

coalition support than the previous ones. Obviously this kind of expert speculation should always be read with a grain of salt. One wonders why he took so long to change his cabinet so as to obtain more legislative support. A plausible reason is that he was aware that under an actual coalition cabinet the policy-making autonomy that he had enjoyed in his first year in office would be seriously curtailed. At any rate, the case of Collor shows a clear, if loose, connection between the interaction of cabinet coalescence and coalition support. This sort of example could be multiplied to other Brazilian and Latin American presidents, which is what the quantitative analysis in the chapter shows.

*Exaggerated Presidentialism and Moderate Presidents: Executive-Legislative Relations in Chile**

PETER M. SLAVELLS

Introduction

With few exceptions, the scholarly study of Latin American legislatures has been tangential to the wider study of the executive branch and presidential authority. This is the case primarily because of the real disparities in power between branches of government in the region, but also because legislative branches have traditionally been perceived as either "rubber stamps" or impediments to the efficient execution of presidential policies.¹ More recent literature treats legislatures more seriously, but still tends to focus on the executive side of the interbranch equation.² This is, of course, due to the overwhelming strength or perceived strength of Latin American presidencies in many postauthoritarian democracies. Yet, scholars should not commit the same error again, simply revisiting the theme of executive predominance without a closer examination of the real and important role that legislatures play in the region.

Even in academic work that expresses a specific intent to examine Latin American legislatures, the president seems ultimately to end up playing the starring role. Part of the reason that presidents receive so much

*The author is grateful for useful comments, criticisms, and suggestions from Scott Morgenstern, Benito Nací, and an anonymous reviewer for Cambridge University Press. For example, Stokes (1959), in his chapter, "The Subservient Legislature," contends that in Latin America, "Executive-legislative relations have been characterized by executive dominance and legislative subservience" (p. 412). This sort of interpretation was typical and relatively recently.

See Shugart and Carey (1992) and Mainwaring and Shugart (1997). Close's (1995) edited volume is a partial exception, though many of the chapters do not depart significantly from the focus on the executive side of the equation. What is more, the Chilean case study (Nef and Galleguillos 1995) is constitutionally rather than empirically focused.

attention in work on legislatures is the very way in which legislative power is measured. As much as one tries to avoid it, a discussion of the legislature inevitably returns to a discussion of the executive branch, given the intricate and intimate relation between the two and the fact that legislative power is often conceptualized as the amount of influence that assemblies can exert over executive actions, in both the spheres of legislation and administrative oversight. Indeed, in a recent work on Latin American legislatures, Needler (1995, p. 156) contends that, "In the sense of formal constitutional attributions of power the legislature is stronger where the president is weaker," positing a direct and zero sum game between the branches of government. The formal focus on the balance of power between the branches of government often overlooks the real potential influence that legislatures can have. What is more, this type of focus often leads one to zero in on one branch or the other, without a thorough enough examination of interbranch connections or how the balance of power between the president and legislature can in some situations make for a positive sum game. The balance of interbranch power is also more malleable and dependent on other variables like the party distribution of seats in the legislature than students of institutional politics have suggested. Finally, focusing on the formal powers of the president and Congress presents a static view of legislative power that ignores the reality of shifting influence depending on the partisan power of each branch of government and the nature and extent of presidential support in Congress.

This chapter takes these considerations into account to analyze executive-legislative relations in postauthoritarian Chile, focusing on the connections between the branches of government, rather than on one branch of government or the other. It considers both institutional connections and less formal avenues of communication and interaction between the branches of government. It seeks to provide an analysis of the additional elements other than the simple formal power of the presidency that have been at the root of recent Chilean presidents' ability to successfully pursue their legislative agendas, without resorting to the extraordinary measures that they are provided. It also underscores how the legislature has been influential despite superficial evidence that would suggest otherwise.

In addition to recognizing the necessity of a shift in focus in the work on executive-legislative relations in Chile, this chapter also addresses some puzzling theoretical questions. Recent comparative work on Latin American political institutions suggests that presidential systems charac-

terized by very strong executives are more likely to experience difficulties in terms of democratic governability (Mainwaring and Shugart 1997; Shugart and Carey 1992). Postauthoritarian Chile presents something of a puzzle in this regard. Despite working within what has been characterized by scholars as one of the most powerful presidencies in the world, the first two postauthoritarian governments represent models of what should be done by executives in transitional political situations. Does this suggest that Chile's military authorities were successful in designing a successful institutional formula for presidentialism? Why have some of the problems associated with very strong presidential systems not emerged? Why have presidents not more aggressively employed their wide range of powers?

This chapter contends that while Chile's institutional structure is characterized by an exaggerated presidential system, its two postauthoritarian presidents, Patricio Aylwin and Eduardo Frei, have been decidedly moderate and measured in the use of presidential prerogatives. Thus, it is important to differentiate between the constitutional and political powers of Chilean presidents and to analyze the extent to which the balance between the two has shaped how presidents employ their prerogatives in practice. The chapter argues that the unique characteristics of the party system, the extent of presidential support in the legislature, and the political situation created by the democratic transition have provided incentives for presidents to avoid resorting to the use of extreme presidential power. In the process, the legislature has emerged as a more powerful and significant actor than it might be in other contexts. In situations of crisis, when presidents face more significant partisan challenges to their authority, or where the possibility of establishing working majorities is more remote, it is likely that presidential prerogatives would be more aggressively employed. The legislature would, in turn, be less influential, and interbranch relations would likely be characterized by some of the problematic features described by the critics of strong presidentialism.

First, the chapter argues that, despite the overwhelming power of the president in constitutional terms, many of the prerogatives associated with the office have not been used or have been less significant than one might expect. This reality is a product of party alignments in the Chamber of Deputies and Senate, and the very nature of transition politics.

Second, the chapter argues that, while many of the statistics presented make it appear that the legislature is very weak, they mask the formal and informal influence that Congress and individual members of Congress

can have within the new institutional framework for executive-legislative relations erected by the first postauthoritarian government. While these avenues of influence were created to facilitate interbranch relations, they also somewhat paradoxically mask the real influence that Congress and individual legislators have had.

Finally, this chapter underscores that legislative influence is more variable than has been suggested, even by those analysts who recognize the importance of the partisan powers of presidents, and that legislative influence is partly a function of the size of the pro-governmental majority. The chapter suggests that Chile's less than unified government has actually enhanced the power of the legislature in a surprising way. Had the president a majority in both houses, he may have had little incentive to cultivate support from members of Congress, given the expectation that his legislation would simply pass. Alternatively, given an intransigent Congress more dominated by the opposition, the president may have had an incentive to employ more aggressively his wide range of powers. Nonetheless, given that Presidents Aylwin and Frei had a majority in the Chamber of Deputies and could negotiate a majority in the Senate, the influence of Congress as a whole was enhanced. Thus, the degree of legislative influence varies according to the distribution of government-opposition seats in the legislature and appears to have been maximized by a less than unified, though not intransigent, Congress. In short, presidents had incentives to negotiate, rather than attempting to impose their will.

The chapter begins by analyzing the formal structure of interbranch relations and how it was transformed from the preauthoritarian era. The second section of the chapter goes on to show how the new constitutional balance of power between the branches of government has, indeed, tilted the formal balance of legislative power in favor of the president. This section presents data on the origin and speed of consideration of legislation during the Aylwin administration. The third section discusses the extent to which postauthoritarian presidents have employed their prerogatives to affect the legislative process, focusing particularly on urgency provisions, the national budget, and the extent to which legislators have influenced laws passed during the first two postauthoritarian presidencies. The fourth section analyzes the party system and features of the democratic transition, asking how they have affected the functional balance of power between the branches of government. It analyzes how the extent of presidential support in Congress influenced the incentives for executives to employ extraordinary powers. The chapter concludes with a discussion

Executive-Legislative Relations in Chile

of the significance of these findings in terms of the long-term evolution of executive-legislative relations in Chile.

