

**ISSUE OF HUMAN RIGHTS IN THE  
DEMOCRATIC TRANSITION OF  
ARGENTINA AND CHILE**

*Dissertation submitted to the Jawaharlal Nehru University  
in the partial fulfilment of the requirement for  
the award of the Degree of*

**MASTER OF PHILOSOPHY**

Padmaja Bharti

Latin American Division  
Centre for American and West European Studies  
School of International Studies  
Jawaharlal Nehru University  
New Delhi - 110067.  
1996



जवाहरलाल नेहरू विश्वविद्यालय  
JAWAHARLAL NEHRU UNIVERSITY  
NEW DELHI - 110067

CENTRE FOR AMERICAN AND WEST EUROPEAN STUDIES  
SCHOOL OF INTERNATIONAL STUDIES

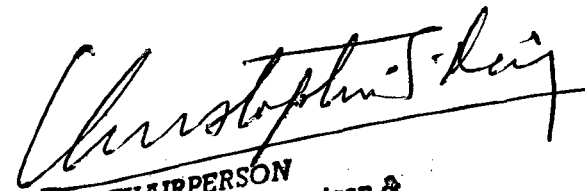
17.7.96

CERTIFICATE

This dissertation "ISSUE OF HUMAN RIGHTS IN THE DEMOCRATIC TRANSITION OF ARGENTINA AND CHILE" by Mrs. Padmaja Bharti for the degree of Master of Philosophy is an original work and has not previously been submitted for any degree of this or any other University.

We recommend this dissertation be placed before the examiners for evaluation.

  
PROF. R. NARAYANAN  
(SUPERVISOR)

  
CHAIRPERSON  
Centre for American &  
West European Studies,  
Jawaharlal Nehru University,  
New Delhi-110067

## ACKNOWLEDGEMENTS

A saying goes, '**Guru Bin Janan Kahan**' which means, no knowledge is possible without a true '**Guru**'. The word '**Guru**' itself has two parts: '**Guh**' meaning ignorance, darkness and '**Ru**' meaning 'the one who removes them'. As per the definition, I did not find a true '**Guru**' until I met Prof. R. Narayanan. I didn't, however, exclaim with an Archimedesian shout but accepted his patronage in all humility and with great sense of gratitude. He always encouraged me to discuss and debate out a wide spectrum of issues of relevance and importance, the outcome of which has always been fruitful and inspiring. I duly acknowledge his tiring efforts in this regard. Above all, his fatherly image and attitude towards me worked wonderfully in creating an appropriate and conducive atmosphere for this research work. The lessons learned from him would go a long way in my academic pursuits.

I wish to thank Prof. J.L. Ferreira and Dr. Abdul Nafey for their teachings and valuable advices. I would take this opportunity to thank Dr. P.P. Nautiyal for his concern and caring attitude towards me. I am grateful to him for his encouragement and academic support.

I have deep sense of admiration for my husband, Dr. I.B. Jha, who understood me well and supported me both at domestic as well as academic fronts.

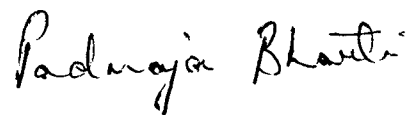
I owe innumerable things to my parents who have helped me in every possible way during all these years.

I am indebted to my father-in-law and mother-in-law for rendering me immense moral support in my academic pursuits. I also owe my achievement to my near and dear ones, Dilip, Hiramani, Anita, Chetan, Mrs. and Mr. (Dr.) B.C. Jha, Dadi and Nanijee (granter mother-in-law).

A friend in need is a friend in deed. This proverb holds true for Seema, Vijay and Bhawani who have always come forward with a readymade and timely help.

Cheerful presence of Sanjay, Alka and Dalbir made the goings easy.

Last but not the least, heartiest thanks to my little daughter 'Srishty' for the happiness she has brought into my life.

  
**PADMAJA BHARTI**

## CONTENTS

		PAGES
	ACKNOWLEDGEMENTS	
	PREFACE	i - ix
CHAPTER I	: INTRODUCTION	1 - 31
	- From Military Authoritarian Regime to Civilian Transition in Latin America	
	- Human Rights Violations during the Military Regime	
	- Awareness and Civil Movements on Human Rights	
CHAPTER II	: ADVENT OF CIVILIAN GOVERNMENTS	32 - 50
	- Political Circumstances at the Beginning of the Civilian Regimes	
	- Challenges to the Evolving Civilian Regimes	
	- Civil-Military Equation during Transition	
CHAPTER III	: HUMAN RIGHTS ISSUES IN ARGENTINA AND CHILE	51 - 65
	- Argentina's Sabato Commission	
	- Rettig Report in Chile	
CHAPTER IV	: DILEMMAS OF THE CIVILIAN GOVERNMENTS	66 - 84
	- Human Rights Policy under Alfonsin and Menem	
	- Pinochet Factor and the Chilean Government's Human Rights Policy	
CHAPTER V	: CONCLUSION	85 - 94
	BIBLIOGRAPHY	95 - 105

## **PREFACE**

## PREFACE

In the decade of 1980 most countries of Latin America witnessed significant political regime changes from military authoritarian to democratic civilian rule. Notwithstanding the onset of what most observers describe as the re-democratization process, the fledgling civilian regimes since coming to power are faced with an array of critical political, economic and social problems. Failure to resolve these immediate problems, it is argued, would perhaps make way for the return of the military in the political processes of the region.

Among the pressing issues with which the fragile civilian regimes are presently wrestling, the one that is considered to be eluding any resolution is admittedly the human rights question. During the political transition from military authoritarian to civilian regimes--some of which were abrupt and others somewhat protracted--different countries of the region had made efforts to ensure that the human rights violations perpetrated by the military is not wholly overlooked. So much so, the need for bringing human rights transgressors to justice, and for disclosure of and

transparency over the misdeeds of the military regime has manifested itself in different ways in these countries.

In this endeavour, the first-ever initiative in Latin America was made in Bolivia (1982) where the civilian regime created a National Commission of Inquiry into the Disappearances. The Commission's terms of reference was very limited, confined to a small number of disappearances during the dictatorship of Garcia Meza. In the following year, popularly elected Raul Alfonsin in Argentina instituted, under pressure from the civil society, a presidential commission headed by Ernesto Sabato to investigate into human rights abuses of the preceding military regime and even identify by name the offenders. Around the same time, in adjacent Brazil, a private non-governmental initiative was launched by the Church to look into the excesses of the military regime. Curiously enough, in Chile the parliament under the civilian government of Patricio Aylwin legislated to appoint the Truth Commission to examine the repression and related human rights violations of the preceding military administration of Augusto Pinochet. In the Central American country of El Salvador, however it was the United Nations which instituted a commission to go into the legacy



of military repression and human rights abuses after the negotiated settlement between the military government and the Farabundo Marti Liberation Movement (FMLN).

On the basis of these different initiatives regarding human rights violations committed by the past military regimes in these countries, it is possible to identify two important features: i) these commissions of inquiry/investigation have been set in motion at the behest of the incumbent civilian government's executive or the legislature, or by a non-governmental, private body such as the Church or by an international body such as the United Nations; and: ii) the terms of reference of these commissions have not been uniform i.e. the terms have been limited and selective as in the case of Bolivia or, quite comprehensive as was in the case of Argentina.

Apart from these, and, in fact, arising out of these different initiatives a question that merits some analysis relates to the follow-up policy decisions and their implementation in these Latin American countries. Although most of these investigations were initiated in order to seek redress to the victims of human rights violations and

abuses, these investigations apparently had not brought the desired results. That, in turn, raises one basic question as to what purpose do these commission's findings serve? Related to this basic question are others such as whether exposing the magnitude of human rights violations through the findings of the commissions of inquiry is a satisfactory substitute for redress to the victims and punishment for the violators; and whether the remission of punishment by way of general or selective amnesty, pardon or simply non-prosecution is a necessary price the civil society has to pay in order to reinforce the democratization movement?

Yet another aspect that calls for careful analysis is why the different countries in Latin America adopted commissions of investigation with different terms of reference? Were these on account of any political compulsions and constraints on the part of the civilian regimes which instituted these inquiries? If, as has been the case in Brazil and El Salvador, these commissions of inquiry were not set up by the incumbent civilian government, is it because that civil society had already come to terms with the military and of its past `mis'-deeds? While these issues themselves have made the human rights question complex, declaration by

the Inter-American Human Rights Commission that the amnesty legislations adopted by the Alfonsín government-*punta final* and *obediencia debida* have seriously violated the American Convention of Human Rights and are therefore null and void, has compounded it further by reopening the possibility of a fuller exhumation of the past in all these countries. In the process, the civil-military relations which had been somewhat ironed out in the wake of the redemocratization process i.e. during the transition period, it is argued, are likely to be upset and ruptured in the future.

A number of distinguished scholars have made significant analysis on the issue of human rights in Latin America both about its violation mainly committed by the military as well as reparation measures initiated by the new fledgling civilian governments. A number of issues have been raised in these studies. Manuel Antonio Garreton in his study looks into the issue of human rights in the process of political democratization, specifically in the case of transition from military authoritarian to civilian democratic regime, particularly in the southern cone of Latin America. He examines the nature of human rights problem in the transition to democracy and the way it has become the

object of strategy against the authoritarian enclaves. Secondly, with reference to concrete historical experiences, he looks into the actions that are carried out with regard to human rights in democratization processes i.e. truth finding, justice and reparation. Lastly, he offers some insights on the prospects for human rights issues in process of democratic consolidation in different Latin American countries. Among others, Elizabeth Jelin has focussed on the human rights movements and different human rights organizations and groups during the dictatorship as well as under the democratic regime in Argentina. She is of the view that though with the transition to democracy steps were taken to unravel the truth regarding the human rights abuses committed by the military in 1970s and governmental attempts towards justice was also done initially, it could not satisfy the expectations of the human rights movement in Argentina. Alfonsin government's strong resolve to punish the culprits of human rights violations yielded place to a lukewarm attitude towards military under the fear of their reaction including the threat of a fresh *coup d'etat* and other manifestations of force and resistance. In this situation, she raises an argument that if the issue of human

rights violations perpetrated by the military is just going to remain as a `memory', then only through such memory can avoidance of such violations be ensured?

Arising out of these analyses are the questions which had been already raised. Keeping some of the key questions in view, an attempt is made in the present study to examine the circumstances leading to the redemocratization process and the kind of initiatives undertaken by the civilian governments on the question of past human rights violation committed by the military. The basic objective of such a study is to see whether the manner in which these violations have been investigated and follow-up actions taken by the respective governments have served any purpose at all. Also, if these investigations have proved futile in providing redress to the victims, a question that is worth examining is why they have proved futile. Is it because of any political compulsions or constraints faced by the incumbent civilian government? If that be so, what are those compulsions and constraints? In the process, if the civil-military relations are going to be or being upset, what would be the future and final impact of the civil-military relations on the democratization process?

With these questions in focus, the present study will examine twin process of transition to civilian rule and the civilian initiatives regarding human rights violations committed by the military in the two countries of South America--Argentina and Chile.

A comparative study of these two countries will be in many respects useful. For one, between the two countries, transition in Argentina was abrupt and sudden whereas in Chile it was over a protracted period of nearly two decades. Notwithstanding the fact that the incidence of human rights violations has been highest in these two countries, as against other Latin American countries, the initiatives on the human rights front and circumstances leading to such initiatives were also different. Both countries have made their investigations public on the basis of which redressal was pressed for in Argentina whereas in the case of Chile the civil society seems to treat the investigations itself as satisfactory substitute for redressal.

On the basis of such a comparative study it may be possible to gain some meaningful insights into whether the nature and circumstances of the process of transition from

military to civil is what explains the differing approaches and outcome to the question of human rights, or are there any other factors to these countries that explain the outcome?

This monographic study is by no means definitive. The methodology adopted is largely descriptive. The study itself is based on available published secondary source material. To the extent possible, governmental and other related official documents have also been consulted.

## **CHAPTER - I**

### **INTRODUCTION**



## INTRODUCTION

The decade of 1980 seems to have heralded a world of democratic ferment and future, promise and prospect going well beyond all forms of authoritarian regimes. The trend towards democratic transition seems to have begun in the mid-1970s with the breakdown of Western Europe's last vestiges of dictatorships in Greece, Portugal and Spain.<sup>1</sup> Closely following these events was the change of regime from military to civil in the little-known country of Ecuador in South America in the year 1979. No one expected that this rather routine occurrence in that country would soon trigger a domino-like spate of regime changes in the entire region of South America. But it did.

In the wake of this trend, there appears to be an inevitable breakdown of authoritarian system of governance yielding place to almost what may be called an encouraging "outbreak" of freedom and democracy in most parts of the

- 
1. Literature on breakdown of authoritarian regimes in Europe is abundant. Yet, the most definitive studies among them is Guillermo O'Donnell, Phillip C. Schmitter and Laurence Whitehead, eds., Transitions from Authoritarian Rule: Southern Europe (London: The John Hopkins University Press, 1986). Other studies include Jorge Bragor de Macedo and Simon Serfaty, eds., Portugal Since the Revolution: Economic and Political Perspectives (Boulder, Co: Westview Press, 1981).

globe today! The pace at which the so-called transition to democracy is taking place and the momentum it has gathered over the last decade across the continents--developed and developing--are admittedly worthy of some serious consideration because at no point of time in recent history has there been such a pronounced swing of the pendulum away from authoritarianism.

Yet, if this picture is bright, it is also partly illusory for there is nothing that suggests the inevitability of democratisation anywhere in the world. The intrinsic openness and competitiveness of democratic politics imply a certain fragility and this fragility has been most acute more in the decolonised countries of Africa and Asia, Latin America and the Caribbean. Obviously, those concerned about how countries can move beyond authoritarianism and totalitarianism must pause and consider the conditions that permit such a movement to endure. For, to rid a country of authoritarian rule is one thing, but to move it fundamentally beyond is yet another thing!

Theories relating to democracy and democratisation are legion. And yet none of the theories have stood well the test of time. Very broadly speaking, these theories established some kind of a correlation between democratic

politics with levels of modernisation, rates of economic growth, extent of social mobilisation and the evolution of class configurations. Each set of these correlates and their variants at best have proved valid in some instances, but not all. What is more, there are countries which have sustained democratic institutions and practices such as a large country like India in Asia or a small country like Costa Rica in Central America where even a mix of these theories do not go to explain the durability of democratic institutions. Paradoxically, many of these instances are often cited by social scientists as exceptions. But for an understanding of the conditions and prospects for what is understood to be democracy, these are the very countries in the developing world which theories need to explain.<sup>2</sup>

What it points to is that characteristics of politics and societies that have become democratic in the past as well as in the present are sufficiently diverse that any theory of democracy with its catalogue of pre-conditions and pre-requisites offers hardly any guidance. Perhaps, less attention therefore should be paid to these theories and more to the strategies that can pave the way for political

---

2. C. Samuel P. Huntington, "Will More Countries Become Democratic?" Political Science Quarterly, vol.99, Summer 1984, pp.193-218.

transition. A review of the experiences of countries that have made successful transitions may point to workable strategies. Admittedly, there are unique features to every instance of a country and one must know the concrete circumstances before one can devise an appropriate strategy.

