

Disconnected Fire Alarms and Ineffective Police Patrols: Legislative Oversight in Postauthoritarian Chile

Peter M. Siavelis

The 1990s saw political crises and continuing deficiencies in government effectiveness and citizen representation in many Latin American countries. Yet despite these struggles, democratic governments persevered. Thus, by the end of the decade, the predominant focus on democratic transitions in the literature on Latin American politics had given way to an increasing concern with the actual functioning of the region's political systems and with democratic consolidation. Meanwhile, corruption and administrative inefficiency had displaced the military as the most conspicuous threats to democracy in many nations.

The impeachment and ousting of presidents Carlos Andrés Pérez of Venezuela for embezzlement and Fernando Collor de Mello of Brazil for fraud and the near-removal of Ernesto Samper of Colombia for campaign financing irregularities are the most vivid examples of how governmental crises precipitated by corruption can threaten democracy or redemocratization. A less widely recognized but no less insidious threat to democratic consolidation is administrative inefficiency. This problem is aggravated by decentralization and efforts to reduce the size of central governments, sometimes upsetting long-established oversight procedures or limiting the few that exist. At the root of both corruption and administrative inefficiency is government institutions' lack of oversight capabilities.

An additional component of the literature's new focus on the functional properties of democratic governments has been an increasing discussion of the importance of executive and legislative institutions, electoral systems, and the judiciary. The relative strength of presidents has been identified as a major variable affecting the potential longevity and efficacy of presidential government. Systems with extremely strong presidents have been theoretically and empirically connected to problems of governability (Shugart and Carey 1992, 148; Mainwaring and Shugart 1997). The consequences of strong presidential government and legislative weakness for corruption and administrative efficiency, however, have been less thoroughly analyzed. Is corruption more likely in presidential systems characterized by weak legislatures? Can a legislature with strong oversight capabilities play a role in limiting corruption and monitor state

bureaucracies? Is a legislature that can act as a check on executive and bureaucratic action more likely to ensure administrative efficiency?

These questions provide the starting point for this article, and Chile serves as an excellent case study to explore them in preliminary fashion. In comparative regional perspective, corruption has been less common and less of a threat to democracy in Chile. In a region where presidents often stepped down with large overseas bank accounts, Chilean presidents have retired into the same middle- or upper-middle-class social strata from which they emerged. The *Carabineros* (national police) have a scrupulous reputation. The country benefits enormously from a tradition of legality and respect for the rule of law. During Chile's long experience with democracy before the military regime took power in 1973, this tradition was supported by a series of state institutions with independent decisionmaking authority that were considered above party politics. The most important of these were the *Contraloría General de la República* (Comptroller General of the Republic) and the *Tribunal Calificador de Elecciones* (National Election Qualifying Court) (Silva Cimma 1969; Valenzuela 1978, 14–15; Cruz-Coke 1991, 200–206). The Contraloría in particular was a feared institution, infamous among bureaucrats for ensuring relative efficiency in Chilean state institutions (see Valenzuela 1977, 37–42).

In addition, a complex system of center-local and citizen-legislator connections, albeit less recognized by political scholars and practitioners, also enabled citizens and the Congress to denounce improprieties, correct bureaucratic errors, and remedy legislative omissions that lay at the root of administrative difficulties. Chile presents a model case of how political probity and relative (in Latin American terms) administrative efficiency contributed to the legitimacy of democracy.¹

MODELS OF OVERSIGHT

The literature on legislative oversight in Latin America is scant, both because the weakness of legislative branches is notorious (though overstated; see Mainwaring and Shugart 1997; Siavelis 1998) and because administrative controls are not widely institutionalized. Although a great deal has been written on oversight, understood as the legislature's ability to affect presidential action and accountability through budgetary control or the defeat of presidential initiatives (Close 1995; Mainwaring and Shugart 1997), much less has been said about the subtler ways legislatures can help ensure probity and administrative efficiency. Impeachment, one of the more dramatic of legislative oversight actions, has received a great deal of academic and press coverage; but impeachment is an extreme and "negative" form of *fiscalización* (oversight). Very little work has examined the potential role of more positive, more regular, and less visible legislative oversight activities.

Analyzing the effectiveness of legislative oversight in Chile within a framework native to the region is therefore quite difficult. Extensive academic work exists, however, on the oversight capabilities of the U.S. Congress (Light 1997; Auerbach 1990; Foreman 1988; McCubbins and Schwartz 1987; Pearson 1975; Dodd and Schott 1979; Ogul 1976). McCubbins and Schwartz underscore that "Congressional oversight policy concerns whether, to what extent and in what way Congress attempts to detect and remedy violations of legislative goals" (1987, 426). They go on to argue that although the U.S. Congress's oversight capability is often characterized as weak, observers overlook more nuanced and less visible forms of oversight. To make this point, they differentiate between two types of legislative control. "Police patrol oversight" is "comparatively centralized, active, and direct: at its own initiative, Congress examines a sample of executive agency activities with the aim of detecting and remedying any violations of legislative goals." "Fire alarm" oversight involves "less active and direct intervention"; instead, Congress

establishes a system of rules, procedures, and informal practices that enable individual citizens and organized interest groups to examine administrative decisions (sometimes in prospect), to charge executive agencies with violating congressional goals, and to seek remedies from agencies, courts, and Congress itself. (1987, 427)

In general, the McCubbins and Schwartz model applies well to Chile. Its value rests in two parallels with the U.S. case. First, like scholars studying the U.S. Congress, most of the few analysts of the oversight capabilities of the Chilean Congress have traditionally relied on a police patrol conception of oversight to point out the Congress's debilities. Second, students of legislative politics have erroneously dismissed the Congress's oversight capabilities as similarly weak and ineffective, given that in Chile, police patrol oversight was uncommon. What scholars have failed to appreciate, however, is the complex web of center-periphery and citizen-legislator connections, which enabled Chile's Congress to engage in less notable fire alarm oversight in a manner parallel (though not identical) to that identified by Schwartz and McCubbins for the United States.

This article analyzes how effectively the postauthoritarian Chilean Congress has exercised its oversight functions, and how almost 17 years of authoritarian rule and a new constitution have transformed traditional oversight mechanisms.² Employing McCubbins and Schwartz's model as a frame of reference, the article argues that both the fire alarm and police patrol oversight functions of Chile's Congress have been undermined by the weakening of Congress in the 1980 Constitution and by structural changes in the Chilean state and citizens' connections to it. While the power of the Chilean Congress to oversee the activities of the executive branch and state administration has never been as strong as that of the U.S.

Congress, the centrality of the preauthoritarian Congress in the political system, combined with a sophisticated party system network, provided crucial fire alarm oversight.