The Transformation of Executive-Assembly Relations in Chile: The 1980 Constitution

Unlike most other legislatures in Latin America, Chile's National Congress stood out historically as a body with significant powers and influence. It played a central role in the country's long experience with democracy, both as a deliberative body and as an institution for the resolution of conflict in Chile's sometimes-fractious multiparty system.³ Executive-legislative relations in particular formed an important axis of political negotiation in the country.

Despite the important role played by Congress in the historical development of Chilean democracy, the president has always been an important legislator, with the ability to dominate the legislative process given his agenda-setting ability, budgetary dominance, and areas of exclusive initiative.⁴ Indeed, Shugart and Carey's (1992) cross-national study of presidential systems ranks Chile's 1925 Constitution along with that of 1980 as among the most presidential of systems in the world. Although the Chilean institutional structure has been characterized in the modern era by constitutionally strong presidents, the necessity of coalition-building within Chile's divided and sometimes polarized party system at times diluted their power, given the need to moderate policies in order to satisfy coalition partners. In the best of times, presidents attempted to build multiparty governing coalitions. In times of crisis, they often resorted to extraordinary and sometimes extraconstitutional means to achieve their goals.⁵

Following the country's almost 17-year experience with authoritarian rule, legislative authority was substantially undermined by a new

For a discussion of the multifunctional contribution of Chile's legislative branch to democratic governability, see Gil (1966), Siavelis (1997a), and Valenzuela and Wilde (1979). Agor (1971) underscores the important role of the Chilean Senate, and particularly Senate committees during the country's democratic evolution.

On the evolution of the power of the presidency under the 1925 Constitution, see Frei et al. (1970).

The Allende administration is usually cited as that most characterized by this type of extra-constitutional executive action, given the distribution of party power in Congress that made it difficult for Allende to pass legislation, but also impossible for the Congress to impeach him. Nonetheless, Allende's actions are only the most graphic representation of what was a recurrent problem in Chile when presidents lacked legislative majorities.

constitution approved in 1980 and a series of reforms designed to reinforce the powers of the Chilean president. Although consonant with the overall historical evolution toward increased presidential power in the country, the formal structure of interbranch relations in postauthoritarian Chile has changed significantly.

In terms of the concrete balance of power between the branches of government, in postauthoritarian Chile the president has been the most important legislative actor, and perhaps the most important legislator.⁶ A complete discussion of the formal and informal advantages accorded to the president is beyond the scope of this chapter and has been provided in work by this author and others (Arriagada 1984, 1992; Cea Egaña, 1992; Nef and Galleguillos 1995; Siavelis 1997a). In brief, the 1980 Constitution provides the president exclusive initiative in all matters relating to taxation and the creation of new public agencies and employment therein. Presidential exclusive initiative also applies to any bills creating or changing the terms of entitlement programs and social security, and any proposals dealing with collective bargaining procedures. The national budget proposed by the president automatically becomes law in 60 days if Congress fails to approve it. The president also has the right to declare legislation urgent in any phase of its consideration and to declare extraordinary sessions of Congress, during which only initiatives of the executive branch may be considered (Constitutional Articles 62–64). Finally, the executive branch has access to a much higher quality of expertise and informational resources than the legislative branch, providing it with an advantage in terms of drafting quality legislation (see Siavelis 1997a, pp. 332–335). All of these powers have provided postauthoritarian presidents an upper hand in the legislative process.

Legislative Success: Who Gets What Passed, and How Fast?

Despite the existence of exaggerated presidentialism in Chile and the potential for executive domination, fluid contact, cooperation, and consultation have characterized interbranch relations during the first two postauthoritarian presidencies. There have been few instances of outright conflict between the branches of government. A wide array of important

⁶ This assertion is qualified, of course, by the discussion presented in the following. The functional legislative powers of presidents are dependent on the partisan powers on which they can rely.

Executive–Legislative Relations in Chile

Table 4.1. *Comparison of presidential and legislative initiatives 1990–1993.*

	Presidential Initiatives				
	1990	1991	1992	1993	Total
Introduced	161	157	175	144	637
Completed	150	128	112	57	447
Pending	11	29	63	87	190
Percent					
Introduced	137	156	148	88	529
Completed	35	22	10	2	69
Pending	102	134	138	86	460
Percent					
Introduced	137	156	148	88	529
Completed	35	22	10	2	69
Pending	102	134	138	86	460

Source: *Congreso de Chile* (1994).

legislation was proposed, passed, and promulgated. This is especially impressive given the challenges faced by the first two governments in resurrecting democratic politics, creating new governmental authorities, and attempting to dismantle some of the most authoritarian aspects of the military government's institutional legacy. Nonetheless, and despite what will be argued in the following concerning the influence that legislators can have, it has been the president who has played the dominant role in legislating since the return of democratic politics, at least in quantitative terms.

During the Aylwin administration, it is clear that the president exercised overwhelming control over the legislative agenda and, given his prerogatives, had a great deal more success than legislators in securing the passage of his initiatives.⁷ During the four legislatures (1990–1993) of the Aylwin administration, a total of 1,166 bills were presented. Table 4.1 presents a breakdown of the composition of initiatives based on whether they originated in the executive or legislative branch.

Of the 1,166 bills presented, 529 were presented by members of Congress and 637 were presented by the executive branch. The president both

⁷ This section of the chapter relies exclusively on data from the Aylwin administration. It is difficult to analyze similar data from the Frei administration, as the available data are not yet complete. Nonetheless, a necessarily impressionistic reading suggests that Frei's record does not differ substantially from that of Aylwin.

Table 4.2. Forms of completion for presidential and legislative initiatives 1990-1993.

	Presidential Initiatives					Total	Percent
	1990	1991	1992	1993			
Law	139	110	105	50	404	63.42	
Withdrawn	9	12	6	6	33	5.28	
Defeated	2	3	0	1	6	0.94	
Other	0	3	1	0	4	0.62	
Pending	11	29	63	87	190	29.83	
Total	161	157	175	144	637	100.0	

Congressional Initiatives

	1990	1991	1992	1993	Total	Percent
Law	14	13	7	2	36	6.80
Withdrawn	3	4	1	0	8	1.50
Defeated	6	1	2	0	9	1.70
Other	12	4	0	0	16	3.02
Pending	102	134	138	86	460	86.96
Total	137	156	148	88	529	100.0

Source: Congreso de Chile (1994).

presented more proposals and was much more successful in maneuvering bills through the legislative process. Table 4.1 also summarizes whether the initiatives completed their entire cycle of consideration, otherwise known as all of their *trámites* (shuttles – or steps in the legislative process). Of the 637 proposals presented by the executive branch, 447, or about 70%, completed the entire legislative cycle, irrespective of whether they became laws or not, while only 69 out of the 529 proposals presented by members of Congress were considered, or only 13%. The remaining legislation remained on the calendar for the following year.⁸

In terms of the total rate of passage for legislation, Table 4.2 presents a breakdown of the number and percentage of laws passed. Of the 1,166 laws introduced and summarized in Table 4.1, 440, or 38%, became law. Nonetheless, the president was much more successful in securing the passage of legislation than members of Congress. Of the 440 initiatives

⁸ Some of this legislation was subsequently withdrawn, as will be discussed later.

it moves through the legislative process, is where it is introduced. Executive initiatives are much more likely to be considered, and move more quickly through the legislative process.

What is more, executive initiatives during the Aylwin administration were rarely rejected by Congress. During the four years of the Aylwin administration, only six initiatives were defeated. These data should be interpreted cautiously. Both Aylwin and Frei avoided presenting major legislative and constitutional reform initiatives that were unlikely to pass. Both have also withdrawn legislation when it appeared likely that it was in trouble.¹⁰ What is more, and as will be discussed in the following, presidents are also much less likely to have legislation rejected when they can rely on a legislative majority of their own coalition in one chamber and a near majority in the other. Nonetheless, the data still point to a great deal of intracoalitional cooperation, the absence of a great deal of institutional rivalry, and, most importantly, enormous influence for the executive branch in the legislative process.