***From Military Authoritarianism Regime to Civilian Transition in Latin America***

Democratic transitions that have occurred in Latin America are all instances of transitions from military authoritarian regimes. Past successful historical struggles, politically speaking, were largely against absolute monarchies. However, in the 20th Century they have primarily been against military regimes or military-dominated regimes. Deposing the monarchy is different from dispensing with the military. A monarchy once overthrown can be removed from the scene. But the military remains even after its political domination has ended. For this reason popular mobilisation against a military regime in itself is not sufficient. Sections and segments of the military must be won over, and for democracy to sustain military acquiescence to democratic civilian rule must continue. While power almost never reverts back to a monarchy after it has been deposed, there are numerous instances of

alternations in power between the military and the civilians. Such instances are replete in Latin America itself.

Following installation of civilian rule in Ecuador in 1979, five major countries of the region--Argentina, Bolivia, Brazil, Peru and Uruguay--had shucked in quick succession their military regimes and replaced them with elected civilian governments. In Peru, after twelve years of military rule power was transferred to a "democratically" elected successor Fernando Belaunde Terry in July 1980.<sup>3</sup> In less than two years since, in Bolivia the military installed in power Hernan Silos Zuazo whom it prevented from occupying the presidency some years ago.<sup>4</sup> In the wake of the tragic South Atlantic War in October 1983, the Argentine military was forced to return to the barracks and witness an election that led to the victory of the Radical Party led by Raul Alfonsin.<sup>5</sup> In November of the following year, democracy was restored in Uruguay with the election of Julio Mario Sangu-

---

3. For details see Julio Cotler, "Military Interventions and Transfer of Power to Civilians in Peru" in Guillermo O'Donnell, Philippe C. Schmitter and Laurence Whitehead, eds., Transitions from Authoritarian Rule: Latin America (Baltimore: The John Hopkins University Press, 1986), pp.148-172.

4. For details, see Laurence Whitehead, "Bolivia Failed Democratisation, 1977-1980" in Guillermo O'Donnell et. al., n.3, pp.49-71.

5. For details, see Marcelo Cavarozzi, "Political Cycles in Argentina since 1955" in Guillermo O'Donnell et. al., n.3, pp.19-48.

netti of the Colorado Party as president.<sup>6</sup> Finally, in early 1985 in Brazil after twenty-one long years of uninterrupted military rule, Tancredo Neves was elected as the civilian president towards a process of democratic transition to full-fledged democracy.<sup>7</sup>

The democratic tide seemed to have climaxed and reached a high crescendo when political developments in Chile and Paraguay too pointed to an inexorable trend towards democratic opening. In Chile General Augusto Pinochet not only offered to hold a general election in 1989 to pave the way for what he calls "limited democratic system", but even accepted the verdict of the plebiscite of 5 October 1988 which rejected his candidature for the presidential elections.<sup>8</sup> In February of the year 1989, South America's

---

6. For details, see Charles G. Gillespie, "Uruguay's Transition from Collegial Military-Technocratic Rule" in Guillermo O'Donnell et. al., n.3, pp.173-195.

7. For a detailed and definitive analysis of the political transition in Brazil, see Wayne A. Selcher, ed., Political Liberalization in Brazil: Dynamics, Dilemmas and Future Prospects (Boulder: Westview Press, 1986).

8. Literature on Chile's political transition is extensive. The most definitive amongst them are Paul Drake and Issac Jaksic, eds., The Struggle for Democracy in Chile, 1982-1990 (Lincoln: University of Nebraska Press, 1991); Manuel Antonio Garretón, "The Political Evolution of the Chilean Military Regime and Problems in the Transition to Democracy", in Guillermo O'Donnell et. al., n.3, pp.95-122 and Brian Loveman, "¿Misión Cumplida? Civil-Military Relations and the Chilean Political Transition", Journal of Inter@merican Stud-

oldest dictator General Alfredo Stroessner was deposed by his own military promising to usher in constitutionally elected civilian regime before long.

In the context of the presently witnessed political transition and liberalisation in Latin America, the basic question which arises is whether this process has come to stay in a region the history of which has been punctuated with frequent military coups, violent revolutions, repressive counter-revolutions, external interventions inspired and perpetrated by the United States? Is the currently seen process of liberalisation so powerful that it is likely to remain irreversible and if so, how far and how long?

Considering any of these and related issues are not as easy as they are raised. There is no single answer to all these questions. To that extent, no generalisation can be hazarded. Although military governments have fallen one after the other in quick succession in these countries, the circumstances that led to their fall are not the same between any two countries. The circumstances under which political liberalisation has been t in motion in one

---

...Continued...

ies and World Affairs (University of Miami, FL),  
vol.33, no.3, Fall 1991, pp.35-74.

country are different from that of the other too. If political liberalisation in Argentina was sudden and almost imminent in the wake of the South Atlantic War, such a transition in adjacent Brazil has been protracted and negotiated for long years.

What is however common to all these divergent instances of political liberalisation is that change of regimes or, more precisely, the "change of heart" has been at the instance more of the ruling military elites rather than these changes arising as a consequence of any mass-based struggle. Unless regime changes occur as a consequence of violent revolution or counter-revolution, any political process towards liberalisation may not in itself signify or ensure a real departure from the past. More so, when authoritarian regimes, military or otherwise, liberalise political activity, they do it not so much for unfettered democratisation. Rarely such is their intention.

If that be so, why then the military chose political liberalisation as an option? Or, to put more directly, why would an authoritarian regime decide to alter the very rules of the game that have sustained it? Having once seized power why the military opted for the surrender of that power?



Military involvement and seizure of power according to the Latin American scholars are caused by a variety of factors ranging from national interest, class interest and institutional interests to threat of terrorism, power of imperialism, the failings of capitalism--dependent or otherwise, civilian incompetence, military arrogance, requirements of modernisation and the legacies of Iberian culture, to name just a few reasons. If these are enough, it is also possible that proximate causes may vary from country to country and from time to time.

In contrast, according to the amount of control authoritarian elites exercise, three types of political transitions or military's surrender of power have been identified. The most common type is a transition after regime breakdown or collapse, in which the authoritarian elites exercise almost no control at all. Whether through military defeat at the hands of an external force or profound internal crises, these regimes become thoroughly discredited and delegitimised. This type of political transition involves significant institutional changes and a rupture in the patterns of political authority. Instances include democratic transitions in Greece and Portugal in 1974 and Argentina

in 1982.<sup>9</sup> In the second type commonly described as transition through extrication, the authoritarian elites set limits regarding the form and timing of political change, but are less capable of controlling the transition beyond the moment of the first free civilian elections. These authoritarian regimes withdraw from power because of their low level of legitimacy and internal cohesion but still manage to retain some control of the transition. Although it is appropriate to speak of the erosion of these regimes, they manage to avoid a breakdown or collapse. For a variety of reasons, including a lack of popular support, the authoritarian leadership decides to extricate itself from power. Transition obviously involves negotiation between the authoritarian regime and its adversaries, but the terms of the negotiations are less favourable to the incumbent regime. Examples would include Peru in 1980, Bolivia in 1979 and Uruguay during 1982-85.<sup>10</sup> The third, often described as the idea type, is transition through transaction in which authoritarian regimes initiate the transition, establish

---

9. One of the leading proponents of the breakdown or rupture paradigm is Guillernno O'Donnell, who underlined an "elective affinity" between democratic breakdown and the "deepening" of industrial capitalism. See his Modernisation and Bureaucratic Authoritarianism (Berkeley: Institute of International Studies, 1973), pp.89-106.

10. For a description of the process of transition through extrication, see Wayne A. Selcher, n.7, pp.178-179.

some limits to political changes, and remain a relatively significant electoral force during the transition. The term "transaction" connotes negotiation usually implicit between elites of the authoritarian regime and the democratic opposition. But this negotiation does not take place between equals. The regime takes the initiative to ushering in the liberalisation, and during most of the process it remains in a position to influence significantly the course of the political change. What is important here and distinguishes this type of transition from that of the other two is that such an initiative is not by necessity but by choice. Brazilian democratic transition is suggested as one conforming to this third type.<sup>11</sup>

A closer scrutiny of the events leading to democratic transition in each one of the countries in South America during the present decade suggests that none of these ideal types delineated above squarely fit. For instance, according to some observers the Brazilian scenario of political transition can be treated as both transacted transition

---

11. Ibid., pp.179-208. In his analysis, Selcher not only describes the process of transition through transition but also examines at length the conditions and circumstances leading to the transitions through transaction. Even more significant is his analysis relating to the limits of transitions through transaction in the future democratic consideration.

and transition after regime breakdown or collapse. While the transition process was tortuously protracted over a time span of almost ten years, it was the economic crisis of very great magnitude that Brazil confronted in mid-1970s that acted as a catalyst of the demise of the military regime.<sup>12</sup> Further, it is also argued that by early 1980s when the negotiations were still being carried on, the military almost adopted a strategy to extricate itself from the scene before long. In the same way, it is argued that the Argentine scenario can be treated as both transition after collapse of the military regime as well as a transition through transaction. It is true in the wake of the South Atlantic War, the Argentine military regime lost its credibility and therefore had to surrender power to the civilian authorities. The embittered military under the civilian regime is fighting, sometimes pitched battles to reassert its legitimacy and status. In other words, the transition is not as

---

12. Luciano Martins argues: "Certainly in the Brazilian case the economic crisis (and the disastrous mismanagement of the economy)... contributed, more than the politically organised opposition to the unstable equilibrium.... As a consequence, the process of liberalisation, which appeared to be a classic instance of a "continuous transition", now finds itself at a crossroad." See Luciano Martins, "The Liberalization of Authoritarian Rule in Brazil" in Guillermo O'Donnell et. al., n.3, p.91.

yet complete, in a sense, in Argentina.<sup>13</sup>

In the case of Uruguay, the democratic transition was protracted and tightly controlled by the authoritarian military until close to its culmination. The military attempted to exclude some important political parties and actors from the elections and to establish institutionalised controls by the armed forces over future civilian governments. These controls would have restricted greatly the actual policy-making capabilities of the civilian regime. These attempts at restricting civil political actors were even formalised in an explicit political pact, the *Acuerdo del Club Naval* in November 1984 signed by the representatives of the military and most of the opposition parties. To that extent it was transition by transaction. But in spite of such an agreement and the solemnities with which it was surrounded, the pact was not implemented except for the imprisonment of a leading opposition member, Washington Ferreira Aldunate and his proscription from running as a presidential candidate. Otherwise, the *Acuerdo* became practically a dead letter from the day of the inaugu-

---

13. Analysis along these lines of a continuous or incomplete transition in the case of Argentina is proffered by some scholars. Important among whom is Paul W. Zagorski. See his "Civil-Military Relations and Argentina Democracy", Armed Forces and Society (New Brunswick, NJ), vol.14, no.3, Spring, 1988, pp.407-432.

ration of the present government in Uruguay. In that sense, what could have been an instance of transition through transaction had ended as transition after collapse of the military regime.<sup>14</sup>

What, in other words, is suggested here is that none of the typologies--transition after regime breakdown or collapse, transition through extrication and transition by transaction--offer any insights on the strength of which one can make any meaningful prognostications about the future political processes in these countries.

Now, there arises a question as to how one should approach the problem of democratic consolidation, particularly in countries which have recently moved beyond a military authoritarian rule or cycle?

Despite the recent trend away from direct military rule, the future of civil-military relations in the region remains highly uncertain. That apart, the new civilian government faces a variety of socio-economic problems of which the most critical one in the context of Latin America is the enormous burden of external debt, which requires them

---

14. See Luis Gonzalez, "Uruguay, 1980-81: An Unexpected Opening", Latin American Research Review (Albuquerque, NM), vol.18, no.3, 1983, pp.63-76.

to adopt orthodox austerity and stabilisation policies in order to meet International Monetary Fund (IMF) and creditor banks' conditions for debt re-negotiations. In the short term, such policies seem inescapable, given the central role of external trade in the region's economies. In the long run, such policies will frustrate the aspirations of the popular majorities and dominant minorities. Civilian regimes as unlikely to achieve enduring legitimacy solely by holding periodic elections. If the substantive policy outcomes of civilian rule turn out to be no different from those of the military rule, political unrest and revolutionary violence will return. The *Sendero Luminoro* movement in Peru is an ominous reminder that the internal security threat which led to military interventions in 1960s and 1970s has not disappeared.<sup>15</sup>

The critical question is whether extrication will lead to democratisation or simply another cycle of weak civilian government followed by new wave of military *golpes* or *coups*. Can civilian rule be institutionalised, especially under

---

15. For descriptive accounts of the *Sendero Luminoro* movement, see D.C. Palmer, "Sendero Luminoro Rebellion in Rural Peru" in George Fauriol, Latin American Insurgencies (Washington, D.C.: Georgetown University, Centre for Strategic and Internal Studies, 1984), pp.67-96; and Synthia McClintoch, "Sendero Luminoro: Peru's Maoist Guerillas", Problems of Communism, October, 1983, pp.19-34.

present conditions? The limited duration of previous cycles of military withdrawal in the late 1940s and late 1950s indicates the magnitude of the task. The installation of a civilian president does not change the structural condition that led to the installation of military regimes in the first place. Depending on the duration and degree of repression of civilian organisations during the military dictatorships, the successor governments must also adjust to complex changes in political alignments and allegiances. As long as key civilian groups remain only partially committed to democratic norms, military intervention is likely to recur.

The immediate prospects vary therefore significantly from country to country. In Brazil, the withdrawal process has been very gradual and controlled from above. The military has less need to intervene directly against the new civilian government. It may however be added, precisely for these reasons, military is in a strong position to do so if it so chooses. In Argentina, the collapse of the military regime following the South Atlantic War has prevented the military from controlling the transition process. Public discussion of the scope and brutality of the repression during the military regime has seriously weakened the legit-



imacy of the armed forces. While it is argued that renewed military intervention is less likely because of the erosion of its legitimacy, recent events suggest that with a view to regain its autonomy, the armed forces in Argentina might attempt to stage a comeback!<sup>16</sup> In Ecuador and Peru, while military regimes were unsuccessful but less traumatic, the military appears to be reluctant to intervene again directly, but neither country has effectively institutionalised control. And the ineptness of the civilian regimes in these countries make it propitious for the military to return.

What it calls for is specification of a new role for the military which admittedly is one important pre-requisite for institutionalising civilian government. It is not clear whether the withdrawal from direct military rule signifies the resurgence of traditional military role beliefs, a real or partial repudiation of the security and development doctrine, or the emergence of new doctrines. At least in the more professionalised militaries, one possibility may be the respecification of the national security doctrine in external defence terms. Provided civilian leaders agree to avoid recourse to the military to arbitrate their disputes,

---

16. See Paul W. Zagorski, Democracy Vs. National Security: Civil-Military Relations in Latin America (London: Lynne Rienner Publishers, 1992), pp.111-113.

the experiences of Mexico and Venezuela suggest that it is possible to develop stable forms of civilian control. Yet in these countries, the establishment of a more professionalised military came after the development of mechanisms of political control and after development of strong civilian institutions whereas in the South Cone countries, it is the other way. That is why the task appears in the latter countries far more complex and the outcome much more uncertain.

