindical*) got support from a broad array of social movement groups, notably among student groups with the Confech allowing “freedom of action” for its constituent groups to support the mobilization. As Confech spokesperson Marta Matamala explained, “this is a march that has been rising in recent years and that has a much more radical content, much more rooted in the bases to lift up banners and elements that today the CUT lacks” (*Radio Cooperativa* May 1, 2016)<sup>386</sup>. On labor reform specifically she argued, “the CUT has turned a deaf ear to the much more conflictive unions that exist in the country and that have organized the strongest mobilizations in recent years” (Ibid). A banner from the Retail and Commercial Central read “For a real Labor Reform”<sup>387</sup> (Ibid). Others carried placards with images of Clotario Blest and Emilio Recabarren and a section of red-and-black banners declaring “*Nuevo Sindicalismo para Vencer*” – “New Unionism to Win” (Ibid). As in prior years, the marches ended in clashes with the police (*El Mostrador* May 2, 2016). Responding to the CUT’s call for a national strike demanding changes in and passage of the labor reform bills, the Libertarian Left Union Front issued a public declaration. It argued that “the project of Labor Reform from its origins... has been a series of setbacks for the whole of the working class, all of this a product of contradictions and internal tensions evidenced by the New Majority government and that have been expressed in all the reforms they have tried to pass” (*Revista Bagual* May 1, 2016). Reflecting the concerns of many labor dissidents they suggested that, “The CUT... has missed a historic opportunity to fight for a labor reform that consecrates a new labor institutionality... because of their lukewarm role in this process, their excessive confidence in the political class and a preference for lobbying and informal negotiation before mobilization” (Ibid). Like the other parts of the labor left, they closed with a call to defeat the bill (Ibid).

Along with labor unrest, the student movement began another upsurge in mobilizations by the end of May 2016. On May 26<sup>th</sup>, Cones, the National Secondary Students Coordinator, held an unauthorized march for which the government had denied permission (*El Mercurio* May 25, 2016). The student group also announced support for the May 31<sup>st</sup> national strike called by the CUT (*El Mercurio* May 14, 2016). A protest backed by students during President Bachelet’s May 21<sup>st</sup> annual policy speech called the “Public Account” ended with the sacking and burning of local stores by “*encapuchados*” and the death of a municipal security guard (*El Mostrador* May 21, 2016).<sup>388</sup> By the time the march came about 9 secondary schools in the capital city had been occupied, including the iconic *Instituto Nacional* (*Diario Uchile* May 25, 2016).<sup>389</sup> With perhaps 30,000 in attendance, the march ended in clashes with the *carabineros* (CNN Chile May 26,

<sup>386</sup><http://www.cooperativa.cl/noticias/pais/trabajo/1-de-mayo/dia-de-los-trabajadores-marcha-disidente-reivindica-cambios-radicales/2016-05-01/123051.html>

<sup>387</sup>[http://www.cooperativa.cl/noticias/pais/trabajo/1-de-mayo/sectores-disidentes-a-la-cut-marchan-por-el-dia-del-trabajador/2016-05-01/130248\\_2.html#top-galeria](http://www.cooperativa.cl/noticias/pais/trabajo/1-de-mayo/sectores-disidentes-a-la-cut-marchan-por-el-dia-del-trabajador/2016-05-01/130248_2.html#top-galeria)

<sup>388</sup><http://www.cooperativa.cl/noticias/pais/politica/cuenta-publica/cuenta-publica-comerciantes-de-valparaiso-alegan-por-perdidas-y-temen/2017-05-31/141525.html>

<sup>389</sup><http://radio.uchile.cl/2016/05/25/instituto-nacional-en-toma-previo-a-marcha-del-26/>

2016).<sup>390</sup> The occupations, however, spread. On May 28<sup>th</sup> the Chilean Students Confederation, Confech, called for an indefinite “multisectoral” strike to escalate pressure on the government (*Diario Uchile* May 29, 2016).<sup>391</sup> By the end of the month the “student offensive” included at least 47 high schools and 22 universities “in a state of mobilization” – on strike or occupied- including 35 secondary schools and 5 universities occupied (*El Mostrador* June 1, 2016).<sup>392</sup>

On May 31<sup>st</sup>, 2016, the CUT held its national strike rejecting the Constitutional Tribunal’s ruling on *titularidad sindical*, its second such strike of the year (*El Mercurio* May 31, 2016). The CUT demanded its revival after a reform of the constitution, which would clear the way. On that same day, a new public opinion poll from Adimark received wide news coverage and showed poor results for Bachelet, the administration and the labor reform project (*Radio Cooperativa* May 31, 2016; *El Mercurio* May 31, 2016)<sup>393</sup>. President Bachelet’s approval rating had fallen 5 points in a month, to 24%, the lowest of all her years in office. Moreover, 72% registered disapproval, up 7 points. A separate poll by *Plaza Pública-Cadem* released the previous day had similarly found only 21% support (Ibid). The results for the New Majority were worse: just 16% approved and 77% disapproved (Ibid). The labor reform bill, which had been heavily in the news because of the protests and Constitutional Tribunal decision, also saw its lowest approval. Asked “Do you agree with the labor reform?”<sup>394</sup> 28% percent indicated agreement while 60% indicated disagreement, the worst on both counts in the 16 months Adimark had been asking the question (Ibid).

While the CUT and some voices on the New Majority left wanted the government to try again with *titularidad sindical*, via a separate law or even through a constitutional amendment, Economy Minister Valdés rejected any further move to legislate on the matter, insisting, “the reality is we don’t have the votes for that” (*El Mercurio* June 13, 2016). He argued once again that the government wanted the “best labor reform possible... within what can be done” (Ibid). Senior Christian Democrat Senator Andrés Zaldívar echoed the point, “you have to be realistic, we need two-thirds” of both chambers for such an amendment (*El Mercurio* June 14, 2016).

On June 17<sup>th</sup>, after an “extraordinary” meeting of the Political Committee at La Moneda, Marcelo Díaz, government spokesperson, announced a presidential veto of two aspects of the legislation unpopular with the New Majority left and the CUT: new adaptability pacts for shifts and schedules, and the introduction of a new quorum in the union to begin collective bargaining (*El Mercurio* June 17, 2016). This meant that both chambers only needed to uphold the vetoed version of the text for Bachelet to promulgate it as an official law. The president also discarded definitively the possibility of a constitutional amendment to revive *titularidad sindical* (Ibid). In fact, Díaz stated that “Absent a transversal accord [an agreement among all parties in Congress], the Executive will not initiate any new legal initiatives with respect to the project of labor relations, focusing its efforts on an adequate and appropriate implementation” (Ibid).