Time and legislative success are not the only important variables when measuring the legislative balance of power. It is important to consider also the substance of legislation. Simply passing a high number of initiatives quickly says little about their legal or substantive importance for the country. Many of the presidents' initiatives were weighty and substantial in terms of content and influence.¹¹ On the other hand, few congressional initiatives were of a great deal of significance for the legal or constitutional future of the country. Appendix 4A.1 provides a compilation of legislation proposed by members of one of the two chambers of Congress that became law. Of the initiatives promulgated 14, or 39%, dealt with the establishment of monuments to important national political and literary figures, the granting of citizenship, local scholarships, or the designation of holidays. Two initiatives, or 5%, were laws delegating power or authority to the president or minister in particular areas. Thus, of the limited number of legislative initiatives that became law, 44% were less than significant.

¹⁰ Both controversial bills and those withdrawn given lack of support were often the ones necessitating an extraordinary majority. There are three distinct types of legislation with three levels of quorums necessary for passage. Presidents were most likely to withdraw legislation that required extraordinary majorities.

¹¹ They include the creation of several agencies at the ministerial level, local government reform, tax reform, and a number of other important initiatives related to the democratic transition. See Siavelis (1997a, pp. 336-337) for a summary.

Executive-Legislative Relations in Chile

The rest of the laws dealt with issues of national scope, although not necessarily with issues of the same magnitude that characterized executive initiatives.¹² As the summation presented in Appendix 4A.1 suggests, the only real significant legislation proposed by members of Congress was that raising the legal age of adulthood, and some substantial changes to the penal code.

The legislative record of the Aylwin administration is especially impressive given that the president lacked a legislative majority in the Senate. While the government has indeed garnered an elective majority in the Senate in all elections since the return of democracy in 1989, the existence of nine "institutional" senators (*designados*) appointed by the outgoing Pinochet government has tilted the balance of control in the Senate toward the opposition, for both the Aylwin and Frei administrations.¹³ Tables 4.4 and 4.5 summarize the level of coalitional support in Congress during the last three legislative periods.

Powerful Presidents and an Influential Congress: The Transitory Politics of Consensus

Given the unequal distribution of prerogatives between the branches of government and data measuring the legislative balance of power between the president and the legislature, there is a strong temptation to simply conclude that the Chilean legislature is insignificant to the legislative process and, indeed, a rubber stamp for executive initiatives, as earlier literature on Latin American legislatures suggested. The reality that the

¹² I was unable to determine the substantive content of 3 of the 36 congressional initiatives, as they were not provided in the summation issued by the Offices of Information of the Congress, the source of these data. Nonetheless, percentages presented here are based on a total of 36 laws.

¹³ The Pinochet government appointed the first set of institutional senators. For subsequent governments, according to the Constitution, the president appoints two senators, the National Security Council four, and the Supreme Court three. Nonetheless, the influence of the right in the appointment process goes farther than it appears at first glance, given the limitations on the pool of candidates from which senators can be drawn, a requirement that four of the senators must be former commanders of the armed forces, and the reality that Pinochet appointees continue to be represented in governmental institutions that choose senators not designated by the president. This influence is likely to decrease as officials appointed by the democratic government work their way through the system.

Table 4.4. *Distribution of seats in the Chilean House of Deputies by party - 1989, 1993, 1997* (N = 120).^a

Year	1989		1993		1997	
	Number of Seats	Percent Seats	Number of Seats	Percent Seats	Number of Seats	Percent Seats
Concertación	72	60%	70	58.3%	70	58.3%
PDCh	39	32.5%	37	30.8%	39	32.5%
PS	18	15%	15	12.5%	11	9.2%
PPD	7	5.8%	15	12.5%	16	13.3%
Other	8	6.7%	3	2.5%	4	3.3%
Unión Por Chile ^b	48	40%	50	41.7%	47	39.2%
RN	32	26.7%	29	24.2%	23	19.2%
UDI	14	11.7%	15	12.5%	17	14.2%
Other	2	1.7%	6	5%	7	5.8%
Individual and others not on major lists					3	2.5%

^a There was a great deal of fluidity in party identification after the 1989 election, given limitations on the registration of parties imposed by the outgoing government and problems with individual candidate registration. The breakdown of party identification for Tables 4.4 and 4.5 represents the parties that candidates eventually joined, not necessarily the label under which these candidates ran in the election.

^b This pact in previous elections has also been known as Democracia y Progreso and Unión por el Progreso.

Source: Siavelis (2000).

Senate was dominated by the opposition, but seems not to have been obstructionist, would tend to confirm that the legislature is not very influential. However, conclusions of this sort are premature and probably incorrect. It is important to subject both the use of executive authority and the extent of the assemblies' influence in the governing process to some scrutiny. Careful analysis suggests that, while the characterization of exaggerated presidentialism in constitutional terms is correct, in practice other variables have shaped the way in which presidents have chosen to act and the range of powers that they have had the incentives to employ. What is more, analysis of less formal activity by legislators also suggests that the legislature is more influential than a concrete reading of the Constitution or organic law of the Congress would suggest.

Table 4.5. *Distribution of seats in the Chilean Senate by party, 1989, 1993, 1997* (N = 47 [38 elected, 9 appointed for 1989, 1993], N = 48 [38 elected, 9 appointed, 1 former president] for 1997).^a

Year	1989		1993		1997 ^b	
	Number of Seats	Percent Seats	Number of Seats	Percent Seats	Number of Seats	Percent Seats
Concertación	22	46.8%	21	44.7%	20	41.7%
PDCh	13	27.7%	14	29.8%	14	29.2%
PS	4	8.5%	4	8.5%	2	4.2%
PPD	1	2.1%	2	4.2%	4	8.3%
Other	4	8.5%	1	2.1%	0	0%
Unión Por el Progreso	25	53.2%	26	55.3%	27	56.3%
RN	13	27.7%	11	23.4%	7	14.6%
UDI	2	4.2%	3	6.4%	5	10.4%
Other	1	2.1%	3	6.4%	5	10.4%
Appt. ^c	9	19.1%	9	19.1%	10	20.8%
Unión Progresista del Centro					1	2.1%

^a Only one-half of the Senate is elected every four years.

^b General Pinochet stepped down as commander in chief of the armed forces in 1997 and assumed a life-long Senate seat. He is included with the appointed senators after this date and is counted when calculating the percentage of total seats after 1997.

Appointed senators have no obligation to support the right. Nonetheless, they are listed along with this sector given that evidence from voting records suggests that they usually do, and that they provide effective veto power for the right on especially conflictual legislation. One of the appointed senators during the Aylwin administration died in office and was not replaced, so only eight appointed senators served during his term.

Source: Siavelis (2000).

Urgency Provisions: A Powerful Presidential Tool? A Matter of Time or Influence?

Scholars have often cited the importance of the president's urgency prerogatives when discussing the Chilean presidency. Indeed, I have argued in other places that urgency powers are an important tool for presidents (Siavelis 1997a). However, is the root of success in the legislative arena the president's ability to declare urgencies? What determines the greater likelihood of the president having his initiatives converted into law? Data from the Aylwin administration suggest that, although urgency powers may be

Table 4.6. *Legislation introduced according to urgency and branch of origin (1990-1993).*

	Presidential Initiatives					Percent
	1990	1991	1992	1993	Total	
With urgency	80	95	108	92	375	58.9
Without urgency	81	62	67	52	262	41.1
Total	161	157	175	144	637	100.0

	Congressional Initiatives					Percent
	1990	1991	1992	1993	Total	
With urgency	9	7	9	6	31	5.9
Without urgency	128	149	139	82	498	94.1
Total	137	156	148	88	529	100.0

Source: *Congreso de Chile* (1994).

significant in constitutional terms, or potentially important given certain partisan constellations, during the Aylwin administration they had less of an effect than one might expect.