***Human Rights Violations during  
the Military Regime***

In the previous section, an attempt was made to survey the democratic transition as it unfolded in many of these countries. Attempt was also made to differentiate the regime changes from military to civilian in these countries. Alongside, given the circumstances and the background against which the regime changes have occurred, questions regarding the consolidation of the democratic process, was raised. Of these questions, amongst others, one that is critical is the legacy of the military regarding human rights violations. Irrespective of the types of regime changes--transition through breakdown, transition through extrication and transition by transaction--the civilian regimes that came to power were confronted with the mili-

tary's legacies regarding human rights violations. No doubt, the stridency of the issue for the civilian regimes largely was dictated by the manner in which transitions have been effected. Yet, the issue of human rights continues to befuddle invariably the incumbent civilian regimes.

Why is it that the human rights has become an important critical issue for the civilian government? Answer to this question necessarily calls for an examination of the widespread human rights violations perpetrated by the military governments. Studies highlighting the extent of human rights violations under the military regimes are extensive. Without exception all these studies underline that the scale of human rights violations has been significant. Secondly, there was extensive military involvement in human rights violations. Thirdly, in some instances of military regimes these violations explicitly or implicitly were a matter of military policy. In fact, the human rights issue was embedded in the military's National Security Doctrine justifying repressive military measures in violation of human rights as part of a justified war against internal subversion. Instead the rationale was that coercion and repression are not to be treated as human rights violations because the National Security Doctrine of the

military was intended to fight and eliminate internal subversion inimical to the political economic development. No wonder, therefore, most military governments through the National Security Doctrine devised strategies that would promote economic growth even if it called for coercion. So much so, the human rights, their observance or violation, were not treated as critical issues at all. As has been suggested earlier, such violations had become issues only since the military regimes exited. Interestingly, it was only in the wake of the political transition, the magnitude of the human rights violations came to light. Depending upon the civil-military equation in each of the several Latin American countries, the civilian government initiated a process of investigation regarding the extent of human rights violations.

A more detailed analysis of human rights violations, specially in Argentina and Chile, is offered in a subsequent chapter. In this section, a preliminary view of the human rights problem is offered. Recorded accounts of gross human rights violations by international agencies such as, Inter-American Commission on Human Rights, Amnesty International, and American Human Rights Watch as well as national agencies sponsored predominantly by the Church classify human rights violations in respect of political murders, *desaparacidos*

(disappeared) and victims of torture. Also, these agencies have monitored the role played by the security forces involved in such human rights abuses. Most accounts point that the magnitude of human rights violations has been most extensive in Argentina. Between 1986 and 1992 political murders and disappearances in Argentina computed by the different agencies range anywhere between 9,000 to 30,000 victims. While figures are not available, regarding the torture victims, most agencies estimate a figure of twice as many the *desaparacidos*. The manner in which the torture was administered range from psychological to physical. Psychological methods included mock executions, sleep deprivation and threat to the lives of victims and those of their families. Physical torture ranged from punching, kicking and use of blunt instruments and electric shocks. Invariably, in the case of Argentina most of these abuses were perpetrated by the internal security forces.<sup>17</sup>



In the order of magnitude of political murders and disappearances, Peru by all accounts ranks as the second with a number ranging anywhere between 3,000 to 8,000

---

17. See for details, Amnesty International, Extracts from the Report of an Amnesty International Mission to Argentina, 6-15 November, 1976 (London, 1977); and Amnesty International, Argentina: the Military Juntas and Human Rights (London, 1987).

DISS  
323.49098  
B4695 1s



TH6042

victims. Figures are not available for the victims of physical and psychological tortures in the case of Peru during the military regime. In the case of Chile, the number of disappearances or political murders is estimated around 2,000 during the initial years of Pinochet regime. What however makes the Pinochet's regime abhorring in respect of human rights violations relates to the large number of torture victims which by all accounts is estimated around 320,000. According to the Amnesty International, serious human rights violations existed for nearly four long years, especially between 1978-1983. According to the Amnesty's monitoring, the largest number of arbitrary arrests, short-term disappearances and cases of torture occurred in Chile. What is more, physical and psychological ill-treatment and torture usually took place before the detained person was produced before the courts. In contrast to Argentina, the security service arrested civilians without warrant "using unidentified armed civilians". Neither the detainees were informed of the reasons for their arrest nor their families were contacted. Most accounts of physical torture do suggest that most inhuman practices were used such as being

hung by the arms or legs and electric shocks administered.<sup>18</sup> The two other countries in South America where the evidence of political murders and disappearances were minimum are Brazil and Uruguay. Most accounts place political murders in Brazil as no more than around two hundred and fifty. Also, according to these reports, half of the political killings in Brazil took place in land struggles during the early 1980s in the Amazonian region.<sup>19</sup> Be that as it may, the number of torture victims however in both these countries according to available data has been extensive with Brazil totalling 20,000 torture victims whereas in adjacent Uruguay, the figures range, incredibly though, anywhere between 8,000 to 50,000. In Brazil, the direct involvement of internal security forces in human rights violations seem to be significant as against that of Uruguay.

On the basis of the foregoing account, it is suggested by some that the level of human rights abuses and violations has been very high in Argentina, Uruguay, Peru and Chile. A small country like Uruguay, with a population not exceeding 3 million, the magnitude of human rights violations seems

---

18. Amnesty International, Amnesty International Report, 1979 (London, 1980), pp.53-55. Also see Amnesty International, Report on Chile, 1982 (London, 1983).

19. For details, see Paul W. Zagorski, n.13.

incredible.

In respect of human rights violations, one country in the Latin American region namely Guatemala, has the most sordid record. It is estimated that as many as 38,000 people have disappeared over the past two decades. The highest incidence of human rights violations according to agency reports seem to have occurred during the regime of General Lucas Garcia in the late 1970s. The Amnesty International reported that between 1978 and 1981, several hundred Guatemalans have been assassinated after being denounced as subversives. Of them, at least 600 are reported to have been seized by the security forces and remain unaccounted for. Most of these assassinated have not only been described as subversives and criminals, what is more, the government attributed that these killings have been perpetrated by the death-squads and the secret anti-communist army. However, the international human rights agencies have claimed that no convincing evidence have been produced to the existence of the so called death-squads. In effect, they are of the view that most killings have been done at the instance of the military government.<sup>20</sup> The counter military coup by General Rios Montt in terms of its track

---

20. Amnesty International, Guatemala: A Government Program of Political Murder (London, 1981), pp.5-7.



record on human rights is even more ominous. In fact, throughout the 1980s, successive military government used organised violence as a form of social and political control against the urban and rural sectors of the society.<sup>21</sup>

***Awareness and Civil Movements  
on Human Rights***

Although the issue of human rights and its relationship to political violence gained importance in the 1970s in most developing countries, in Latin America civil movements on human rights were conspicuous by their absence in these very years. Reasons for the absence of civil movements and total lack of articulation on vital human rights issues in Latin America, especially during this period are not far to seek. For, in Latin America, during this decade of 1970, when military authoritarian regimes had dominated, they seldom encouraged any civilian movement to raise the banner of human rights. Besides, forced disappearances, torture and mass executions have been widely used as techniques of terror to maintain fear among the population so as to establish rigid state control. So much so, mass movements of any kind were absent.

---

21. George Black, Garrison Guatemala (London: Zed Books Ltd., 1984).

This is not to suggest that there was no awareness among the general public on human rights abuses and violations perpetrated by the authoritarian military. Foremost among those organisations which took up the cause of the human rights in the early phase of the military rule was the catholic Church. During the years of the military regime, it was the catholic Church which had been openly critical of the military's misdeeds. Chile's Vicariate of Solidarity sponsored by the catholic Church is perhaps the most well-known and influential of these organisations.<sup>22</sup> The military regime's response to the Church was that the Church sponsored movements on human rights were unwarranted incursions into politics and consequently the military regimes even subjected members of the clergy to harassment. This negative response, however, eventually helped provide political space for the civilian opposition to organise in their struggle against military repression.

The second major civil movement on human rights began to be organised by the dissidents and political exiles. The movements launched by them initially were located outside Latin America. In the wake of political repression in Chile, Argentina and Brazil, large number of exiles from

---

22. For details, see Paul W. Zagorski, n.16, p.12.

these countries were given political asylum in countries such as France and Spain in Europe and Mexico and Venezuela in Latin America. In fact, the magnitude of human rights violation in South American countries became public knowledge largely thanks to these exiles who served to disseminate information and led protests concerning human rights violation. Of these movements organised by the exiles, the Argentine Commission for Human Rights is most noteworthy with its branches located in Mexico, Rome, Geneva and Washington. These organisations formed by the exiles outside their country of origin also provided significant financial support to human rights movements which began to appear in subsequent years.<sup>23</sup>

Curiously though, apart from the catholic Church, it is the women who initiated and mobilised the public to protest against military repression. Initially, women's human rights movements in Latin America began to form around the issue of political disappearances. Individual initiatives by the relatives of the victims as well as legal actions by the courts having been proved futile and ineffective, women

---

23. Alison Brysk, "From Above and Below: Social Movements, the International System and Human Rights in Argentina", Comparative Political Studies (London), vol.26, no.3, October 1993, p.263.

in several of the Latin American countries began to unite. The first instance of such a mass-based organisation came into being in Chile as early as 1974 known as Chilean Association of the Detained/Disappeared. This was followed by the Mothers of the Plaza de Mayo in Argentina, *Comadres* in El Salvador and the Group for Mutual Support in Guatemala.

The Chilean Association of the Detained/Disappeared in the beginning enlisted no more than 20 members. Until this Association was set up, they had been the individuals seeking their disappeared relatives with the support of the Church which had founded the Committee of Co-operation for Peace in Chile. In less than two years, the membership of the Association swelled to more than 300. In the initial phase, because of its avowed sympathy to slain ex-president Salvador Allende, the Association suffered serious setbacks. Nonetheless, the Association persevered against all odds and thanks to its efforts, which included the long hunger strike by a broad cross-section of Chilean society in 1978, the military regime passed the controversial Law of Presumed Dead.<sup>24</sup> Ever since, the Association pitched high its pro-

---

24. For details, see Jennifer G. Schirmer, "Those Who Die for Life Cannot be Called Dead: Women and Human Rights Protest in Latin America" in Marjorie Agosin, ed., Surviving Beyond Fear: Women, Children and Human Rights in Latin America (New York: White Pine Press, 1993), pp.46-48.

tests and in the process contributed to further mass mobilisation, bringing into fore the political parties too to fight against Pinochet regime.

The Mothers of Plaza de Mayo of Argentina also began on 13 April 1977 as a modest movement of no more than fourteen mothers of the disappeared in Argentina, marching in the centre of Buenos Aires just one hundred metres from the junta's office. In less than a year the Mothers of the Plaza de Mayo movement enlisted more than three hundred mothers, sisters, daughters and grandmothers of diverse background. After three months of demonstrating at the Plaza and presenting hundreds of writ petitions to the court, the Mother's movement appeared as a force to reckon with precipitating police action against their protest demonstration. Despite call for moderation by human rights organisation outside Argentina the Mothers movement continued its struggle and gained international support. In the face of mounting pressure generated by the mothers, the military government asked two laws intended to assuage the Mothers. Not satisfied with the legislative palliatives, the *Madres* continued their struggle which by late 1980 enlisted more than 2,000 members. After such an impressive showing, military refrained from taking any precipitous

action. The Malvinas War offered yet another opportunity for the *Madres* to publicly challenge the government on number of sensitive issues including the draft. In the process, the *Madres* human rights organisation gained new political recognition and voice.<sup>25</sup>

Mutual Support Group of Guatemala is one of the last groups of a civilian movement to organise in Latin America in the 1970s and 1980s and is the first human rights group able to survive in that country. By 1985 the Mutual Support Group which had been redesignated as *Comadres* enlisted more than 1,000 members. In its initial phase, the Group faced the same problems as the Mothers movement of Argentina and the Chilean Association of Detained/Disappeared. Guatemalan political parties were reluctant to give their support with some openly condemning the Mutual Support Group as subversive. Because of the lack of institutional support and lack of alternatives, the Mutual Support Group became even more strident and forthright in championing its cause. Their long struggle paid dividends when in August of 1987 the Group was received by the military junta and its demand for an impartial investigation into the excesses of the military was

---

25. For details of the evolution and activities of Mothers of Plaza de Mayo see Jennifer G. Schirmer, *ibid.*, pp.35-39.

acceded.<sup>26</sup>

These human rights movements contributed positively to civil movements elsewhere in Latin America. The networking that these pioneering human rights movements built, offered the outside world to know about the sordid misdeeds of the military regimes. In the beginning of the 1980s, many of these splinter human rights movements led by the catholic Church and the women were able to mobilise support for their cause both within and outside their countries. In some instances, political parties which initially were reluctant to openly support these human rights organisations eventually resorted to them for spearheading a movement against the military regimes. So much so, some observers are of the view that the role played by the human rights movements in precipitating the exit of the military is no less significant.

---

26. For details, see Jennifer G. Schirmer, *ibid.*, pp.40-45.

**CHAPTER - II**

**ADVENT OF CIVILIAN GOVERNMENTS**



## ADVENT OF CIVILIAN GOVERNMENTS

According to most observers contemporary Latin America stands at a historical watershed. Even by the second half of 1980s, the last of the military regimes that rose to power in the decades of 1960 and 1970 were replaced by civilian governments. By now most of the Latin Americans have chosen their leaders through ballots. What is even more significant is that in no one Latin American country, there has been an instance of military regression. So much so, it is being argued that the dark decades of military dictatorship seem to be over with the onset of democratic processes throughout the region.

Insurgencies and all insurrections as well as organised state violence of the decades of 1960 and 1970 have been replaced by pitched electoral battles waged by civilian democratic forces of all political inclinations. These developments have occurred in the larger backdrop of far reaching and fundamental changes in the global scenario, including importantly the end of so called Cold War following the collapse of the Soviet Union.

However heartening these trends are in a region traditionally riddled with endemic political instability and

violence, the historical conjunction in which the dawn of democracy has occurred obviously raises some misgivings. While the trajectory of the transition to civilian political process has been smooth, yet it is premature to delineate definitively the future course of events in this region. It is against this background, an attempt is made in this chapter to examine the circumstances leading to the political transition and also examine the challenges faced by fledgling, and in some instances fragile civilian regimes. Of the many challenges one which remains somewhat inscrutable at this juncture is the likely role that the military would play in the future political process of the countries of the region.

***Political Circumstances at the  
Beginning of the Civilian Regimes***

The democratic transition currently witnessed in Latin America is not anything new. Historically speaking, Latin America has witnessed several waves of democratisation process. Shortlived though, the earlier waves of democratisation, especially since the Second World War, coincided with the era of economic prosperity largely as a consequence of the heightened world demand for a variety of Latin American traditional and non-traditional exports. In con-

trast, the return of democracy in the second half of the 1980s is taking place in the midst of a serious global economic crisis. The impact of the global economic crisis is most critical on the countries of the region which in the preceding decades of the military government had sacrificed their economies at the alter of an inward-looking economic strategy--an aspect that will be further discussed in the subsequent sections.