<sup>390</sup> <http://www.cnnchile.com/noticia/2016/05/05/con-incidentes-termino-la-marcha-de-los-estudiantes-secundarios>

<sup>391</sup> <http://radio.uchile.cl/2016/05/29/confech-agudiza-ofensiva-con-llamado-a-paro-indefinido-y-jornada-de-protesta-multisectorial/>

<sup>392</sup> <http://www.elmostrador.cl/noticias/pais/2016/06/01/estudiantes-anuncian-arremetida-mas-de-20-universidades-y-40-colegios-se-declaran-en-paro-o-toma/>

<sup>393</sup> <http://www.cooperativa.cl/noticias/pais/politica/encuestas/bachelet-marco-minimo-historico-en-la-encuesta-adimark/2016-05-31/092117.html>; <http://www.emol.com/noticias/Economia/2016/05/31/805400/Adimark-Reforma-laboral-sufre-fuerte-caida-en-su-aprobacion.html>

<sup>394</sup> “¿Está de acuerdo con la reforma laboral?” 28% “De acuerdo”, 60% “En desacuerdo”

The New Majority left- as represented by the Communist Party leadership in Congress and the faction of the Socialist Party led by Chamber of Deputies president and former Labor Minister Osvaldo Andrade- and the CUT pronounced themselves “satisfied” (*El Mercurio* June 17, 2016).<sup>395</sup> CUT president Bárbara Figueroa called it “a triumph” and a “substantive advance to improve labor relations”, while PC leader Guillermo Teillier added “we are in agreement with what the President has determined... the law... signifies an advance” (Ibid). Deputy Andrade was more specific:

for a lawyer, which is my case, that participated many times in collective bargaining, to be able to count on floors... on strikes without replacements... a tremendous achievement... believe me that for those of us that have practical experience on the matter of collective bargaining, things are going to change, I can guarantee it (Ibid).

All three of them emphasized the new collective bargaining rules: strike replacements would no longer be legal and the negotiation floor or “ *piso* ” meant that employers could not offer less than the prior contract. In addition, the Presidential veto had taken out two of the aspects of the bill that these forces liked least: a provision to allow “adaptability pacts” in terms of shifts and hours and a higher quorum for a vote to initiate a collective bargaining process (Ibid).

On June 22<sup>nd</sup>, 2016, both chambers of Congress upheld the vetoes, sending the final bill to the President (*El Mercurio* June 22, 2016). The reform’s journey was not quite finished, however. The Constitutional Tribunal gave a customary official review to the law before promulgation. The TC rejected one case from *Vamos Chile* but took another and struck one more provision. In this case, on August 11<sup>th</sup>, the Tribunal struck the word “unions” from a line in section 402 of the bill, which defined who could appeal to the Court of Appeals a determination by a lower court that a business was in one of the legal categories in which workers do not have the right to strike.<sup>396</sup> (*El Mercurio* August 11, 2016). On August 29<sup>th</sup>, 2016, President Bachelet finally promulgated the legislation. It came into effect on April 1<sup>st</sup>, 2017.

The public was skeptical. An Adimark poll taken at the end of August and released September 2<sup>nd</sup>, 2016 still showed that, by a 35-55 percent split, more people disagreed than agreed with the labor reform (*El Mercurio* September 2, 2016). Of course, this was in the context of an economic slowdown, evidence of which was apparent in the same poll, as only 20% approved of the Bachelet’s handling of the economy (Ibid).

### **Conclusion: Labor, the State and the Labor Code after Labor Reform (2016)**

Just as labor reform legislation was finally being signed into law, the CUT held a vote for a new national council that would elect the union’s president, a quadrennial event that had been the subject of intense controversy in previous years. Weighted voting rather than universal direct vote, inflated and false rolls of union members, allegations of corruption in the vote count, the disappearance of leaders’ names from voting rolls, and interference by the government and political parties characterized a 2016 CUT election without a clear result (*El Desconcierto* August 26, 2016; *El Desconcierto* September 3, 2016; *El Desconcierto* September 5, 2016). Arturo

<sup>395</sup><http://www.emol.com/noticias/Nacional/2016/06/18/808455/CUT-PS-y-PC-destacan-veto-presidencial-a-reforma-laboral-Es-un-triunfo.html>

<sup>396</sup> It previously read: “the appeal can be initiated by the firm or the affected unions before the Court of Appeals”.



Martinez of the PS led the list with the most votes, winning 19 out of 45 councilors. The PC's Bárbara Figueroa's list got 16 and the list led by PDC militant Nolberto Díaz got 8 national councilors. However, 4 out of the 6 lists that ran refused to recognize the results (Ibid). With Martinez and Figueroa mutually accusing each other of vote irregularities, the CUT suffered "a total break" (*El Desconcierto* September 6, 2016). This time the scandal was so prominent – perhaps 41% of the 706,000 votes were from "inflated rolls"<sup>397</sup> (*El Desconcierto* September 27, 2016)- that an Investigative Committee of the Chamber of Deputies began to investigate it. The Communists and Christian Democrats formed an alliance in order to name a "transitory directive" led by Figueroa (*El Desconcierto* September 9, 2016). Figueroa was also tied to the scandal, as her father, a long-time union activist, was the treasurer for *Confederación Rancuil*. That union had a discrepancy of 18,000 votes between the CUT voter rolls and the Labor Directorate figures for the union, a fact Martinez reiterated (Ibid). A close analysis of the election process revealed the three lists that benefitted from inflated rolls were those tied to the three key New Majority political parties, headed by Martinez, Figueroa and Díaz (*El Desconcierto* September 27, 2016). Even as this scandal was ongoing, the government and Labor Minister Rincón declared this "transitory directive" of the CUT "a valid counter-party" for negotiations with the government, including on public sector wage renegotiations (*El Mercurio* September 16, 2016). This led to accusations from Martinez of government and political party interference in the union (Ibid).

Between disappointment with the labor reform process and anger at the election, the CUT faced a new level of criticism and opposition from within the labor movement. This long present and growing trend in the movement seemed to crystalize. The most resonant refrain was that about union democratization and transparency. Subordination to political parties and the government, an absence from active participation in other social movements, bureaucratization, clientelism and corruption also received much criticism. Some called for democratizing or even re-founding the CUT, others for abandoning the organization all together and founding an alternative labor central.

In the years leading up to the labor reform, criticism about the CUT had been growing from within the movement. The dissident movement among port workers and their break from the CUT was one major turning point. Following disappointment with minimum wage negotiations at the beginning of 2014, Luis Mesina<sup>398</sup> had argued the CUT "lacks any legitimacy" and that its leaders "only have legitimacy through the state" (*El Desconcierto* March 7, 2014). The Valparaíso regional head of the public employee union ANEF Mabel Zúñiga made a public criticism of CUT leadership during the March 2016 strike called by the CUT, after *titularidad sindical* had been struck down by the Constitutional Tribunal, which garnered attention. She argued, "On many occasions... the different unions and organizations of labor that have faced conflict, we have felt alone" (*Soy Chile* March 22, 2016).<sup>399</sup> Christian Cuevas, an ex-copper workers' leader and a former prominent PC militant, followed his resignation from the Bachelet government with harsh

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<sup>397</sup> As discussed in the previous chapter, "*padrones inflados*" were suspicions around unions whose member rolls were "inflated" or increased by a significant amount in the period before a CUT national union election.