The Chilean president has broad powers to declare legislation urgent at most stages in the legislative process. Although urgency powers were originally designed to be employed in extraordinary situations so that pressing legislation crucial to the country's future would be expedited, presidential urgency power has become a standard legislative tool for Chilean presidents. There are three levels of urgency: *simple urgencia*, *suma urgencia*, and *discusion inmediata*, each with different requirements concerning the speed with which presidential initiatives must be considered (The Political Constitution of the Republic of Chile, Article 71 and Organic Law of the Congress Articles 26, 27, and 28).¹⁴ The president can also declare urgent bills presented by deputies or senators in order to expedite their consideration. This was done rarely during the Aylwin administration. Of the 529 bills presented by members of Congress, only 31 were declared urgent by the president. At the same time, as Table 4.6 shows, a

Executive-Legislative Relations in Chile

Table 4.7. *Length of legislative consideration of presidential initiatives according to urgency.*

	Duration (Days)			
	Average	Minimum	Maximum	Median
With urgency	203	2	871	134
Without urgency	208	3	1190	160

Source: *Congreso de Chile* (1994).

little under two-thirds of presidential initiatives were designated urgent at some point in their consideration.¹⁵

Despite the fact that urgency powers were instituted to speed up the consideration of legislation deemed important for governing the country, in reality the president employed urgency powers to give priority to his own initiatives. The simple term urgency suggests a call for immediate attention and that time is crucial. The data presented in Table 4.1, which show the relative legislative success of each of the branches of government, would seem to suggest that urgency has given the president an advantage. However, the real test to determine the effect of urgencies is to analyze and compare the fate of *executive* initiatives with and without declared urgencies. Although counterintuitive, there is little appreciable difference in the speed of consideration or the legislative success rate for executive initiatives designated as urgent and those not. It appears that the branch of origin, then, is much more important than urgency declaration in terms of the passage of legislation.

Table 4.7 compares the amount of time required for legislation with origin in the executive branch to complete all of its *trámites*. Data from the Aylwin administration clearly demonstrate that the declaration of a presidential urgency made little difference in terms of whether an executive initiative would be approved. With declared executive urgency, bills

¹⁴ The requirements for time of consideration in either chamber of Congress are 30, 10, and 3 days, respectively, for a *simple urgencia*, a *suma urgencia*, and a *discusion inmediata*.

¹⁵ One should treat these statistics with caution, as particularly good legislative initiatives often find their way into a bill proposed by the president. In addition, the president is known to monitor legislation and often proposes initiatives that are quite similar to those presented by members of Congress. It is very difficult to determine for which bills this is the case, given that much legislation emerges from consensus between legislators and representatives of the executive branch.

Table 4.8. *Summary of approval rate for executive initiatives with and without urgency (1990-1993).*

Presidential initiatives	With urgency	Without urgency	Total
Approved	240 (64%)	164 (62.6%)	404
Pending withdrawn	135 (36%)	98 (37.4%)	233
Total	375	262	637

Source: Computed by the author from data from *Congreso Nacional de Chile* (1994).

took an average of 203 days to consider and pass, compared to 208 days without urgency.

What is more, if one compares the overall percentage of presidential bills that were converted into law based on whether or not the president employed urgency powers, it appears that these powers do almost nothing.

Table 4.8 summarizes these data.

Of the 637 total initiatives presented by the president, 375 were declared urgent and 262 were not. Nonetheless, the approval rating for both sets of legislation is virtually the same. Legislation declared urgent had a 64% approval rate while legislation without urgency had an approval rate of 62.6%.

Do urgencies then have no effect? What is intriguing about the answer to this question is that when urgencies are considered separately it seems that urgency does something to expedite the consideration of particular bills by the legislature. When broken down into distinct types (whether it is a *simple urgencia*, a *suma urgencia*, or a *discusión inmediata*) the level of urgency seems to have bearing on the likelihood that legislation is approved. Of the presidential initiatives with *discusión inmediata*, 92% were converted into law, while the rate of passage for *suma urgencia* and *simple urgencia* was 73% and 56%, respectively. These bills were also considered more quickly, and the speed of consideration was directly related to the level of urgency.

These data present a number of puzzles. When the data comparing legislative success and speed of consideration for executive and legislative initiatives are considered separately, it appears that urgency helps the president secure the passage of his initiatives. However, when only executive initiatives are considered it appears that urgency powers have little global effect, until they are disaggregated by type.

Executive-Legislative Relations in Chile

It is difficult to determine what to conclude from what seems contradictory data. Clearly, a number of other variables can help to explain the inconsistency between the global effect of urgencies and their effect when broken down into distinct types. It is quite conceivable that certain types of more universally acceptable legislation are more likely to be considered for *discusión inmediata*. The president might designate legislation as such when passage looks simple, in order to move it quickly through all of its *trámites*. What is more, the overall influence of the president, and the other legislative- and agenda-setting tools at his disposal, may also help to explain the variance in the data. The president would clearly have used the *discusión inmediata* designation for the legislation that was most important to him, and would likely have applied the other tools at his disposal to expedite the consideration of his pet legislation. Presidential urgency has been interpreted as an important tool in the arsenal of the Chilean president, but it is only one of those tools.

However, the overall (and perhaps not completely realized) power of the executive branch may do more to explain the disparity in the rates of passage of legislation with distinct branches of origin. Herein lies the most likely (and important in terms of the argument of this chapter) explanation for the seemingly minimal effect of urgency declaration: Presidents have been very flexible in the use of urgency powers, and the legislature has been successful in securing time extensions in order to more carefully consider legislation.¹⁶ Officials within the executive branch often have been asked by congressional leadership to withdraw or change the level of urgency of particular pieces of legislation in order to be assured of the overall coherence and passage of the ruling Concertación coalition's legislative package.¹⁷ Presidents in most circumstances respect those requests in the interests of coalition maintenance and the furtherance of their

¹⁶ That said, presidential urgency has affected the quality of legislation, at least according to members of Congress. In interviews with legislators, 96.7% of the deputies agreed that presidential urgencies negatively affect the quality of legislation. Several deputies noted that it will probably be necessary to relegate in a number of key areas, given that declared urgencies prevented the careful elaboration of legislation, both in terms of substance and legislative technique. Interview data cited in this article are based on a series of over 70 interviews with deputies, senators, and members of the executive branch in 1992 and 1993. A party-representative sample of 25% of the membership of each of the chambers was interviewed.

¹⁷ Interviews with Cesar Ladrón de Guevara, Santiago, April 28, 1993, Judicial-Legislative Division, Ministerio Secretaría General de la Presidencia, Patricio Zapata, Ministerio Secretaría General de la Presidencia, May 7, 1993.

legislative agendas. Data on the actual speed of consideration of legislation with designated urgency show that very few urgent proposals are actually considered within the time periods established by the organic law of the Congress. Of those bills designated with simple *urgencia* in their *primer trámite*, only 17% completed this cycle in the required 30 days, and only 23% with such a designation in their *segunda trámite* did so. For those designated with *suma urgencia* (10-day completion requirement) these figures are 45% and 52%, respectively, for each of the *trámites*, and for *discusión inmediata* (3 days), these figures are 75% and 81% (Congreso Nacional de Chile 1994, pp. 39–52). This suggests that the president was willing to withdraw and change levels of urgency, or at the very least accept the fact that Congress would often fail to consider legislation within the timing parameters set out in the organic law. Urgencies form a part of the overall equation of constitutional executive dominance that has yet to come into play. With a change of coalitional and political circumstances urgency powers may become a more important tool for presidential agenda-setting and in turn may enhance the potential for interbranch conflict.

Thus, partisan considerations, the constellation of party power, and coalitional and transitional politics have helped to ease the president's legislative task and have created few incentives for the strict and inflexible exercise of presidential urgency powers.

Presidential Budgetary Dominance?