Another historical circumstance, though regional in dimension, in which the democratic transition is unfolding itself in Latin America, it is argued is the retreat of the military from the political arena. The retreat of the military to the barracks is not anything unusual whenever a democratic wave had flowed in the past. However, what is to be noted is that the exit of the military has largely been by its own choice. As has been pointed out in the earlier chapter, the military regimes in the different Latin American countries had chosen to transfer power to the civilian authorities on the basis of certain preconditions except in the case of Argentina. Yet, even in Argentina the dissident groups from within the military reasserted themselves to the point of disobeying the civilian authority. While the present posturing of the military is to remain in the background, yet it is not clear whether the military

would continue to remain subservient to the civilian authority. In the case of Chile, in fact, the military continues to co-share power with the civilian authorities.<sup>1</sup> In a similar vein it can be argued that in Brazil too the protracted process of transacted transition has sustained a civil-military relationship in a state of disequilibrium.<sup>2</sup>

Be that as it may, the civilianisation process has been set in motion after a long period of military authoritarian rule. Consequently, where the military had strongly been entrenched and had been most repressive, the traditional political parties had lost substantially their social base. In the wake of the democratisation process, neither could the enervated political parties mobilise mass support nor effectively contest in the electoral battles. In most Latin American countries, traditional political parties had lost ground. For instance, the Brazilian Democratic Movement Party (PMDB) and the Democratic Workers Party were unable to gain much ground. The traditional American Popular Revolu-

- 
1. For details, see Manuel Antonio Garretón, "The Political Evolution of the Chilean Military Regime and Problems in the Transition to Democracy" in Guillermo O'Donnell et. al., Transition from Authoritarian Rule: Latin America (Baltimore: The John Hopkins University Press, 1984), pp.95-122.
  2. Luciano Martins, "The 'Liberalization' of Authoritarian Rule in Brazil" in Guillermo O'Donnell et. al., *ibid.*, pp.72-94.

tionary Alliance (APRA) Party of Peru too faced similar fate. The waning of these traditional political parties led to the advent of political novices rather than the veterans to the fore denying these countries a strong government and political leadership.

Perhaps because the Latin American democratic transition had coincided with the collapse of the Soviet Union, the "left" leaning parties of Latin America are also thrown into disarray.<sup>3</sup> The increasing declining role of the traditional political parties of the "right" and the "left" has then led to the mushrooming of new social movements on the political map of Latin America. Whether these changes in the political contours of Latin America portend well or otherwise is difficult to assess at this juncture. Yet the general elections that have taken place in recent years have ushered in such civilian regimes which are tenuous and

---

3. Most left parties in Latin America in the wake of Mikhail Gorbachev's *Perestroika* have been fragmented. For instance, the Communist Party of Argentina has split into three dissident groups. Similarly in Chile, a breakaway group of the Communist Party has organised into *Provocacion Democracia*. Another dissident group, known as the Manifesto Group has left the Chilean Communist Party to join the already riven Socialist Party.

fragile.<sup>4</sup> Generally speaking, in most of the major countries of Latin America, no single party has won a clear majority. In many instances, the final elections have been decided on a run-off. Also, no one party has been able to recapture power in successive elections. Even where it did, as in the case of Argentina, the winning party had to wean itself away from its long cherished objectives.<sup>5</sup>

Notwithstanding these rather unsettling and uncertain trends in the political processes of the Latin American countries, there are a few trends pointing to a positive movement towards democratic consolidation. Indeed, while the traditional political parties have gone into oblivion, new social and political movements have emerged to replace the traditional parties. This phenomenon undoubtedly is far from universal but that a partial renewal of the political class, given the Latin America's historical political process, is noteworthy. As has been mentioned before, these new

---

4. For details of the recent general elections in Latin America, see R. Narayanan and Rajya Lakshmi Karumanchi, "Democracy at the Polls: A Comparative Analysis of Elections in Latin America, 1989-90", International Studies (New Delhi), vol.28, no.3, July-September 1991, pp.229-248.

5. Although, the *Peronista* Party has won the election for a second time, president Carlos Menem's policies and postures, according to observers, are very different from that of the traditional Justicialist Party to which he belongs.

political movements have injected a sense of commitment to democratic values which, according to some observers, has lent "new realism... and enhanced credibility to the democratic transition".<sup>6</sup> Apprehensive of the potentials of the military to return to power, political coalitions have been forged to meet the present crisis. In Chile, for instance, the "left" and the "centrist" political forces finally united their efforts to force an end to the military dictatorship.<sup>7</sup> Notwithstanding the political rivalry between Radicals on the one hand and the *Peronistas* on the other in Argentina, they nonetheless took a united stance when military dissidents rebelled against the civilian authority. Yet another encouraging development currently witnessed in Latin America relates to the strict observance of constitutional norms. In many of the Latin American countries, electoral reforms have been legislated to ensure free and fair elections.<sup>8</sup> On the basis of these developments, it is possible to suggest that however fragile and weak the civilian governments may be, yet the current trend towards democratic transition seems unlikely to face any reversals.

---

6. Paul W. Zagorski, Democracy Vs. National Security: Civil-Military Relations in Latin America (Boulder, Co: Lynne Rienner Publishers, 1992), p.11.

7. Ibid., p.11.

8. For details, see n.4.

## ***Challenges to the Evolving Civilian Regimes***

While the democratic transition under the present circumstances seems to be in rudiments and relatively speaking, bereft of any setback, yet there are an array of challenges which the incumbent civilian regimes are faced with, the successful resolution of these challenges, among others, alone will, it is being argued, ensure democratic consolidation.

Of the several challenges that these fledgling civilian regimes are confronted at least three deserve some elaboration. Interestingly, these three challenges have both internal and external dimensions.

The first relates to the inexorable external debt problem of the countries of the region. According to most accounts, the debt liability of the region as a whole is astronomical in current value terms. Latin America's external debt which amounted to US \$300 billion in early 1980s, as a consequence of the compound interest applied to the overdues, has now increased to \$500 billion. The magnitude of the debt problem is not merely its volume. What has turned the debt problem into an economic crisis is that it has occurred at a time when the traditional exports of Latin



American countries are faced with a global slump. The drop in raw material prices in the world market and the protectionist measures adopted by the advanced industrial economics has created further difficulties for the payment of external debt by the countries of the region.

While these being the internal dynamics of the Latin American countries, there are certain externalities which have complicated the debt issue. For, caught in the bind of external debt crisis, the civilian regimes of these countries have no choice but to engage in costly and painful economic readjustment at the instance of IMF and the World Bank.<sup>9</sup> The upshot of this is that in most countries' per capita output has substantially declined and investment, unemployment and inflation have worsened inexorably.<sup>10</sup> Country after country has experienced sharp obstacles to servicing foreign debt and the results have been disastrous in some instances such as the "peso crisis" that convulsed Mexican economy in the year 1994.

At the same time, because of disinvestment causing high

- 
9. Manmohan Agarwal, "Latin America: Experience of BOP Adjustment", World Focus (New Delhi), vol.12, no.6, June, 1991, pp.10-14.
  10. R. Narayanan, "Latin America: Either Debt or Democracy", World Focus, vol.8, no.3, March, 1987, pp.22-24.

rates of unemployment, more than fifty per cent of the Latin American population, according to reliable reports, are "marginalised".<sup>11</sup> Since mid 1980s, roughly coinciding with the period of political liberalisation, the Latin American countries under the civilian regimes have transferred as much as US \$160 billion in debt repayment, mostly in interest. That averages to thirty per cent of all export earnings, and for some of the regions' debtor countries--Mexico and Brazil--the average has risen to as much as fifty per cent of export earnings. The consequent economic deterioration has led to growing social tensions and in some instances political insurgency--the *Sendero Luminoso* Movement in Peru and the Chiapas crisis in Mexico. Placed in such predicament, it may not be possible for these civilian regimes to continue to apply and carry further the economic adjustment measures and at the same time implement structural reforms. Given that the debt problem is going to loom large in the coming years, it will undoubtedly have a debilitating influence on the democratic processes.

To meet the economic exigencies, a number of new initiatives have been undertaken collectively by the new civilian

---

11. According to the UN Commission for Latin America, the number of Latin Americans below poverty line has accelerated to twenty seven per cent during the 1990s.

regimes. Of these, the one that deserves mention is the initiative on sub-regional economic integration. South cone countries, such as Argentina, Brazil, Uruguay and Paraguay have jointly set up, what is known as *Mercado Conosur* (MERCOSUR). The erstwhile Andean Common Market countries have regrouped themselves under the banner of *Grupo Andino* (GRAN)--Chile, a former member of the Andean Common Market, is not a member of GRAN. Whereas Mexico has chosen itself to integrate with Canada and USA to form North American Free Trade Area (NAFTA), it nevertheless has established trilateral economic linkages with Colombia and Venezuela. It may however be added that since these initiatives are of recent origin and being in their formative years, how best these regional integration devices would meet the economic imperatives of the region cannot be hazarded at this juncture.

More inscrutable a problem posing a greater challenge to the civilian regimes is the pernicious drug problem. In terms of its dimensions, the drug issue is not confined to the volume of cocaine produced in Latin America and the related violence triggered by the drug-traffickers. What according to analysts complicates the drug issue is the evolving nexus of the poor peasants and drug traffickers through the intermediation of rural guerrilla movements.

Recent accounts of rural insurgency in the Andean region attribute the incidence of violence to guerilla groups whose objectives are less than genuine of providing camouflage to the drug traffickers.<sup>12</sup> Under the present economic plight, since no other crop is as profitable as coca, the poorer sections of the rural areas, especially in the Andean countries have resorted to growing coca instead of their traditional coffee crop.<sup>13</sup> Consequently, drug eradication policies adopted by the civilian regimes have turned them into an ostensible enemy of the region's poor peasants and the guerilla movements, such as *Sendero Luminoso*. In turn, this has rendered democratic governance even more infructuous in the Andean region.

While these destabilising developments have seriously impinged on the body politic of many of these countries, there has surfaced an external danger which seemingly at

---

12. For further details, see Richard B. Craig, "Illicit Drug Traffic: Implications for South American Source Countries", Journal of Interamerican Studies and World Affairs (University of Miami, FL), vol.29, no.2, Summer 1987, pp.1-34 and Synthia McClintock, "The War on Drugs: The Peruvian Case", Journal of Interamerican Studies and World Affairs, vol.30, nos.2 and 3, Summer/Fall 1989, pp.127-42.

13. According to reliable estimates, growing coca per hectare per annum earns US \$2,500 which is four times the returns on other cash crops including coffee. Hence, in Bolivia alone, it would cost nearly US \$500 million to displace coca for legal crops.

least infringes on the democratic functioning of the Latin American countries today. This external danger relates to the adoption of selective and discriminatory policies on the part of United States. In the recent years, United States has made political use of the narcotic problem by defining it as an external threat to its own national security. Ever since the administration of George Bush, the US has adopted a series of policies that nearly violate the sovereignty of these countries, such as clamping naval blockade in the Andean coastlines and unilaterally suspending military and economic assistance to these countries. Even more intrusive attempts have been made which among others included assuming drug-enforcement functions as in Bolivia and invading Panama avowedly to stem Panamanian General Manuel Noriega's drug connections.<sup>14</sup> The latest instance is the Clinton administration's announcement to bar the visit of Colombian president to the United States on account of his alleged complicity with drug cartels.<sup>15</sup>

The third major challenge that has already surfaced in

---

14. See Juan G. Tokatlian, "National Security and Drugs: Their Impact on Colombian-US Relations", Journal of Interamerican Studies and World Affairs, vol.30, no.1, Spring, 1988, pp.133-60; and Peter Andreas and Coletta Youngers, "US Drug Policy and the Andean Cocaine Industry", World Policy Journal, vol.6, no.3, Summer 1989, pp.529-62.

15. International Herald Tribune (Singapore), 8 July 1996.

some countries and in others has so far remained somewhat dormant, that could pose serious threat to the civilian regimes is the human rights issue. This question with reference to two South American countries--Argentina and Chile--are dealt at length in subsequent chapters. Nonetheless, an attempt is made below to offer a brief insight into the different dimensions of the challenge posed on account of the human rights issue. As has been stated in the first chapter, most military governments as they transferred power to the civil society, had undertaken a tacit consent from the civilian leaders for a general amnesty for their human rights abuses. So much so, in the initial phase of the democratic transition, political parties either by design or choice underplayed the human rights issue. In two instances at least--Chile and Brazil--the military either pressed for a general amnesty or made it a precondition for the transfer of power. Notwithstanding these initiatives intended to pre-empt any backlash, in recent years the human rights issue has resurfaced making demands on the civilian authorities to punish those in the military who had been instrumental to abuses on civilians. In Argentina, president Raul Alfonsin initiated legislative proceedings which boomeranged and coupled with other unresolved economic problems forced him to prematurely resign. In other countries such as

Bolivia, where the civilian authorities had to revert back on their decisions regarding identifying the culprits once human rights groups pressed for legal action. The civilian regimes in the process are caught in a dilemma where any pre-emptive measures they take in regard to human rights abuses perpetrated by the military, such initiatives had to be withdrawn under pressure from the military establishments. Consequently, the civilian regimes are caught in the crossfire of pressure generated by the human rights civilian movements on the one hand, and the intransigence of the military on the other. Intrinsically, it boils down to a fundamental issue viz. how the civilianisation of the military is going to be accomplished in the coming years. What will be the future direction of the civil-military relations is going to be alone that would determine the democratic consolidation. With this objective in view, in the concluding section of this chapter, an attempt is made to assess civil military equations since recently in Latin America.

### ***Civil-Military Equation during Transition***

Most observers are of the view that even in the face of serious economic decline or insurgent threats, direct military rule is not imminent. They are of the view that instead of a precipitous military *coup*, the armed forces are

likely to intensify their efforts to play a preponderant role within a formally civilian political system. These efforts can take many forms from legally permissible activities such as covertly influencing the civilian regimes to outright assertion of their identity through mutinies and show of force against the civilian authorities. No doubt, even these initiatives short of a brazen *coup d'etat* cumulatively could pose a serious challenge to the basic democratic principles, namely civil authority in the ultimate analysis will have to exercise control over armed forces.

By the present reckoning, such an equation seem not to exist in any of the Latin American countries. As one keen observer of civil-military relations in Latin America states

rather than functioning within a completely democratic context, newly established civilian governments ...[are finding] themselves operating in the environment of a post-national security state.<sup>16</sup>

What in fact is suggested by analysts is that the civilian transition has not as yet been consummated because the civilian governments have continued to retain the key elements of the era of military authoritarianism. These ele-

---

16. Paul W. Zagorski, n.6, p.19.



ments include the vestiges of the National Security Ideology evolved and perfected by the military regimes of the past years. In many of these countries, including importantly Chile and Brazil, the National Security Council (NSC) through which the military government defined security, both external and internal, that structure continues to remain. Also, the NSC in some of the countries are manned by the armed forces and it is that body which still monitors developments related to internal security and advises the executive branch. Even where the NSC structures have been abolished or altered, the armed forces continue to retain considerable influence, sometimes even overriding the executive. The head of the defence ministries in some of the countries has not yet been civilianised. Military intelligence units continue to perform the function of domestic surveillance. In some instances, even now the military exercises *de jure* or *de facto* emergency powers annulling the due process guarantees enshrined in the constitutions. Incidence of human rights violations perpetrated by the military in countries such as Guatemala, Peru and El Salvador continue to remain at significant levels. What is even more striking is that armed forces and the para-military police/constabulary have managed to retain considerable internal autonomy, thus protecting themselves from civilian

supervision by the executive. In short,

the current state is neither a true democracy under the recognised control of the elected, civilian leadership nor the national security state of a military regime. Civilian leaders... contend with a frequently recalcitrant military power structure much more deeply ensconced in positions of power than is normal for military bureaucrats in a democracy.<sup>17</sup>

Given the state of affairs as it obtains in respect of civil-military relations, admittedly transition to democracy seems incomplete. Although as a general rule, the military does not become embroiled in civilian politics, the military establishment in the post-national security state has adopted a selective approach to intervene in the civil society whenever the constabulary failed. Instances of military deployment to quell social protests against civilian regimes are still the order of the day. An extreme example of direct military influence in the civil society is the support that the armed forces gave to Alberto Fujimori in Peru when he resorted to prorogue the constitution.