<sup>398</sup> Mesina was the head of the *Confederación Bancaria*, the largest bank workers' union. He was also the leader of one of the largest social movements of the latter half of the second Bachelet Administration, the "*No + AFP*" ("No More AFP") movement. That movement, which began in August 2016, protested the privatized pension system initiated by José Piñera in 1980. The privatized pension funds were called "AFPs" or "*Administradores de Fondos de Pensiones*" or "Pension Fund Administrators". The marches called by "*No + AFP*" gained massive participation in 2016. An August 21<sup>st</sup>, 2016, protest saw 600,000 people participate (*Radio Cooperativa* August 21, 2016).

<sup>399</sup> <http://www.soychile.cl/Valparaiso/Politica/2016/03/22/382750/El-video-del-discurso-de-la-presidenta-de-la-Anef-Valparaiso-donde-critico-a-la-CUT.aspx>

criticism for the organization he was an important member and leader of for many years. The administration of Figueroa in the CUT had been “the worst leadership in 25 years of democracy”, Cuevas said (*El Desconcierto* September 10, 2016). The solution, Cuevas said, “was a process of refoundation of the labor movement” because the CUT “does not represent workers” (Ibid).

Left media critique of the organization also began to grow. This was a space growing in the 2010s as publications that focused on labor and social movements from a perspective to the left and independent of the New Majority political parties became more popular. Periodicals such as *El Mostrador*, *El Desconcierto* and *Periodico Solidaridad* published criticisms much tougher than those of the labor activists, including calls for disbanding the organization. After the 2016 CUT election scandal, for example, *El Mostrador* (September 9, 2016) published an opinion piece by sociologist Daniel Giménez titled “CUT: Let’s turn out the light and lock the door”. *El Mostrador* (September 12, 2016) published one titled “Neither central nor unitary nor of the workers” by Ricardo Candia Cares, journalist and *Colegio de Profesores* teachers’ union adviser. Since 2010 *Periodico Solidaridad* had published many accounts of labor actions and editorialized “from a classist and libertarian perspective”, and featured labor movement activists who advocated “a unionism from below” based in “multisectorality, direct action by the masses and a socialist perspective” (*Periodico Solidaridad* April 1, 2015).

The Bachelet Administration and New Majority ruling coalition also found themselves in a position of weakness in the period following passage of the labor reform legislation. Public disapproval over a slow economy, corruption scandals involving the financing of politicians and political campaigns, a scandal involving Bachelet’s own son and a controversial real estate deal, and disappointment with the slow and moderate nature of many of the New Majority’s promised reforms combined to take a toll on the popularity of all political leaders in Chile at this time. In addition to labor reform, major subjects of social movements and the New Majority campaign platform like education reform, AFP pension reform and Constitutional reform saw a similar dynamic of a slow process whose policy outcomes disappointed many movement activists.

In general, the political dynamic in the labor movement following passage of the bill was similar in many ways to past sequences in the post-dictatorship era, albeit with a more pro-labor substantive outcome in terms of the collective bargaining process this time. Faced with a policy outcome far short of the desires of the mass base of activists in the labor movement, leadership of that movement, especially as represented by the CUT, tended to place blame on the politicians and the political parties. Within the New Majority, the Communist party blamed the faction of centrist Christian Democrats for blocking further progress, while that faction cited traditional concerns about economic growth and international competitiveness.

The major substantive change of this lengthy and complicated labor reform legislation was in the new rules for collective bargaining. Bargaining groups were done away with, replacement workers were formally prohibited, a new negotiations floor required firms to make an offer at least equal to the previous contract, the number of workers, such as those in apprenticeship contracts, who can collectively bargain was increased, and the right of workers in such negotiations to information from the firm was augmented. However, the clear desire of even a progressive government to use such legislation to control, channel, and ultimately reduce labor conflict speaks to the potential that the major aspects of the Chilean labor relations and capital accumulation models will remain in place. Ultimately, the significance of this labor reform will be seen in the de facto situation of labor in Chile: trends in strike dynamics on the ground; trends in wages, both for those who can access the formal collective bargaining process and the large majority who will still not be able to do so; effects on inequality at the broadest level, such as the Gini Coefficient,

which characterized Chile as one of the most unequal countries in the world for years? Although the discourse of the state and government was exactly about improving these larger structural conditions, the preoccupation with control over labor conflicts- over the very labor threat that was a key historical source of “profound changes” in Chile’s labor relations system and its political economy more broadly- the potential for another instance of “*transformismo*” seemed significant.

## **Chapter 8 – Conclusion: Labor, Political Incorporation, the State and the Labor Plan**

This dissertation has reviewed the history of state-labor relations, particularly as mediated by political parties, in the Concertación Era, the whole history of the Labor Plan and more broadly in Chilean history, in order to understand the path of the Labor Plan and this Labor Code's post-dictatorship persistence. In this conclusion I will review the main findings, address scholarly literature on key subjects broached and offer some tentative generalizations from this case study.

### **Review of Main Findings**

The research question that began this inquiry was why the much reviled Labor Code put in place by the Pinochet dictatorship was able to persist through two decades of opposition-led progressive democratic governments under the Concertación despite explicit promises of reform to an allied labor movement and seemingly propitious political opportunities for that movement. The key conclusion on this question is that labor threat was historically weak in the Concertación Era. There was not enough pressure from the labor movement to push promised profound reforms.

“Labor threat” as understood in this dissertation is simply the costs the labor movement can bring to bear on the defining “vulgar” interests of capital, the state and political parties. It is the harm or potential for harm to profits and power, the capital accumulation process and political-institutional control, key drivers of political-economic leaders’ and would-be leaders’ behaviors. Without the labor threat causal factor these interests motivated leaders’ perpetuation of the Code.

The historical review underscored that labor threat understood this way was low in the Concertación Era in comparison to many other periods in Chilean history. It was low in comparison to the period prior to it, when the labor movement led the opposition to the dictatorship, threatening it with international and national strikes that exacerbated fractures within the regime and brought pressure to bear from the United States, its crucial global backer. It was low in comparison to the period that followed Concertación rule when social movements in general and labor strikes and protests in particular exploded during the first term of conservative President Piñera. Strikes in terms of number and costs, including illegal strikes, continued to grow even after Piñera left office, peaking in 2016 on the eve of significant Labor Code reform being approved by Congress. Labor threat in the Concertación Era was even lower than in the period of unmediated repression of the first five years of the Pinochet dictatorship when illegal labor organizing nearly toppled the regime.

In fact, in broader perspective, labor threat was low during the Concertación Era compared to more distant and more current historical periods than those covered by this review of Labor Plan history. It was lower than during the first major labor upsurge in the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries. It was lower than in the 1930s in the lead up to the Popular Front governments. It was lower than during the post-World War labor upsurge that eventually drove President González Videla and the Radical Party out of power. It was low compared to the 1950s founding era of the CUT when major general strikes shut down the whole economy and threatened Ibáñez rule. It was even low compared to the short period of pro-worker, pro-union government under the UP when the CUT and labor movement enjoyed institutional positions up to the cabinet and close relations with the state and ruling parties and the working class saw many tangible benefits. Finally, labor threat was low in the Concertación Era in comparison to the current period of Piñera's second term when a social movement explosion that included crucial labor-led general strikes has given birth to a process for a new Constitution to replace the 1980 document that has blocked labor reforms.