The result for Chile is that both types of oversight are now less effective than in the past. In essence, the few fire alarms that existed have been disconnected, and police patrol oversight is even less common. More seriously, this article shows that once police patrols and fire alarms uncover improprieties, the mechanisms at the Chamber's disposal to investigate, control, and punish corruption and inefficiency are woefully inadequate. The article concludes with suggestions for reintroducing and reconnecting fire alarms throughout the country and, at the same time, improving mechanisms of control and sanction once irregularities come to light.

An application of the McCubbins and Schwartz model to the Chilean case certainly has its limitations. Their model was developed in the United States, a country characterized by a strong legislature, low party discipline, and a political context in which the executive and legislative branches are often occupied by different parties (creating powerful incentives for aggressive legislative oversight). A loose application of the model is appropriate nevertheless. First, the model demonstrates that just as scholars overlooked potentially powerful forms of oversight in analyzing the U.S. Congress, something similar is occurring in analyses of Chile, and potentially in analyses of the oversight capabilities of other Latin American cases. Second, application of the U.S. model to the Chilean case helps to advance the idea that the United States is not a unique case and to reinforce the value of comparison across presidential systems.

This study is based on interviews and careful analysis of secondary literature. Interviews were conducted with a party-proportional sample of 25 percent of the membership of the Chamber of Deputies and Senate. A total of 30 members of the Chamber were interviewed, and 12 in the Senate. A series of open- and closed-ended questions concerning Congress's roles in the political system and as an oversight body were asked. In addition, interviews with similar questions were undertaken with high-level officials in four of the most important ministries: Finance, Justice, Interior, and the Ministry of the General Secretary of the Presidency (SEGPRES). Finally, high-level officials were interviewed in each of the five major political parties: the PDC (*Partido Demócrata Cristiano*, or Christian Democrats), RN (Renovación Nacional), PS (Partido Socialista), PPD (Partido por la Democracia) and UDI (Unión Demócrata Independiente). The initial interviews were conducted in Santiago and Valparaíso between March 30 and June 3, 1993. An additional set of corroborative interviews were undertaken in Santiago in May 1999. Numerous studies of the preauthoritarian Congress, civil society, and local government form the basis for the analysis of the preauthoritarian Congress and its complex, party-based system of oversight.

CORRUPTION AND ADMINISTRATIVE INEFFICIENCY

Despite a tradition of relatively good government, in recent years administrative inefficiency and corruption have become more visible threats to the integrity of Chile's new democracy. In 1994 the nation's copper industry was rocked by a major scandal with allegations of financial irregularities in the state-owned National Copper Corporation (CODELCO). The scandal erupted while various congressional investigations of fraud, wrongdoing, inefficiency, or corruption were under way in other state enterprises, including the National Coal Corporation (ENACAR) and the National Shipping Industry (EMPREMAR). Investigations of fraud or bureaucratic bungling (either intentionally deceptive or a result of neglect) were simultaneously going on in several areas of state administration, including the Customs agency (Aduanas), the National Directorate of Sports and Recreation (DIGEDER), the National Emergency Office (ONEMI), and various municipalities. A recent addition to this growing list is ESVAL (Sanitary Corporation of Valparaíso), the company constructing a massive new sewage-handling system in that port, one of the largest public works projects in Chilean history. Deputies from the PDC, part of the Concertación coalition that has governed Chile since its return to democracy in 1990, have drawn allegations of government malfeasance because of their alleged personal associations with the directors of the ESVAL project.

More generally, although Chile is exemplary for the integrity of its public servants compared with other Latin American countries, there is a growing public concern with corruption. This perception has been discussed frequently in the Chilean press (see *La Tercera* 1998; *El Mercurio* 1998a, b; *Estrategia* 1996). A high-level official in the Ministry of Justice interviewed for this study contended that there is increasing state sector corruption in Chile, and that neither the executive nor the legislative branch is sufficiently aware of or concerned about this growing problem (Ministry of Justice 1993).

Several factors have contributed to this situation, including the growth of more sophisticated and pervasive regional crime networks, the decreased profile and scope of state regulatory agencies, and the new opportunities for corruption presented by neoliberal market reforms (Manzetti and Blake 1996). Rehren (1997) underscores the importance of introducing market mechanisms to solve the collective action problems, a step that has accompanied Chile's process of neoliberal transformation. When deregulation and privatization of previous state functions are superimposed on Chile's traditional network of clientelistic structures, Rehren convincingly argues, the potential for corruption and administrative inefficiency increases. The greater openness of postauthoritarian politics to public scrutiny has also revealed problems that may have been overlooked in the past. One of the most important and least analyzed

permissive causes of what appears to be an increase in corruption, however, has been the National Congress's inability to perform the oversight functions granted it by the 1980 Constitution.

Governmental oversight deals not only with outright, direct, and deliberate corruption but also inefficiency rooted in simple bureaucratic bottlenecks and misunderstanding of the law. Members of Congress interviewed in the course of this study often tied these harder-to-measure phenomena, as well as corruption, to a lack of oversight capabilities. Only 27 percent of the deputies and 17 percent of the senators interviewed felt that Congress effectively carried out its oversight functions, with only slight variations when party identification was considered. The most often cited reasons for the limited effectiveness of congressional oversight of the executive branch and government ministries were the lack of oversight capabilities, the politicization of oversight activities, the excessive use of the *oficio* (official request for information), and the inability to deal with offenses committed by the previous regime. Many members underscored how this lack of legislative oversight has led or could easily lead to serious problems of corruption and pervasive bureaucratic inefficiency.

EXAGGERATED PRESIDENTIALISM, LEGISLATIVE WEAKNESS

The constitutional limitations on congressional oversight capacity cannot be understood without reference to the overall framework for Chilean presidentialism. The 1980 Constitution was designed by military authorities and their civilian allies to undergird an exaggeratedly strong presidential system (Arriagada 1984; Siavelis 1997). This constitution provides for a presidency considerably stronger than at any time during Chile's modern democratic history (see Valenzuela and Wilde 1979; Frei 1970). In their comparative study of presidential systems, Mainwaring and Shugart rate the Chilean presidency highest in Latin America in terms of presidential power over legislation (1997, 49).

In addition to the powers normally associated with presidential government, the Chilean president has several areas of exclusive initiative, including social security and all matters related to social benefits; effective decree power in budgetary matters; broad powers to declare legislation urgent in order to expedite executive initiatives; and the exclusive power of appointment and dismissal of ministers and other state officials (Siavelis 1997). The president also appoints 2 of the country's 47 senators. Because the president also influences the appointment of, and in some instances names the officials who appoint, the remaining 7 appointed senators (for a total of 9), executive influence is farther-reaching than it first appears.³

One of the most important roles of assemblies in presidential systems, in addition to their lawmaking functions, is to act as a check on the executive branch. Legislative weakness, however, is the flip side of

enhanced presidential strength in Chile. Along with the general strengthening of the president's powers, the 1980 Constitution decreased the scope of congressional prerogatives, continuing a reform trend that began with the 1925 Constitution (Siavelis 2000). The Congress's already limited oversight capabilities outlined in the 1925 Constitution were further circumscribed by the 1980 Constitution (Silva Bascuñán 1990, 103–16; Cea Egaña 1994, 15; Ferreiro 1994).