In the decades of 1960 and 1970 when the military played a pre-eminent role to fight against internal subversion, today is finding itself without a mission. By a strange combination of circumstances as the military lost its identity and mission, it also had to transfer power to

---

17. Ibid.

the civilian society. In the process, the military has little choice but to accept and respect civilian authority. It may be argued that for the time being, thanks to the exigencies both international and regional, the military has no other option but to acquiesce to civilian authority. Whether they would remain acquiescent in the coming years will largely depend upon how the civilian governments would resolve the basic issue of evolving a democratic polity and at the same time restructure the economy. If their efforts in these tasks fail, the present unequal civil-military relations would further deteriorate resulting in the increasing assertion of the military in civil society. Obviously, it calls for strong political leadership that could make further headway into democratic consolidation through deft handling of the array of issues--social, political and economic, facing these countries. One of these issues which will continue to befuddle the civilian governments tilting the present balance more in favour of the military, doubtless is the human rights issue. It is for these considerations, an attempt is made in the subsequent two chapters focussing on how the human rights issue has so far been dealt with by the civilian governments in two of the countries, namely Argentina and Chile, wherein the human rights question has assumed considerable significance.

**CHAPTER - III**

**HUMAN RIGHTS ISSUES IN  
ARGENTINA AND CHILE**

HUMAN RIGHTS ISSUES IN  
ARGENTINA AND CHILE

In the preceding chapter, after surveying the circumstances, both political and economic, in which the transition had taken place, it was underlined that the consolidation of democracy, especially in those countries which had gone through the trauma of military authoritarianism, would largely depend on the evolving civil-military equation. Even a cursory acquaintance of recent Latin American political process would suggest that the civil-military equation had and continues to remain fluid and uncertain in the two *conosur* countries--Argentina and Chile. As has been pointed out in earlier chapters, the magnitude of human rights abuses and violations has been worst in these two countries. Mention has also been made of manner in which these violations have been committed as well as the extent of the security forces' complicity in these violations.

In the wake of the democratic transition in both these countries, the civilian governments legislated to establish "truth" commissions, essentially with a view to assess the magnitude of the horrendous crime committed by the military on the civilian population. In Argentina, president Raul Alfonsin, on 15 December 1983, five days after assuming

office, established the National Commission for the Disappeared Persons (CONADEP) and appointed the well-known Argentine writer Ernesto Sabato as its chairman. Similarly, following the general elections of December 1989 when concertacion's leader Patricio Aylwin assumed office as president of Chile, he set up the Commission for Truth and Reconciliation under the chairmanship of Raul Rettig Guissen on 25 April 1990.

While the motivations for setting up these truth commissions by the civilian governments of both Argentina and Chile are more or less the same, the scope and the outcome of these two investigations were however different. Also, the powers assigned to these two commissions by their respective governments too differed. Nevertheless, the manner in which the human rights issue, both in terms of punishing the guilty and providing compensation to the victims, were largely influenced by the contents of the report. Indeed, a question that has been raised in this context is what purpose that the investigations and the reports submitted by these two commissions to their respective governments served? It is for these considerations, attempt is made in this chapter to describe the circumstances along which these two commissions were established and also analyse the scope

and the contents of these two reports.

### ***Argentina's Sabato Commission***

On 13 December 1983, three days after assuming power, president Raul Alfonsin announced two key human rights measures. The first allowed prosecution of the nine members of the three juntas most responsible for the so called "dirty war" waged during the period of *El Proceso*. Later the scope of this law was extended to include other high-ranking officers who had directed the repression. Alfonsin's second bill, later approved by the Congress, established that all those believed to be responsible for the crimes of the "dirty war" would be tried before military tribunals. As a safeguard to ensure prosecutions in the event of inaction or delay by the military judicial system, the federal civil courts were empowered to hear cases that were tied up in the armed forces' tribunals.<sup>1</sup>

And the new president took further steps towards justice. On 15 December 1983, five days after assuming office, president Alfonsin created a National Commission on Disappeared Persons (CONADEP) and appointed ten prominent citi-

---

1. Emilio F. Mignone, "The Military: What is to be Done", Report on the Americas (Washington DC), vol.21, no.4, July/August 1987, p.14.

zens as members.<sup>2</sup> Six other positions were left open for the House of Deputies and Senate to appoint representatives, though in the end the House named only three members.

At its meeting on 18 December 1983, the Commission chose Ernesto Sabato, a leading Argentine intellectual, to chair it. The National Commission on Disappeared Persons was charged with investigating the fate and whereabouts of the disappeared, and with producing a report to the president. It was given means to hire personnel and access to all government facilities, and the security forces were ordered to co-operate with it. It was not assigned any subpoena powers nor mandate to compel testimony, and if it uncovered evidence of the commission of crimes, it was authorised to furnish the information to the relevant courts.

The response of the public to the setting up of the CONADEP was mixed. While many sections of the society welcomed the scope and objective of the Commission, some misgivings were articulated regarding the Commission's legal status and of its composition. Some of the more strident human rights groups desirous of going to the roots of the

---

2. Americas Watch Committee, Truth and Partial Justice in Argentina (New York, 1987), pp.20-21.



problem and seek justice, felt that the Sabato Commission was ill-equipped and inadequate to arrive at the truth regarding the human rights violations. The fact that the Commission was not empowered to subpoena witnesses, or produce indictments, it was argued that instead a congressional commission with powers to summon anybody as well as have access to any of the documents. It is believed that Nobel peace laureate Adolfo Perez Esquivel, because of these reasons, declined functioning as a member of the CONADEP.<sup>3</sup>

In discharging these tasks, the CONADEP hired staff and consultants in January 1984 and began receiving testimonies from relatives of the disappeareds and from the victims of the military's abuses. At the same time, human rights organisations based in Buenos Aires gathered extensive documentation which it turned over to the Commission. Alongside, CONADEP also established branches in several major provincial towns and its staff travelled throughout the country to collect testimonies. Also, Argentine diplomatic missions overseas were instructed to collect information from the exiles. The members of the CONADEP, on the leads provided by some witnesses, also inspected certain police and military facilities which were used as concentra-

---

3. Ibid., p.16.

tion camps and torture chambers. Clandestine cemeteries and public graveyards were also combed by the Commission's staff to search for as yet unidentified victims.<sup>4</sup>

After eight long months of work, the Commission completed a 50,000 pages of documentation with a summary of its findings. Quite appropriately perhaps, the Commission presented formally its report to president Alfonsín at a march in Buenos Aires central square, Plaza de Mayo.<sup>5</sup>

The Commission's official report, subsequently published as a book entitled *Nunca Mas*, produced an enormous impact, both in and out of Argentina.<sup>6</sup> The report listed in annexure the names of the *desaparecidos* numbering 8,961. It also listed names of those who were seen alive in concentration camps and listed as many as three hundred and sixty-five clandestine detention centres. Based on the testimonies of the victims corroborated by clinical reports made available, the Commission provided graphic description of the torture chambers and the techniques used as well as the

---

4. Ibid., p.21.

5. For details, see Elizabeth Jelin, "The Movement: Eclipsed by Democracy", Report on the Americas, vol.21, no.4, July/August 1987, p.29.

6. Ernesto Sabato, et. al., Nunca Mas: The Report of the Argentine National Commission on the Disappeared (New York: Farrar Strauss Giroux, 1988), p.249.

methods used for exterminating the victims physically. The report also gives in some detail the "commitment to impunity", that was an essential part of the method and describe the instances of several prominent members of Argentine society who were victims of "disappearances".<sup>7</sup>

An interesting revelation of the report relates to the categories of victims including children, pregnant women, teen-agers, old families, the handicapped, priests, nuns, ministers, conscripted soldiers, journalists, trade-union leaders and political activists. Of all the reported cases of victims, the Commission has made the percentaged distribution between blue and white collar workers and students. Accordingly, one-third of the victims, it appears were blue collar workers, nearly one-fifth white-collar workers and more than one-fifth constituted students.<sup>8</sup>

By all accounts, the reports of the CONADEP is "powerful indictment" of the repressive policies of the military dictatorship.<sup>9</sup> Admittedly, its conclusions were stunning. After a careful examination of the testimonies corroborated further by the investigations made by the

---

7. Americas Watch Committee, n.2, p.23.

8. Ibid.

9. Ibid., p.24.

Commission members, it arrived at the conclusion:

A single one of these testimonies would in itself be enough to permit the moral condemnation.... It is the sheer number of similar and inter-related cases which makes us absolutely convinced that a *concerted plan of repression existed*.<sup>10</sup>

Not only did the Commission stated unambiguously that "the repression" was a preconceived and "concerted plan", it went further to add that that the "plan" in all its details "was carried out".<sup>11</sup> Even more stinging was its remarks regarding the so called 'excesses' of crimes committed by the military. The report concluded stating that there were not "any 'excesses', because no such thing existed, by 'excess' we mean isolated incidents which transgress a norm".<sup>12</sup> In the Commission's considered judgement:

The system of repression itself, and its planning and execution, was the greatest 'excess'--transgression was common and widespread. The dreadful excesses themselves were the norm.<sup>13</sup>

---

10. Text quoted in Elizabeth Jelin, n.5, p.29. Emphasis added by the present writer.

11. Ibid.

12. Ibid.

13. Ibid.

### ***Rettig Report in Chile***

Patricio Aylwin's *concertacion* promised during the election campaign that one of its major agenda was its moral commitment to address the human rights issue. So, by the presidential Decree No.355 dated 25 April 1990, Aylwin announced the appointment of Commission for Truth and Reconciliation led by Raul Rettig. The Commission under the provision of the Decree was charged with the task of investigating into human rights abuses and submit an official report, on the basis of which appropriate data was to be delivered for legal actions against those members of the military establishments for necessary legal actions and prosecutions. Presumably, because of the ambiguity in respect of its jurisdiction on its investigation, the Commission's work was delayed for almost a year. It is being argued that as the "debate went on the fact that the Rettig Commission was working on the issue, allowed the Aylwin government to postpone direct action" on the human rights question.<sup>14</sup>

---

14. Brian Loveman, "¿Mission Cumplida? Civil-Military Relations and the Chilean Political Transition", Journal of Interamerican Studies and World Affairs (University of Miami, FL), vol.33, no.3, Fall 1991, p.54.

So much so, from the beginning, the Commission's work was riddled with a number of problems. On the one hand, the threats from the military and the political Right over the outcome of the Commission's investigations and, on the other hand, the misgivings and resentment voiced by the victims of human rights abuses, added to foot-dragging by the Commission. In the end, given the ambiguities of its area of jurisdiction as well as the pressure generated by Pinochet himself, severely circumscribed the Commission's task in respect of investigating into human rights abuses. So narrow was its ambit of investigation, "it did not include cases involving torture (unless death occurred) or other violations of human rights... or punishment of perpetrators".<sup>15</sup> Though the Argentine Sabato Commission also was not vested with judicial authority like the Rettig Commission, in the Chilean instance, not even names of the accused were allowed to be publicly identified. Even more curious was that in respect of political violence committed during the years of the military regime, the Rettig Commission enlarged its jurisdiction to include terrorists activities perpetrated by private militia. As one analyst argues:

---

15. Ibid., p.55.

This was a conscious departure from the conventional view which focused on government, rather than private violence; it served in part as public acknowledgement that terrorist activities by armed groups of both Left and Right had contributed to an environment in which state terrorism had become routine.<sup>16</sup>

While the Commission carried on its investigation, as it chose to, the media was vigorously engaged in its self-assigned task of discovering fresh evidences of the military junta's repression. Photographs and write-ups on cadavers in mass-graves in several parts of Chile, including importantly in Pisagua were published. Even feature stories were published on the commanders of the military posts where the dastardly acts of repression were committed. While the military reacted to these media stories by stating that these events had taken place when Chile was in "a state of war", the Rettig Commission, on the other hand, seemed to have instead taken no notice of these fresh evidences however.

Finally, on 9 February 1991, the Rettig Commission delivered its multi-volume report to president Aylwin. Though, the findings of the report was not immediately disclosed to the public, the reaction of the different sections of the Chilean society was however critical. It

---

16. Ibid.

appears that the ceremony where the Commission formally delivered its final report to the president "was marked with demonstrations by the members of the families of the disappeared".<sup>17</sup> Media responses were equally critical with such banners as "Rettig Report: Crime without Punishment?" Editorials described the report as being "one-sided" for it ignored torture, political prisoners and exiles.

Subsequently, on 4 March 1991, when president Aylwin chose to address the nation on the Commission's findings, he offered public apology to the victims of state terrorism and promised to offer reparation, both moral and monetary. All that the president offered was a solemn appeal to the armed forces and the constabulary "to acknowledge the pain they caused and make efforts to lessen it."<sup>18</sup>

The Commission in its report obviously diluted the magnitude of the crimes committed by the military junta and went into great details on the following. It provided a rationale for the victims to claim reparation and recommended a basis for the executive's decision to look into the human rights abuses in all its dimensions or to accept the

---

17. Ibid., p.56.

18. "Presidente Aylwin llamo a todos a aceptar la verdad", La Epoca, 5 March 1991.



political constraints of the transition in respect of punishing the guilty.<sup>19</sup> It went further and made recommendations concerning reform of education for both the military and the civil society with a view to enhance institutional protection for human rights in the future.

Curiously though, the Commission chose the judiciary for its critical comments. It stated:

The judiciary [during the military junta only] maintained the legal appearance of its autonomy. But this appearance hid the reality for two fundamental reasons: a) the majority of the *Corte Supremas* evinced a sympathetic disposition toward the regime and b) they felt it was pointless to [intervene in view of the fact that the junta] could change the system arbitrarily including at the constitutional level.<sup>20</sup>

---

19. In the annexure to the Report, the Rettig Commission offers the following data. In its estimate as many as 2,920 were identified as dead. However, of these, the Commission claims that evidences are available for only 2,279 of whom 164 were victims of political violence and the rest victims of human rights violations. Among those dead, the Report suggests that 98 per cent were Chilean nationals. Again, as much as 95 per cent of these were men. In respect of age group, more than 70 per cent belonged to the age group of twenty to thirty five. The Commission admits of the victims those who belonged to the Socialist Party were the largest Distinguished on the basis of social status, the Report suggests, the maximum number of the victims belonged to the working class, peasantry and the student community. Whereas the workers and peasants constitute almost one-third of the total, the students amounted to one-sixth. For details, see Raul Rettig Guissen, "Informe de la Comision Nacional de Verdad y Reconciliacion" (Santiago, Chile: February 1990).