The 1980 Constitution provides the president with strong budgetary powers. Article 64 states, "The Budgetary Law Proposal must be submitted to the National Congress by the President of the Republic at least three months prior to the date on which it should become effective; should it not be passed by Congress within sixty days from the date of its submittal, the project submitted by the President of the Republic shall enter into force."¹⁸ Just as the urgency power described previously seems like a powerful tool in the presidential arsenal that has yet to be employed, despite the president's budgetary authority, neither postauthoritarian president has been tempted to simply impose his version of the budget. Budgetary negotiations are particularly illustrative of the influence that Congress, and especially the opposition, can have in informal ways not set out in the Constitution or in organic laws. Despite strong control over the

Executive-Legislative Relations in Chile

national budget, both Aylwin and Frei have worked constructively with members of Congress to hammer out an agreement.¹⁹ Presidents also routinely consulted with members of their own parties, and indeed with opposition parties in and outside of Congress.²⁰ Every year since the return of democracy the president has signed the version of the budget passed by Congress.

Budgetary success for presidents still lies in negotiation, and the success of negotiation hinges on all sides having a certain measure of influence. How does this influence take shape? Legislators have been successful in altering the initial proposals of the president, although in terms of overall percentage of the budget the change is minor. Baldez and Carey (1996) found that, for the four years that they analyzed, the final budget varied by less than 1% from the initial proposal.²¹ However, final budget-numbers are not the whole story in terms of legislative influence over budget-making. For particularly important legislation like the budget (but also for other important initiatives) active lobbying takes place by legislators in both the proposal and consideration stages. Thus, the demands of the presidents' *correligionarios*, coalition partners, and opposition are often incorporated into the presidents' proposal. During consideration, the president maintains constant contact with the legislative leadership of both his own party and the opposition.

Since the return of formal democracy in Chile the primary conflicts that have emerged in budget negotiations between the government and the opposition have been centered in the areas of social spending and the rate of overall government expenditure. The interbranch negotiations for the 1997 and 1998 budgets reflect the dynamic of negotiation described previously in terms of the ways in which these conflicts were resolved. While in both instances the government's initial budget proposals for the most part prevailed, the opposition was able to extract some concessions from the executive. In coming to an agreement on the 1997 budget, the opposition criticized the government for its failure to both manage and rein in social spending; for a lack of transparency in discretionary spending, and for general mismanagement in the disbursement of public funds. Through negotiations with the government, the opposition UDI (Unión Demócrata Independiente) was able to extract agreements setting a limit

¹⁸ For a discussion of the budget-making process in Chile, see Baldez and Carey (1996).

²⁰ Impressionistic readings of budget negotiations in the press suggest this.

²¹ Baldez and Carey (1996) analyze the 1991 and 1993–1996 budgets.

on discretionary spending from the public treasury and measures to enhance transparency and efficiency in spending, including external audits to evaluate bidding and contracting procedures. Finally, the government and a congressional conference committee (*comisión mixta*) on the budget agreed to select 20 social subsidy programs for evaluation during 1997 to determine whether they should be continued.²²

Similarly, only 3 days away from the expiration of its 60-day consideration period, the 1998 budget agreement was sealed in November 1997. For this set of budget negotiations the government was again criticized for excessive and irresponsible social spending, and for insufficiently addressing the transparency issues brought up in the previous year's budget negotiations. In particular, opposition senators pointed to insufficient budget cuts for the National Youth Institute (INJ) in the Chamber of Deputies' budget proposal. The opposition also contended that the government had reneged on its promise to evaluate the social subsidy programs discussed in the 1997 budget negotiations. As in the case of the previous year, a compromise proposal was reached by cutting the agencies' budget, albeit to a lesser degree than set out in the Senate version of the budget proposal. What is more, the government agreed to redouble its oversight of social subsidy programs and to consider an additional 40 programs for systematic evaluation and potential elimination.²³

Why would the president subject himself and his party to such arduous negotiations if he could conceivably wait it out and see his budget take effect? From the most basic perspective, the passage of a budget law in this manner would create a great deal of potential uncertainty. The Constitution and organic law are unclear on the exact process that would be followed should the president's proposal fail to be approved by Congress. If the president's budget proposal becomes law automatically, does this refer to the budget set out in the *original* executive proposal, or one that has been subject to modifications during negotiations? There are additional questions concerning whether the president can veto a budget law as passed by Congress, because a presidential veto is never mentioned in Article 64, which deals with the budgetary process.²⁴ However, there are

a number of other important realities that make such unitary presidential action on the budget unlikely.

First, both Aylwin and Frei have had an interest in seeking agreement and consensus on the budget given the party distribution of seats in Congress. Presidents had little to gain from unilaterally trying to impose budgets. If budget proposals existed in isolation and the processes of budget-making and legislating were not an iterated game, it would make perfect sense for the president to simply sit back and wait for the 60-day limit on congressional action to expire. Nonetheless, given that neither postauthoritarian president has been afforded the luxury of a majority in the Senate, after the budget, the president must continue to legislate and rely on at least a few votes of the opposition or institutional senators in order to have a viable legislative program.²⁵ Although the complete opposition has not in every case joined in approving the budget, the failure of a president to attempt to negotiate a solution to at least some of the opposition's objections could have resulted in a legislatively moribund president. In this sense, with a majority in both chambers the president may have been able to impose his budgetary agenda by attempting to compel coalition discipline. Similarly, with a very large opposition majority in the Senate, the president may have been tempted to also impose his agenda by simply letting the 60-day period established for the consideration of the budget expire. Given their proximity to a working majority in the Senate, both presidents avoided these strategies and instead sought to negotiate and cajole rather than resort to strong-arm tactics.

Thus, the coalitional situation just described, with presidents a few votes short of a majority in the Senate, made for a situation in which the presidents sought to insure the integrity of their legislative programs by avoiding the imposition of presidential budgets. With a distinct correlation of party forces, or in situations in which immobilism has come to characterize interbranch relations, the president would probably be tempted to act in a more unilateral fashion on the budget and to more vigorously employ executive powers.

Second, legislators cannot change the president's proposal very much. By subjecting the budget proposal to congressional scrutiny, the president

²² Although it contained many of its proposals, the main opposition party Renovación Nacional (RN) refused to sign the agreement.

²³ For a recounting of these budget negotiations see, *La Epoca*, November 26, 1997, and *El Mercurio*, September 30 and November 21, 1996.

²⁴ See Baldez and Carey (1996) for a discussion of this uncertainty.

²⁵ Although institutional senators deny automatically voting with the right, on matters of importance like constitutional reform and the status of the military, institutional senators have invariably lined up with the opposition.

is unlikely to lose much of what he or she wants. Given the constitutional limitations on congressional budgetary action set out in the Constitution, legislators cannot propose additional spending to that set out in the budget proposal, nor can they move spending between categories. However, according to Article 64, legislators do have the power to cut spending programs. Nonetheless, for members of Congress there is little incentive to exert pressure for decreased spending; there is still a strong incentive for Chilean legislators to bring home pork.²⁶ However, given budgetary limitations on personalistic proposals set out in the Constitution, legislators have few mechanisms to do so. Supporting presidential proposals for services or concrete infrastructure development projects allows legislators to at least point to these initiatives as proof that they are advocates for their constituents. This dynamic, again, may change as partisan alignments change.

What is more, legislators cannot propose reductions to budgetary allotments guaranteed by permanent law. These include the areas limited by rules regulating the executives' areas of exclusive initiative and constitutionally mandated allotments for certain areas of expenditure, like the military's guaranteed and legally designated quota of a portion of state copper revenues. This leaves very few areas for legislators to cut. Legislators are loath to reduce the expenditures that do remain, because these are often entitlements and capital purchases.

Finally, from the perspective of interbranch (as opposed to interparty) rivalry, it appears that members of Congress are satisfied with a president with strong budgetary powers. Indeed, in a party-representative sample of legislators interviewed during the Aylwin administration, 93% of the deputies agreed that the president should maintain the prerogative of exclusive initiative for the budget. There was a consensus among legislators that, without centralized budgetary control in the executive branch, particularistic spending initiatives of individual legislators could break the national budget. Legislators appear to have an expectation that the executive should play the dominant role in the budgetary process. This basic predisposition makes the presidents' job easier and provides fewer incentives for the employment of extraordinary executive power.