Article 48, No. 1, of the 1980 Constitution establishes that one of the Chamber of Deputies' exclusive responsibilities is the oversight of government actions (*fiscalizar los actos del gobierno*). The Senate has fewer formal oversight functions than the Chamber of Deputies, although individual senators may request information from government ministries. The Senate's only significant role in government oversight is to act as a jury once constitutional accusations against ministers or other officials have been approved by the Chamber of Deputies. Thus the Senate is involved only in the final phases of legislative oversight.

Three innovations in the 1980 Constitution further weaken the oversight powers of Congress compared to those set out in the 1925 Constitution. First, the president is no longer required to respond personally to suggestions and observations made by the Chamber; a minister may now do so. Second, while the 1925 Constitution stated that Chamber resolutions or suggestions shall not affect the political responsibility of ministers to the president, the 1980 document strengthens this language, stating that "in no case" shall such resolutions "affect the political responsibility of ministers" (Article 48, No. 1). Finally, a new statute establishes that the responsibility of the executive branch to respond to *oficios* is fulfilled simply by providing an answer, with nothing about substantive content.

More basic than these particular prescriptions, the legal and constitutional status of the Chamber of Deputies' oversight powers subtly limits the scope of Congress's capabilities from the outset. Article 48 of the 1980 Constitution states that the Chamber of Deputies has the exclusive right to *fiscalizar los actos del Gobierno* (oversee the actions of the government) rather than *fiscalizar los actos de gobierno* (oversee government actions). Strict interpretation of this article has led constitutional scholars to contend that the Chamber oversteps its bounds when it investigates or questions activities not specifically related to actions or decisions taken by the government, understood as the president, ministers, and ministerial staff. Thus, for some legal scholars, congressional efforts to investigate activities in the Central Bank, other state enterprises, firms with state contracts, or municipal and regional governments are at best a misinterpretation of the Constitution and at worst unconstitutional (see Cea Egaña 1993, 12).

Another, less subtle legal precept that limits legislative oversight power is the proscription on congressional investigations of acts that

occurred before March 11, 1990. This includes all governmental activities undertaken during the authoritarian regime up to the date the first postauthoritarian president, Patricio Aylwin, assumed power (Law No. 18,918, *Ley Orgánica Constitucional del Congreso Nacional*, Article 2, Transitory Provisions). This law, aimed specifically at Congress, was enacted in addition to a general amnesty for illegal acts committed between 1973 and 1978, which was issued by the authoritarian government and guaranteed by the transitory provisions of the Constitution and corresponding law (Decree Law 2191, 1978). Although these measures were designed to protect former military leaders and their civilian allies from politically motivated retribution by democratically elected officials, the amnesty also masks real potential cases of corruption, such as the alleged kickbacks to the son of former dictator General Augusto Pinochet from defense industries with which he was contractually involved (see *¿Qué Pasa?* 1998).

Thus, the matter of which state entities are subject to Congress's control and the timeframe that determines whether or not their actions can be investigated are subject to some legal confusion. An act committed on March 10, 1990, is considered off-limits, but one committed on March 11 is fair game and the person who committed it liable for prosecution. Thus Congress's legal role and the timing of irregularities, rather than the illegal acts themselves, have become the focus of discussion and deliberation.

OVERSIGHT'S HISTORICAL EFFECTIVENESS

Although in pre-Pinochet Chile the Congress was a relatively successful and influential institution in terms of legislation and representation, its oversight activities have almost universally been interpreted as ineffective (for comparative discussion, see Agor 1971a; Gil 1966; Siavelis 2000). Most analysts argue that with the dramatic exception of Salvador Allende's ill-fated presidency (1970–73), when members of Congress abused their oversight powers to formulate politically motivated constitutional accusations against the president's ministers, efforts at *fiscalización* had little influence on the direction of executive or bureaucratic policy. For example, Tapia-Valdés contends, "the oversight exercised by parliament has usually been inefficient and has not served to confirm its prestige or to put an end to the excesses of the executive or his agents" (1993, 119). Similarly, in his classic work on Chilean politics, Gil contends that the exercise of Congress's oversight power "has not been significant" or of much "practical value" (1966, 114).

This interpretation stems from scholars' "police patrol perception" of oversight. Because Chile had few active police patrol institutions, analysts tended to dismiss completely the effectiveness of legislative oversight. The Contraloría did engage in police patrol auditing of local and national

government accounts, but for the most part, Congress or its members did not undertake regular and routine forms of police patrol oversight. This should be no surprise, given McCubbins and Schwartz's conclusions concerning the limited incentives for members of the U.S. Congress to engage in this type of oversight (1987, 429). Congress had little interest in monitoring all the activities of the executive branch. Rather, members had an incentive to engage in oversight that affected them directly; that is, that had an effect on their constituents and their potential reelection.

As McCubbins and Schwartz argue, however, in dispelling conclusions about the U.S. Congress's weak oversight powers,

[a] perfectly reasonable way for Congress to pursue its objectives is by ensuring that fire alarms will be sounded, enabling courts, administrative agencies and ultimately Congress itself to step in, whenever executive compliance with congressional objectives is called into question. (1987, 437)

Indeed, they underscore that legislators have few incentives to engage in police patrol oversight, given its high political cost and usually low return. A fire alarm system gives members of Congress several ways to ensure oversight of executive and bureaucratic activity more efficiently. These include administrative agencies recognizing and receiving complaints from organized lobbies, legislators recognizing and remedying problems of citizens and groups that emerge in the course of casework, and the reality that fire alarm systems allow for the redress of grievances by administrative agencies and the courts (1987, 434–35). Many (though, of course, not all) of these points can also be applied to the Chilean Chamber's oversight activities in the preauthoritarian era.

Because Chile's Congress was a good deal stronger in legislative terms before the Pinochet regime, it could exercise control over the executive and state agencies through the budget, personalistic spending initiatives, and other legislative tools (Siavelis 2000; Valenzuela and Wilde 1979). Congress was centrally situated in a complex network of connections among citizens, legislators, and the bureaucracy. This network was mediated by an institutionalized party system that allowed fire alarm oversight to function with some success.

Preauthoritarian Fire Alarms

In Chile's unitary and centralized political system, all government officials and most governmental decisions were subject to authority in Santiago. Although *intendentes* (provincial governors) represented the national government in individual regions during the preauthoritarian period (and, in theory, supervised and audited government representatives throughout the country), these officials owed their position to decisions made by the president. The key to extracting resources from the central government

was citizen pressure on local authorities, who in turn lobbied members of Congress to satisfy their demands (Valenzuela 1977). The combination of fear of the Contraloría and oversight through connections to the national government via individual deputies was quite effective, both for resolving personal and collective problems and for legitimating the Chilean state. The budgetary process and the legislators' ability to attach their own spending priorities to those of the president provided deputies and senators with further opportunities to intervene and obtain benefits on behalf of constituents.

