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Defining a Democracy: Reforming the Laws on Women's Rights in Chile, 1990-2002

Merike H. Blofield
Liesl Haas

ABSTRACT

This article evaluates 38 bills seeking to expand women's rights in Chile and finds that the successful ones often originated with the Executive National Women's Ministry (SERNAM), did not threaten existing definitions of gender roles, and did not require economic redistribution. These factors (plus the considerable influence of the Catholic Church) correlate in important ways, and tend to constrain political actors in ways not apparent from an examination of institutional roles or ideological identity alone. In particular, the Chilean left's strategic response to this complex web of interactions has enabled it to gain greater legislative influence on these issues over time.

The majority of Latin American countries have now been formal democracies for at least a decade, and the focus on democratization per se has given way to a concern with the quality of democracy and the determinants of democratizing political change. Roberts (1998) argues for conceptualizing democratization, or the deepening of democracy, as a "process," not an outcome, and calls for research efforts on the wide range and myriad permutations of political systems falling under the rubric of consolidating democracies. Legislation dealing with women's issues is an ideal focal point for this type of analysis, especially in Latin America. By looking at attempts to promote women's equality, we can examine a government's political responsiveness to the enhancement of equal rights for all citizens, arguably an essential aspect of deepening democracy itself.

Institutional studies, as well as those focusing on ideology and values, are the basis for our examination of how these factors interact in the specific policy area of women's rights. This article argues that an analysis of both institutional and political and ideological factors is essential to understand fully the political process and outcomes for political and social reform, in this case women's rights. This study examines the varying success of the 38 bills seeking to expand women's rights that were introduced in Chile between 1990 and 2002.

Chile is an ideal case for analyzing these issues: its nondemocratic institutional structure and anachronistic legal framework governing the

two main leftist parties, the Socialist Party (PS) and the Party for Democracy (PPD). The far-right Independent Democratic Union (UDI) forms an alternative electoral alliance with the other major right-wing party, National Renovation (RN). In the first three democratic administrations, the Concertación held a majority of seats in the Chamber of Deputies, as well as among elected representatives in the Senate. With the inclusion of nine "designated senators," however, the Concertación lost majority influence to conservative senators. Within the Concertación, the PDC has consistently held more seats than the combined parties of the left.

As is evident in table 2, the left, center, and right in Chile have each maintained significant and relatively stable electoral support since the transition to democracy. The electoral law implemented in 1989 transformed Chile's premilitary-regime proportional representation electoral system to one with binomial districts. The new system encouraged the formation of broad electoral and governing coalitions, and the left joined the Concertación, which has governed Chile since 1990. While the coalition has, to date, prevented the right from gaining the presidency, the forced cohabitation of two distinct political ideologies in the governing alliance creates a complicated system of political incentives for the parties. The need for coalitional unity must be balanced against the desire of each ideological faction to have an impact on policy.⁴ With regard to the legislation examined here, this system creates legislative competition between SERNAM and representatives in Congress, along with tension between the left and the Christian Democrats within the Concertación.

Interbranch Competition

The executive branch in Chile possesses strong legislative powers. Formal executive powers include the ability to determine the legislative agenda for most of the year and exclusive legislative jurisdiction over a number of crucial areas, including budgetmaking. The executive also has the power to declare a bill "urgent," which keeps it alive in committee and encourages congressional debate on it.

Arguably of equal importance in the policymaking process are the executive's informal powers, including considerably greater financial resources than congressional representatives command, and also an extensive legislative staff. This allows executive ministries to develop bills that are often technically superior than similar congressional proposals. In addition, informal procedural rules allow members of the executive to participate in congressional committee meetings. In terms of women's rights legislation, this allows SERNAM to craft a persuasive proposal and to monitor it closely throughout the review process, while the authors of congressional bills are often shut out of the relevant review committees (Haas 2000).

Table 2. Chile's Elected Representatives,
First Three Democratic Congresses

Coalition and Party	1990-1994		1994-1998		1998-2002	
	Chamber of Deputies	Senate ^a	Chamber of Deputies	Senate	Chamber of Deputies	Senate
Concertación						
Christian Democrat (PDC)	39	13	37	13	39	14
Socialist (PS) Party for	18	4	15	5	11	4
Democracy (PPD)	7	1	15	2	16	2
Radical (PR) ^b	6	3	2	1	4	0
Social Democrat (PSD)	0	1				
Independent (I-Concertación)	0	0	1	0	0	0
Coalition total	70	22	70	21	70	20
Right Coalition						
National Renovation (RN)	32	13	29	11	23	7
Independent Democratic Union (UDI)	14	2	15	3	17	5
Center-Center Union (UCC)	—	—	2	0	—	—
Independent (I-Right)	0	1	4	3	9	6
Coalition total	46	16	50	17	49	18
Other	4	0	—	—	1	0
Congress total	120	38	120	38	120	38

^aIn addition to elected representatives, an additional nine senators are appointed.