²⁶ For a discussion of this reality, see Siavelis (1997a). For a discussion of the importance of personalism in Chilean historical perspective, see Valenzuela (1978) and Valenzuela and Wilde (1979).

Executive-Legislative Relations in Chile

Presidential Decree Authority

While the issue of presidential decree authority has received detailed attention in recent literature,²⁷ very little has been written on decree authority in postauthoritarian Chile. First, decree authority is limited in the Chilean case. The president has the ability to issue decrees with the force of law during a period of one year with a specific delegation by Congress (Article 32-22). Second, although the scope of the presidential decree is, indeed, limited, it has also been underestimated in the literature on the Chilean presidency. The president need only consult the Congress when declaring a state of siege; states of assembly, emergency, and catastrophe can be declared without consulting Congress.²⁸ What is more, the president also has the ability to "exercise the statutory authority (*potestad reglamentaria*) in all those matters which are not of a legal nature, without prejudice to the power to issue other regulations, decrees or instructions which he may deem appropriate for the enforcement of the law" (Article 32, No. 8). Although not decree authority as it is usually understood, as noted, the president also has effective decree authority over the budget in certain situations, and Congress cannot increase expenditures nor make transfers between categories of spending.

However, most importantly, the political situation in which post-authoritarian presidents have operated has not necessitated the use of decree authority. Both presidents have been able to rely on a coalitional majority in the lower chamber and a near majority in the upper chamber, so situations in which it would be necessary to employ extraordinary executive powers have never materialized. This is not to suggest that the president and assembly have identical preferences. Rather, the sensitive and precarious nature of the democratic transition and the continued necessity of coalition building to pass legislation have also encouraged presidents to be moderate and measured in the choice of strategies to pursue their initiatives and provided legislators important incentives for negotiation. The muted and moderate nature of political discourse, the politics

²⁷ See Carey and Shugart (1998).

²⁸ To declare these states of exception the president must seek the approval of the National Security Council (CSN), made up of the president of the republic, the president of the Senate, the president of the Supreme Court, and the four commanders in chief of the armed forces. While this represents a check on presidential decree authority, it is a limited one given the council's composition.

of *democracia consensual*, and the necessity of coalition maintenance have made for an environment of consensus, rather than conflict, between the executive and legislative branches. In short, presidents have had little reason to contemplate the use of decree authority.

The Legislature as an Influential Actor

The data presented throughout this chapter seem to suggest that legislators have little if any influence over the legislative process beyond acting as a rubber stamp. This is an erroneous conclusion, which several realities contradict. Measures of legislative success and time of consideration are not the only indicators of potential avenues of influence for Congress. What is more, an analysis of the formal powers of legislatures based on the zero-sum type of equation set out in the introduction is not entirely accurate. The relative power of legislatures and the influence of individual legislators depend on a wide array of variables, some of which have already been suggested or explicitly discussed here.

One of the tasks of legislatures is to improve legislation through collective deliberation. No data exist measuring the extent to which legislation is changed in wording or substantive content as it passes through the legislative process. It is quite difficult to pinpoint when changes to legislation are made and by whom. There were some concrete measures of legislative influence during the Aylwin administration, including the fact that 46% of the legislation passed through more than two *trinites*, suggesting that a modification of proposals was occurring in one of the two chambers.

Nonetheless, less quantifiable evidence suggests that members of Congress do have an important role in the legislative process. There are other avenues of influence for legislators, some of which are dependent on formal institutional structures, some informal, and some that are a function of the partisan composition of the legislative and executive branches.

First, in formal terms, legislators affect the legislative process and laws in other ways than simply voting and carrying out their constitutionally mandated legislative roles. A series of new institutions and ministries was created in the aftermath of the authoritarian regime and during the first democratic government to ease relations between the branches of government, given the delicate and transitional nature of politics. Many of these institutions were innovations of the Aylwin administration that were

Executive-Legislative Relations in Chile

consciously designed to coordinate and ensure the coherence of the activities of the new government, thus underwriting the integrity of the democratic transition. One of the most important has been the Ministerio Secretaría General de la Presidencia (SEGPRES). SEGPRES was an administrative creation of the authoritarian government that Pinochet relied on as a coordinating secretariat of the military government's cabinet. With the return of democracy, the secretariat was elevated to the ministerial level, and five separate divisions that did not exist during the authoritarian government were created.²⁹

The most important in terms of executive-legislative relations are the Division of Political-Institutional Relations and the Judicial-Legislative Division. The former is responsible for coordination between the executive branch and social organizations, and during the first two post-authoritarian presidencies has dealt principally with relations between the government and political parties. The latter researches and elaborates presidential bills, studies those presented by legislators, and is responsible for maintaining frequent contact and fluid interchange between the branches of government. This division is often referred to as the *cocina* (kitchen) of the legislative process, but it does much more. It also coordinates and serves as a clearinghouse for *oficios* (official requests for information) sent by legislators. Given the president's success in dominating the legislative process in the postauthoritarian period, the Judicial-Legislative Division is one of the most important centers of the legislative process in Chile. The division maintains an office in the Congress in Valparaíso, with three full-time staff members charged with representing the executive branch in Congress and with coordinating the president's agenda with the activities of parliamentarians of the governing coalition.

Both of these divisions have served as crucial formal interlocutors in interbranch relations. They maintain constant contact with legislators and monitor the direction of opinion, providing the president with information concerning the likelihood that his legislative agenda will fare well in Congress. The president can also be provided this information directly from the opposition. According to SEGPRES officials, when drafting the president's legislative agenda, the staff is usually quite aware of legislators' stances on particular issues, and legislation is often adjusted accordingly in order to attract sufficient votes.

²⁹ The others in addition to those discussed here include the Division of Inter-ministerial Coordination, the Research Division, and the Executive Division.

Representatives of the executive branch are also formally represented within the legislative process in testifying before the general assemblies of each of the chambers of Congress and at the committee level. Here executive branch officials get a feeling for the general mood in the legislature and the members' attitudes toward the president's legislative program. Executive proposals are surely influenced by this exposure.

Members of Congress also help set the legislative agenda, both formally and informally. There are a series of interparty connections that link executive institutions and the Congress. At the beginning of every legislative session officials of the executive branch meet with both chambers of Congress to set legislative priorities for the year.³⁰ For example, in June 1997, Secretary General of the Presidency Juan Villarzu met with legislators and other ministers to decide on a list of obsolete executive initiatives to be removed from the legislative docket. Each of the committees of the two chambers was asked to provide the president with a list of items for which members would recommend withdrawal.

Informal meetings between the representatives of the executive branch and legislators have also been the norm. Legislators of governing parties meet with high-level officials within the ministries working in the same substantive area to discuss what type of legislation is necessary and should be incorporated into the executives' program.³¹ Representatives from ministries and legislative committees in the same substantive areas continue to meet after the proposal stage to discuss aspects of bills later in the legislative process. In cases where particularly important legislation is being considered, like the annual budget, the president often meets with legislators of the committee discussing the legislation.

However, more important in terms of making conclusions concerning long-term trends (and as will be discussed in detail later), the partisan composition of the legislature during the first two postauthoritarian governments made the presidents' legislative tasks much less arduous and gave legislators more influence. While presidents have been almost assured approval of their initiatives in the Chamber of Deputies, they were forced to negotiate in the Senate, where they lacked a majority, as Tables 4.4 and 4.5 summarized. This meant that the government often entered into formal and informal negotiations with the opposition to reach

agreements and construct working majorities for the most controversial legislation.