The second major conclusion of the historical review was that labor threat was low because of political incorporation. Political incorporation is the combined effects of the institutionalization of the labor movement within both state legality and via integration with political parties. So, in the late 1970s with the Labor Plan (some) unions, collective bargaining and strikes were legalized and regulated. Then, during the course of the 1980s, historic ties between the labor movement and the political parties were rebuilt. Finally, with the 1987 “electoral turn” the labor movement willingly ceded leadership of the opposition to the dictatorship to the parties of the Concertación. The legacies of this incorporation into the states legal schema and the political parties strategic orientation and perspectives from 1979-1989 conditioned the low labor threat from 1990-2010.

The successful containing and channeling of labor threat via political incorporation during the Concertación Era also echoed the first political incorporation of labor which saw the gradual conversion of a “free” unionism into a “legal” unionism over the course of the 1920s and 1930s. This first political incorporation of labor was a response to the birth of the modern labor movement and the growing threat it posed in the early decades of the 1900s, culminating in the tremendous strike wave of 1918-1919 that was strongly influenced by the anarcho-syndicalist labor current. It was initially met with brutality and violence, symbolized by incidents like the Iquique massacre. Eventually, institutional incorporation was discovered as another strategic reaction to labor threat. Both aspects of political incorporation, state and party based institutionalizations, were an explicit strategy to deal with labor threat for ultimately political ends of gaining and maintaining power. Alessandri and then, following another huge strike wave, Ibáñez, were clear that the legalization and regulation of unions, collective bargaining and strikes was the only and best way to neutralize the dangers posed by “subversive” revolutionary labor movements. Violence alone would not work. In another way, the Communist and Socialist Parties of the 1930s used their influences with the labor movement (especially the CTCH) to decrease labor threat towards the state in order to maintain political stability for a “progressive” government those parties backed and took part in. One major consequence of political incorporation conditioned lower labor threat was consolidation of the first Labor Code, passed by Alessandri and put into practice by Ibáñez over labor opposition.

Similarly, Pinochet and Labor Minister Piñera advanced the Labor Plan as a strategy to defuse both immediate and acute labor threat at the end of 1978 and longer term labor threat to the broader Junta political-economic project. The logic of legalizing unions, collective bargaining and strikes from the perspective of the state and capital was cogently laid out by Francisca Gutiérrez of the Labor Strike Observatory (OHL) at the Center for Conflict and Social Cohesion (COES):

The prohibition of strikes can make labor tensions deviate into other forms of dispute, including more violent than legal stoppages... limiting the right to strike does not assure the company will not be affected by strikes, nor that conflict will not grow by other paths, prejudicing productivity and demanding greater public expenditures... These other forms of conflict can have an economic cost equal or greater than legal strikes... They can also intensify when there exists... a violent rejection of unions. The fact that conflict is inevitable does not mean it cannot be attenuated or its costs will always be unmanageable. Evidence exists strengthening unions... can strengthen productivity in companies, in part, because it can channel and help resolve tensions... strikes that derive from bargaining with unions can imply a lesser const, in the medium and long term, than a system where collective bargaining plays a marginal role (*El Mostrador* January 4, 2018).

This type of analysis was an important part of the case Piñera made to Pinochet about the reasons to structure the Labor Plan in the way he did. In fact, while the union legalization provisions were most directly conditioned by labor movement demands and US government pressure to defuse the immediate labor threat crisis, collective bargaining and strike provisions were designed with this long term strategic perspective. This included key provisions like bargaining de-synchronization, time limits on strike duration, banning solidarity strikes and allowing of hiring strike replacements.

The second process that channeled and contained labor threat was the resuscitation of ties between the labor movement and political parties during the 1980s. During this period “renovated” factions of the Socialist Party and, most importantly, the Christian Democratic Party, played an increasingly central role in negotiating with the dictatorship. As repression took its toll on the labor led opposition, the polarizing environment generated a Communist Party led armed insurgency and incentivized the US to throw its weight behind the PDC and a negotiated transition to avoid a “Cuban” outcome. The PDC and the PS were the very factions with the most control over the key leadership positions in the institutional labor movement, the copper workers and the CUT most crucially. So, when the labor opposition ceded protagonism to the political party opposition and that party opposition made the US-backed “electoral turn” to contest the dictatorship within the confines of the very institutions it had set up in the 1980 Constitution, labor threat of the type in evidence in 1978 and again from 1983-1986 was successfully channeled and contained. This same political incorporation proved very effective in channeling and containing labor threat during the transition and through much of the Concertación Era. This was due to institutional labor movement leadership identifying labor interests with those of the post-transition state and ruling parties. As transition era CUT leader (and PDC militant) Manuel Bustos put it, “the promotion and defense of the interests of the working class are intimately linked to the consolidation of democracy and the political stability of Chile” (*La Época* April 24, 1990).

Political incorporation even worked to contain and channel labor threat through the PC, which was outside of the Concertación and Congress for the entire 20 year period. As labor base disillusionment with the government and allied labor leadership grew, Communist Party influence in the labor movement grew alongside it. Yet, because the PC’s central strategy was to break its political isolation and revive its historic alliance with the Socialist, Radical and Christian Democrat parties, its social movement orientation was subordinated to this goal. Even when Eitel Moraga became leader of the CUT in the late 1990s it did not significantly change its orientation or boost labor threat. The PC wanted to offer the Concertación control over movement threat in exchange for legal and political institutional change that would allow it back into the coalition and Congress.

When the right came to power in 2010, the binds of party incorporation waned but did not dissipate completely. Expanded to include the PC in the New Majority coalition, the opposition parties shared some interests in increasing labor threat with Piñera in power, but not so much that it fractured their alliance or imperiled their electoral prospects. The ruling coalition parties had no ties to the labor movement, and base level opposition to the Labor Code, neoliberal economic model and institutional schema inherited from the dictatorship and pact transition conditioned to sharpen. Labor protests, strikes and other direct actions, alongside broader social movement mobilization, surged. Once the New Majority took power any honeymoon was actually brief, notwithstanding attempts to contain and channel labor threat. All of the parties had seen declining popular support and their allied labor leadership showed less ability to contain and channel bottom up labor threat, which increasingly came from further left labor sectors with a greater emphasis on autonomy and direct action. The most threatening part of the labor upsurge that continued was precisely that outside of the legality of the state and Labor Code and even against the labor union

institutional leadership and parties, which did in many instances try to contain and channel it. At a peak of labor threat growing for a decade, in 2016, a substantial labor reform was legislated.

The path since is in many ways indicative. The Constitutional Tribunal ruled key sections of the Labor Reform unconstitutional under 1980 Constitution Article 19 which enshrines key neoliberal policy planks within the Constitutional order itself (Couso CLAS virtual event, UC Berkeley October 15, 2020). Nevertheless, with the New Majority in power and a new institutional state incorporation of labor supported by the institutional labor movement, headed again by the PC strikes, illegal strikes, and the cost of labor conflicts fell 2017-2018, breaking a 10 year streak (*Diario Financiero* August 23, 2019). However, once Piñera returned to power, strikes once again spiked, rising 68% in 2019, concentrated in legal strikes (OHL October 7, 2020). In the context of the social explosion, 1/3<sup>rd</sup> of illegal strikes occurred after October 19<sup>th</sup> (Ibid). The Constitution and institutional political system, including parties, was, of course a main target of the mass uprising.