These citizen-legislator connections were crucial to the functioning of fire alarm oversight. When the social security system overlooked a constituent, the citizen's member of Congress could deal with the problem, both by intervening directly in the bureaucracy and by proposing legislation to ensure that other constituents would not fall victim to the same errors. In cases of wrongdoing, inefficiency, or simple bureaucratic errors by local authorities or the *intendente*, legislators could seek solutions to problems directly in the ministries, send an *oficio* to the appropriate minister, or refer the case to the Contraloría to suggest an investigation. If the Contraloría found evidence of wrongdoing, the case was immediately turned over to the courts (Valenzuela 1977, 37).

With a director appointed for life and 750 civil servants, the Contraloría was entrusted with the supervision of the country's fiscal matters and general issues of state propriety. Political authorities and citizens could denounce to the Contraloría any irregularities in the management of public funds or alleged malfeasance by government officials. Created in 1927 simply to oversee the expenditure of public funds, the Contraloría evolved into an institution significant for its oversight of all aspects and levels of public administration. Both the executive branch and Congress were willing to grant it increasing power because of its scrupulous insistence on legality and propriety (Gil 1966, 98).

The real influence of such a body in a region where similar institutions were either weak or nonexistent speaks highly for the importance of legality in preauthoritarian Chile. Analysts who underscore the importance of the Contraloría, however, often fail to acknowledge the overall social and party context in which it was embedded. The highly institutionalized Chilean party system (see Scully 1995; Garretón 1989) provided the wiring for the citizen-legislator-bureaucracy network.

The party system structured competition in Chile's myriad social and governmental organizations, including university and high school student governments, unions, social clubs, and trade and neighborhood associations (Valenzuela 1978, 3). The overwhelming politicization of secondary associations like unions, *gremios* (small business collectives), and professional associations, moreover, contributed to a dense network of organizations in civil society. Unions, for example, may have had few direct

connections to formal state institutions, but workers' interests were usually considered in the elaboration of policy, given the intermediation of left-wing parties (Angell 1972, 57–80).

While some analysts may interpret the party system as just another level of organization, in reality it was the crucial link among the social organizations, Congress, the state bureaucracy, the executive branch, and oversight institutions (Garretón 1989; Valenzuela 1978; Oxhorn 1995, 47). The connections it created were the means of communication through which denunciations and revelations of impropriety could be transmitted from local governments and secondary institutions to the Contraloría, Congress, and national ministries. Political party connections between local officials and “their” deputies also were the means to report wrongdoings by the opposition. *Regidores* (council members) often contacted members of their own parties in higher governmental positions to handle complaints against mayors and municipal officials of other parties (Valenzuela 1977, 28–42).

Scholars often overlook the bidirectional nature of these lines of influence. Not only did the party system network link base-level social organizations to elites, but a standard of propriety also radiated from the top down. The involvement or potential involvement of national elites in local matters helped to reinforce propriety and efficiency as the norm, given the fear of intervention by national-level institutions like the Contraloría. Citizen participation within this web of organizations reinforced accountability, given the perceived importance of propriety and an infrastructure and civil society to support it (Oxhorn 1995, 16).

Disconnecting Politically Wired Fire Alarms

In preauthoritarian Chile, many of these elements allowed moderately successful, albeit less visible, forms of legislative oversight. In the postauthoritarian era, however, many of these politically wired fire alarms have been disconnected. This has resulted not only from the institutional and constitutional changes imposed by the authoritarian regime, but also from changes in the structure of the state, the party system, and social networks that have undermined the strength of traditional oversight mechanisms.

The 1980 Constitution severely constrains legislators' ability to engage in casework that is meaningful and that produces results. Deputies can do very little to propose corrective legislation, especially in the areas of state finances, social security, and social benefits (areas in which legislators were quite active in the past). Whereas before, members could withhold votes on crucial legislation, such as the budget, to force the inclusion of particularistic demands along with presidential initiatives, deputies are no longer allowed or given the capacity to do so. Legislators

also have little access to expertise, few informational resources, and very small staffs, preventing them from gathering as much information as the bureaucrats charged with implementing policy can (Siavelis 1997). This situation has undermined citizen-legislator connections; when constituents notify their member of Congress of some harm, need, or bureaucratic error, the member's ability to respond is constrained.

To perform their historical form of fire alarm oversight, legislators needed connections to the bureaucracy and the ability to refer cases to the Contraloría and the courts. Deputies, however, now carry less weight in the overall political system, the size of the bureaucracy has been reduced, and policymaking has become centered in the executive branch. Because legislative investigative commissions are so politicized, moreover, the complete facts in cases under investigation are not communicated to the courts, undermining Congress's sanctioning ability. As McCubbins et al. note, to force compliance, especially in areas where noncompliance is difficult to detect, sanctions must be large (1987, 251). In Chile they no longer are.

Although organized lobbies and political parties persevere in Chile today, their complete suppression during military rule transformed their role significantly (Agüero et al. 1998; Siavelis 1998). While the Chilean party system was notorious for its complete integration and penetration of society, studies of the contemporary party system demonstrate less connection to social organizations and labor unions and more participation based on particular personalities and concrete, nonideological issues (Agüero et al. 1998, 174–82; Oxhorn 1995, 269). The party system is no longer as much of an interinstitutional communication network and conduit for oversight.

Political parties, moreover, have focused increasingly on a “new style” of politics characterized by national campaigns, less mobilization, and elite agreements that have decreased parties' influence in secondary associations like unions, neighborhood groups, and other popular organizations. Rehren (1991) notes, furthermore, that the traditional clientelistic relationships that once mediated interests through the party system have been radically transformed, and have yet to be replaced.

Transformation in the trade union movement is an example of the greater distance between social groups and political parties. Unions have become increasingly concerned with bread-and-butter issues as a way both to ease the transition to democracy and to perform better as advocates for their members in Chile's changed economy. In the past, by contrast, common ideology provided a crucial link between parties and unions, and unions paid the price of ideological loyalty in exchange for the satisfaction of concrete demands (Angell 1972). The authoritarian government also specifically attacked the close relationship between *gremios* and traditional unions (Angell 1986, 34), while today unions are less connected to other

social organizations. Although none of these developments is negative per se, all have undermined traditional party networks connecting citizens with government and politicians with oversight bodies.

Finally, the size of the Chilean state has been dramatically reduced since the advent of the military regime. Public sector expenditures declined from 40.6 percent of GNP to 21.6 percent between 1970 and 1992 (Vergara 1986, 89; Salomon Brothers 1992, 6). Between 1974 and 1979, more than 550 state-owned enterprises were privatized (Lüders 1991, 1–19). Many services previously carried out by the central government, including primary and secondary education, health care, social services, and housing, have been at least nominally transferred to municipalities. All these changes have reduced the strength of political parties by limiting their access to state resources (Oxhorn 1994, 748–49).