Informal negotiations among parties of the *Concertación* are difficult to quantify, and it is even more difficult to determine the influence of the opposition. Nonetheless, though it appears that the president is doing everything legislatively, governing and opposition deputies do have some influence. As an official in SEGPRES contended, the government recognizes that members of the opposition often have something to offer, given that their perspective is distinct from that of the government in terms of both the problems facing the country and the potential solutions to them.³² More realistically, the president could not pass anything without some consultation with the opposition. Hence, the executive branch often engaged the opposition in extensive discussions on particularly controversial legislation. This reality even prompted some members of Aylwin's own coalition to suggest that he "went over their heads" to negotiate directly with the opposition. In interviews undertaken during the Aylwin administration with a party-representative sample of legislators, 44% of the government deputies and 50% of the opposition deputies agreed with this contention. The most often cited example of this type of behavior was Aylwin's direct negotiations with business leaders and members of the opposition in arriving at an agreement on Chile's 1990 comprehensive tax reform.

With a different constellation of party forces in the legislature, these types of negotiations might have been less productive. Despite a strong presidency during Chile's first extended period of democracy between 1925 and 1973,³³ presidential power was circumscribed by the exigencies of coalition building in Congress.³⁴ Given PR and multipartism, presidents were forced to hammer out agreements with opposition parties in Congress to ensure the passage of legislation. Both postauthoritarian presidents have had the advantage of a coalition majority in one chamber and the ability to negotiate a majority in the other. Thus, it has been much easier for presidents to legislate without extensive interparty wrangling. When future presidents find themselves lacking congressional majorities, presidential initiatives are less likely to make their way through Congress so smoothly.

³⁰ Interview with Cesar Ladrón de Guevara, advisor, Judicial-Legislative Division of the

Ministry of the General Secretary of the Presidency, Santiago, April 28, 1993.

³¹ Interview, Carlos Cammona, April 23, 1993.

³² Interview, Cesar Ladrón de Guevara, April 28, 1993.

³³ On the 1925 Constitution see Bravo-Lira (1985) and Campos Harriet (1969).

³⁴ For a discussion of this reality and a breakdown of congressional support for all presidents between 1932 and 1973, see Valenzuela (1994, pp. 110-127).

All of these structures, institutions, and norms have enhanced the influence of Congress. In terms of the argument of this chapter, they have also made the presidents' jobs easier and provided them with few incentives to resort to the extraordinary powers of the presidency.

Party Politics, Presidential Power, and the Future Executive-Legislative Relations

As has been repeatedly stressed throughout this chapter, much of the legislative success of postauthoritarian Chilean presidents seems to be attributable to the constellation of partisan forces in Congress and the dynamic of inter- and intracoalition cooperation forced by the democratic transition. The efforts of the authoritarian regime to engineer a majority through the use of an electoral law designed to benefit the right, and the appointment of nine senators designated by the outgoing authoritarian regime, deprived the governing Concertación alliance of its electoral majority (see Carey, this volume; Guzmán 1993; Rabkin 1996; Siavelis 1991; Siavelis 1997b; Siavelis and Valenzuela 1996). While the president could rely on a coalitional majority in the Chamber of Deputies, each had to cultivate the support of a few of the individuals across the aisle in the Senate, either from the opposition or from among the *designados*. Referring to the pre-coup party system, Valenzuela (1978, p. 17) contends that the legislature remained significant given the absence of party giants capable of dominating politics. Presidential influence was based on the ability of executives to negotiate both within their working coalitional alliances and with the opposition.³⁵ The existence of a Concertación majority in the chamber and a near majority in the Senate provided both presidents Frei and Aylwin the luxury of circumstances unique in Chilean history. Negotiating and legislating have been much easier. Despite the legislative power and agenda-setting ability formally granted the president by the 1980 Constitution, presidents have governed without employing them to the fullest extent possible.

The exercise of presidential authority during the Aylwin and Frei governments has also been checked in the interests of intracoalitional harmony. Coalition maintenance for the Concertación depended on fluid contact and negotiations, as well as the incorporation of distinct party

Executive-Legislative Relations in Chile

platforms into a coherent governing agenda. The original Concertación alliance was made up of 17 parties whose interests had to be reconciled. While the 1988 plebiscite exerted a unifying force on the then opposition, purposeful efforts to find a common programmatic denominator and then negotiate other aspects of policy were crucial to coalition maintenance and the integrity of the democratic transition. Most illustrative of this dynamic has been the negotiated distribution of ministry posts. During both the Aylwin and Frei administrations, the various ministries were divided among the parties of the Concertación. What is more, in most ministries the vice minister was from a different party of the coalition than the minister. This provided party leaders insurance that their programmatic concerns would be incorporated into the legislative agenda of the Concertación and their interests taken into account.

This dynamic also extended into the legislative arena. Presidents who dominated the legislative process would be accused of not respecting coalition agreements.³⁶ Executives walked a fine line, and the full use of presidential authority would signal a deviation from this line.³⁷

The nature of postauthoritarian political competition and transitional politics also helped the presidents to succeed in the advancement of their legislative agendas, and provided few incentives for resorting to extraordinary powers. First, the unfolding of the democratic transition has been crucial to interparty and intracoalitional cooperation within both the governing and opposition coalitions (Siavelis 1997a). Throughout the course of interviews undertaken with legislators during the Aylwin presidency, few failed to refer to the "special time" or "special context" of the transition as having an important effect on their behavior and relations with the president. Second, the very nature of Chile's plebiscitarian transition, and the drawing of a clear line between a coherent, unified and well-structured government and opposition, made negotiation less complicated for the president. Given predictable and durable coalition patterns, combined with the formal and informal consultative mechanisms described

³⁵ Indeed Frei was accused of violating this spirit of the Concertación. See *Latin American Weekly Report*, 20 January 1994: 20.

³⁶ The importance of this reality is evident in the constant comparison of the leadership styles of Aylwin and Frei by party leaders and in the press. While Aylwin is portrayed most often as a consensus-builder, Frei is accused of a more Christian-democratic centered and less consensus-minded style of leadership. The latter has been accused of undermining the bases of trust underwriting coalition functionality and maintenance.

³⁷ For a breakdown of these coalitions, see Valenzuela (1994, pp. 123-125).

previously, presidents knew where they stood in terms of votes and understood the necessity of marshalling support, and how much support was necessary for initiatives to succeed.

Conclusion

This chapter presented a number of paradoxes and seeming contradictions. It has argued that the Chilean presidency is undeniably very strong in formal constitutional terms. Comparative evidence suggests that these types of systems have the potential to stymie the legislative process and lead to problems of governability (Mainwaring and Shugart 1997). However, empirical evidence from the Chilean case suggests that presidents have had a great deal of success in imposing their legislative agendas both in terms of substantive content and timing, and that relations between the branches of government have been characterized by cooperation and moderation. It does, indeed, appear as if the president has the upper hand in legislation, but this does not mean that the operational dynamic of exaggerated presidentialism has been tested. Indeed, it is quite conceivable that the problems of exaggerated presidentialism have not yet emerged because Chile has yet to have a president that has incentives to use the full arsenal of presidential power. The constellation of formal presidential powers combined sets the stage for executive domination of the legislative process. Nonetheless, presidents may not have the incentives to take advantage of these powers to the extent that the Constitution would permit, given the idiosyncrasies of particular political situations and partisan configurations, and the nature and size of presidential contingents in Congress.

In addition, despite the presidents' legislative success, the chapter suggests that Congress has been quite relevant to the legislative process. However, this is not to suggest that the legislature is strong or that the authoritarian regime's institutional legacy is the optimal framework for Chilean democracy. On the contrary, given that both the unique circumstances of the democratic transition and the constellation of party forces that it produced have begun to change, presidents may in the future have incentives to employ the extraordinary powers that they are provided by the Constitution, and the often predicted problems of governability may materialize.