### **Reflections on Literature**

The research questions and conclusions have been structured by engagement with literature in three predominant areas of inquiry. Social movements literature has helped define the analysis around opportunities and constraints for the labor movement in Chile. The literature on political institutions has aided in conceptualizing the actors the labor movement was working through and against. Finally, literature around “hegemony” and “consent” facilitated evaluation of base-level labor dynamics vis-à-vis the labor movement and political institutions and patterns of labor threat.

### **Political Opportunity Theory**

To begin with, this dissertation has understood the contradictions of interest between labor and the political parties and the state illuminated by the Chilean transition and Concertación rule by using “political opportunity theory” as a foil. This classical social movement theory emphasizes the advantages that ought to accrue to social movements when political institutions become more open to participation, more responsive to popular will and less violent and repressive in their mode of interaction with society. The Chilean transition and the difference between the military regime and the post-transition state governed by the Concertación appears as an exemplar of expanding political opportunities as conceptualized by that literature. Moreover, the labor movement was led by Christian Democrats and Socialists that had close links to politicians of the same parties that were key political players in the incoming government. The movement had led the opposition and its sacrifices had spurred the military regime to negotiate and the US to back the transition. Finally, the incoming Concertación leadership had promised and campaigned on “profound changes” to the Labor Code. Yet, the history of the labor movement and Labor Code in the Concertación Era served to underscore the ways in which “openness” and “links” carry with them the risks for social movements that come with “incorporation”. A fundamental dis-alignment of interests between the labor rank-and-file and the political institutions of parties, the state and even the movement itself meant that insofar as incorporation compromised autonomy and dampened militancy, institutional opening was actually harmful in some ways to the power and success of the labor movement. This appears to have been true for many social movements post-transition (Uggla 2000; Paley 2001).

This realization points towards a less sanguine view of political institutions and social movement engagement with and within them, even “democratic” ones. This more cynical view of the relationship between political opening and political incorporation for the labor movement is

captured by Political Scientist George Ciccariello-Maher's insight that "every concession is at the same time a containment strategy" (Salon.com May 4, 2015). This view is more consistent with the history of episodes of Labor Code legislation this dissertation has reviewed. These episodes are responses to labor threat, but they are responses intended as a strategy to contain such threat. Piven and Cloward (1977) long ago noted concessions can lower the very threatening militancy that was the source of power for movements of the marginalized vis-à-vis political institutions in the first place. This echoes the warnings of anarcho-syndicalists and other labor advocates of "free" unionism in 1920s Chile that "the more concessions the more moderate the working class" (Silva 2000: 56). Worries about autonomy from the state and political parties drove the original founding of the CUT under the influence of Clotario Blest and drove the bottom-up and sometimes illegal tactics of "neo-syndicalist" left labor movements of the Concertación and post-Concertación eras. The two great episodes of Labor Code institutionalization followed by party incorporations did contain positive inducements that many were eager to take up. Not least of these was the promise of a decrease in repressive state violence against labor. Yet both state and parties strategized that such incorporations, such political openings, would serve to channel and contain labor threat. And each, in fact, did. The periods of the Popular Front and the Concertación saw subdued labor threat.

### **Ideas and Institutions**

The behaviors and motivations of these political institutions that the labor movement has interacted with and within have been clarified through engagement with an "ideas and institutions" vein of literature within historical institutionalism. Specifically, this framework centers ideas and discourses as crucial in understanding and explaining the choices of political actors and the paths of political institutions, including political parties and state bureaucracies. Here, the causal arrow runs from ideas to institutions. The historical review in this dissertation offers grounds to contest this interpretation. I have argued that the history of the Labor Plan evinces a more cynical relation between ideas and political-institutional action. More than as reasons, ideas and discourses served as rationalizations for such political-institutional action, whose real causes were found elsewhere.

Labor Plan history is an illustrative case where institutional genesis and persistence were premised on and fundamentally driven by the "vulgar" interests of political institutions and actors. These interests in profits and power, in seeking to gain and maintain political control and in the dependence of that strategic imperative on the capital accumulation process, are rarely the explicit subjects of political discourse or centered in the elaboration of political ideas, ideals or ideologies. Where such topics are broached, euphemism is the modal form; "governability", "keeping the right out of power" or "growth" as prerequisite for "equity" did figure often in Concertación discourse. What did not figure was admissions that actions were taken to gain and maintain power for its own sake and that the owners of capital would have to see ever increasing valorization for that to occur. Yet, such "vulgar" motivations, as theorized by Weber, Michels and Marx, appear to correspond to observed behavior better than the high minded reasonings of public speakers or ideologists. In a rationalization, the causal arrow between explicit articulation and action runs the opposite way.

The "vulgar" political interests of political actors in gaining and maintaining institutional political power were more-or-less directly given by and accurately read from the structural imperatives of the global capital accumulation process in a neoliberal era of declining profits and increasing international competition and Chile's particular insertion in that dynamic. Pace Blyth, for example, key political actors in Labor Plan history do not appear totally mystified as to what their basic interests are or how to realize them within this structural imperative, even in times of



acute crisis. Indeed, both Junta and Concertación leaderships were able to subdue labor threat at key junctures, benefit from phases of significant expansion of capital accumulation and maintain power for extended periods of time. That is, they successfully read their interests from structure.

Moreover, the key actors in the institutional path of the Labor Plan Labor Code – Pinochet and the Junta, Concertación governments and parties and the labor movement – all expressed a cynical attitude towards the ideational or ideological justifications for this institution. Indeed, all often claimed to explicitly disagree with such postulates, “going along” with the institutional path for pragmatic political reasons. And, indeed, all these actors were closely focused on the dynamics of power politics, on positioning themselves to gain or maintain political power and influence. At times this politically “pragmatic” logic was made quite explicit. Pinochet was less interested in the fine points of neoliberal political philosophy than in maintaining power in the face of crisis and in defusing long-term potential threats that he identified with the political left and labor. In this sense it is illuminating how the account from then-US Assistant Secretary of State for Inter-American Affairs Elliot Abrams (“He knew nothing about economics and didn’t care much about it”) aligns with Harvey’s argument about attacks on labor globally (“I don’t think they started out by reading Hayek or anything”) (*Commentary* April 1, 2013; *Jacobin* July 23, 2016). Taylor (2004: 77) argued that the Concertación disjuncture between rhetoric and policy on labor reform owed to the capital accumulation imperatives of “cheap and flexible labor”. Block’s (1977) classic formulation links this imperative to the political logic of governments; diverging from such imperatives risks losing power. Labor “flexibility”, “control” and “a high rate of... exploitation” were pronounced global phenomena in the neoliberal era (Harvey 2005: 75-76) suggesting that Chilean governments were reacting to a structural imperative and not ideological or discursive constructions. Concertación leaders implored time and again that institutional blockages inherited from the pacted transition were simply the price of transition and taking power and that the pragmatic of successful economic development had to be considered. President Lagos said, “unions should not ask for more than the economy can bear” (Silva 2000: 427). They did not express ideological fealty to the Labor Plan. Finally, the leadership of the institutional labor movement, and the CUT in particular, were shown to have constantly and vehemently rejected the Labor Plan on ideological and ideational grounds from the moment of its inception and throughout the Concertación Era. Still, the strategic stance they adopted at the critical juncture of the transition turned out to be crucial to its perpetuation.