20. Ibid., p.42.

In a sense, comparatively speaking, neither of the two reports--Sabato Commission of Argentina and the Rettig Commission of Chile--accomplished the objectives with which these exercises were instituted. Both suffered from serious lacunae. Whereas the CONADEP was constrained in some respects--its jurisdiction was restricted to enquiring into the events relating to the disappearances and investigating the fate of the *desaparacidos*, it could not extend its investigations to identifying those responsible for human rights abuses and bringing them to trial. In the case of the Chilean Rettig Commission, its jurisdiction was even more restricted to investigate instances of those who were declared dead. Even in this, the Chilean Commission confined itself to investigating on those identified as dead and it diluted it further by including those who were killed by the private militia and not highlighting the acts of crimes committed by the armed forces.

Admittedly, the selective nature of the findings and the restrictive scope of the investigation only reinforced the argument that any extended investigation could have been detrimental to the respective civilian governments. Being an extremely sensitive issue and given the imperatives, both political and social in which these civilian governments

were placed neither of these governments could have afforded a more open and thorough investigation. This is not to suggest that the Commission's reports were of no consequence. In fact, the incumbent and the successive civilian governments evolved their approach and strategies regarding the human rights issues at least to some extent on the basis of these reports. How these policies were evolved and how effective they were, are aspects that will be dealt at some length in the following chapter.

**CHAPTER - IV**

**DILEMMAS OF THE CIVILIAN  
GOVERNMENTS**

## DILEMMAS OF THE CIVILIAN GOVERNMENTS

In the foregoing analysis, the focus was on the human rights issue confronting the civilian regions since the time of the political transition in Latin America. Few would disagree that future democratic consolidation in the region will be largely determined by the direction in which, among others, that the civil-military equation would evolve. Of the several factors which are likely to distort the civil-military equation and thereby undermine the democratic consolidation of the civilian regimes, admittedly, the human rights issue is importantly one. Given the history of the military's undoubted political role in the region, scholars are of the view that in the present context any precipitous initiative on the part of the civilian regimes, in resolving the human rights issue which will be detrimental and inimical to the collective interest of the military establishment, is likely to tilt the existing civil-military balance and could even upset the ongoing process of democratic consolidation.

Keeping in view the current tenuous civil-military equation, especially in the two cono sur countries--Argentina and Chile--and given the magnitude of

the human rights violations in these two countries during the military interlude, the present study chose those two countries as typical case studies for making an assessment, and on that basis offer some prognosis regarding the civil-military relationship as well as the potentials for democratic consolidation. In the previous chapter, an attempt was made to survey the initiatives taken by the civilian regimes in respect of not only assessing the magnitude of the human rights violations in Argentina and Chile, and also evolve on the basis of such assessments an appropriate policy. Having analysed the findings and the policy recommendations made by the human rights commissions--Sabato and Rettig, in this chapter the focus is to examine the policy overtures of the civilian regimes in these two countries and, to the extent possible, assess the efficacy of these policy initiatives.

#### ***Human Rights Policy Under Alfonsín and Menem***

The National Commission for Disappeared Persons (CONADEP) sought to trace the extent of the human rights abuses perpetrated by the military junta. Its major findings included i) disappearances in Argentina were numerous and particularly abhorrent in that they were out of proportion to the seriousness of the so called "internal" threat of

subversion and included people who were not necessarily the enemies of the regime or the country; ii) responsibility for rights violation was not localised in a national intelligence service or even in services or in service intelligence agencies; iii) the methodology used provided for highly decentralised execution of the plan involving all the three arms of the armed forces; and iv) operational commands and the subordinate units often took part in these horrendous crimes. In other words, the Argentine military establishment from the high echelons of the officer core to the bottom ranks seemed to have been fully involved in the "dirty war" euphemistically described as *El-Proceso*. To cleanse such a military establishment, called for nothing shorter than a wholesale purge of the institution. Yet, a precipitous step along those lines would have meant for the incoming civilian regime of Raul Alfonsin, a political disaster. Obviously, it called for a policy approach based on two contradictory objectives: i) to enunciate the principles of due process and legal accountability for human rights violations and ii) obtain a degree of voluntary acceptance of these norms by the armed forces. In a sense, Alfonsin's view from the beginning, it appears, was "to incorporate the armed forces into the democratic political project". No wonder therefore, Alfonsin went at length to

make a

distinction we must draw between the bad chiefs the army had and the army as an institution... we must ensure that, [the army] has the prestige it ought to have in any society. To the sceptics, on the other side, who wonder how we can talk about the armed forces' prestige without holding new trials, I say: the armed forces' prestige is linked to the fact that the bad chiefs had been brought to trial. This is what makes it possible to clarify the matter with regard to rest of the army.<sup>1</sup>

By stating that that is the only "possible" option, Alfonsin underlined a policy approach which would call for prosecuting the military's upper echelons and spare the other ranking members of the military establishment, a view he frequently stated during his election campaign, emphasizing thereby the need to "distinguish between those who gave the orders, those who carried them out and those who committed excesses."<sup>2</sup>

Thus, Alfonsin's strategy of selective prosecution based on the subtle distinctions that he made between those whom he described as the "bad chiefs", and those who carried

- 
1. Quoted in Paul W. Zagorski, Democracy Vs. National Security: Civil-Military Relations in Latin America (Boulder, Co: Lynne Rienner Publishers, 1992), p.101. Emphasis added by the present writer.
  2. Emilio F. Mignone, "The Military: What is to be Done?" Report on the Americas, vol.21, no.4, July/August, 1987, p.22.



out the orders and those who actually committed the crimes, however, satisfied neither the military nor the human rights victims and the human rights groups. The threat of trials for officers who might be included in one or in more than one categories, produced great unease in the armed forces. As CONADEP made public its findings, the magnitude of the crimes committed by the armed forces brought pressure on Alfonsin's government to prosecute a larger number of officers than anticipated during the electoral campaign. On the other hand, the victims of human rights violations and the groups championing their cause were equally troubled by the fact that many members of the military might escape execution altogether thanks to the finer distinctions that Alfonsin had made.

Caught between the dilemma, consequent upon the growing sense of uneasiness among the armed forces on the one hand and the human rights groups on the other, Alfonsin, in August 1986, instructed the military's chief prosecutor to absolve those found to have acted while following the orders to commit the crimes, and at the same time sought the Congress to pass the *punto final* bill, seeking prosecution only of those charged within sixty days of the statute's approv-

al.<sup>3</sup>

Signed into law on 23 December 1986, *punto final* did not produce the anticipated results. Human rights groups, working feverishly under deadline, stipulated in the *punto final* brought charges against large number of the armed forces of whom substantial number were on active duty. Predictably, the middle ranking officers declared their intention to resist, threatening not to participate in what they claimed the "unjust and illegal trials" brought under *punto final*. With that the hope of putting an end to the human rights imbroglio was dashed.

The threat of additional convictions led to an organised rebellion of junior officers during the Holy Week in April of the following year. Colonel Aldo Rico and his co-conspirators barricaded themselves inside the Campo de Mayo Infantry School, just twenty five kilometres off Buenos Aires, expressing solidarity with two similar uprisings which had erupted in Cordoba following Major Ernesto Barreiro's refusal to comply with a request to appear before the

---

3. For details, see Paul W. Zagorski, "Civil-Military Relations and Argentine Democracy", Armed Forces and Society (New Brunswick, NJ), vol.14, no.3, Spring 1988, pp.407-432.

civil courts.<sup>4</sup> Although Alfonsin initially was not able to get the military to act effectively against the rebels, the civilian support for the government was encouraging. The crisis was apparently resolved in mid-April when Alfonsin personally flew to Campo de Mayo to seek an end to the hostilities. Though, perhaps, in the process, a civil war had been averted, it soon became clear that the president had been more conciliatory towards the rebels. It is even suggested that the compromise formula included among others, the termination of human rights trials in order to end the rebel military's insurrection. Whether this is really so or not, Alfonsin's actions, less than a week after the rebellion was defused, corroborates those who argue that Alfonsin was more conciliatory than demanding. For, on his return from Campo de Mayo, Alfonsin submitted a bill to the Congress, subsequently approved as *Obediencia debida* law that exonerated all officers at the rank of lieutenant colonel or lower charged with human rights offences.<sup>5</sup> At the same

---

4. For details of the Holy Week rebellion see n.1, pp.102-102.

5. Passed by both houses of the Congress in June, the *Obediencia debida* law exempts officers from lieutenant colonels down from being tried. Even those who tortured and killed prisoners were exonerated because they did so on orders. This exemption includes the entire active duty officer core since the generals of the late 1980s were the lieutenant colonels during the military junta period. In the process, only a few officers alone could be charged for their past crimes.

time, Alfonsin attempted the reorganisation of the military high command by appointing Jose Segundo Caridi (then fourth in the hierarchy) as the chief of staff alongside retiring ten most senior generals. This move of Alfonsin, although put an end to the Holy Week crisis in the short run, eventually damaged considerably his image and credibility.

Neither the reorganisation of the military high command nor the *obediencia debida* law produced any perceptible change in the attitude of the military. Consequently, restiveness in the army, in fact, grew further. The new chief of staff, General Caridi, for one, lacked personal authority. The massive transfer and retirement of officers enhanced the apprehensions in the ranks of the military of the politicisation of the armed forces, creating thereby rift between the professionals versus the others.

This lack of concensus, in turn, produced divisions within the armed forces. One individual of influence, Colonel Mohammad Ali Seineldin of "nationalist" inclinations, spearheaded along with the army Major Barreiro (of the Holy Week rebellion) launched what came to be known as *operacion dignidad*.<sup>6</sup> Ever since began the running battle

---

6. Paul W. Zagorski, n.1, pp.107-9.

between the rebel forces, nicknamed *carapintados* and the Argentine military under the command of General Caridi which climaxed in the serious assault on the third infantry regiment stationed in La Tabalda on 23 January 1989.<sup>7</sup> By now, the discipline within the ranks of the military had evaporated. In the wake of the La Tabalda attack, General Caridi was forced to resign and Colonel Seineldin was imprisoned along with some of the rebel officers. Very soon after president Alfonsin himself chose to quit office, six months before the general elections.

The policy initiatives that Alfonsin undertook, no doubt, were well-intended but perhaps misguided. In failing to follow up reprisals with effective restitution in the initial phase of his administration, Alfonsin rather than assuaging the fears, real or imagined, of the military about the evolving democratic order obviously, had heightened them. A more deft handling of careful balance between rewards and punishments may have given confidence to the armed forces. In the process, the decisive advantage that Alfonsin had in strengthening the democratisation, especially in view of the fact the transition process that he presided followed the collapse of the military, was wasted

---

7. Ibid., p.110.

largely on account of the ambivalence in his policy implementation.

In the ensuing general elections which brought the *peronistas* under the leadership of Carlos Menem to power, under the circumstances, offered no other option except to adopt unabashedly a more conciliatory policy towards the armed forces. Given the balance, now more in favour of the military, Menem seemed to have had no choice except to capitulate to the pressures from the armed forces. No wonder therefore, on 7 October 1989, Menem issued a pardon that covered all but a few military officers.<sup>8</sup> While pardoning, he went to the extent of saying that he was more qualified to grant the amnesty because he himself had been incarcerated during the military regime. Was it Menem's magnanimity that led him to offer the general amnesty? Or, was it no more than mere capitulation in order that he could draw the support of the military for his political leadership? Admittedly, answers to these questions cannot be definitive. At least one observer has responded thus:

Most new civilian governments view trials as the equivalent of throwing democracy out a twenty-storey window. Three military uprisings in Argentina were enough to convince Alfonsin to end the trials; his successor as president, Carlos Saul

---

8. Ibid., p.112.

Menem, even pardoned the junta leaders already convicted.<sup>9</sup>

Be that as it may, what is the track-record of the two successive civilian regimes in Argentina in respect of the human rights issue? However misguided, Alfonsin's approach to the human rights issue had not triggered a military coup. It did, however, provoke the next most dangerous situation, namely armed rebellions. The price in the end that the civil society had to pay could be considered as heavy, in the sense that barring a few in the upper echelons of the military, all others have been either exonerated or have escaped legal prosecution. However, if one looks at the other side, the military too seemed to have paid a very dear price, in order to save its skin which led to the fissures that had surfaced within the military establishment, striking at the very heart of the institutional discipline and the hierarchically structured command system.

***Pinochet Factor and the Chilean Civilian Government's Human Rights Policy***

Unlike Argentina where human rights abuses committed under the now discredited military dictatorship, has been sorted out by the present regime without tension between the

---

9. Tina Rosenberg, "Overcoming the Legacies of Dictatorship", Foreign Affairs, vol.74 (May/June, 1995), p.149.

military and the civil society, in Chile, they have continued to erupt periodically, creating tensions in the otherwise normal politics. Under the presidency of Patricio Aylwin, following seventeen years of repressive military dictatorship, the *concertacion* adopted from the beginning a radical programme in its content which underline three basic principles, namely truth, justice and reparation. The principle of truth was intended for the entire society, justice targetted the military and the principle of reparation addressed the victims of the human rights violations.

Notwithstanding its stated agenda based on the three principles identified earlier, the Aylwin's government had to retract on its stated policy subsequently, presumably to pre-empt any precipitous move on the part of the military establishment which, needless to add, continued to remain as a powerful factor on the political horizon of Chile.<sup>10</sup> It is in these circumstances, Aylwin's government chose to appoint the Commission on Truth and Reconciliation, details

---

10. The transition to democracy in Chile, as has been described in the earlier chapter, was a transition through transaction under which the revised Chilean constitution provided for the continuation of junta chief Augusto Pinochet as the commander-in-chief of the military and not the elected civilian president as has been in vogue in the past, and that one-third of the Senate will have members nominated by Pinochet himself. Also, a general amnesty law, passed in 1978 by the Congress, to remain intact even after the transition.



of which have already been described in the previous chapter. As a Chilean scholar points out, this initiative to deal with human rights issues "by means of the Commission for Truth and Reconciliation... was not based upon a clear vision of what was to be achieved... and what its foreseeable effects might be."<sup>11</sup> In other words, Aylwin's *concer-tacion* had obviously moved away from its initial promise. Now, it is truth and on that basis, a reconciliation between military and civil society had to be worked out rather than arriving at the truth and on that basis truth, justice and reparation are dispensed. What is more, the Commission itself was vested with authority to investigate only on those who have been declared dead as a consequence of the crimes committed by the junta. No doubt, the Rettig report analysed the causes of human rights violations, described these violations, accurately analysed the behaviour of the security forces, the armed forces and the judiciary, and proposed a plan of action for the future. In that sense, the Rettig Commission, as one media commentary, states "confirm[ed] the tenebrous 'state terrorism' that reigned

---

11. Manuel Antonio Garretón M., "Human Rights in the Processes of Democratisation", Journal of Latin American Studies (New York, NY), vol.26, no.1, February 1994, pp.254-256.

in" Chile.<sup>12</sup>

Be that as it may, Aylwin, while accepting the report offered public apology, but also was engaged in working out a package, *pro puesta*--a proposal for peace for which he sought the support of all the parties, ranging from right to left of the political spectrum. The *pro puesta* was a declaration of principles and commitment to reconciliation which, among others, sought to withhold the names of human rights violators for twenty-five years to expand the coverage of 1978 Amnesty Law and subject this package to a national plebiscite. Politically, by proposing the *pro puesta*, the president undoubtedly had departed significantly from the initial *concertacion* programme. For, not only he was unwilling to abrogate 1978 Amnesty Law, was he inclined to propose that the government pursue and prosecute the human rights violators. His only appeal to the armed forces was seeking them to offer condolences to the victims.