Also paradoxical is the reality that a divided (though not intransigent) Congress actually provided the legislature more influence, and provided the president a strong incentive to avoid the potentially damaging use of

the extreme presidential powers accorded the office by the Constitution. With a clear majority the president could have probably bypassed Congress and relied on the party discipline and good will generated by the transition to simply initiate executive policy. Alternatively, with an intransigent opposition in both houses, the president most likely would have been tempted to use the powers granted him by Chile's hyperpresidentialist Constitution. However, given the constellation of forces in the two houses, presidents could best achieve their goals through negotiation, while simultaneously avoiding poisoning the legislative well. Presidents had more to gain from a combined strategy of cajoling, convincing, and accommodating the opposition than from an imperial imposition of their constitutionally vested authority. The sensitivity of the transition provided an additional incentive for such a course of action. These realities provide support for Cox and Morgenstern's (this volume) conclusion that presidential strategies toward the legislature are partially a function of the extent of pro-government support in the legislature, though this is certainly not a linear relationship. Jones' (this volume) discussion of Argentina provides additional evidence to support this contention. Chile's presidents thus have been "coalitional" in Cox and Morgenstern's terms, though there is certainly no guarantee that future presidents will act in a similar fashion and remain in this category.

Indeed, with a transformed pattern of representation in Congress, these incentives will be less important. Recent institutional reform in Chile makes it more likely that such a transformation in the balance of partisan power will take place in the future. Given the nonconcurrence of presidential and legislative elections, it is more likely that presidents will be forced to govern without a legislative or coalition majority.³⁸ Presidential elections are held every six years and congressional elections are held every four.³⁹ Tapia Videla (1977) notes with reference to the historic non-concurrence of elections in Chile that "the president had to win two elections to govern" (p. 459). Given the timing and sequencing of elections in Chile, this will still often be the case.

Despite the constitutional power of presidents, the Chilean Congress for the long term will continue to influence the legislative process in

³⁸ In February 1994, Congress approved a constitutional reform that shortened the presidential term from eight to six years.

³⁹ Senators serve 8 year terms. One-half of the elected members of the Senate face election every four years.

important ways. The question is whether this influence will be a positive one based on negotiation and consensus or a negative one based on veto power. A shift in partisan composition combined with an end to the special context of the democratic transition can in a paradoxical way make the Congress either more or less influential in situations in which presidents lack congressional majorities. Congress will be less influential if presidents choose to employ their full range of powers and bypass the legislative branch. Alternatively, in the same situation, Congress has the potential to be more influential, given its very real capacity to act as a veto on presidential power, and to make it very difficult to govern. Thus, for the long term, the consolidation of democracy in Chile depends on enhanced influence for Congress to institutionalize the incentives for interbranch negotiations, upon which the success of Presidents Aylwin and Frei was based. These incentives were very much a function of the immediate postauthoritarian political situation and the correlation of partisan powers that the composition of Congress helped to produce. However, reforms to the formal powers of the presidency can help to institutionalize a formal dynamic that was in large part dependent on somewhat transitory partisan variables. By reducing the scope of presidential powers, executives will be forced to take the difficult, but ultimately more productive, road of taking into account and incorporating Congress' interests throughout the legislative process, roads that Aylwin and Frei took, albeit for different reasons. At the same time, a stronger legislature will force executives to negotiate with the legislature and take fuller account of the demands of Chile's numerous parties, rather than simply imposing presidential agendas through the use of exaggerated presidential powers.

Appendix

Table 4A.1 *Summary of legislation with origins in the legislative branch promulgated as law during the Aylwin administration (1990-1994).*

Law number/ Boletín number	Date	Material	Origin
18,992 0057-06	8/16/90	Empowers the president of the republic to determine the limits of <i>comunas</i> indicated and to renew faculties listed.	Chamber

Law number/ Boletín number	Date	Material	Origin
2. 18,996 0083-04	9/5/90	Authorizes the erection of monuments in memory of Edmundo Pérez Zujovic.	Chamber
3. 19,013 0131-04	12/17/90	Authorizes the erection of monuments in memory of Jorge Alessandri Rodríguez.	Chamber
4. 19,014 0126-04	12/17/90	Authorizes the erection of monuments in memory of Eduardo Frei Montalva.	Chamber
5. 19,051 0196-04	4/1/91	Authorizes the erection of monuments in memory of Luis Bossay Leiva.	Senate
6. 19,064 0070-06	7/9/91	Protects the norms set out in Law 6,071 concerning horizontal structures and existing buildings in open markets, meadows, markets, and slaughterhouses as indicated.	Chamber
7. 19,092 0325-04	11/14/91	Authorizes the erection of monuments in memory of Caupulicán in the city of Temuco.	Chamber
8. 19,094 0427-04	11/14/91	Modifies Law numbers 17,288 concerning national monuments, and 18,918 of the Organic Law of the National Congress.	Senate
9. 19,099 0156-07	12/5/91	Establishes norms for the granting of birth certificates for the ends therein established.	Chamber
10. 19,101 0055-04	12/11/91	Establishes norms concerning academic and nonacademic personnel of institutions of superior education indicated, which ceased to function in virtue of Article 13 of Law number 18,768.	Chamber

(continued)

Table 4A.1 (continued)

Law number/ Boletín number	Date	Material	Origin
11. 19.135 044-05	5/5/92	Modifies Law number 18.768, with respect to the distribution of income from the betting industry	Chamber
12. 19.150 0722-06	7/7/92	Modifies time limits indicated in Law number 19.130, which modified the Organic Law of Municipalities.	Chamber
13. 19.164 0386-07	9/2/92	Modifies Penal Code and Penal Procedures Code with the intention of strengthening legitimate defense; abolishes Law number 17.010.	Chamber
14. 19.189 0476-07	12/31/92	Modifies Article 66 of the Penal Procedures Code, with respect to notifications.	Chamber
15. 19.203 0121-08	2/24/93	Establishes time limit indicated for energy supplier or consumer cooperatives.	Senate
16. 19.204 0483	2/5/93	Modifies Articles 84, 138, and 139 of the Penal Procedures Code.	Chamber
17. 19.205 344-04	2/6/93	Authorizes the erection of monuments in memory of Jaime Guzmán Errázuriz.	Senate
18. 19.206 0151-04	3/18/93	Modifies Law number 18.681, concerning scholarships for Aysén, Isla de Pascua, and Juan Fernández.	Chamber
19. 19.215 0624-07	5/17/93	Modifies Article 505 of the Penal Procedures Code.	Chamber
20. 19.216 0387-04	5/19/93	Authorizes the erection of monuments in memory of Claudio Arrau León.	Chamber
21. 19.218 0768-04	5/19/93	Establishes a "Day of Solidarity" as a tribute to the priest Alberto Hurtado Cruchaga.	Chamber

Law number/ Boletín number	Date	Material	Origin
22. 19.219 0615-04	5/20/93	Authorizes the erection of monuments in memory of Radomiro Tomic Romero.	Chamber
23. 19.221 0066-07	6/1/93	Establishes 18 as the legal age of adulthood and modifies all legal codes and statutes indicated.	Senate
24. 19.223 0412-07	6/7/93	Perfects codes relative to computer technology.	Chamber
25. 19.225 0399-07	6/22/93	Modifies Article 201 of the Civil Procedure Code and Article 448 of the Penal Procedure Code.	Senate
26. 19.232 0037-07	8/4/93	Modifies Article 163 of the Tax Code.	Chamber
27. 19.241 0625-07	8/28/93	Modifies indicated articles of the Penal Code and of Law 18.314 (concealment and rape).	Chamber
28. 19.244 0351-04	9/3/93	Authorizes the erection of monuments in memory of the poet Pablo Neruda.	Chamber
29. 19.245 0825-03	9/4/93	Establishes norms relative to jurel processing and modifies the Fishing and Agricultural Law.	Senate
30. 19.258 0496-04	11/4/93	Authorizes the erection of monuments in memory of the poet Gabriela Mistral in La Serena and Vicuña.	Chamber
31. 19.265 1016-09	12/10/93	Authorizes the Directorate of Viability of the Ministry of Public Works to obtain and ship the necessary equipment listed therein.	Senate
32. 19.266 1093-07	11/22/93	Grants honorary Chilean citizenship to religious leader Antonio Ronchi Berra.	Senate
33. 19.273 0273-06	12/9/93	Modifies Decree Law 1.094 of 1975 concerning the exit of resident foreigners.	Chamber and Senate