### **Hegemony and Consent**

The base of the labor movement never agreed to or accepted the Labor Plan either. Yet, I have argued the actions of this base were ultimately determinant in the dynamics of labor threat. In fact, in moments of bottom-up labor upsurge, such as that which began in the latter years of the Concertación Era and other crucial moments in Chilean history, the actions of this base generated historical trajectory altering labor threat even against the opposition and containment of all of the political institutions deal with above: labor movement institutions, political parties and the state. In addition, the labor base is not structurally positioned to have the same motivations or causes for action and inaction as those institutions. Yet, base-level labor threat was low for much of the Concertación Era. Literature around hegemony and consent helped parse this apparent paradox.

Hegemony theory, as elaborated by Gramsci and later developed by scholars such as Stuart Hall and Ernesto Laclau, understands such questions through the rubric of “consent”. Hegemony theory posits that social control over subordinate groups operates importantly through the eliciting of consent from those groups. Quiescence is explained by a combination of force and consent. In

fact, consent is primary, coercion appears “in moments of crisis and command when spontaneous consent has failed” (Gramsci 1971: 12). Low labor threat is explained by rank-and-file consent.

For example, the historical review showed that both the first great labor upsurge of the late 19<sup>th</sup> and early 20<sup>th</sup> Centuries and the initial years of Pinochet’s military regime were characterized by the state relying overwhelmingly on violence and brutality to react to and contain labor threat. However, in both instances the state eventually found it necessary and/or functional to incorporate labor into a formal-legal institutional framework. Unions, collective bargaining and strikes became legally recognized and regulated. The tool kit of the state to deal with labor expanded to include inducements as well as constraints. Wherein violence was not omnipresent and omnicausal consent must have played a key role in the quiescence of the subordinated working class that followed. In this vein of theorizing consent is closely tied to ideology, articulating another version of ideas as causes, this time at the base rather than institutional and elite levels.

However, the historical examination undertaken in this dissertation suggests the dynamics of labor-state interaction in the process and path of labor reform in the Concertación Era, and Labor Plan history broadly, can be read to contest this type of explanation for base level labor quiescence. A theoretical mediation on the concept of “consent” also posed serious questions for its usability. For, both history and logic suggest that consent has never been at issue between labor and the state.

As noted, ideological opposition to the Labor Plan by the leadership of labor movement institutions was clear, consistent and strong from before its enactment in 1979 throughout the Concertación Era and up to the moment the Labor Code was reformed in 2016. Every indication, including public polling, mass protest activity and strike actions, suggests that rank-and-file labor rejection of the Labor Plan was at least as vehement. Labor did not assent to the Labor Plan because of any ideological agreement nor consent to its imposition at any time. It was never given a chance.

More broadly, the political regimes of the Junta, before and after the 1980 Constitution, and the restricted democratic republic that emerged from the elite pacted transition are exemplary of political-institutional systems precisely not founded on popular participation or consent. The byword of the dictatorship was brutality and of the Concertación technocracy, each in its own way the obverse of popular sovereignty. One was very much preferable to the other for the labor base and the majority of the Chilean population, as the October 1988 plebiscite and repeated electoral victories of the Concertación made clear. And the institutional labor movement leadership strategy of conciliation and concertation was very much premised on this preferability, even if this strategic wager and identification of interests yielded far less than labor leaders hoped for early on. Still, this “choice” was very much between different non-consensual options, not a move from force to consent. The concession of decreased, but not eliminated, state violence is a powerful motivator indeed. But pragmatic cooperation for this should not be analytically conflated with “consent”. A moment when labor could freely give or withhold consent never occurred. Indeed, just as the labor upsurge that began in 2006 and escalated for a decade culminating in the 2016 labor law reform belied the notion that quiescence had ever meant consent to the Labor Plan, so did the social explosion of 2019 with its central demand of eliminating and replacing the 1980 Constitution call into question any presumption that quiescence to that institutional order ever mean consent to it.

Moreover, trends during the Concertación Era itself point to a dynamic other than consent in explaining patterns of base level labor resistance and quiescence. After all, hegemonic power, understood as the ability to elicit consent or co-opt rather than simply repress, ought to have been increasing over the Concertación Era. The historical review showed that political power moved left and, by Bachelet’s mandate (2006-2010) the progressive wing of the Socialist Party controlled the executive and was the central power in Congress, as well as leading the CUT. Power in the

CUT and institutional labor movement also shifted left as the PC and groups to its left gained influence. Bachelet's government was also the pinnacle of Concertación Era social programs that benefited working and popular classes. These included anti-poverty, health care, unemployment and minimum wage laws. Political opening expanded with the 2005 Lagos constitutional reforms that did away with the authoritarian enclaves and Bachelet's opening the Concertación presidential nominating process to primary elections. These factors are why scholars like Motta (2008: 303) argued "the Chilean Socialist Party (PSCh), as part of the governing Concertación coalition, has played a key role in constructing consent and disarticulating dissent to neo-liberal hegemony in Chile" and "this process occurs in relations to the popular classes within, and outside, the PSCh." Yet, labor and broader social movement pressure from below began to grow notably exactly during that administration. The first major student movement and the first significant labor upsurge of the post-dictatorship era both coincide with the first Bachelet presidency. Moreover, labor and social movement threat from below continued to increase for many years after that initial point, under conservative post-Concertación governments, but even under the still more progressive second Bachelet administration. The lack of popular legitimacy among political parties and institutions became more and more of a central political problem, driven by the threat from below. I argue it was not hegemonic power successfully eliciting consent that explains labor or popular quiescence.

Another major trend of the Concertación Era helped shed some light on an alternative explanation. That is, the social movement upsurge that began during the first Bachelet years and has yet to subside has been visibly led by a younger generation raised after the dictatorship. This has led to many commentaries that this generation does not know the fear of their elders, with the "*generación sin miedo*" becoming a staple of social commentary since the student movement of 2011 but especially since the 2019 social explosion.<sup>400</sup> Clearly, the student movements of 2006 and 2011 were youth led. And many have looked to generational turnover in the declining support for political parties and institutions. But the labor upsurge also owes something to younger cohorts. Francisca Gutiérrez of the Labor Strike Observatory (OHL) at the Center for Conflict and Social Cohesion (COES), argues, "The union world has experienced a relative strengthening in the last decade (see, for example, the increase in the unionization rate and the number of strikes since 2006) ... this process has been generated outside of the changes in the law and, probably, is very linked to a generational change in the workers" (*El Mostrador* January 4, 2018).