Even this watered-down and mild policy overture of Aylwin, following the publication of the Rettig report, was unacceptable to the military establishment. What perhaps troubled the military, was the moral weight implicit in the

---

12. "Informe Rettig: ¿son culpables!" Analiris, 11-14 February 1991.

Rettig report. No wonder therefore, its response and demands in the wake of the Rettig report was consistent with its earlier declarations. Shortly after the Rettig report was made public, not only Pinochet, also the Council of Retired Army Generals and the Direccion de Inteligencia del Ejercito (DINA), all rejected outright the Commission's recommendations. Ever since, in fact, the military establishment had openly declared that it does not take cognizance of the Rettig Commission's findings or recommendations. Even, the appeal of Aylwin for public apology went unheeded, for the military maintained that it had nothing to repent, having rescued the country from a subversive, irregular, internal war.

By now, Aylwin had to face a reality where he had to retrace several of the steps that he had taken since the elections. From truth, justice and reparation, he had to move towards truth and reconciliation but after the Rettig report and its rejection by the military he had to move away from the truth and reconciliation principles and as one observer rightly remarks, "thus, the Rettig Commission report established `a truth' rather than `the truth'. [For] its call for reconciliation was heeded only in part and left

many aspects of the human rights issue... pending."<sup>13</sup>

With the military rejecting the Rettig Commission report, Aylwin's options in respect of his human rights policy also narrowed. All that the Aylwin's government would accomplish was creating a governmental agency with a two-year mandate to offer compensation and aid for victims, assisting the search for the remains of the disappeared etc.<sup>14</sup> Also, on the basis of the Commission's recommendations, Aylwin government presented a package of judicial reforms entailing modification of the Internal Security Law, Anti-Terrorism Law and the Military Code of Justice, as a package known as *Leyes Cumplida*.<sup>15</sup> Not only most of the essential features of the *Leyes Cumplido* were virtually rejected, even the diluted version of the *Leyes* enacted could not be effectively enforced. For instance, under this new legislation, the Letelier-Moffit assassination case was transferred from the military to the civil courts because no

---

13. Brian Loveman, "¿Mision Cumplida? Civil-Military Relations and the Chilean Political Transition", Journal of Interamerican Studies and World Affairs (University of Miami, FL), vol.33, no.3, Fall 1991, p.59.

14. For details on the agency, named Corporation on Reparation and Reconciliation, see Felipe Aguero, "Chile: South America's Success Story?", Current History (Philadelphia, PA), March 1993, p.132.

15. Brian Loveman, n.13, p.16.

progress had taken place in the military judiciary.<sup>16</sup> Under orders in 1991, once the case was transferred to the civilian court, both Contreras and Espinoza, the accused, were indicted on charges of murder and forgery. Curiously though, both were released on bail with sentence pending.

In any event, by April 1991, the prevailing atmosphere in Chile underwent sea change following the assassination of Senator Jaime Guzman, principal author of 1980 constitution, a critic of the Rettig Commission report and a staunch supporter of General Augusto Pinochet. More than all he was a vigorous opponent of *Leyes Cumplido*. While the culprits have not been identified, his assassination was attributed to the dilution of the Anti-Terrorism Law. Guzman's assassination deflected attention away from the Rettig Commission. Thus, as one observer rightly remarks, "the main victims of Guzman's death, at least in the short term, were *concertacion's* human rights programme, a proposed judicial

---

16. Orlando Letelier was a cabinet minister in the Unity Popular government of Salvador Allende. He and his assistant, Ronni Moffit were assassinated in a car bomb explosion in Washington DC in 1976. General Manuel Contreras, then head of the DINA, was alleged co-conspirator along with Pedro Espinoza. Not only the Chilean Supreme Court refused to extradite the accused to the United States during the years of the military junta, nor was the military willing to let a civilian court investigate the Letelier-Moffit case.

reform...and modification of the penal code."<sup>17</sup> Ever since, tensions have subsided in respect of civil-military relations, although it is very difficult to predict the future course.

The second post-Pinochet government of a three party *concertacion* led by Christian Democratic leader Eduardo Frei has evolved a new package of proposals to achieve national reconciliation. How far he would succeed in bringing about the reconciliation will largely depend on the following ticklish issues: one, resolving the cases of *desaparacidos* and two, to an amendment to 1978 Amnesty Law. On both counts, Frei is at a dead end. All that he is intending to do is to discover the fate of the *desaparacidos* since 1978. He, however, has not proposed, as yet, to identify the authors of the crimes. As one observer states, Frei appears to "let sleeping dogs lie and so placate the increasingly hostile military."<sup>18</sup> Frei's other objectives in modifying the Organic Law of Armed Forces providing for a role for the president, is fraught with basic constitutional problems. Given these constraints, it is very unlikely that the Frei regime could go any closer to the resolution of the basic

---

17. Brian Loveman, n.13, p.59.

18. Siddhartha Baviskar, "A Chilly Democracy: With Pinochet Calling the Shots", Frontline (1 December, 1995), p.63.

questions relating to the human rights. All this leads to a conclusion that not much is likely to be accomplished officially. As a Chilean scholar states:

Even though legal actions and investigations will continue to throw greater light on what happened under the military regime, popular aspirations will remain unsatisfied. This, in turn, suggests that the issue will lose active significance.<sup>19</sup>

Perhaps, so.

---

19. Manuel Antonio Garretón M., n.11, p.230.

## **CHAPTER - V**

## **CONCLUSION**



## CONCLUSION

The major focus of the present study is to examine at some length the current process of political transition in Latin America following the exit of the authoritarian military regimes, yielding place to civilian democratic rule, and relate the ongoing transition process to the human rights question. Needless to state at this juncture that the question of human rights assumed critical magnitude with the increasing exposure by the media and the human rights group of the gross and extensive violations committed by the now discredited and deposed military regimes.

During and since the transition process the civil society in the different countries of the region has attempted to ensure that the past in respect of human rights abuses and violations perpetrated by the military regimes is not wholly forgotten. The need for bringing the human rights transgressors to justice, and for disclosure and transparency over the misdeeds of the past military regimes has been acutely felt, both within and outside the region. So much so, the incoming civilian regimes with a view to consolidate the political transition towards evolving demo-

cratic governance have taken different policy initiatives. These initiatives, largely the outcome of the pressure built on the civilian regimes by the divergent sections of the civil society, including importantly, the very victims and/or their family members, have taken different forms in the various countries of Latin America. Whereas in the case of Brazil, a private non-governmental initiative was launched by the institution of the Church, in other countries either the legislature or the executive responding to public pressure had established a machinery to deal with the tragic past. In still others, as in the case of the Central American country of El Salvador, as part of the peace agreement between the regime and the guerrilla groups a United Nation's sponsored initiative has attempted to grapple with the legacy of repression and violence, in order to usher in a political climate that would ensure a reasonable transition to civilian democracy.

Whatever may be the nature of the initiative and at whomsoever's behest, these initiatives have been undertaken, two distinct features stand out from recent Latin American experience in this regard. First, the political balance of forces intrinsically between the military and the civil society has, by and large, determined the extent of the

general acceptance to the manner in which the past painful record of human rights crimes has been dealt with. As has been delineated in this study, in Chile for instance, a process of controlled democracy crafted and guided by the junta chief, General Augusto Pinochet, provided for a modicum of democratic governance while retaining a paramount role for the military establishment, meant that only partial resolution could be achieved. In Argentina where repression and human rights violations have been even more extensive, the role of the military and the abject surrender of the successive civilian regimes to the military's covert and overt threats and pressures meant that the general ground's welling demand for a *nunca mas* seeking prosecution of the offenders who committed the horrendous crime took second place to the need for political stability and civil order. As in other instances elsewhere in Latin America, it appears as though justice and reconciliation has been confused with normality. In other words, settling past account seemed to have been undertaken with a view not to upset the present transition.

Be that as it may, on the positive side, it must be credited that both Argentina and Chile alone are the two

countries in which civilian regimes have taken the effort to hold accountable those who committed gross abuses of human rights.

As has been described in the study, right from its inception in 1983, when Argentina initiated its process of investigating the past and prosecuting those responsible for the abuses of the so called "dirty war" as part of the *El Proceso*, the country grappled with the issue until 1989 when presidential pardons reversed the impact of the earlier initiatives.

Interestingly, in Argentina it was non-governmental organisations importantly, women-led human rights movements such as Madres de la Plaza de Mayo that forced the incumbent civilian president Raul Alfonsin to setting up a commission to investigate the misdeeds of the "long nights" of the military generals. In turn, Alfonsin acceded and created the National Commission for the Disappeared Persons (CONADEP) with the undoubted and revered Argentine intellectual, Ernesto Sabato, as its functioning chairman. Limited in scope in terms of investigating into the past and constricted in terms of authority to summon the transgressors, CONADEP nonetheless produced a document which subsequently

entitled as *Nunca Mas* turned one of the best-sellers in the 1980s. Public debate that it generated, both within and outside Argentina, was substantial. Notwithstanding its meticulous efforts in going into the roots and antecedents of the military's excesses and giving graphic description of the variety of crimes committed by the military, and the unequivocal admonition that it handed down on the military establishment, yet its impact in the end was minimal. In the wake of its report, when senior generals were prosecuted, political temperature ran high to a point that it could have led to a pitched bloody battles between the dissident military and the faction loyal to the civilian government creating apprehension in the minds of the civilian regime that Argentina would degenerate into yet another bout of military dictatorship. Frantic efforts, therefore were made and by 1989, an Alfonsín who opposed Argentina's Amnesty Law of 1987 and repealed it on his elections, pardoned rest of the officers. His successor in Carlos Menem only reiterated Alfonsín's stance and released all including the junta leaders. No doubt, compensation for the families of the disappeareds and those who had been tortured was made by the government.

Chile, on the other hand, provides how and how not to

deal with the painful past. Following the general elections held in 1990 when Pinochet stepped aside to let *concertacion's* leader Patricio Aylwin to take the reins, public pressure mounted for an investigation into the deaths and the disappearances. Aylwin, on his part, appointed a National Commission for Truth and Reconciliation under the chairmanship of Raul Rettig to investigate abuses resulting in deaths and disappearances over the past seventeen years of military rule. Broadly representative and well-balanced, the Commission worked for nine long months investigating thousands of complaints of human rights violation by the armed forces. Curiously though, the Commission took upon the task of looking into similar violations committed by the armed opposition to the military regime. In the process, it offered through its findings, a distorted and to some extent an unbalanced account of the past. Rettig Commission's hefty report was received with as much outrage from the public. Yet, Aylwin while receiving the report merely expressed a formal apology for the victims and their families on behalf of the state and meekly sought the army to admit its undoubted role in the violence. As has been described in the foregoing analysis, the military instead not only refused to take cognizance of the Commission's

finding but also remained unrepentent of its past misdeeds.

The prime concern ever since of the Aylwin's government has been one of reconciliation than justice and reparation, if that reconciliation would need burying the past and ignoring the Commission's findings. No doubt, other recommendations of the Commission were attempted to be implemented including major reforms of the judiciary. Tragically though, following the assassination of Senator Jaime Guzman, the judicial reform process also became desultory. Just as in the case of Argentina, the Chilean government established a national corporation to dispense reparation to the victims. Subsequent developments under the present regime of Eduardo Frei has further distorted the government from taking any initiatives that would ensure justice by way of punishing the transgressors.

On the basis of the investigations made by the Commissions established in these two countries to arrive at the "truth", it may be stated that these initiatives seem to have not only facilitated the process of normalisation but also provide a modicum of relief to the victims of past transgressions. Attempts of arriving at the "truth" and insights into the past misdeeds have also addressed the issue

of accountability and, to the extent possible, has facilitated reconciliation.

From the experience of these two countries, it is possible to make some prognostications into future efforts in this direction. Human rights issue is multi-dimensional on moral and ethical grounds and, in fact, on legal grounds, both national and international, human rights violations are reprehensible. And therefore, constant efforts will have to be made to monitor such violations and avoid its occurrence. Yet, there are ground realities that pose problems. More often, political expediency seemed to have distorted and stymied enforcement measures. This does not mean that efforts should not and cannot be taken in redressing the human rights violations. It is in this context the experience of these two Latin American countries have become relevant. Indeed, they could be the guide-posts and pointers to future efforts in this regard. From the experience of these two countries, it is possible to enunciate a few basic principles that could offer guidelines for how the past could be dealt with. Of these principles, the first and foremost is that efforts will have to be made so that "the truth" is known. In other words, any measure to deal



with the past human rights abuses must be adopted in full knowledge of "the truth" of what happened in a given situation. Without such knowledge of "truth", no policy could be evolved that would avoid the two extremes of revenge and clemency. And "the truth" must be revealed in totality. In this respect, it may be added in parenthesis that neither the Sabato Commission nor the Rettig Commission, because of built-in constraints, could arrive at "the truth" in totality. Another related aspect is that "the truth" that is arrived must be officially proclaimed and publicly exposed. Establishing and proclaiming "the truth" by official means allows the findings to form part of the historical record of the nation, thus establishing an authoritative version of the events concerned.

Once "the truth" had been established, through the judicial process, justice will have to be meted out. Offenders will have to be punished. Unless, punishment is meted out, the credibility of the state will come under question and could even threaten the constitutional democratic order. In this regard, both Argentina and Chile seemed to have failed and their failure could, if not now, in the future erode the legitimacy of their civilian regimes. Finally, in addition to "truth" and "justice",

efforts will have to be made to provide moral and material reparation to the victims. The record of both Argentina and Chile seemed to be satisfactory in this regard.

In sum, on the basis of the two case studies, presented in this monograph, what so far has been accomplished is far from satisfactory. Yet, it should be added, given the complexity of the human rights issue, and also given the kind of constraints in which these civilian governments have been placed since transition, what has so far been achieved is noteworthy!

**SELECT BIBLIOGRAPHY**

## SELECT BIBLIOGRAPHY

### ***PRIMARY SOURCES***

Americas Watch Committee, Reports.

Amnesty International, Reports.

Inter-American Commission on Human Rights, Reports.

Sabato Commission Report, (Buenos Aires, 1984).

Rettig Commission Report, (Santiago, 1991).

United Nations Committee on Human Rights, Reports.

### ***SECONDARY SOURCES***

#### ***Books***

Arriagada, Genaro, Pinochet: The Politics of Power (Unwin Hyman, 1988).

Black, George, Garrison Guatemala (London: Zed Books Ltd., 1984).

Booth, John A. and M.A. Seligson, eds., Political Participation in Latin America: Citizen and State (New York: Holmes and Meier, 1978).

Catterberg, Edgardo, Argentina Confronts Politics: Political Culture and Public Opinion in the Argentine Transition to Democracy (London: Lynne Rienner Publishers, 1990).

Close, David, ed., Legislatures and the New Democracies in Latin America (London: Lynne Rienner Publishers, 1995).