Despite the predominant paradigm concerning municipalization in Latin America, the simple decentralization of the state does not automatically enhance government propriety or administrative efficiency; new forms of oversight and internal auditing are necessary. The development of new oversight mechanisms is complicated, because local governments have increasingly relied on subcontracting and private companies to perform functions once undertaken either by the central government or directly by municipalities. Rodrigo Moraga, president of the Council of Internal Auditing (*Consejo de Auditoría Interna*, CAI), described a “perverse modernization” operating within this joint process of “marketization” and “decentralization.”

In the last twenty years the private and public sectors have experienced a weakening of internal controls as a result of downsizing, delays and obsolescence . . . internal controls have become underdeveloped. (Quoted in Fuentes 1998)⁴

The “old wiring” of traditional oversight mechanisms no longer works in contemporary Chile because the locus of political activity has changed. Perhaps some of the traditional fire alarms go off, but communication networks have been severed, and many of the firefighters have moved to new (and privatized) fire stations. The simultaneous restructuring of the state and the party system have undermined mechanisms of, and incentives for, fire alarm oversight.

Fire Alarms Still in Place

Despite these contentions, some forms of fire alarm oversight do exist, although they are not very effective. The most frequently used is the submission of *oficios*. Members of the Chamber of Deputies may submit two types of *oficios*. The first, the *oficio simple*, is a request for information directed to a particular ministry. It can be submitted by any deputy, subject to the approval of one-third of the members present in the Chamber. The

oficio simple is designed to allow deputies to obtain information concerning executive action in relation to particular activities being undertaken (or not undertaken) in a member's district, or to provide the Chamber or its committees the information necessary to legislate. The *oficio simple* can best be understood as the activation of a fire alarm to apprise the bureaucracy of problems before they become serious.

The second type of *oficio*, the *oficio de fiscalización*, is really a form of sanction or control, in that it requires a majority of deputies to submit and inquires about specific instances of wrongdoing or inefficiency.

The *oficio simple* has proven to be of limited utility in the exercise of the Chamber's oversight responsibilities. The executive branch's only legal obligation is to answer the *oficio* within 30 days. The law says nothing about the qualitative or substantive content of the response. The executive branch's responses to *oficios* therefore are often vague or perfunctory; they may simply advise the interested party that the corresponding ministry will investigate or consider the matter. One PDC deputy politely described government responses to *oficios* as *mas bien difusas*, "sort of diffuse" (Ortiz Novoa 1993).

Some of this ineffectiveness, however, accrues to the Chamber itself. During the Aylwin administration (1990–94), 18,532 *oficios* were submitted, but the government succeeded in answering only about 14,700, or approximately 80 percent.⁵ Since the requirement for direct response was lifted, the lack of a sanction for failure to respond and the sheer number of *oficios* submitted has made the requests difficult to track and likely to be ignored. Deputies also use the *oficio* to demonstrate to constituents that problems or complaints have been brought to the appropriate minister's attention, and then take no further action. The Chamber produces a comprehensive chronology that lists each member's speeches and the number and subject of every *oficio*. Many deputies simply reproduce this list for their constituents.

Most members of Congress interviewed for this study agreed that the *oficio* is excessively used in this way. Many of these *oficios* address pork-barrel issues, such as pension adjustments, funding requisitions for local government activities, and requests for street lighting or sewage improvements, which should really be referred to lower-level authorities like mayors or town councils.⁶ Although most deputies recognize, moreover, that responding to constituents' personalistic requests is not really their job, constituents expect deputies to play this advocacy role. For example, in an effort to educate constituents, RN deputy Alberto Espina, in a very effective campaign pamphlet, wrote,

There exists some confusion in regard to the work of Deputies and Mayors. The work they do is quite different. A Deputy debates laws and acts as an oversight and check on government action. On the other hand, Mayors and the town council administer the resources of the

municipality. For example, it is the function of the Mayor and not a Deputy to fix a street, provide lighting for a neighborhood, or worry about parks, municipal education, etc. (Espina 1993)

Despite his disclaimer, at the end of the pamphlet Espina still lists all the actions he has taken and the *oficios* he has sent on behalf of his constituents.

The abuse of the *oficio* system and the sheer quantity of responses that the executive must generate further encourages superficial responses in an effort to get the paperwork off the ministry desks. SEGPRES officials contended, moreover, that answering, often unnecessary *oficios* is a tremendous waste of time, and that their time could be better spent working on more substantive issues related to legislation and interbranch relations (Ladrón de Guevara Pardo 1993). A high-level official in the Ministry of Justice pointed to the "poor" quality of congressional *oficios*, calling many of them "downright silly," and contended that "there is a difference between oversight, asking for necessary information, and simply wasting my time" (Ministry of Justice 1993). The make-work characteristics of the *oficio* system also extend to lower-level employees in the ministries who must research congressional inquiries to provide the answers.

INVESTIGATIONS, SANCTIONS, AND CONTROL

McCubbins et al. (1987, 271) conclude that the most effective way to avoid administrative noncompliance is a combination of monitoring activity and selective punishment. To provide disincentives for corruption and inefficiency, the prospect of investigation and sanction must be present. Mechanisms of control and punishment, however, are also quite weak in postauthoritarian Chile. The three most important ways the Chamber of Deputies can act to oversee the state administration and punish corrupt or inefficient officials are to submit *oficios de fiscalización* to the executive branch, to form special legislative committees to investigate specific acts, and to make a constitutional accusation of the president, ministers of state, or other officials.

Oficios de fiscalización

According to the 1980 Constitution, the *oficio de fiscalización* is a mechanism for the Chamber of Deputies as a whole to "control the actions of the government." With the support of the majority of deputies present, members may "adopt agreements or suggest observations which shall be transmitted in writing to the President" (Article 48, No. 1). The president must then respond through the appropriate minister within 30 days, addressing the Chamber's observations and answering any queries they

contain. The deputies' agreements or observations, however, do not affect the political responsibility of the ministers of state; nor is the executive branch obliged to take action on the recommendations contained in the *oficios*. The constitution states, "the Government's obligation shall be understood to be fulfilled simply by delivering its reply" (Article 48, No. 1). These measures were introduced to ensure that the constitution explicitly proscribed any ministerial responsibility to the Congress—a defining feature of presidentialism. But they also give the government an easy way to avoid answering uncomfortable questions.

If the Chamber is dissatisfied with the executive's responses, its only avenue is to initiate a constitutional accusation against the president or government ministers based on the supposition that they have violated the constitution for their failure to answer congressional *oficios*. In most cases, this course of action is completely out of proportion to the offense committed, so it is considered impractical and unlikely ever to occur.