^bThe PR and PSD combined to form the PRSD in the second administration.

The legislative strength of the executive can help or hurt attempts to expand women's rights, depending largely on which party controls the government or, in a coalition government, which party controls the relevant ministry (Baldez 2001). SERNAM was headed by Christian Democrats for the first two democratic administrations, and the its centrist political orientation during this time posed both opportunities and challenges to reforming laws on women's rights.

to legalizing divorce to facilitating women's access to safe abortion can be framed in ways that either challenge traditional conceptions of women's roles or embrace them. A given frame will affect the type of legislation passed and the degree to which the new law expands women's equality in practice. Adopting the traditional gender frames of congressional conservatives risks playing into the hands of those opposed to women's rights by legitimating their logic and discourse. In this way, long-term, more extensive changes may be sacrificed for short-term expediency and political pragmatism.

Not recognizing women as independent individuals with equal rights undermines the consolidation of a democracy of formally equal citizens. The continuing need for the left—and politicians in general—to justify the enhancement of women's rights in role-based terms may be extreme in the case of Chile, but this dynamic in distinct forms is common across democratic countries where religion is politically influential.

NOTES

1. In Uruguay more specifically, it has allowed the country to maintain its liberal laws from an earlier era.
2. Church lobbying tactics included direct pressure on individual representatives, public statements against bills, and a visible presence in the congress during debates on the legislation. This characterization of the church's political activity since the transition may seem surprising to those more familiar with the church's pretransition work in defense of human rights; yet it is precisely the visibility and political legitimacy gained through this work that the church is now using to influence political debate on contentious social issues. In lobbying representatives whom the military government had persecuted, for example, church officials made particular reference to how the church had protected the democratic opposition during the dictatorship. In interviews, representatives commonly characterized this approach as the church's attempt to "collect on the bill" from its pro-human rights work under the dictatorship (for more detail on these points, see Haas 1999; Blofield 2001; Htun 2003).
3. For an analysis of how socioeconomic conditions in Chile—namely, inequality—have affected the relative strength of the church and conservatives, reformist mobilization, and left and right political agendas on moral issues, see Blofield 2003. In this analysis, the point of departure is the political level.
4. Magar et al. describe a similar dynamic in Chile's electoral campaigns, in which different parties from the Concertación must share the electoral list in many districts. Because of Chile's open-list electoral system, parties face "perverse incentives" to elect their own candidate from the list while simultaneously competing as a unified list against the opposing coalition.
5. A public opinion poll pegged support for legal divorce at 80 percent in 1996 (Desuc-Copese 1996); another poll in 2002 found that 85 percent of Chileans favored legal divorce on grounds of mutual consent (FLACSO-Chile 2003). Public opinion polls also found majority support for legal abortion on

therapeutic grounds and in cases of rape (Desuc-Copese 1996; FLACSO-Chile 2003).

6. In the first democratic congress (1990–94), three self-identified feminists were elected from the parties of the left and none from the Christian Democrats or the right. In the second congress (1994–98), four self-identified feminists were elected from the left, one from the Christian Democrats, and none from the right. In the third congress (1998–2002), five self-identified feminists were elected from the left, two from the Christian Democrats, and none from the right.

7. In the specific case of Chile, Londregan (2000) identifies this as a "social dimension" on issues of personal morality.

8. One representative from the RN voted against; one UDI representative abstained.

9. For examples of public comments by politicians on abortion, see Haas 1999; Blofield 2001. In 1993, a coalition of feminist NGOs drafted a second bill on abortion but, mindful of the uproar caused by the 1991 bill, no representative would sponsor it.

10. Since 1991, the right has proposed three bills to increase penalties on abortion, one of which was defeated in the Senate in 1998 by two votes. The Concertación's opposition to this bill focused on class: poor women disproportionately suffer the legal consequences of clandestine abortions, given that wealthy women can afford safe and therefore "invisible" abortions. Although conservative Christian Democrats privately expressed support for the bill before the floor debate, once the debate was public they voted against it (Larraín 2001).

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