This study turned instead to a "post-hegemonic" (Beasley-Murray 2010) framework that emphasizes fear rather than consent as the supplement to force that secures the quiescence of the dominated, even when violence is not immediately present. The long heritage of fear from the dictatorship even post-transition poignantly speaks to this effect. Indeed, just as "consent" turns out to be the primary term in the couple for Gramsci, so can fear be understood as the predominant method of securing the quiescence of the dominated without any ideological consent. Actual violence is employed only a minority of the time. Its effects travel in time and space as fear far beyond those instances. This is the basis of domination without consent and so without hegemony and without reliance on ideology. Fear operates directly on the body, beneath and before language and conscious thought. The pervasive penumbra of force and fear rules out any meaningful notion

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<sup>400</sup> See Cummings (2015) and Sandoval and Carvallo (2019) for academic analyses or BBC.com October 23, 2019, *El Diario* November 18, 2019, *La Arena* November 2, 2020, for media coverage. Exemplary quotes include: "Our parents lived the dictatorship and they have a great internalized fear with respect to the military, violence and State terrorism" (*El Diario* November 18, 2019) and "Today the Chilean youth, we are the generation without fear. The older adults have fear to express themselves, they lived the Pinochet dictatorship and still feel that effect because they lived with constant fear to say things, instead we didn't live all of that and we don't have fear" (*La Arena* November 2, 2020).

of consent as operative in state-labor, capital-labor or state-multitude relationships. Overcoming fear offers a better explanation for upsurges in resistance than a breakdown of ideological consent.

If there was any doubt, the social explosion put paid to any notions of political-institutional “legitimacy” in the post-transition “Chilean model”. Fear was clearly present during and after the transition. Consent was rather dubious after-the-fact imputation regarding top-down machinations.

In fact, the process leading to the new Constituent Assembly illustrates many of these dynamics clearly. The fear of a repressive government and even martial law was broken through via direct action in the streets. It was a complete rejection of the political system, government, and mediating institutions: state, party and even institutional labor movement. The rather shocking Constituent Assembly election results underlined this point, in their rejection of the traditional political coalitions and even its low turnout for such a historic and consequential vote. Piñera’s traditional right and the ex-Concertación center-left came in well below expectations, with “the results being read by analysts as a ‘punishment’ to traditional political forces” (BBC.com May 17, 2021). Cadem pollster Roberto Izikson called it “a rejection of the existing political system, all the traditional elite” (Ibid). Low turnout underlined “the crisis of representative democracy is not new in Chile and explains, in part, the nearly structural abstention in elections, which has not declined from 50% since the implementation of the voluntary vote in 2012. In this election, so important for the destiny of the country, a majority of electors also opted to stay at home (some 57%)” (*El País* May 18, 2021). Even President Piñera acknowledged that Chile’s “traditional political forces” were “not in tune with the people’s demands” (*The Guardian* May 17, 2021).

As Political Scientist Claudia Heiss, head of the University of Chile Institute for Public Affairs, argued of the Constituent Assembly process,

Its principal particularity is the combination of a revolutionary process, a popular explosion from below, with an institutional reaction from Congress, a capitulation from above. The process would not exist without the social explosion of 2019, that is what forced the hand of the political system, but it was the political system itself that reacted offering an institutional exit (*El Confidencial* May 28, 2021).

An insurrectionary threat and crucial general strike birthed the reaction of a trans-partisan political agreement that triggered the Constitutional process. This was seen as a way to resolve the social and political tensions made evident by the October 2019 social unrest and channel them into an institutional process (Couso Berkeley Review of Latin American Studies Fall 2020). Of course, as Couso noted, this institutional process will be contained and channeled. A 2/3<sup>rds</sup> requirement to pass anything and a requirement that the new Constitution adhere to prior judicial rulings and international treaty obligations, including dispositions on private property, delimit the extent of popular sovereignty embodied in the Constituent Assembly from the outset, and in a particular direction (Ibid). Thus, the process exemplifies “the transmutation... from constituent to constituted power” (Beasley-Murray 2003: 284) in the passage from social explosion to new Constitution.

Fear, force, a threat from below and institutionalization as concession-containment. These concepts offer a framework with which to understand labor-state-Labor Code dynamics in Chile, as well as multitude-state relations, politics and political institutionalization more broadly. They do so without the need for a recourse to any putative consent or affirmative ideological agreement.

### **Broader Theoretical Implications and Directions for Future Research**

One of the major conclusions of this study has been the important degree to which labor is an initiating actor in processes of labor institutionalization. Likewise, the state has been observed as a fundamentally reactive agent in these processes, prod to action only when labor threat becomes sufficient. I have shorthanded this dynamic by modifying the Italian Autonomist insight regarding capital reactivity to “labor acts, the state reacts”. It is a historical, sequential regularity that speaks profoundly to the “primary” nature of labor in both the labor-capital and labor-state dualities.

On the one hand, I have argued that this expresses and validates a Marxist understanding of the state as materially dependent on labor via the capital accumulation process. This plays out both in the direct material sense (as in the direct excise on copper sales to fund the military) and through the political pathways laid out by Block (1977). Here, harm to the capital accumulation process and attendant economic, investment and employment downturns redound in political pressure on the state and ruling political factions or parties. Key examples include Pinochet facing the international boycott or Concertación leaders’ high degree of sensitivity regarding investment. Both capital accumulation and the state find their necessary material basis in surplus labor. This structures the essentials of a labor-state relationship defined by: (1) a fundamental conflict of interest over the disposition of surplus labor and (2) an asymmetry whereby labor is endowed with a potential autonomy from the state and capital that is absolutely ruled out in the obverse. In its “stronger version” we can recall Holloway’s (1995: 163) formulation “that capital is nothing other than the product of the working class and therefore depends, from one minute to another, upon the working class for its reproduction”. This has decisive implications for a capitalist state constituted by its dependence on the capital accumulation process for its own material reproduction.

Furthermore, the necessary dynamics of the capital accumulation process and the history of neoliberalism suggest a third characteristic that structures these relations. As Marx argues in *The Grundrisse* (1973), a structural imperative demands that the ratio of surplus labor to grow vis-à-vis necessary labor. That is, for the capital accumulation process to persist an ever growing share of surplus labor must be expropriated. Thus, there is not only a static conflict of interests between the state and labor, but an ever sharpening one, which spurs state action and drives labor-state conflict. This explains why a period of labor quiescence may portend sharpening conflict obscured momentarily by fear rather than express a substantive political stability born of consent. The inertial stability of political institutions despite an increasingly exploitative dynamic reflects the interests of political institutions in stability itself, even within such a dynamic and structure. And this explains why labor threat is a crucial ingredient to disrupt stasis and drive institutional change.

Secondly, it is striking to note just how profoundly this logical, structural ordering was reflected in the actual historical, political ordering of events, despite all of the complexities and contingencies that influence the latter. An exemplary recurring pattern we have seen is a sequential relationship in key periods of political institutionalization between a labor-state “settlement” and a succeeding broader political-institutional “settlement”, specifically at critical junctures of Labor Code and Constitution origination. The original Labor Code in 1924 was conceived of as a way to contain and channel labor threat and, more broadly, respond to the “social question” that bedeviled the state and ruling class in the early 20<sup>th</sup> Century and which repeated rounds of brutal violence and repression had failed to fully resolve. The Constitution of 1925 was another response to these pressures on the preceding “liberal, semi-parliamentary” regime. In an echo of this experience, the military regime was pressured to institutionalize labor relations in the 1979 Labor Plan as a more urgent matter than its more planned and longer term strategy, driven by similar pressures, to institutionalize the political regime in the 1980 Constitution. These pairs of documents inaugurated defining institutions that crucially influenced the Chilean political economy for nearly a century.