While the use of the *oficio simple* has proliferated to exaggerated proportions, the *oficio de fiscalización* has been used rarely. Only nine *oficios de fiscalización* were submitted during the first four years of the Frei administration (1994–98), and of these only six were answered (Chamber of Deputies 1998). Given the requirement for a majority vote, when the government has a majority in Congress, governing parties are essentially overseeing the actions of their own members. This situation provides few incentives for members of majority parties to submit *oficios* dealing with genuine instances of inefficiency or corruption. By the same token, opposition deputies are prevented from doing their part to exercise the Chamber's corporate role as a check on executive power. Thus the effectiveness of *oficios de fiscalización* is limited, and is no greater today than in the preauthoritarian period (see Gil 1966, 14).

Cajas de resonancia

The Chamber of Deputies is empowered to form special committees to investigate actions of the executive branch and irregularities in any area involving state entities. These committees are designed both to exercise administrative control of the executive branch and to prevent corruption. Investigative committees are not a recent innovation; the Chamber was similarly empowered under the Constitution of 1925. Like other oversight powers, however (and foreshadowing their present state), historically these committees were ineffective as a real oversight presence. Cea Egaña notes that between 1925 and 1973, 81 percent of the investigative committees formed did not issue a report, mostly because they lacked information (1980, 164–67).

In the postauthoritarian Congress, investigative committees are formed by a majority vote in the Chamber. Unlike the other types of

congressional oversight, however, investigative committees are not mentioned in the constitution, nor are they specifically mentioned in the *Ley Orgánica del Congreso Nacional* (Law No. 18,918, 1990). Article 18 of this law states only, "The Chambers may authorize the examination of bills by two or more combined committees or name special committees." The only specific mention of investigative committees appears in the Bylaws (*Reglamento*) of the Chamber of Deputies (1994, Articles 297–303). The *Reglamento* states that investigative committees are creations of the Chamber of Deputies, formed under the auspices of its broader and more general ability to create legislative committees. The rights and purview of special committees are then defined in the bills that create them (Cea Egaña 1993, 12–15).

Committees can call on ministers of state and other officials to present testimony in the process of investigating illegalities, fraud, or wrongdoing. Individuals and firms with financial relationships to the state or its agencies can also be investigated or called to testify (*Reglamento* 1994, Articles 297–303). Although it is not explicitly stated in the pertinent legal documents, there is also a tacit understanding that investigative committees should propose measures to help alleviate the problems under investigation.

Between the March 1990 reopening of Congress and April 1998, 35 investigative committees were authorized. The most important included those created to probe financial irregularities at the Petroleum Refinery of Con-Con and various other state corporations, including ESVAL. Allegations of political espionage have been investigated amid great public fanfare, as have accusations of price gouging in the nation's pharmacies and misuse of funds by the commanders in chief of the armed forces.

Nevertheless, investigative committees, too, have been ineffective as an oversight tool. Indeed, their effectiveness or ineffectiveness is difficult to determine, given the relativity of these terms. After all, how much oversight is enough? Suffice it to say that none of their findings have resulted in dramatic policy changes, prosecutions, or revelations of significant material unknown before their formation. Investigations often have had trouble even getting off the ground. As of April 1998, 7 of the 35 original committees had yet to be formed, 3 had seen their terms expire without issuing a report, 2 had a report pending, 13 had reported but their findings had not been discussed by the Chamber, and only 10 had reported and heard the Chamber's discussion (Chamber of Deputies 1998). For the 10 that completed their work, the reports and findings were watered down and clouded by political conflict.

There are a number of reasons for investigative committees' limited effectiveness. First, their uncertain legal status undermines their strength and influence. Their omission from Article 48, which establishes congressional oversight powers, has led certain legal scholars to question their constitutionality (see Cea Egaña 1993, 7–20). Furthermore, only officials

associated with state agencies or employed by firms with a contractual relationship to the state can be called legally as witnesses. Deputies are not permitted to guarantee anonymity to individuals willing to provide sensitive information, and state agencies cannot be forced to provide information. Finally, investigative committees have no tools to ensure the veracity of testimony or to penalize those who knowingly present false testimony. This is not to suggest that congressional committees should have juridical authority; but in cases of perjury, individuals cannot be referred to regular courts of law for prosecution, as in the United States. Thus the legal tools at the Chamber's disposal to undertake investigations are quite limited.

Second, and more seriously, investigative committees have often been used in practice as *cajas de resonancia* (sounding boards) to transmit personal or party political messages of members. Opposition members often seek simply to embarrass the government or enhance their own national political prominence or prestige through vocal and public criticisms rather than exercising oversight.

A graphic example of such political motivations occurred in April 1993 during the debate over whether to form a committee to investigate financial irregularities in DIGEDER during the Concertación government. A PDC and a UDI deputy exchanged punches on the Chamber floor (ironically, immediately following a unanimous vote to condemn hooliganism in the nation's soccer stadiums). Christian Democrats questioned the integrity of right-wing deputies in their eagerness to form an investigative committee, considering that Congress had investigated none of the Pinochet regime's financial irregularities (*El Mercurio* 1993). Here again, members of the governing parties had little incentive to investigate improprieties that may have resulted from the actions of their own colleagues.

Ulterior political motivations often cause trouble when committees must agree on the final wording of their reports and recommendations. Except in the very clearest and least political of cases, this results in minority and majority opinions that water down the content and perceived validity of the findings. Committees may refer findings to the appropriate courts of justice or the Contraloría for investigation (*Reglamento* 1994, Article 301). Nevertheless, political concerns and the perfunctory tone of committee reports often leave cases without a definitive resolution. In the worst cases, committee reports can actually be used to exculpate the very authorities under investigation who may, indeed, be guilty.

Given the deputies' numerous responsibilities, investigative committees have been slow to form and to conduct their work (*El Mercurio* 1998a). The 120 members of the Chamber of Deputies are assigned to 18 permanent committees and several special, mixed, and investigative committees, depending on current legislation and issues under investiga-

tion. The investigation of irregularities in CONADI (the National Indigenous Development Council) began with the authorization of a committee on April 30, 1997; the committee did not meet until the first week of May 1998. When the Human Rights Committee was authorized to investigate complaints of the mistreatment of military conscripts in 1997, it was charged with issuing a report within 90 days. Nevertheless, more than a year passed without the committee reaching a conclusion or issuing a report (*El Mercurio* 1998a).

This analysis of investigative committees does not suggest that they should be vested with punitive powers or that the political motivations that govern their formation and performance can be eliminated. Obviously, party political motivations lie at the root of oversight. What this analysis suggests is that investigative committees in their current form do not contribute significantly to the efficiency and propriety of Chile's public institutions.