- Constable, Pamela and Arturo Valenzuela, A Nation of Enemies: Chile Under Pinochet (Norton, 1991).
- Epstein, Edward C., ed., The New Argentine Democracy: The Search for a Successful Formula (Praeger Publishers, 1992).
- Erro, David G., Resolving the Argentine Paradox: Politics and Development, 1966-1992 (London: Lynne Rienner Publishers, 1993).
- Falcoff, Mark, A. Valenzuela and S. Kaufman, Prospects for Democracy (New York: Council on Foreign Relations, 1988).
- Fisher, Jo, Out of the Shadows: Women, Resistance and Politics in South America (New York: Monthly Review Press, 1993).
- Guest, Jain, Behind the Disappearances: Argentina's "Dirty War" Against Human Rights and the United Nations (University of Pennsylvania Press, 1990).
- Hodges, Donald C., Argentina's "Dirty War": An Intellectual Biography (University of Texas Press, 1991).
- International Organisation of Journalists, The Chilean Coup and its Cruel Aftermath (Madison: Wisconsin Press, 1974).
- Munck, Ronaldo, Latin America: The Transition to Democracy (London: Zed Books, 1989).
- O'Donnell, G., P.C. Schmitter and Laurence Whitehead, eds., Transition from Authoritarian Rule: Prospects for Democracy (Baltimore, MD: John Hopkins University Press, 1986).
- O'Donnell, Guillermo, Modernisation and Bureaucratic Authoritarianism (Berkeley: Institute of International Studies, 1973).

- Oppenheim, Lois Hecht, Politics in Chile: Democracy, Authoritarianism and the Search for Development (Westview Press, 1993).
- Palmer, D.C., "Sendero Luminoso Rebellion in Rural Peru" in George Fauriol, ed., Latin American Insurgencies (Washington, D.C.: Georgetown University, Centre for Strategic and Internal Studies, 1984).
- Sabato, Ernesto, et. al., Nunca Mas: The Report of the Argentine National Commission on the Disappeared (New York: Farrar Strauss Giroux, 1988).
- Sanders, Thomas G., Human Rights and Political Process in Brazil (American University Field Staff, 1980).
- Schirmer, Jennifer G., "Those Who Die for Life Cannot be Called Dead: Women and Human Rights Protest in Latin America", in Marjorie Agosin, ed., Surviving Beyond Fear: Women, Children and Human Rights in Latin America (New York: White Pine Press, 1993).
- Schoultz, L., Human Rights and United States Policy Towards Latin America (Princeton, NJ: Princeton University Press, 1981).
- Selcher, Wayne A., ed., Political Liberalization in Brazil: Dynamics, Dilemmas and Future Prospects (Boulder, Co: Westview Press, 1986).
- Stepan, A., Rethinking Military Politics: Brazil and the Southern Cone (Princeton, NJ: Princeton University Press, 1989).
- Sieder, Rachel, ed., Impunity in Latin America (London: Institute of Latin American Studies, 1995).
- Stotzky, Irwin P., ed., Transition to Democracy in Latin America: The Role of the Judiciary (Westview Press, 1993).

- Timerman, Jacobo, Prisoner Without a Name, Cell Without a Number (Ontario: Random, 1981).
- Valenzuela, Arturo, The Breakdown of Democratic Regimes: Chile (Baltimore, MD: John Hopkins University Press, 1983).
- Tulchin, Joseph S. and Augusto Varas, eds., From Dictatorship to Democracy: Rebuilding Political Consensus in Chile (London: Lynne Rienner Publishers, 1991).
- Van Cott, Donna Lee, ed., Indigenous People and the Democracy in Latin America (St. Martins Press, 1994).
- White, Judy, ed., Chile-Days of Terror: Eyewitness Accounts of Military Coup (New York, 1974).
- Zagorski, Paul W., Democracy Vs. National Security: Civil-Military Relations in Latin America (London: Lynne Rienner Publishers, 1992).

### ***Articles in Periodicals***

- Agarwal, Manmohan, "Latin America: Experience of BOP Adjustment", World Focus (New Delhi), vol.12, no.6, June 1991, pp. 10-14.
- Aguero, Felipe, "Chile: South America's Success Story?", Current History (Philadelphia, PA), March 1993, pp. 130-35.
- Andreas, Peter and Coletta Youngers, "US Drug Policy and the Andean Cocaine Industry", World Policy Journal (New York, NY), vol.6, no.3, Summer 1989, pp. 529-62.
- Arienza, Marisa and Carlos A. Mallman, "Argentina on the Road to Democracy: Comparisons with Chile and Uruguay", International Social Science Journal (Oxford), vol.37, no.1, 1985, pp.31-46.

- Barcroft, Peter A.A., "The Presidential Pardon: A Flawed Solution", Human Rights Law Journal (Arlington, VA), vol.14, 31 December 1993, pp.381-94.
- Baviskar, Siddhartha, "A Chilly Democracy: With Pinochet Calling the Shots", Frontline (Madras), 1 December 1995, pp.62-64.
- Bersier, Roland, "Legal Instruments of Political Repression in Chile", International Commission of Jurists Review (Geneva), June 1985, pp.54-60.
- Boeninger, Edgardo, "The Chilean Road to Democracy", Foreign Affairs (Boulder, Co), vol.64, Spring 1986, pp.812-32.
- Brysk, Alison, "From Above and Below: Social Movements, the International System and Human Rights in Argentina", Comparative Political Studies (London), vol.26, October 1993, pp.259-85.
- \_\_\_\_\_, "The Politics of Measurement: The Contested Count of the Disappeared in Argentina", Human Rights Quarterly (Baltimore, MD), vol.16, November 1994, pp.676-92.
- Canadell, Rosa M., "Chilean Women's Organisations: Their Potential for Change", Latin American Perspectives (London), vol.20, Fall 1993, pp.43-60.
- Cohen, Roger, "Chile's Torment: After Attempt to Slay Pinochet, His Regime Gets More Oppressive; Uncertainty and Fear Cloud Nations's Future; Is Junta Disgruntled?", Wall Street Journal (Massachusetts, MA), vol.208, 29 September 1986, pp.1+.
- \_\_\_\_\_, "Alfonsin's Gamble: Argentine Chief's Halt to Army Trials is Risk Taken to Curb Discord; He Seeks Role for a Military Alienated by Prosecution for Killings of Leftists", Wall Street Journal, vol.209, 19 May 1987, pp.1+.



- Constable, P. and A. Valenzuela, "Chile's Return to Democracy", Foreign Affairs, vol.68, no.5, Winter 1989-90, pp.169-86.
- Craig, Richard B., "Illicit Drug Traffic: Implications for South American Source Countries", Journal of Interamerican Studies and World Affairs (University of Miami, FL), vol.29, no.2, Summer 1987, pp. 1-34.
- Dossin, Joan R., "A Report on Human Rights in Brazil: A Report as of March 1979", Universal Human Rights (Baltimore, MD), vol.1, July/September 1979, pp.35-49.
- Dix, Robert H., "Military Coups and Military Rule in Latin America", Armed Forces and Society (New Brunswick, NJ), vol.20, Spring 1994, pp.439-56.
- Ensalaco, Mark, "In With the New, Out With the Old? The Democratizing Impact of Constitutional Reform in Chile", Journal of Latin American Studies (New York and Cambridge), vol.26, May 1994, pp.409-29.
- Fagen, Patricia Weiss, "Human Rights in Latin America: Learning from the Literature", Christianity and Crisis (New York, NY), vol.39, 24 December 1979, pp.328-33.
- Falcoff, Mark, "The Democratic Prospects in Latin America", Washington Quarterly (Cambridge, MA), vol.13 (Spring 1990), pp.183-92.
- \_\_\_\_\_, "The Coming Crisis in Chile", Policy Review (Washington, DC), vol.34, Fall 1985, pp.18-24.
- Fruhling, Hugo, "Stages of Repression and Legal Strategy for the Defence of Human Rights in Chile: 1973-80", Human Rights Quarterly, vol.5, November 1983), pp.510-33.

- Garreton, Manuel A., "Human Rights in the Processes of Democratisation", Journal of Latin American Studies, vol.26, no.1, February 1994, pp.221-34.
- Gonzalez, Luis, "Uruguay, 1980-81: An Unexpected Opening", Latin American Research Review (Albuquerque, NM), vol.18, no.3, 1983, pp. 63-76.
- Hunter, Wendy, "Contradictions of Civilian Control: Argentina, Brazil and Chile in the 1990s", Third World Quarterly (Dunnellon, FL), vol.15, no.4, 1994, pp.633-53.
- Huntington, C. Samuel P., "Will More Countries Become Democratic?", Political Science Quarterly (New York, NY), vol.99, Summer 1984, pp.193-218.
- Jelin, Elizabeth, "The Politics of Memory: The Human Rights Movement and the Construction of Democracy in Argentina", Latin American Perspectives, vol.21, no.2, April 1994, pp.38-58.
- \_\_\_\_\_, "The Movement: Eclipsed by Democracy", Report on the Americas (Washington, DC), vol.21, no.4, July/August 1987.
- Kaufman, Edy, "Human Rights in Latin America: A Watershed", World Today (London), vol.37, February 1981, pp.63-8.
- Little, Walter, "Civil-Military Relations in Contemporary Argentina", Government and Opposition (London), vol.19, Spring 1984, pp.207-24.
- Loveman, Brian, "¿ Mision Cumplida? Civil-Military Relations and the Chilean Political Transition", Journal of Interamerican Studies and World Affairs (University of Miami, FL), vol.33, Fall 1991, pp.35-74.
- \_\_\_\_\_, "Protected Democracies and the Military Guardianship: Political Transition in Latin America, 1978-1993", Journal of Interamerican Studies and World Affairs, vol.36, Summer 1994, pp.105-89.

- Malamud-Goti, Jaime, "Transitional Governments in the Breach: Why Punish State Criminals?", Human Rights Quarterly, vol.12, February 1990, pp.1-16.
- Marcella, Gabriel, "The Chilean Military Government and the Prospect for Transition for Democracy", Inter American Economic Affairs (Washington, DC), vol.33, Autumn 1979, pp.3-19.
- McClintoch, Synthia, "Sendero Luminoso: Peru's Maoist Guerillas", Problems of Communism (Washington, DC), October 1983, pp. 19-34.
- \_\_\_\_\_, "The War on Drugs: The Peruvian Case", Journal of Interamerican Studies and World Affairs, vol.30, nos.2 and 3, Summer/Fall 1989, pp.127-42.
- Mignone, Emilio F., "The Military: What is to be Done", Report on the Americas, vol.21, no.4, July/August 1987.
- Mistral, Carlos, "Chile: The Military Junta and its Perspectives", Monthly Review, vol.25, March 1977, pp.28-38.
- Munck, Ronaldo, "The Modern Military Dictatorship in Latin America: The Case Study of Argentina, 1976-82", Latin American Perspectives, vol.12, Fall 1985, pp.41-72.
- Narayanan, R. and Rajya Lakshmi Karumanchi, "Democracy at the Polls: A Comparative Analysis of Elections in Latin America, 1989-90", International Studies (New Delhi), vol.28, no.3, July/September 1991, pp. 229-48.
- Narayanan, R., "Latin America: Either Debt or Democracy", World Focus, vol.8, no.3, March 1987, pp. 22-4.
- Needler, Martin C., "The Military Withdrawal from Power in South America", Armed Forces and Society, vol.6, Summer 1980, pp.614-24.

- Nef, Jorge, "The Trend Towards Democratisation in Latin America: Shadow and Substance", Latin American Research Review, vol.23, no.3, 1988, pp.131-53.
- Orfila, Alejandro, "Human Rights in the Americas: We Need an Inter-American Counterpart to the European Court of Human Rights", Worldview (New York, NY), vol.20, October 1977, pp.25-26.
- Payne, Douglas W., "Between Pinochet and Democracy", Freedom at Issue (New York, NY), May/June 1987, pp.3-9.
- Pnehcaszadeh, Victor B., "Abduction of Children of Political Dissidents in Argentina and the Role of Human Genetics in their Restitution", Journal of Public Health Policy (South Burlington, VT), vol.13, Autumn 1992, pp.291-305.
- Petras, James, "The Anatomy of State Terror: Chile, El Salvador and Brazil", Science and Society (New York, NY), vol.51, Fall 1987, pp.314-38.
- Pion-Berlin, David, "Between Confrontation and Accommodation: Military and Government Policy in Democratic Argentina", Journal of Latin American Studies, vol.23, October 1991, pp.543-71.
- \_\_\_\_\_, "The Military Security Doctrine, Military Threat Perception and the "Dirty War" in Argentina", Comparative Political Studies, vol.21, October 1988, pp.382-407.
- Pushkar, "Democracy in Chile", World Focus, vol.138, June 1991, pp.21-24.
- Ranis, Peter, "The Dilemmas of Democratisation in Argentina", Current History, vol.85, January 1986, pp.29-33.
- Rosenberg, Tina, "Overcoming the Legacies of Dictatorship", Foreign Affairs, vol.74, May/June 1995, pp.134-52.

- Silva, Eduardo, "Chile Past, Present and Future: The Long Road to National Reconciliation", Journal of Interamerican Studies and World Affairs, vol.33, no.4, Winter 1991, pp.133-46.
- Silva, Eduardo and Rhoda P. Rabkin, "Chile's Democracy", Journal of Interamerican Studies and World Affairs, vol.34, Winter 1992/1993, pp.77-117.
- Stuart, Peter C., "The Cost of Life in Argentina: Highest in the Hemisphere", New Leader (New York, NY), vol.61, 24 April 1978, pp.14-16.
- Su, Zhenxing, "On Latin America's Process of Democratisation", Latin American Perspective, vol.15, Summer 1988, pp.18-25.
- Tannahill, R. Neal, "The Performance of Military and Government in South America, 1948-1967", Journal of Political and Military Sociology (Dekalb, IL), vol.4, Fall 1976, pp.233-44.
- Therborn, Goran, "The Travail of Latin American Democracy", New Left Review (London), January/April 1979, pp.71-90.
- Tokatlian, Juan G., "National Security and Drugs: Their Impact on Colombian-US Relations", Journal of Interamerican Studies and World Affairs, vol.30, no.1, Spring 1988, pp. 133-60.
- Tweedy, John, Jr., "The Argentina 'Dirty War' Trials: The First Latin American Nuremberg?", Guild Practitioner (Berkeley, CA), vol.44, Winter 1987, pp.15-32.
- Viola, Eduardo and Scott Mainwaring, "Transitions to Democracy: Brazil and Argentina in the 1980s", Journal of International Affairs (New York, NY), vol.38, Winter 1985, pp.193-219.
- Wiarda, Howard J., "Democracy and Human Rights in Latin America: Towards a New Conceptualisation", Orbis (Greenwich, CT), vol.22, Spring 1978, pp.137-60.

Zagerski, Paul W., "Civil-Military Relations and Argentina Democracy", Armed Forces and Society, vol.14, no.3, Spring 1988, pp.407-32.

Zaverucha, Jorge, "The Degree of Military Political Autonomy During the Spanish, Argentine and Brazilian Transitions", Journal of Latin American Studies, vol.25, May 1993, pp.283-99.

### ***Newspapers***

International Herald Tribune, (Singapore).

La Epoca, (Santiago).

The Times of India, (New Delhi).

New York Times.