Most recently, a labor movement upsurge that saw labor threat grow consistently for a decade from 2006 resulted in the most substantial reform of the Labor Plan since its inception, legislated in 2016. This took place within the broader context of a social movement effervescence that, with more fits and starts but with even more dramatic peaks, reached new heights in the “social explosion” of October 2019. The compressed and dramatic cycle of social protest, mobilization and conflict this multitudinous bursting forth birthed spurred a Constitutional Accord which, with an October 2020 plebiscite, finally opened a path to dislodge the 1980 Constitution.

Crucially, a series of CUT called general strikes rejecting the government’s imposition of martial law and demanding a Constituent Assembly for a new constitution - on October 23<sup>rd</sup> and 24<sup>th</sup>, October 30<sup>th</sup> and finally November 12<sup>th</sup>, 2019, the most important general strike in decades - were proximate initiating events for the Accord, reached under maximum social pressure. The Accord was announced early on November 15<sup>th</sup> after 2 days of marathon negotiations between the officialist and opposition parties on the 13<sup>th</sup> and 14<sup>th</sup> (*El Mercurio* November 16, 2019). Even President Piñera recognized that “the night of the 12<sup>th</sup> of November last year marked an inflection point” (*El Mercurio* July 31, 2020). At the end of a Constitutional Convention whose April 2021 election results put left, independent and social movement forces at the helm with the necessary 2/3rds majority to write and approve a new text, a plebiscite could approve a new Constitution in 2022. The broader social movement upsurge is also often dated to 2006, with the emergence of the “Penguin Revolution” student movement. Both trends show a strong generational component. So, again, both institutionalizations were driven by the pressure of closely intertwined upsurges from below and sought to contain and channel threat via institutionalization. Again reinstitutionalization of labor relations historically preceded a broader constitutional-political reinstitutionalization.

A related sequential pattern we observed is in the repertoire of state strategies responding to labor upsurges and labor threat. Consistently, in moments of labor upsurge that did and did not result in significant labor institutionalization, the state responded first with force, often brutal and massive violence. The first great labor upsurge that dates to the general strike in Tarapacá in 1890 and the Chilean Civil War it helped spawn in 1891 was ultimately decided by violence. The strike was brutally repressed, Balmaceda’s forces were routed, in part because of the intense labor opposition his harsh tactics generated, and the labor and popular ferment that followed the war was eventually brought under control by military means. It was this crushing of the upsurge from below, and the fear this upsurge caused elites of both factions, that paved the way for the consensus that allowed the Constitution of 1891 and the decades-long political regime it inaugurated. When the movement was reconstituted and threat began rising again, it was met by historic violence, including the infamous massacre at Escuela Santa Maria de Iquique. When labor recovered from this epic violence and labor threat reached an even higher level, peaking in 1920, a harsh wave of repression preceded any legislation in the first institutionalization era. Even after the first Labor Code was legislated amidst social ferment in 1924, its lack of effective implementation was unable to forestall another peak in labor threat in 1925. This was met by more systematic violence as well as Ibáñez’ efforts to make effective the Labor Code regime legislated under Alessandri.

The post-World War II labor upsurge spawned the anti-communist crackdown that culminated in the *Ley Maldita*. A period of heightened labor-state conflict that followed in the 1950s was only brought under control by a second historic political incorporation. The “out of control” factory occupations and *cordones industriales* were a central factor in the radicalization of opposition to the UP and significantly informed extreme labor repression that defined the early period of military rule. Some even met with repression by the UP-led state. The 1978 labor upsurge that eventually led to the Labor Plan was also met with repression, until this strategy created

significant tensions within the Junta and with the United States Government. The 1983-1986 labor led National Protests were also met predominantly with force. This strategy was again modified only when repression contributed to the strengthening of a Communist Party led insurgent opposition whose escalating threat caused divisions within the state and between the government and the US. Even the 2006-2016 labor upsurge saw an increase in clashes with government forces, suppression of labor marches, evictions of occupations, violent breakups of road blockades and pickets, and even emblematic incidents of state violence such as the death of forestry worker Rodrigo Cisternas in May 2007. Finally, the labor upsurge at the end of 2019 associated with the social explosion (OHL 2020) was met with historic state violence, as was the uprising in general.

Historically, it has only been in cases where the primary tool of violence and repression by the state was judged too risky or too costly by elites that a secondary strategy of institutionalization was appended. This sequence is clear in the key cases of 1924 and 1979 labor laws. In both cases reliance on heavy repression came first and only later came institutionalization under pressure.

A final, related, historical regularity that points to labor as initiator of action is the inertial non-reactivity of the state during periods of low labor threat. Labor quiescence underlies labor institutional stability. Thus, Grez (2007a: 588), writing about the period preceding the Great Strike of 1890, notes, “it appears that there did not exist on the part of the State a clearly defined policy to give a unified and coherent response to the strike phenomenon of recent massification.” More, “The absence of legislation about strikes (in principle they were neither legal nor illegal!) was a reflection of this new situation the dominant class had to face” (Ibid). In succeeding decades when force appeared to bring stability in the form of labor quiescence, a lack of labor institutionalization persisted. In the period following the first state and party incorporations of the labor movement, a long period of Labor Code stability again corresponded with a lack of labor threat. Finally, the Concertación Era again demonstrated the links between labor quiescence and institutional inertia.

All of this suggests pathways for future research that understand labor as an active, agentic, and initiating actor of institutional and political-economic processes and outcomes that are more often treated as causes of labor movement behavior than as effects of it. Such an analytical focus could take better account of how seemingly long-term stable institutional structures are more vulnerable to disruption and change than they appear. If the causes of their stability or vulnerability lie with another actor, a focus on the institution itself can overlook these other dynamics.

This was especially highlighted by the conclusion that labor movement threat did not correlate with political opportunities as they are conventionally defined or understood. Labor was able to generate era defining threats in the most repressive and disfavorable circumstances, just as more open institutions did not directly grant the labor movement more power. Reversing the flow of presumed causality can allow a better vantage point for how labor can “create” critical junctures that define political-institutional paths. Such crisis-borne junctures remain unpredictable based on a “given” structural and institutional matrix in which labor moves at a given moment. Thus, rather than asking only how an institutional arrangement effects labor movement power, further research might pursue in other contexts the question of how labor movement power creates and conditions institutional arrangements. This research avenue would be inspired by Hardt and Negri’s (in Hardt et al. 2002: 189) insightful understanding of “proletarian class struggle as an autonomous and creative power”. The historical sequences of labor-state interaction and institutional outcomes analyzed in this dissertation have demonstrated the utility of an analytical focus that takes seriously this potential power of labor. As with any case study, it remains to be analyzed and clarified how such an insight and analytical focus might shed light on other cases, in other times and places.





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*Diario Oficial de la República de Chile*

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Instituto Nacional de Estadísticas

Memoria Chilena

Servicio Electoral de Chile