Fiscalización in the Extreme

Article 48, No. 2 of the 1980 Constitution grants the Chamber of Deputies the ability to initiate impeachment proceedings or constitutional accusations against the president or ministers for violating the constitution or the law or for taking actions "which have gravely affected the honor or security of the nation." Before the military dictatorship, this form of oversight was used (and one might say abused) for political motivations. Chile's brief experience with "parliamentarism" during its so-called Parliamentary Republic (1891–1925) established Congress's removing government ministers as an institutional tradition. Although deprived of this formal power when the 1925 Constitution made ministers solely responsible to the president, Congress continued to bring politically motivated accusations against ministers. Few of these, however, were approved by the Chamber, and fewer still ended in conviction by the Senate, which sits as the court for impeachment proceedings. Between 1926 and 1966, 49 accusations were made against government ministers; of these, the Chamber approved 13 (27 percent), and only 4 (8 percent) resulted in conviction (Agor 1971a, 17).

The pace of accusations increased dramatically in the final months of the Allende administration, most notably with the accusation of Allende's interior minister in January and July 1972 and an unsuccessful move to impeach the president and the entire cabinet in the period leading up to the military coup. Although, historically, few movements to impeach were successful, this avenue of oversight was used consistently to pass judgment on ministerial performance.

The postauthoritarian period has seen no legislative actions to remove ministers, but in legal terms not much has changed. The text of the

1925 Constitution is reproduced almost verbatim in the 1980 document. The Chamber of Deputies may still initiate constitutional accusations against ministers, Supreme Court judges, the *Contralor General*, armed forces generals or admirals, provincial *intendentes*, and regional governors. Perhaps the only difference is that this already weak oversight function has become slightly weaker. Nine of the country's 47 senators are designated by authorities outside the legislative branch, effectively diluting the legislature's power and enhancing that of the executive. Actions committed during the military regime are also immune from accusation.

Nevertheless, according to most legislators interviewed for this study, the effectiveness of this avenue of oversight is limited principally because of the political motivations behind the initiation of such proceedings. In December 1992, for example, the Chamber of Deputies issued a constitutional accusation against three Supreme Court justices and the army auditor general for "notorious abandonment of their duties." They had referred the investigation of the 1974 disappearance of Alfonso Chanfreau, a leader of MIR (Movimiento de Izquierda Revolucionario), from civilian to military courts. Only Justice Hernán Cereceda, however, was found guilty and removed by the Senate.

The case clearly had political motivations and was based not on violation of the law but on the center-left's disagreement with Cereceda's decision. The impeachment function was originally devised to deal with extraordinary cases of legal wrongdoing or gross violations of the constitution. Members of Congress, given their lack of oversight capabilities, nevertheless used it as the only oversight mechanism at their disposal. It is questionable whether impeachment proceedings should have been initiated at all, given that they were based on particular judicial decisions.

Perhaps more in line with the Chamber's actual oversight role, a constitutional accusation was initiated in March 1998 against Pinochet himself for conduct bringing "disrepute and shame to the honor and the international image of the Chilean nation," for "violating the rule of law," and, thus, "compromising the security of the state." Because activities committed during his regime were off-limits, Pinochet was charged with committing these offenses during his tenure as commander in chief of the armed forces, a role he reassumed with the country's return to democracy and occupied for the first eight years of democratic government. Had the accusation succeeded, it would have prevented him from assuming the lifelong Senate seat he was guaranteed by the 1980 Constitution. The measure failed to pass in the Chamber of Deputies, however.⁷ The case then took on an international component with Pinochet's October 16, 1998, arrest in Great Britain, derailing any further action against him in Chile.

These are the two best-known cases of constitutional accusation in Chile's postauthoritarian era. They also suggest some of the difficulties in the constitutional design of accusations and impeachment proceedings. The proscription on investigating acts committed during the dictatorship is obviously a profound limitation. The incentive structure of the process also encourages legislators to act in their own personal or party interests rather than to exercise their institutional and corporate oversight roles. Once again, political incentive is lacking for majority deputies to accuse ministers or other officials of their own coalition. This reality makes perfect sense, and is part and parcel of presidential systems with similar partisan correlations of party forces, but it also means that potential corruption and inefficiency may go unchecked.

The politicization of these processes and the lack of incentives for self-censure of majority parties are two elemental problems common to most democratic systems where the legislature is granted oversight powers. Political differences are, indeed, the motor of oversight initiatives, and legislators would be expected to support governments composed of parties to which they belong.

Comparative evidence from other countries confirms the generalized nature of these problems. France's investigative committee system has experienced problems almost identical to Chile's: majority domination, watered-down reports, politicization of proceedings, and limitations on referring cases to the judicial system (Safran 1991, 171-73). Until 1991, French investigative committees were even obligated to meet in closed session and to maintain the secrecy of proceedings. Brazilians use the term *cepeismo* to refer critically to the increasingly large number of congressional investigative commissions, or CPIs. Brazil's deputies and senators have been accused of forming CPIs at the drop of a hat, simply to seek the spotlight and advance their own political careers. Most CPIs investigate only up to a certain point and stop when they find members of Congress involved (see Krieger et al. 1994). As in Chile, many CPI reports end up "archived" and forgotten.⁸ As Mexico democratizes and its Congress opens up to a wider range of parties, a similar phenomenon appears to be emerging. U.S. president Bill Clinton's impeachment also had partisan motivations.

It is possible, however, to design oversight mechanisms that bring the incentives to provide public goods into line with the individual interests of legislators. Although constitutional accusation and investigative committees are unlikely to lose their political character, reforms will ease the problem of politicization. With reinforced fire alarms, furthermore, this type of oversight would also become less necessary.

REFORM OF LEGISLATIVE OVERSIGHT

Beyond the extreme power of impeachment, the Congress needs more tools to perform its oversight functions, along with enhanced powers of *fiscalización*. The legal status of Congress's oversight activities must be clarified. Article 48 must explicitly state that Congress is responsible for the oversight of actions of government and the administration of the state (*los actos de gobierno* rather than *del gobierno*). The revised text should widen Congress's purview to include officials in all state agencies and other state-created public service organs. Given the ongoing process of state restructuring and the accompanying decentralization of decisionmaking, it is even more important for Congress to have extensive investigatory scope.

Reforms in fire alarm measures are difficult to propose, given the complexity of this brand of oversight. Obviously, old fire alarms need to be reconnected, but they do not necessarily need to be wired exactly the same way as in the past. The power of deputies needs to be enhanced so that they can reassume their traditional role as primary activators of fire alarms. In the past, deputies' influence rested firmly in Chile's tradition of clientelistic and pork barrel politics. Today, however, there is a great deal of opposition to these types of policies and a widespread elite recognition of their pernicious effects.⁹ As an alternative, deputies need more access to government information and internal administrative auditors. A bill introduced in October 1998, for example, would provide a special team of auditors associated with the CAI to furnish deputies with information and to help them incorporate internal self-auditing functions into legislation (Fuentes 1998).

A general strengthening of Congress would also help it to execute its oversight functions. Chile's exaggerated presidential system and legislators' almost complete inability to propose bills of any significance are a severe limitation. This applies especially to legislation having anything to do with expenditures, social security, or social benefits, areas in which legislative proposals, often based on constituents' individual problems, once translated into collective benefits. Enhanced powers to propose legislation would also enable legislators to address potential problems in the state administration.

Deputies' ability to pull fire alarms through the use of *oficios* needs to be expanded so that *oficios* may serve as a real oversight tool. It is important to establish a time limit and a sanction for members of the executive branch who do not provide deputies with significant, detailed, and explicit responses to their requests for information. The committee appointed to study the Organic Law of Congress in 1989 eliminated a previous sanction of three months' job suspension for consistent unresponsiveness to *oficios*. A sanction of this type would force both the executive and legislative branches to take *oficios* more seriously.

To improve Congress's control and sanctioning powers, investigative committees need to be reformed. Important first steps are to upgrade the committees' legal status and to widen and clarify the areas subject to investigation. Several constitutional reform proposals dealing with the operation of the National Congress are currently being considered. Reform of investigative committees should not take a new constitutional amendment; piecemeal tinkering with the constitution only serves to undermine the legitimacy of law. Part of the larger process, however, should be a measure to give Congressional investigative committees constitutional status by guaranteeing their legal existence in Article 48. (Deputy Francisco Huenchemilla presented a bill to do this in June 1996, but the measure failed. See *El Mercurio* 1996).

Numerous other solutions have been proposed to bolster the effectiveness of investigative committees (for a brief discussion, see *Estrategia* 1996). One introduced by former Chamber speaker José Antonio Viera-Gallo would determine investigative committee membership by lottery rather than basing it on the party proportionality of the Chamber's composition. Members would then be sworn to vote by conscience rather than on party instructions. Although in theory this would help to ease the politicization of these committees, in practice it would simply make the direction of politicization a matter of luck. The problem of progovernment bias would be solved only when the committee happened to have a majority from the opposition.

Other controls would probably be more effective. The *Reglamento* could dictate that committees present one conclusion in their final reports, rather than a minority and a majority opinion. If differences proved irreconcilable, the Contraloría could intervene to render a binding opinion. If the respect accorded the Contraloría in the past could be resurrected, this body could act as an effective arbiter of disputes when legislative committees could not agree. At the same time, it could rule on whether to initiate judicial proceedings against those found responsible for wrongdoing in the committee reports. This would impose the possibility of sanctions and thus a powerful check on inefficiency and impropriety. All these measures combined would reinforce oversight as an institutional rather than a partisan mechanism.

CONCLUSIONS

Institutions capable of checking on the probity of government officials are indispensable to any democratic regime. Although, in formal terms, the Chilean Chamber of Deputies appears to possess numerous legal avenues to exercise the oversight responsibilities entrusted to it by the constitution, in functional terms it lacks the tools to do so. Its less visible (but traditionally relatively strong) fire alarm oversight role has been under-

mined by weakness of powers, decentralization, and the use of market mechanisms to solve collective action problems that the state previously addressed. Changes in the traditional relationships between citizens and institutions have further eroded fire alarm oversight. As in the past, few incentives exist for police patrol forms of congressional oversight. Once potential irregularities are revealed, the methods the Chamber does possess to investigate and punish responsible parties are often undermined by personal and partisan interests.

This is not to suggest that a widening of Congress's oversight capabilities will eliminate corruption and inefficiency in Chile. Strong and transparent congressional oversight and prompt investigation of alleged irregularities, in conjunction with other watchdog entities and a more efficient set of fire alarms, would nevertheless send a wider message that corruption and administrative inefficiency will not be tolerated. Improved investigative and control mechanisms would provide a stronger deterrent.

Despite what analysts have said about potential problems with legislative oversight, in comparative perspective Chile stands at the positive end of the spectrum of probity and accountability. According to Transparency International (a nonprofit, nongovernmental organization that works to identify and fight corruption), Chile rates highest in Latin America on indices of clean government (Transparency International 1999). This is principally because a tradition of probity and accountability, watchdog institutions, and a sophisticated network of oversight mechanisms existed before the advent of the authoritarian regime. Chile therefore can build on a tradition of effective oversight better than other countries in the region, where the costs of a lack of oversight are increasingly apparent.

Distrust of government has been a constant threat to democratic legitimacy throughout much of Latin America. Since the return of democracy, Chileans have held their government in higher esteem than most citizens of other governments in the region. Although suspicion, distrust, and lack of confidence certainly exist, Chileans' relative confidence in government rests largely with the perception of the probity and honesty of presidents, the police, and state administrators like those in the Contraloría. Legislators, on the other hand, suffer in the polls, and Congress is one of the lowest-rated institutions in Chilean society (Participa 1993, 31–36). Strengthening Congress's role as an institution of governmental and administrative oversight would help to stem corruption and inefficiency. While Congress may never be as highly esteemed by the public as some of the other institutions of Chilean democracy, a stronger, more efficient, and less politically motivated oversight role may help rehabilitate its tarnished reputation.

NOTES

The author acknowledges the support of a Fulbright-Hays grant and the Archie Research Fund of Wake Forest University, which financed the research in Chile on which this study is based. The author also thanks César Ladrón de Guevara Pardo for providing much of the information and many of the written materials that were indispensable to carrying out this study, and John Carey, Jonathan Hartlyn, Mona Lyne, and Scott Mainwaring for their useful comments on an early version of this paper. All translations are the author's.

1. The government indisputably stepped outside the bounds of the constitution with the military coup of 1973, but the military authorities, once in power, also exploited Chile's legalist tradition to ensure respect for laws that the *junta de gobierno* itself had changed. The military leaders could rely on the nation's judiciary faithfully to carry out the junta's dictates.

2. Numerous legalistic studies on congressional oversight exist, but few ask how Congress has actually performed in this area. For excellent examples of the former, see Cea Egaña 1993, 1994. For a discussion of legislative oversight in comparative Latin American terms, see Alvarez n.d.

3. Two of the designated senators are chosen by the president, three by the Supreme Court, and four by the National Security Council. See Political Constitution of the Republic of Chile 1980, Article 45; No. 2.

4. The CAI was created in 1994 as a part of a wider control system for public institutions headed by the Contraloría, and was charged with strengthening the ethic of public service and ensuring the efficient use of state resources. It is also part of the executive branch, charged with overseeing each of the ministries and public services and ensuring internal auditing and reporting.

5. Data based on unpublished official information released by the Ministry of the Presidency. Although at this writing, firm statistics for the Frei administration were not yet assembled, SEGPRES officials estimate that the response rate is about the same.

6. A staff member for one deputy estimated that of all the correspondence he receives from constituents, 95 percent consists of such individual requests. Only 5 percent has anything to do with national-level legislative issues. Barros González 1993.

7. Although the Concertación might have been expected to vote the party line, the Christian Democratic Party split, defeating the accusation.

8. I am grateful to David Samuels and Timothy Power for these insights.

9. Of those deputies and senators interviewed for this study, only one supported a removal of the proscription of personalistic legislative initiatives.

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